

European issues

n°327

6th October 2014

The European Neighbourhood Policy put to the test by the Ukrainian crisis

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Abstract :

One month after the signature of the Eurasian Economic Union between Russia, Kazakhstan and Belarus in Astana, on 27th June the European Union signed an Association Agreement with Ukraine, Moldova and Georgia. Although the former President of the Commission, Romano Prodi, who launched the European Neighbourhood Policy (ENP) saw in this an opportunity to create a "circle of friends" the European continent is in fact divided between two regional, competing and incompatible integration processes. The Ukrainian crisis – 10 years after the Orange Revolution – triggered off by the sudden response of civil society indeed caused not only a renewal in terms of the regime in place in Kiev, but also intervention by Russia in Crimea and the Donbass. Whatever the conclusion of this crisis might be Russia's goal of strengthening its grip on its "near abroad" is being challenged by its neighbours' attachment to their independence and invites us to question about the purpose and means available to the European Neighbourhood Policy.

INTRODUCTION

From the very beginning of the European Neighbourhood Policy Russia declined Europe's offer. Azerbaijan joined without ever going as far as foreseeing an Association Agreement. Armenia was prepared to sign an agreement like this but Russia played on its dispute with its Azerbaijani neighbour as a means to dissuade it. Belarus has no other choice but to condition its relative loyalty to Moscow on the acquisition of favours so that its economy can remain afloat. Ukraine gave in to Russian pressure by relinquishing the signature of the agreement planned for in Vilnius in November 2013. Ten years after the Orange Revolution, Ukrainian civil society again changed the course of History.

The Ukrainian crisis, whose origins lie rather less in Ukraine than in Russia, came in a specific context. On the Russian domestic front the reduction of public freedoms and increased control of the media coincide with the assertion of a national project drawn up in opposition to the West. Strictly speaking this project targets not so much the design of a model adapted to the modern world but rather a return to an idealised past power as it places value on the idea of territory and an ethnic conception of nationality [1]. "A nationalist

country without any national idea" [2], Russia logically sees in the attraction exercised by the European Union amongst some former Soviet Republics a deliberate strategy to undermine its sphere of influence. In Western and Central Europe the context is different however from that of the Cold War. Several American bases have closed. European military spending has stabilised or declined. The countries seen as neighbours and partners by Europe, are, in Moscow's eyes however part of the "near abroad". By making alliances they could discredit the project to affirm Grand Russia, deemed to be an extension of the USSR.

The Ukrainian crisis also invites us to question the European Neighbourhood Policy, originally designed as the logical follow up to enlargement. The Association Agreements bear witness to this relationship by offering partner countries the adoption of a greater share of the community *acquis*. However the purpose of this policy is not clear and financing is not comparable to that allocated to the countries that are on the path to membership. This "light" enlargement policy, approved by the partner countries which see it as a means to protect themselves from Russia breaks with action undertaken to date. The logic of cooperation turns into one of integration. In this case Russia

1. Michel Foucher « Le soft-power russe », Interview with *Le Un*, 16th April 2014.

2. Lev Gudkov, *Negativnaia identichnost' [Negative Identity]*, Moscou, *Novoe Literatournoe Obozrenie*, 2004, et *Abortnaia demokratiia (Aborted Democracy)* ; Moscou, *Rosspen*, 2011. Quoted by M. Mendras, "Vingt ans après, la Russie et la quête de puissance" *Commentaire*, N°136, Winter 2011-2012.

would not have any right over the choices made by its sovereign neighbours, but the Ukrainian crisis leads us to question the relevance of the compromise found between cooperation and membership policy.

1. FROM VILNIUS TO SLAVYANSK: THE STORY OF A CRISIS

1.1. Ukraine's territorial integrity brought into question

Although we might lack hindsight in terms of piecing together the precise facts that have punctuated the Ukrainian crisis some points do stand out. One week before the 3rd Eastern Partnership Summit in Vilnius on 28th and 29th November 2013 Ukraine suspended the preparation of an Association Agreement under negotiation since 2007. The argument put forward was that Ukraine wanted to prepare an "equal" exchange with the Union and "revive economic negotiations" with Russia. In fact Russia, which had showed its concern about this agreement since the summer of 2013, had achieved its aim: of impeding a rapprochement process with the European Union deemed incompatible with Ukraine's membership of the Customs Union [3].

On the announcement of this decision on 21st November 2013, i.e. ten years month for month after the start of the Orange Revolution, demonstrators, mainly students and intellectuals, rallied in Kiev's Independence Square (*Maidan Nezalezhnosti*). On 30th November the police forces severely repressed the rally. Police violence only fired the demonstrators more, who were less concerned about defending the association agreement than rejecting a regime, which in their opinion, was corrupt and discredited. The regime responded by reducing public freedom in line with the usual procedures and rhetoric employed by the Kremlin. The first demonstrators fell under gunfire: one Armenian, then a Belarus, before others - Ukrainians, Poles and Russians were also killed [4]. The negotiations undertaken by the French, German, Polish Foreign Ministers and the Russian Special Envoy led to an agreement on 21st February 2014 between the opposition and Viktor Yanukovich. In the night that followed the latter took flight, as he was probably

worried about seeing official buildings taken one after the other by demonstrators, without the police force being able to protect the regime. Noting his defection Parliament approved his destitution and appointed, in line with the Constitution if the seat of power is left vacant, its interim President in the shape of Aleksander Turchynov.

At the same time Crimea and the East of Ukraine experienced similar situations: occupation by armed, well trained men [5] of the airports and seats of power, more or less spontaneous street demonstrations, intimidation of opponents and referenda on self-rule. These events took place under the pressure of the Russian armed forces who gathered close to the border - they were supported by a discourse that presented the Russian-speakers as victims. With this armed men took over the Crimean parliament and government building in Simferopol along with some military bases on 27th February. Behind closed doors MPs approved the organisation of a referendum on annexation to Russia, approved by 96.6% of the electorate on 16th [6] March. In the east of Ukraine the sequence of events was similar, the protagonists identical [7]. The success enjoyed by the separatist movements would enable terrestrial continuity from Russia to the Crimea, which to date was linked to Russia by the Kerch Strait. In this strategy three towns played a key role: Donetsk, the capital of Donbass, Lugansk, a main border town and Slavyansk, a major crossroads.

As in Crimea popular approval was achieved with a swiftly organised referendum on 11th May and a totally unambiguous result (89% and 96% of the vote in support of the independence of the "self-proclaimed and popular" Republics of Donetsk and Lugansk [8]). On 12th May these Republics demanded their annexation to Russia before uniting on 24th May to form the Republic of New Russia (*Novorossia*) the memory of which is exalted by V. Putin [9]. Hence these projects, as well as the continued fighting, attracted various protagonists (local separatists, Russian citizens, Caucasian mercenaries). However the struggle for power was not as certain as it had been in Crimea. In the field the fighting spread over a wide area of south east Ukraine but the separatists had to relinquish some

3. On 17th December 2013, Viktor Yanukovich obtained in exchange a 15 billion dollar loan and a 30% price reduction on Russian gas on the part of Moscow.

4. In the end around 100 demonstrators were killed, one hundred disappeared without the circumstances of these deaths and disappearances being fully explained to date.

5. The presence of Russian soldiers in Crimea was confirmed by the Russian President.

6. On 18th March Russian President V. Putin signed the treaty annexing Sebastopol and Crimea to Russia.

7. This is notably the case of Igor Strelkov, a military commander in the Republic of Donetsk after being active in Crimea.

8. On 2nd February 2014, Gagauzia organised a referendum during which more than 97% of the population approved integration into the Customs Union initiated by Russia.

9. "According to the terminology used during the Czarist period Ukraine is "the New Russia", ie Kharkov, Lugansk, Donetsk, Kherson, Nikolayev, Odessa. These regions were not part of Ukraine at the time of Czars and were given to Kiev by the Soviet government in the 1920's. Why did they do that? God only knows." *Le Monde*, 18.04.2014.

towns and regions where the oligarchs formed militia (Dnipropetrovsk, Kharkov, Mariupol). More generally international pressure made the Russian authorities alter their discourse.

The European Union responded with three waves of sanctions – the third (the only one to affect economic sectors and not people or cooperation programmes) was only planned in the event of a continued downturn in the situation. Since this came to pass the Union finally approved sanctions which notably affected the Russian banking sector in September 2014. Covered less by the media the Union's response in terms of energy policy is not without consequence in the mid-term. During the European Council of March 2014 the 28 Member States stepped up work already started to strengthen the Union's energy security, reduce its energy dependency and develop projects for interconnection thanks to means provided for in the European Interconnection Mechanism (EIM).

Beyond American and European pressure Russia has been able to gauge the effects of being integrated in a globalised world during this time of crisis. Unlike the USSR modern Russia is both an integral part of the world economy and it is extremely dependent on international financial flows. Although the Russian Central Bank has estimated the capital flight at 63.7 billion \$ in the first quarter of 2014, the President of the European Central Bank has spoken of 222 billion \$ [10]. In all the outflow of capital has been similar to that seen in 2008. An extended crisis might significantly affect Russian reserves, accelerate inflation and cause recession, a scenario which might temporarily upset public opinion that has been "high" on the "recapture" of Crimea. European, American pressure, China's abstention at the UN's Security Council together with the indirect economic effects of Western rhetoric may have contributed to Moscow adopting a more conciliatory discourse, with support being brought to the separatists all the same [11].

1.2. Ambitions and limits of the Russian Eurasian Project

On the eve of Crimea's annexation what were Russia's

ambitions? Since we have no hindsight on this we can only base ourselves on hypotheses. After the flight of V. Yanukovich the Ukrainian choice of appointing as Defence Minister an admiral and member of the far-right Svoboda, known for having impeded the use of the Sebastopol naval base during the Georgian conflict, might have worried Moscow. Of course the agreement on the use of the base signed in 1997 had been extended in 2010 (for a period lasting until 2042). However, the possible loss of this support point would affect the Russian navy, which has little alternative in terms of protecting any influence it might have in the Black Sea thereby guaranteeing its permanent presence in the Mediterranean. Unlike Sebastopol the Russian port of Novorossiysk is not a deep water port and the site does not enjoy the same assets as the installations in Crimea [12].

Other factors may have played a role in the Russian strategy: power games at the Kremlin, fear of a Ukrainian precedent that might trigger other uprisings like the colour revolutions of 2004-2005 without forgetting the arguments officially put forward by V. Putin. The latter spoke of a feeling of humiliation, the non-respect of international law in Kosovo and Iraq, the lack of say given regarding NATO's enlargement. Finally, with the takeover undertaken in the summer of 2008 in Georgia, Russia's leaders remembered that invading a neighbouring state and the disregard of international law did not necessarily earn them the opprobrium of the international community. The hypothesis of an improvised initiative is unlikely in that in September 2013 in Yalta Mr Glazyev (Putin's advisor) explained that the consequence of Ukraine's signature of the Association Agreement might lead to a challenge being made to the Ukrainian State [13].

More generally Russian initiatives are the focus of a national project supported by a discourse of victimisation (nostalgia of a dismembered Soviet Union, Russian interests threatened by the EU's or NATO's enlargements) to which there is one remedy: the exaltation of Russia's greatness in the face of a decadent West and the reconstitution of the Soviet influence via economic cooperation or destabilisation. In this project history is brought into play. The Soviet

10. "ECB: capital flight from Russia has hit \$220bn", *Business & Money*, <http://business-money.org/ecb-capital-flight-from-russia-has-hit-220bn>

11. Several rounds of negotiation were launched. One focused on gas deliveries and involves Russia, Ukraine and the EU. Another focuses on the settlement of the conflict started in June between the OSCE, the Russian Ambassador in Ukraine and the latter which submitted a peace plan on 12th June. However in June 2014 fighting continued around several places in the Donbass.

12. Isabelle Facon, « annexion de la Crimée : quel intérêt stratégique pour la Russie ? », *Colloque : La Crimée, destin d'une péninsule*, INALCO, 2nd June 2014.

13. "Ukraine's EU trade deal will be catastrophic, says Russia", *The Guardian*, 22 September 2013.

period is idealised. The initiatives taken are part of the extension of the heroic victory against fascism. The borders of the neighbouring State are deemed artificial (a recurrent argument in revisionist strategies) in contrast to former territories, including that of *New Russia* which reflects an expanding Russia. Drawn up by some ideologists and promoted by increasingly restricted media, this project has also gone hand in hand with the modernisation of the army which yearly absorbs 20% of government spending and 4% of the GDP (2% in France and the UK) [14]. Georgia, Moldova and Ukraine have all experienced various instruments in the implementation this project by the Kremlin over the last few years: distribution of Russian passports, embargos on the most sensitive products; support to the organisation of referenda (in Georgia,

Gagauzia, Crimea, in the Donbass), gas price rises and challenges made to territorial integrity of recalcitrant countries. The Ukrainian conflict might also prevent any rapprochement by Ukraine with NATO, re-ignite tension between Europeans and Americans, protect and even accelerate the project for Eurasian Union.

The latter has moved forward. The Customs Union established on 1st January 2010 by Russia, Belarus, Kazakhstan and the Common Economic Space, in force since 1st January 2012, comprised the first stages of building a Eurasian Union by 1st January 2015 which was officially approved in May 2014. The paradox is that between the Soviet Republics, trade links are in fact declining and that the EU is gradually asserting itself as a major client.

The role played by Russia and the EU in trade within the CIS.

Countries	Exports to the EU		Exports to Russia	
	1995	2012	1995	2012
Armenia	22,3	39,3	25,4	19,6
Azerbaijan	19,2	56,5	18,1	2,7
Georgia	8,7	14,9	31	1,9
Moldova	32	52,9	48,3	20,8
Ukraine	22,8	25	43,4	23

Source : National Statistics Institute of Ukraine

From a political point of view both Belarus and Kazakhstan wanted to highlight their difference in the crisis. In Belarus, although public opinion seems to be under the charm of a possible annexation with Russia [15], A. Lukashenko set himself apart from the Kremlin's line. He refused to acknowledge the independence of South Ossetia and Abkhazia and acknowledged the interim Ukrainian government, detached himself from Russia's calls for the federalisation of Ukraine and exalted the country's independence and the importance of the Belarusian language for national identity during his annual speech to members of Parliament on 22nd April 2014. Before signing the Customs Union on 29th May he achieved a 50% reduction of customs duties owing to Russia on exported oil products and a 2 million \$

loan which will enable the leverage of reserves affected by a declining economic situation and a reduction of social risks – for a while at least – caused by rising inflation. At the same time signs of opening are being addressed to Europe and the country in order to attract foreign investors (it is ranked 63rd in the World Bank's business climate ranking, Ukraine 112th).

Kazakhstan, which has a strong Russian-speaking population in its northern regions, willingly joined the Customs Union (originally drawn up by the Kazakh President Nursultan Nazarbayev), since it was seen as a way of accessing the Russian market more easily and of avoiding excessive dependency on China. However the Eurasian Union has now

14. "Russia's military modernization, Putin's new model army, Money and reform have given Russia armed forces it can use", *The Economist*, 24th May 2014.

15. According to a survey undertaken by NISEP, a Belarusian research centre, the number of people who want their country to integrate Russia rose from December 2013 to March 2014 from 23.9% to 29.3%.

lost its attraction for Kazakhstan. The trade deficit with Russia has worsened, the number of Russian businesses registered in Kazakhstan increased by 82% between 2011 and 2012 [16] and the Commission of the Eurasian Community mainly comprises Russians. Projects to share sovereignty (with the creation of a supranational parliament) have been decried and criticism of the unequal advantages contained within the agreement is growing. In sum the Kazakh approach seems to comprise setting limits on regional integration with Russia without denouncing it, given its fears about China and the range of retaliation measures Russia might have at its disposal. At the same time the building of a Kazakh nation state has gathered pace thanks to the exaltation of patriotism, the transfer over from a Cyrillic to a Latin alphabet in fifteen years' time and the modernisation of the civil service.

In the Far East Russia can count on several Asian partners to whom it can export its gas, thereby reducing its dependency on the European market, and the conclusion of negotiations on gas deliveries to China have therefore been welcome [17]. However energy supplies to the east depend on a network that is clearly less developed than that linking Russia to Europe, which is a legacy of the Soviet period in part. In 2014 only one oil pipeline is operational and a first gas pipeline is under construction (Power of Siberia). Moreover presenting China as an alternative partner to Europe is difficult for Russia since China's growing influence in Central Asia is a concern for Moscow.

2. UKRAINE AS A TERRITORY: HOW MANY DIVISIONS?

2.1. Overestimated territorial divides?

A polarised electoral landscape in addition to a linguistic map split between the Russian-speaking east and a Ukrainian-speaking west, have contributed to the image of a divided country and supported arguments put forward by Russian supported separatist movements. However the country is less divided than it seems and just like the west, the east of Ukraine is a heterogeneous area. Two territories which are at the heart of the crisis bear witness to this: Crimea and Donbass.

In Crimea Russia used two arguments to justify the region's annexation: the threat posed by the new authorities to the Russian-speaking population and the region's historical membership of Russia. *"In people's hearts and minds Crimea has always been an inseparable part of Russia. This belief that has the stamp of truth and justice has been passed on from generation to generation whatever dramatic changes in our country during the 20th century,"* explained V. Putin [18]. If we are to suppose that political/administrative territories have to match ethnic and historical limits, the second argument is hardly more convincing than the first. Of the 20 ethnic groups that have played a role in Crimea's history, Yaroslav Lebedynsky notes in effect that the Greeks lived there for 23 centuries, the Goths and the Alans 14, the Tatar 7, the Slavs 2 and the Russians have only been a majority there since the second half of the 20th century (with a relative majority until 1944) [19]. Moreover Crimea, where the Russian population is concentrated in the south of the peninsula, has enjoyed the status of Autonomous Republic since Ukraine's independence (the port of Sebastopol also enjoys a specific status).

Since Crimea's annexation, finalised in March 2014, Russia has repeated the strategy witnessed in Ossetia and Abkhazia, comprising the rapid implementation of new laws and institutions on the ground. Long term, there are plenty of obstacles. Although annexation theoretically enables Russia to access major hydrocarbon reserves off the coasts of Crimea (the Skifskaya gas field), the region is one Ukraine's most depressed (its GDP lay at 19,500 UAH/ per capita in 2012 in contrast to 28,500 on average in Ukraine [20]) and is dependent on neighbouring regions for its water and electricity supplies. The Tatars of Crimea, (14% of the population), mainly oppose Russia's annexation of the territory. After having claimed their return home for 50 years (from which they were deported by Stalin in 1944), they now unenthusiastically find themselves under Russia rule again. Although relations with the Ukrainian authorities were sometimes the source of frustration the idea prevails that only a democratic framework will enable the respect of minorities. On the ground the authorities have adopted a long tradition which comprises splitting the community.

16. Aleksandra Jarosiewicz, "Kazakhstan's attitude towards integration with Russia: less love, more fear", OSW Commentary, 26.05.2014.

17. In May 2014, the CNPC (China National Petroleum Corp) signed an agreement planning the purchase of 38 billion m3 of gas as of 2018 and for a 30 year period.

18. Address by President of the Russian Federation, 18 mars 2014, <http://eng.kremlin.ru/news/6889>.

19. Yaroslav Lebedynsky : "Vingt peuples, vingt-sept siècles: une histoire ethnique de la Crimée", colloque : La Crimée, destin d'une péninsule, INALCO, 2nd June 2014.

20. Natioanl Statistics Institute of Ukraine.

Posts have therefore been granted to some members of the latter, the Tatar people has been reinstated by V. Putin (reinstatement already decreed in 1967), but the representative institutions are being neglected [21]. The former head of the Assembly of the Tatars of Crimea (Mustafa Dzhemilev) is banned from Russia (and therefore Crimea [22]) and his successor deplores the psychological pressure exercised which is driven by religious or political grounds.

In their critical dialogue with the new authorities who can the Tatars count on? Turkey condemned the Russian decision to ban Mustafa Dzhemilev from Crimea and decorated him on 15th April with the highest Turkish distinction. However energy stakes in the Black Sea and the Syrian issue have encouraged Ankara to avoid any tension with Moscow. On 3rd June Mr Dzhemilev won the Walesa Prize from the Polish authorities during a ceremony in which American Secretary of State John Kerry and Ukrainian President Petro Poroshenko took part. The Tatars of Russia were received by V. Putin but their role as mediators has been challenged by Mustafa Dzhemilev's successor, Mr Chubarov. In sum the danger is that the authorities in Crimea will continue to harass the Tatar population and end up restricting them either with violence or exile. In May 2014, the High Commissariat for Refugees estimated that 10,000 people had been displaced in Ukraine, most of them Tatars from Crimea. The displaced families have moved to the centre of Ukraine (45%) or the west of the country (26%) and more rarely to other countries [23].

As in Crimea the Russian-speaking community forms the majority of the population in the Donbass and in 2004 this region, as did Crimea on several occasions, threatened to break away. However the identity of this territory is specific, and is certainly hostile towards Kiev, but it is not necessarily pro-Russian all the same. The coal basin developed from the end of the 19th century on and this led to an almost ongoing urbanisation between the cities of Donetsk and Lugansk, with the port of Mariupol as their outlet. The inflow of labour of various origins, convinced of having initiated the region's industrial development thanks to their work, together with any lack of state control over the region until the start of the 20th century, has left its mark

on social representations. A specific regional identity has emerged, which has been strengthened by the prestige given during the Soviet period to the region's specialisation in the mining and steel industries. Before collectivisation the region experienced temporary independence (Republic of Donetsk-Krivoy Rog – February 1918-February 1919), criticised by Lenin and initiated by "Artyom" Sergeyev - Donetsk's main street still bears his name. Although the specific regional identity of Donbass is undeniable surveys show that a majority of the population reject however the idea of independence or Russia's annexation of the region [24].

Although inhabited by a majority of Russian-speakers since independence the country's east has provided its support to political leaders who favoured the upkeep of their region within the fold of the Ukrainian State. L. Kuchma, a representative of the Dnipropetrovsk clan, asserted his authority in the region and counted on its support for his victory in the presidential election of 1994. Following that V. Yanukovych, who comes from the Donbass, became the region's most popular personality and was elected president. The precipitous departure of the latter was all the more difficult to accept since he embodied the region even though his popularity had been waning over the last few years due to the adaptation crisis experienced by this "Soviet industrial enclave" [25]. Falling employment opportunities, the large audience of Russian media, the belief that it was the country's economic engine and as a result that it was the legitimate leader, led to fertile ground for separatist projects in the Donbass.

After the departure of V. Yanukovych the Ukrainian government tried to consolidate its control of the east by appointing oligarchs established in the regions as governors there. The recovery of authority succeeded in regions where the governors formed their own militia. It failed in Donbass where oligarch R. Akhmetov firstly drew up a middle-road in order to accommodate his interests in Russia and Crimea, declining the post of governor offered to him by the government [26]. After calling for calm, without taking sides, the oligarch finally denounced

21. They were not considered as partners by President Yanukovych either.

22. Le 3 mai, ce dernier se vit empêcher de franchir la frontière entre l'Ukraine et la Crimée près d'Armyansk.

23. <http://www.unhcr.fr/cgi-bin/texis/vtx/search?page=search&docid=537b5877c&query=Tatars>

24. À la question : « que pensez-vous d'une indépendance de votre région et de son rattachement à un autre pays ? », 18,2% des sondés dans le Donbass disent approuver l'idée tandis que 56,3% la désapprouvent. Dans les autres régions, plus de 80% des personnes interrogées ne souhaitent pas cette éventualité.

In : sondage représentatif du Centre Kustcheriv pour l'initiative démocratique organisé entre les 16 et 30 mars 2014. In : http://dif.org.ua/ua/polls/2014_polls/chi-vlastivi-ukraincijam-nastroi-separatizmu-.htm. Un autre sondage fournit des données légèrement différentes. À la question « Souhaitez-vous que votre région se sépare de l'Ukraine et rejoigne la Russie ? », 30,3% des sondés répondent « oui » dans la région de Louhansk, 27,5% dans la région de Donetsk. Le non obtient plus de 50% des opinions dans les deux cas. Sondage réalisé par le KIIS (Institut international de sociologie de Kiev) entre les 8 et 16 avril 2014. In : <http://www.kiis.com.ua/?lang=rus&cat=reports&id=302&page=2>

25. V. Lapkin et V. Pantin, "Assimilation and Democratic Institutions and Values by the Ukrainian and Russian Masses", *Russian Social Science Review* 47, n°3 (2006), p. 10-11.

26. However, R. Akhmetov put together a militia in the port of Mariupol and the separatists have not been able to establish themselves there.

the “genocide of the Donbass” and called on its “employees” (around 300,000 people) to turn out and demonstrate, without any real success. However in Dnipropetrovsk Kolomoisky used his well-armed militia to drive out the separatists and forge the image of a leader who was sparing the population of the horrors of war. In Kharkov, former mayor, Gennady Kernes followed a similar line (before being seriously wounded by unknown assailants) and the region was only briefly the theatre of confrontation around government buildings.

2.2. Federalisation: solution or fragmentation?

Advocated by Putin (who is promising “vertical power” to his own country however) and by several western leaders, the federalisation of Ukraine has been presented as a means to end the crisis. Surveys now available do not prove that this option is what the population wants, since the upkeep of a unitary State is privileged by more than 70% of those interviewed [27]. The south east of the country is the only region where the upkeep of the unitary State is not supported by a large majority. The separatist scenario is not estimated in the Donbass for all of that however, since independence, just like annexation to Russia won the approval of less than 30% of those interviewed.

In addition to this the term “federalisation” would have to be defined. Decentralisation, which would become notably effective via the election of governors, the transparency of financial flows between the regions and the centre and a clarification of competences, would probably help towards modernising the country’s institutions. At a time when there is a great amount of overlapping between administrations and when centralisation is cancelling out work of certain local elites, decentralisation would be justified and the government put a project forward to this end in April 2014. However confining the central State to the control of just some vital competences could feed secessionist trends, institutionalise the control of certain regions by some groups or individuals and complicate the implementation of the rule of law and a nation based on the sharing of an inclusive model.

From an economic point of view the balance of power is more complicated than it first appears. In 2013 the regions of Donetsk, Lugansk and Kharkov counted for 21.5% of the GNP and 30% of the Ukrainian industrial production. The region represented 28% of good exports and 11% of imports. Their contribution to the central budget represented 1.3% of the GNP [28]. However the private sector has invested very little over the last few years in the manufacturing base to the extent that the industrial regions, which to date have high living standards and wages above the national average, have become extremely dependent on the direct and indirect support provided to the heavy industrial sectors. Some towns in the west and centre (starting with Kiev) are attracting new activities and are diversifying their economic network so that the imbalance between the south east and the rest of the country, even though there is one, has to be relativized.

In the debate over the federalisation of Ukraine the linguistic issue is key. The maps distinguishing between Russian and Ukrainian-speakers should be considered with caution in that a large share of the population is bilingual and feels no discrimination, since policy has been tempered over the last few years. By intervening directly in the crisis the Russian authorities have dramatized the hostility that animates a minority of the population, which is mainly Russian, nostalgic of the USSR and exasperated by the economic and social situation. They have played on the ambiguity between Russians and Russian-speakers but the east of the country has not shown any popular approval of the separatist projects. Basically Russian intervention has revived the issue of Ukraine’s cohesion at a time when it was being challenged less and less by the Russian-speaking populations.

Ukraine did not have to ratify the Council of Europe’s European Charter of Regional or Minority Languages. Unlike some other European States, including France, it did so however in 2003 [29], probably to contain rather than to satisfy the Russian-speakers’ demands along with their friends in Russia. As part of the implementation of this Charter the regime adopted a bill in 2012 granting minority languages the status of regional language in the territories where Russian-

27. A survey undertaken by the International Institute for Sociology of Kiev between 8th and 13th May 2014. The maximum % of those in support of a Federal State is seen in the Donbass (43.8%). In Kharkov, 57.9% of those interviewed said they were attached to a unitary State. In other regions the figure oscillates between 71% and 92,1%. In : <<http://socis.kiev.ua/ua/press/rezultaty-sotsiolohichnoho-doslidzhennja-reytny-hy-kandydativ.html>>

28. IMF Country Report No. 14/106.

29. Ukraine signed the European Charter of Regional or Minority Languages on 2nd May 1996. The Ukrainian Parliament ratified it on 15th May 2003. On 25th December 2006, the Ukrainian authorities published the Charter in the Official Journal of Ukraine.

speakers represented more than 10% of the population, i.e. in 13 of the 27 administrative sub-divisions including Kiev. Ukraine found itself in a situation where it had to protect and encourage the Russian language, which is officially a minority language but, in fact largely the majority in some regions. At the end of February in the context of the challenge being made to the regime the opponents of this law succeeded in pushing through a new bill in the Rada (Parliament) which abolished the previous one. Given the opposition of the Council of Europe and Russia, this new bill was suspended without even having been implemented, but in terms of communication the damage was done. Not only was the new Ukrainian authority formed in part by some members of the far-right, established in the centre and west of the country, but it was also hostile to minority linguistic rights that were part of a Council of Europe document (that neither Russia, nor the 11 EU Member States [30] have even ventured to ratify...).

2.3. The Presidential Election of 25th May: towards re-establishing the rule of law?

Paradoxically, rarely has the electoral geography of Ukraine been as little polarised as when the territorial integrity of the country was under challenge. The winner of the election, Petro Poroshenko only won under 40% of the vote in four of the 28 oblasts.

Some other unusual facts: the election of Petro Poroshenko in the first round with 54.7% of the vote as well as the weak score achieved by the Party of the Regions candidate (the party of the outgoing president). The main opposition candidate, Yulia Tymoshenko, won less than 13% of the vote, whilst all of the other candidates won under 10%. Presented by some Russian and western media as the driving force during the crisis, the far-right hardly mobilised the electorate. The Svoboda representative won 1.1% of the vote, Right Sector 0.7%. It is still too early to say whether the first step towards consolidating the rule of law has been taken with this election. The election indeed highlights one of the ills of Ukrainian democracy, in that there is a close connection between private interests of some business men and public interests, since the

two main candidates were oligarchs. The general elections on 26th October and the composition of the next government will tell us more about the elites' ability to regenerate.

3. A GUILTY AND WEAKENED EUROPEAN NEIGHBOURHOOD POLICY?

3.1. Ukraine's failure to forge an effective development model

Although some reform has been undertaken over the last few years the Ukrainian economy still faces widespread corruption and suffers from a lack of investment in terms of diversifying and modernising the economy. A 5% recession is likely in 2014 and inflation is due to rise because of the depreciation of the currency and the rise in gas tariffs approved by the IMF aid plan (17 billion \$) [31]. The diversification of the economy is the main challenge to the country that has specialised in the steel industry and whose growth is mainly linked to world steel markets. Thanks to the vertical integration of businesses that enable most of these to own their own coal mines and raw mineral reserves, thanks to low wage costs, a competitive energy cost and the opening onto the Black Sea this sector has enjoyed high demand on the part of the emerging countries. Growth has also relied on agriculture but the significant yields of the cereal sector have occulted the still incomplete modernisation of the agro-food sector. As a result Ukraine is the world's second biggest export of grain but sells almost no dairy or meat products to the EU.

The conflict with Russia is all the more damaging since the economies of both countries are closely linked. Russia counts for a quarter of Ukrainian exports (10% of the Ukrainian GNP) and notably buys metals and machines. 30% of Ukrainian imports come from Russia. 12% of the bank assets are owned by Russian banking establishments. Russian investments count for 2.4% of the Ukrainian GNP (not to mention the flows transiting via Cyprus) and in 2013 the country received 4.3 billion \$ in currency from expats established in Russia (out a total of 6.5 billion) [32].

30. 11 Member States had not ratified the Charter on 11.06.2014
<http://conventions.coe.int/Treaty/Commun/ChercheSig>

31. IMF Country Report No. 14/106.

32. *Id.*

In terms of energy Ukraine depends of course in part on Russia but the trend ongoing for some years has been to deconstruct the links between the two countries. In 1999, 100% of Russian gas exports transited via Ukraine, 15 years later, thanks to gas pipelines such as Yamal, Blue Stream and Nord Stream this figure has dropped to 59% and might even be below 50% if the gas pipeline South Stream were operational [33]. However Ukraine has also been looking into other supply paths. During the Presidency of V. Yanukovych a first gas pipeline connected to Europe was used, not to export but to import gas and other flows (reverse flows) could or will soon come from Poland, Hungary, Slovakia and Romania. In addition to this the decline in Ukrainian consumption to a backdrop of de-industrialisation has led to a sharp drop in imports from Russia. Beyond this latent challenge to inter-dependence between the two countries, it is the restructuring of the Ukrainian energy model which is at stake, and to date is one of the least efficient in the world.

Although for some years Russia shouldered a part of the cost of this model in exchange for political concessions the crisis may bring this preferential treatment that Kiev has enjoyed on the part of Moscow to an end. Long term the international institutions and the EU might have to take on the burden of modernising the sector, the debts owed by Ukraine and even the dangers of unpaid bills (in the event of reverse flows). From an industrial point of view more expensive Russian gas may also affect the competitiveness of Ukraine's heavy industry, one of the country's main economic assets [34].

3.2. An adapted European offer?

Of all the Association Agreement signed by the EU none has been as ambitious as that signed with Ukraine, Georgia and Moldova. The Deep and Comprehensive Free Trade Agreement (DCFTA) which forms the core of the association agreement covers most economic and social sectors. The agreement with Ukraine is the only one to include services. In a document of over 1000 pages, including a preamble, 7 chapters, 3 annexes and 3 protocols Ukraine commits to reducing its customs duties and to take on a major share of the community *acquis*. In sum the association offered to Ukraine is

the last step before entering the European Economic Area which links the EU with Iceland, Liechtenstein and Norway. For its part, the Union promises to open its markets more, a prospect which was speeded up during the first weeks of the crisis [35].

The association agreements concluded between the EU and its neighbours are of interest in that they spread the EU's standards, which are a true obstacle in terms of deepening and diversifying trade. Indeed customs duties are not so important on the other hand. Technical and sanitary standards prevent the entry of goods onto the Union's market hence harmonisation in this area may, in theory, benefit all sides. These agreements may also encourage the elites of the partner countries to think and include the reforms in a European context both in the mid and long term. The philosophy behind the enlargement policy is adopted vis-à-vis the neighbourhood, but it excludes key elements like significant financial assistance, a timetable and an explicit promise of membership. For most Member States making prior judgement of further enlargement would be irresponsible. Others believe that only an explicit prospect of membership would create the conditions for an in depth transformation of the systems in the eastern neighbourhood [36].

Mid-term there is still doubt about the benefits of the association agreement with Ukraine. Apart from the trade chapter, the other components are conditioned by the ratification by all of the Parliaments involved. Moreover some measures provide for transitory periods that could last over a decade. It seems appropriate therefore not to count on immediate positive effects, except if Ukraine manages to implement a support strategy and sees the association agreement as a lever for the country's modernisation long term. It remains that the concern shown by Russia at the idea that Ukraine could sign this agreement is surprising. Of course the latter is not compatible with the Russian inspired Customs Union but it is not anticipating immediate membership however. In addition to this it might discredit the Ukrainian authorities' European ambition if they do not manage to implement the agreement correctly. Two, non-contradictory hypotheses might be considered. Either the Russian

33. *Ukraine Analysen*, n°132, April 2014. Edited by the Forschungsstelle Osteuropa an der Universität Bremen und Deutsche Gesellschaft für Osteuropakunde.

34. In April 2014, Russia increased its tariffs with Ukraine by 81%, bringing them up to 485 dollars for 1000 cubic metres.

35. In terms of support measures to Ukraine the EU approved the immediate opening of the European market (the granting of autonomous preferences) on most goods without waiting for the other stages provided for in the Agreement. Crime will benefit from the opening of the European market.

36. *Die Welt*, 31.05.2014

authorities have overestimated the effects of the EU/ Ukraine Association Agreement (after having underestimated the effects of the 2004-2007 enlargement), or they have grasped an opportunity provided by Europe via this ambitious agreement to execute a project to dismember Ukraine.

Did the European offer provoke Moscow unnecessarily? By forcing Ukraine to choose between east and west, does Europe have its share of responsibility in the crisis? Beyond the fact that Ukraine is a sovereign State we might say that originally the European neighbourhood policy also involved Russia, which it declined, preferring a strategic partnership instead. Based on four common areas (an economic area, an area of freedom, security and justice, a common area of external security and a common area for research, education and culture) this partnership has not really produced any convincing results and Euro/Russian disputes have grown, notably in the energy sector. Furthermore the Customs Union launched by Russia dates back to 2009 and therefore came after the opening of negotiations on the signature of the DCFTA (2007). Although the two types of partnership are incompatible from a technical point of view, it should be said that the Customs Union clearly limits the possibilities for the parties involved to sign trade agreements with any third countries.

The argument whereby the neighbourhood policy did not adequately take on board Russia's perception of security matches the recurrent criticism made against a poorly politicised policy [37]. It is said that the neighbourhood policy is restricted to a technocratic process, void of any geopolitical sensitivity. On this point the (possible) responsibility does not lie so much with the Commission but the Member States, who designed the EEAS [38] to provide diplomatic impetus to the Union's external action. In addition to this the argument finds its limits in the Union for the Mediterranean which came from the desire on the part of some Member States to strengthen the ENP's political leadership resulting in a series of obstacles that might have been overcome by technical dialogue. Depoliticising relations, at the risk of neglecting open or latent conflicts in the south and the east, was more a strength than a weakness of the neighbourhood policy.

Putin's management of the crisis has re-politicised it, in line with a vision whereby the game on the European continent is zero-sum. However Russia would not necessarily lose out if Ukraine became more European. The 2004-2007 enlargements did not close the doors of Europe's markets to Russia. It is the main partner to several European countries, the latter are constantly increasing their exports to it, it is investing significantly in the region and it has succeeded in continuing or tying privileged links with the executive circles and political parties in several Member States.

The neighbourhood policy's main weakness has not therefore been to marginalise Russia. It lies rather in having the ambition of being an enlargement policy without having the means to do so and without the partner States enjoying the possibilities enjoyed by the candidate countries. National identity is not shaped in the same way, the relationship with Russia is not the same, and the issue of the State is set in a different way.

Inspired by the enlargement policy, the neighbourhood policy does have similar ambitions to a membership strategy, albeit with reduced budgetary means, since the signatories commit to adopting 80% of the community acquis. This approach can be explained by its "original sin": of having been drawn up after the enlargements by leading European executives who were familiar with the preparation of candidates for EU accession. It also reflects the pressure exercised by some Member States, who are geographically close to Russia (Sweden, Baltic States, and Poland) and who, from their sensitive standpoint, see a defect in their own security system. In Poland we might add the attachment to the formerly Polish *kresy*, which is a reminder of fears of competition with Ukrainian agricultural products and even the mitigated perception that the Poles have of their history with Ukraine [39]. The European approach can also be explained by the expectations of neighbouring countries, who want to sign any kind of agreement with the EU so that they can modernise their economy and keep Russia, nostalgic of the Soviet period, at bay. Finally it lies in the Commission's administrative logic which wants every DG to be involved and is concerned

37. The argument is notably developed by Stefan Lehne, *Time to Reset the European Neighborhood Policy*, Carnegie Foundation Paper, 4th February 2014.

38. European External Action Service.

39. In the ranking drawn up by CBOS regarding the respective popularity of these countries in the Polish public opinion Ukraine featured 22nd in 2014 with 33% of the those interviewed expressing their antipathy for the Ukrainians. In CBOS report, February 2014.

with including a great number of directives in the agreement. The agreements which emerged from this process are ambitious but not necessarily adapted to the neighbouring countries.

As an example, the legitimate concern about preventing social dumping by the partner countries led Europe to include some of its social norms in the agreements, some of which do not even apply to the Member States that benefit from "opt-out" clauses! Likewise several directives necessary to the smooth functioning of the internal market have been integrated into the agreements without anyone noticing how they might be taken up and implemented within a reasonable timescale. But the principle of conditionality is only valid in part since the neighbouring countries are not committed to an accession process and sanctioning them would be difficult both from a legal and political point of view. If the neighbourhood countries are successful nothing states that within the context of its own internal challenges (rise of populism, budgetary imbalance, membership promised to the Western Balkans, dispute between the Commission and some Member States like Romania and Bulgaria) the Union will be enthusiastic about making any further enlargements. The ambition of the agreements offered to the neighbouring States contrast with the lack of any explicit purpose.

The total and the means of financial assistance also contrast with the declared aim. Unlike the agreements which have been signed assistance does not lie in fact in a logic of membership but in one of cooperation.

First and foremost it is limited. From 1991 to 2013 Ukraine received around 130 million €/year. In March 2014 European assistance totalling 11 billion € was decided upon and the IMF allocated 17 billion €. However the share of loans in these totals is high and this includes European aid. The 11 billion € includes three EBRD loans (5 billion), the EIB (up to 3 billion) and the EU (1.6 billion), with the EIB and EBRD aid being subject to conditions. The European loan is therefore limited to 1.4 billion, of which 200 million in 2014, then between 130 and 200 million per year until 2020 [40]. At the end of the day the endowment made to Ukraine

as for all partners in the neighbourhood policy, will only be slightly higher than that granted between 2007 and 2013 at constant prices. In comparison between 2007 and 2012 Poland received 9 billion €/year on average [41]. Although the difference between these figures is significant, it should be noted that Poland has benefited from different treatment since it is an EU Member State, making it eligible to community policies (Structural Funds and CAP in particular). Moreover Ukraine's absorption capacities remain limited and the degree of corruption (the country is ranked 144th out of 177 by Transparency International) encourages caution.

Secondly this assistance is not managed by the DG Enlargement but by the DG DEVCO that is responsible for development aid [42]. However in the logic of enlargement assistance is comparable to the building of ambitious programmes that are gradually managed by the partner States in view of preparing for the management of European funds. The administrative culture of the DG DEVCO is different and based on cooperation programmes designed according to approved priorities and the capacities of the beneficiary State. As a result the high ambitions approved in these association agreements contrast with modest assistance focused on some priorities in a financial framework agreed over seven years before the Ukrainian crisis.

Finally the fact that the neighbourhood policy is modelled on the enlargement policy in terms of its methodology and on the development aid policy – from the point of view of its financial chapter – is not without consequence. Implicit to this administrative aspect is the issue of the purpose of the neighbourhood policy which the new European Commissioner (Johannes Hahn) will have to address. What are the goals of this policy? Given the means of assistance and the lack of purpose, should it be a concerted effort towards extending the internal market or should it be based on a limited number of ordered actions adapted to each partner state? Should Europe only stick to the neighbourhood policy or go further in the differentiation between the Eastern Partnership and the Euro-Mediterranean process? A common framework boosts the partner

40. Le soutien de la Commission européenne à l'Ukraine, Memo 14-159, European Commission, 2014.

41. This sum represents the balance between the totals paid by the EU and those received. The summary is as follows: 5.1 billion in 2007, 4.4 billion in 2008, 6.3 billion in 2009, 8.4 billion in 2011, 15.7 billion in 2012.

42. In the new College of Commissioners put forward in September 2014 the unit in charge of the neighbourhood policy at the DG DEVCO has been transferred to the DG Enlargement.

countries mutually, but also causes frustration in the east and the south – which is all the more vain since in reality the relationship with the EU is individualised. Whatever the outcome of the Ukrainian crisis Europe will not be able to avoid the clarification of these different points in order to improve the compromise embodied by the association agreements, between the logic of cooperation and that of integration.

CONCLUSION

We lack hindsight to draw conclusions – even provisional ones – of the Ukrainian crisis. Although the European offer to Kiev cannot be interpreted as a strategy to reject Russia, it has provided the Russian authorities with a pretext without us being able immediately to assess its positive effects. In September 2014, the Russian authorities can be satisfied with the annexation of Crimea, which rules out, or at least delays any further Russian reflux into the Black Sea area. They have also proved their ability to damage Ukraine's image and its stability via initiatives undertaken in the Donbass. The initial goal of preventing Ukraine's rapprochement with the EU has however failed. Rarely has Ukraine been the source of so much empathy and support on the part of the Member States since its independence. The country has signed an association agreement and has witnessed its accelerated access to the European market. Moldova and Georgia have followed suite. Ukraine has announced that it is leaving the CIS [43] and introduced a visa regime with Russia.

Within the Union the Common European Energy Policy has moved forward and the various options available enable a reduction in dependency on Russian gas (use of shale gas, development of GNL terminals, strengthening of inter-State connections). The Tatars of Crimea, who were the source of mixed feelings amongst the Ukrainians, are now the subject of empathy on the part of the latter and were notably well received by the Mayor of Lvov. In Maidan, Ukrainian civil society asserted its existence and its difference with Russian society to the point that long term we cannot rule out that this crisis will provide

the Ukrainians with the support which every nation needs to grow stronger. Russian interventionism has challenged Ukraine's territorial integrity. It might be a major step towards the national construction of this country.

In the country's east some of the Russian-speakers perceive Russian propaganda and the crisis as the assertion of their defiance against the "fascists" in power in Kiev but no significant movement has emerged in support of the fragmentation of Ukraine. Before the sudden increase in direct Russian intervention (proven by several independent sources since the summer of 2014), the separatists were losing ground in the face of the Ukrainian forces. In Europe the image of a powerful Russia as an occupying force has been revived by the crisis and Poland managed to achieve the deployment of American soldiers within its territory. In 2014 Russia's economic growth has contracted significantly, not to mention the cost it will have to bear if it is to transform deprived Crimea into a counter-model as a contrast with neighbouring Ukrainian regions. Whether it becomes an integral part of Russia or whether there will be a low intensity conflict designed to maintain instability in Ukraine, the Donbass may turn, long term, into a lawless, unstable zone on the Russian border. In view of the "costs", it remains to be seen whether the Russian authorities intend to continue with the project put forward by Putin. If this is proven, the exaltation of *Novorossia* paves the way for the destabilisation of the south of Ukraine up to Transnistria. The threat, brandished in September 2013, of a challenge being made to the Ukrainian State if the EU and Ukraine signed an association agreement would then have been carried out. Given that this crisis comes two decades after Ukraine relinquished the world's third largest arsenal of nuclear weapons in exchange for guarantees of safety, provided amongst others by some Western countries, the outcome of the Ukrainian crisis is largely beyond the framework of Central and Eastern Europe.

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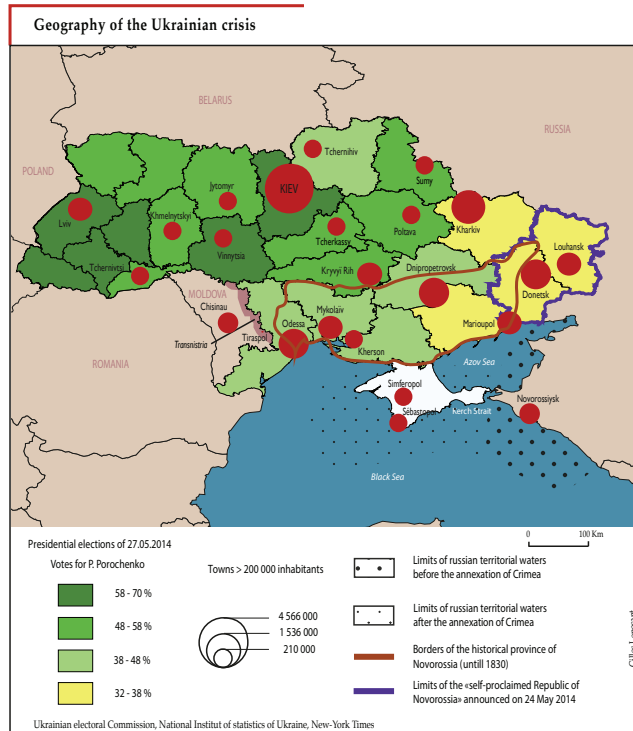
43. Community of Independent States. This announcement might not be followed up due to the political and technical issues at stake (Ukraine is the co-founder of the organisation and intends to maintain its links with some of the other Member States).

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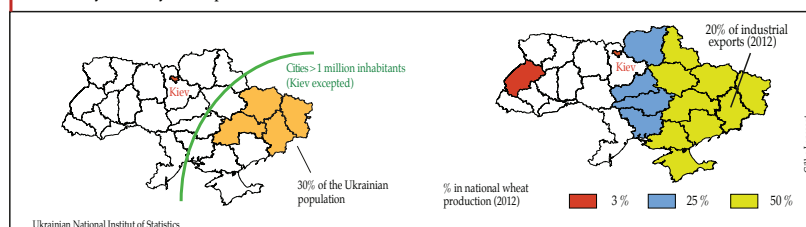
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ANNEXE

14



A country unevenly developed



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