GUIDEBOOK
TO THE
EUROPEAN NEIGHBOURHOOD INSTRUMENT
AND THE
INTERNATIONAL FINANCIAL INSTITUTIONS

CONTENTS

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WHY THIS GUIDEBOOK?

In the context of the renewed approach to the European Neighbourhood Policy (ENP) outlined in the Joint Communication of 25 May 2011, by 2014 the new financial instrument, namely the European Neighbourhood Instrument (ENI), will be the key financial instrument for 16 partner countries to the East and South of the EU's borders (Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, Occupied Palestinian Territory, Syria, Tunisia and Ukraine). The same communication also states the new approach towards an increased external mandate for the EIB for both eastern and southern neighbours, as well as the extension of the EBRD mandate to selected southern Mediterranean countries.

In this regard, the guidebook aims to present the details of the European Neighbourhood Policy and the new financial instrument, and their relation to the international financial institutions (IFIs), and specifically to:

- raise awareness about the ENP and ENI
- provide a tool that will help civil society organisations to build their capacities to participate in the planning of program priorities at the national and regional levels, monitor the coverage and outcomes of EU financial instruments
- ensure broader civil society group involvement in EU, EIB and EBRD decision making processes and policy making
- provide a critical reading of the engagement of the EIB and EBRD from a human rights-based approach
- present practical advice on how to undertake advocacy work within the context of ENP, ENI and the IFIs (the EBRD and the EIB).

WHO CAN USE THE GUIDEBOOK?

This guidebook will be beneficial for civil society organisations, human rights defenders and local activists monitoring the impacts of the European Neighbourhood Policy, both in the social and economic contexts as well as including its financial instruments. While the type of organisations may vary from country to country, the document will be of particular importance to organisations engaged in monitoring and advocacy on the issues of development and human rights.

THE CHAPTERS IN BRIEF

CHAPTER I – EUROPEAN NEIGHBOURHOOD POLICY AND ITS CORE ASPECTS

The chapter will provide the background to the European Neighbourhood Policy, its introduction, policy objectives, countries of concern, reference documents and its evolving nature after the popular uprisings in the southern Mediterranean. It will also elaborate the partnership towards the Eastern Europe and Southern Caucasus, namely the Eastern Partnership. The similarities and differences between the respective partnerships will be highlighted as well. The main references will be from EU website and official documents. The section will also present critical issues raised by CSOs.

CHAPTER II – FROM ENPI TO ENI: KEY ASPECTS OF FINANCIAL INSTRUMENTS, PROGRAMMING AND CRITICAL READING

The section will introduce the ENPI financial instrument and the new ENI, and will present an overview of the regulations, objectives, funding, the major differences, the lessons learnt, the programming characteristics of ENPI and ENI, the civil society role and related recommendations. Aside from the ENPI and the ENI, the section will also focus on the Neighbourhood Investment Facility (NIF) – the financial mechanism aimed at mobilising additional funding to cover the investment needs of the EU Neighbouring region. A critical reading of the NIF role will also be presented, especially with regard to access to information/availability of information on projects funded etc.

Moreover in this section, the key concept of blending EU funds and Budget support – as a mechanism that the ENI instrument will be using – will be explained and elaborated in two key subsections. For the blending of funds the focus will be on the challenges of blending development aid with private finance, the impacts on the private sector-public sector, the issue of transparency/accountability, and debt risks. For budget support, key aspects (from the Guidelines), its importance, the issue of transparency, corruption and key recommendations for CSO participation (in monitoring) will be elaborated.

CHAPTER III – THE ROLE OF THE IFIS

In relation to the previous chapter, and mainly based on the ENI regulation draft, the section will focus on the role of the IFIs. It will give a short introduction on the EBRD and EIB, and will focus on the EIB External Mandate 2007-2013, 2013-2020 and the expanding EBRD mission. The impacts of EIB/EBRD engagement on development levels of countries, the challenges, and the critical issues to be considered (including transparency, monitoring, projects impacts) will be explained as well.

CHAPTER IV – MONITORING AND EVALUATING ENPI/ENI AND THE ROLE OF CIVIL SOCIETY

The chapter will focus on the key aspect of monitoring and evaluation of the ENPI and ENI, and will present the monitoring processes (mid-term review-country strategy papers, NIP). The section will also shed light on the EU approach towards civil society as a critical partner in partnership from the inception of the ENP to the renewed approach, and the realities of CSO engagement-challenges/problematics to be overcome. It will also present the spaces for engagement in monitoring and advocacy as a practical tool (who to contact for what, which documents, when, which questions to consider, etc),and will present two case studies (one from MENA and other one from EaP) to highlight the position of CSOs.

CHAPTER I – EUROPEAN NEIGHBOURHOOD POLICY AND ITS CORE ASPECTS

WHAT CAN THE READER LEARN FROM THIS CHAPTER?

- BASICS OF THE EUROPEAN NEIGHBOURHOOD POLICY AND THE EASTERN PARTNERSHIP
- POLICY OBJECTIVES DETERMINANT IN THE ENP, AND BRIEF ANALYSIS OF THEIR IMPLEMENTATION
- THE EVOLVING NATURE OF THE ENP IN THE AFTERMATH OF THE POPULAR UPRISINGS IN THE ARAB REGION

HOW TO USE THIS CHAPTER?

- TO BUILD CAPACITY ON THE ENP AND EASTERN PARTNERSHIP
- TO RAISE AWARENESS ON POLICY OBJECTIVES
- TO BUILD CRITICAL ANALYSIS ON EVOLVING ASPECTS OF THE POLICIES

Ahead of 2004, prior to the EU's enlargement to 25 member states, acknowledging the political and economic interdependence with neighbouring countries as a reality, the European Commission adopted the Communication entitled Wider Europe[1]. This was the first document outlining the European Neighbourhood Policy.

In this communication the neighbouring partners were described as essential to increase the EU's mutual production, economic growth and external trade, to create an enlarged area of political stability and functioning rule of law, and to foster the mutual exchange of human capital, ideas, knowledge and culture.

Moreover, it was made clear that besides the geographical proximity, the EU should focus on the prosperity opportunities and poverty challenges of its neighbours. This recalled actions to tackle the root causes of political instability, economic vulnerability, institutional deficiencies, conflict, poverty and social exclusion.

The European Neighbourhood Policy (ENP) was officially launched in 2004 between the then 25 EU member states and the EU's closest neighbours, including Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, the Occupied Palestinian territory, Syria, Tunisia and Ukraine. In fact, the EU had long established good relations with these countries, as the Partnership and Cooperation Agreements cover eastern European countries and the Barcelona Process-Euro-Mediterranean Partnership and its Association Agreements cover the Mediterranean countries.

THE TOOL FOR IMPLEMENTATION OF THE ENP – ACTION PLAN

The Joint Action Plan prepared by the European Commission and respective partner countries represent the vital element of the ENP. Action Plans cover a number of key areas for specific action:

- political dialogue, economic and social development and reform
- trade related issues, market and regulatory reform
- justice, freedom and security issues
- diverse sectoral issues including energy, transport, information society, environment and research and innovation
- people-to people contacts including culture and civil society.

Although each Action Plan is country specific, and are thus called "country-tailored", they all include these chapters and are applicable for three to five years.

Action Plans are broadly scoped political documents and their non-implementation does not bring any legal sanctions. The ENP is designed to be dynamic, meaning it has to be reviewed in light of these progress reports' findings on the implementation of the priority actions, and accordingly taking further steps along the path to greater integration with the internal market and other key EU policies.

Implementation is promoted and monitored by various means, including the relevant sub-Committees of the existing Agreements – joint bodies including the EU and the partner country, ensuring joint ownership of the process – that follow the implementation of agreed reforms, sector by sector. The respective country governments also issue the ENP Action Plan implementation reports in various forms, while the EC annually presents country reports concerning the progress achieved in implementing the Action Plan.

TIP FOR CSOS

The ENP Progress Reporting process allows civil society contributions through consultations launched by the EU each year. By engaging in this process CSOs monitor the implementation of the Action Plan on the ground and present their priorities and recommendations. Moreover, in the revision of Action Plans, CSOs should engage in the process to ensure that the priorities set actually correspond to the national development needs and priorities of their respective countries. (Read more in Chapter IV)

On the basis of these evaluations the EU reviews the content of the Action Plan and takes a decision on adapting or revising it. Decisions regarding further steps towards developing bilateral relations (including the signing of new agreements) can also be taken on the basis of these assessments. These decisions may be codified in the form of Association Agreements. e.g. in November 2009, the Cooperation Council adopted the EU-Ukraine Association Agenda. This Agenda replaces the former Action Plan and will prepare for and facilitate the entry into force of the new Agreement. For 2010, a list of priorities for action was jointly agreed by Ukraine and the EU.

However, it should be noted that Action Plans have no clear timelines and benchmarks, either to assess country progress or overall ENP progress successes and failures, as the policy covers a wide geographical dimension, with diverse countries and a wide range of policy areas including economic cooperation, political dialogue, democracy and energy.[2]

EU Neighbourhood Policy development

EC joint communication reports assessing the ENP[3] have revealed a number of problematic aspects of policy. The EU considers its approach to economic integration as a driving force of the partnership, assuming that "deeper economic integration with ENP partners will be central to the success and credibility of the policy[4]".

Therefore the fact that assessment partner countries made "progress in economic and political reforms and have made the Action Plans the centerpiece of their domestic reform strategies"[5] was considered quite positive. Moreover, ENP assumes that Deep and Comprehensive Free Trade Agreements (DCFTAs) – covering all trade in goods and services – and measures to reduce non-tariff barriers through regulatory convergence is vital for increased economic integration with ENP partners. However, the EC's own assessment of ENP implementation underlines that "poverty and unemployment, mixed economic performance, corruption and weak governance remain major challenges[6]" for almost all partner countries.

Furthermore, the reports also underline the fact that if the ENP cannot contribute to addressing conflicts in the region, then it will have failed in one of its key purposes.

Therefore, these two problem areas of addressing poverty eradication and ensuring increased employment, and continuous conflict (particularly the Arab-Israeli conflict and conflicts in the Eastern Neighbour region) signal that ENP remained shortsighted to deal with the real problems of its partner countries.

Another important shortcoming of ENP, acknowledged by the Commission, involves the role of civil society.

The Communication admits, "civil society participation in the ENP should go beyond exchanges and cooperation programs. [The EU] must encourage partner governments to allow appropriate participation by civil society representatives as stakeholders in the reform process, whether in the preparation of legislation, the monitoring of its implementation or in developing national or regional initiatives related to the ENP"[7]. By the same token, given that civil society remains restricted, both in some southern and eastern partner countries, and therefore plays mostly a limited role in service provision than actually contributing to policy making processes, this problematic issue raised by the EU still remains valid, and is not tackled by the partnership.

EASTERN PARTNERSHIP INITIATIVE (EAP)

EaP was launched in 2009 between the then 27 member state EU and Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine, upgrading the eastern dimension of the ENP and complementing the EU's relations with each of the eastern neighbours with multilateral cooperation. It aims to ensure the acceleration of political association and further economic integration between the EU and the six partner countries, through bilateral and multilateral tracks.

The bilateral track of the EaP is based on the structures of the ENP and followed through the conclusion of bilateral agreements such as the Association Agreement and the Deep and Comprehensive Free Trade Area (DCFTA). At the same time, the multilateral track follows a new framework for exchange and cooperation through thematic platforms to foster exchanges of best practice on issues of mutual interest, as stated: good governance, economic integration and growth, energy security and transport, contacts between people and through flagship initiatives, which are regional cooperation projects in the fields of: energy, environment, response to disasters, border management, support to small businesses.

All of the above mentioned requires the EU to take appropriate steps to improve the neighbourhood policy. Some measures have been taken, such as the Introduction of the Eastern Partnership initiative (2009) in order to increase the differentiation between Mediterranean and Eastern Partner countries. However, major changes to ENP have been introduced only in 2011, following the popular uprisings in the Southern Mediterranean region.

NEW ENP – "A NEW RESPONSE TO A CHANGING NEIGHBOURHOOD"

The real necessity to revise the ENP arrived following the changing political, social and economic context in the Southern Mediterranean Partners caused by the 2011 uprisings. The new partnership was documented in a Joint Communication[8] entitled "A new response to a Changing Neighbourhood" and aimed to adopt a renewed approach built on the achievements of the ENP since 2004 and respond to the aspirations of people for more democracy and prosperity.

The new policy proposed by the EU in 2011 includes the following elements:

- The "**more for more**" approach: stated to be at the centre of the revised policy and based on positive conditionality. This means if partner countries introduce more reforms then they will receive more benefits (more funds and more integration).
- **Differentiation** in approach with respect to partners' specificities and own reform path.
- **Mutual accountability** between the EU and its partners, which will be ensured with increasing contacts and using Progress Reports as straightforward tools with country specific recommendations.
- A **strengthened civil society** (e.g. NGOs, businesses, academia, media, unions, and religious groups) **partnership** for which the EU established the Civil Society Facility covering the entire neighbourhood.

Accordingly, the renewed ENP is based on six core pillars[9]:

- Supporting progress towards 'deep democracy': focus on free and fair elections respecting rule of law, human rights and fundamental freedoms and as well to the civil society partnerships.
- Intensifying political and security cooperation: proposing that the EU become more involved in solving protracted conflicts in the region.
- Supporting sustainable economic and social development: assuming trade liberalisation as key to creating jobs and economic growth, the pillar focuses on negotiating 'deep and comprehensive free trade areas' with willing and able partners.
- Establishing Mobility Partnerships: aiming at enhancing the mobility of citizens between partner countries and the EU, in particular for students, researchers and business people.
- Strengthening the Eastern Partnership and building a Partnership for Democracy and Shared Prosperity in the southern Mediterranean: with Southern countries, the EU would launch institution-building programs, collaborate closely on migration, mobility, and security, and launch pilot programs to support agricultural and rural development.
- Providing additional funding with clearer priorities: additional funding dedicated to Southern Mediterranean partners to support growth and fund new initiatives, particularly collaboration with civil society and rural and regional development.

ENP AND THE LISBON TREATY

The Lisbon Treaty in 2009 that amended the constitutional basis of the EU also has its impacts on the neighbouring area and the EU's approach to it. According to Joint Communication (2011), the Lisbon Treaty "allows the EU to strengthen the delivery of its foreign policy: co-operation with neighbouring countries can now be broadened to cover the full range of issues in an integrated and more effective manner"[10]. Indeed, the Lisbon Treaty, in its Article 8, restated the EU's commitment to the "development of a special relationship with neighbouring countries aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union and characterised by close and peaceful relations based on cooperation."[11]

In addition, according to article 21 of the Lisbon Treaty[12], that defines general provisions for the Union's external action, theUnion must "pursue common policies and actions", and support objectives such as "consolidate and support democracy, the rule of law, human rights and the principles of international law, preserve peace, prevent conflicts and strengthen international security, in accordance with the purposes and principles of the United Nations Charter; foster the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty; help develop international measures to preserve and improve the quality of the environment and the sustainable management of global natural resources, in order to ensure sustainable development".

Furthermore, article 208 of TFEU stresses that "Union policy in the field of development cooperation shall be conducted within the framework of the principles and objectives of the Union's external action", and "that EU development cooperation policy shall have as its primary objective the reduction and, in the long term, the eradication of poverty. The Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries."

Therefore, the new neighbourhood policy, as well as the supporting funding instrument, intends to strictly follow the Lisbon Treaty. The objectives set by article 21 ensure that the primary aim of EU development policy is 'the reduction and, in the long term, the eradication of poverty'. This is a major achievement for the development community as it opens doors for a real policy with objectives independent from the other external policies of the Union. It also contributes to strengthening the position of development vis-à-vis the Common Foreign and Security Policy (CFSP). Overall article 21 increases the coherence and consistency of EU external actions.

ASSESSING ENP IMPLEMENTATION

In order to assess the implementation of the ENP country by country and at the regional level it is important to address a number of questions, including:

- Does the ENP/EaP contribute to the development needs of the partner countries?
- What is the role of the ENP/EaP in the country's economic growth?
- Do the economic policies implemented in light of the Action Plans aim at equal distribution of wealth and addressing root causes of poverty?
- Does the ENP/EaP contribute to implementation of Article 21 of TEU and article 208 TFEU of the Lisbon Treaty in terms of poverty reduction and sustainable development?
- How does the ENP/EaP and Action Plans address unemployment? Do they promote economic policies related to job-generating sectors, including the industrial sector, agricultural sector and services?
- How adequate is the trade agenda set in the Action Plans to development needs, and the stages and capacities of the partner countries?
- How is the "security" assessed? How is the security-development nexus integrated?
- How do the funds allocated within the policy contribute to democracy and human rights? Is the aid effective? Does it correspond to the development challenges of the partner countries?
- Does the ENP create space at the country level to ensure the implementation of the partnership principle?
- Are the Country Strategy Papers and the Action Plans outcome documents of a national dialogue process? As CSOs, what role did you play in their preparation?
- What are the roles given to different stakeholders at the national level, including CSOs in relation to the implementation and monitoring of the Action Plan and Country Strategy Paper?

ENP in bullet points

* Concerned countries: Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, the Occupied Palestinian territory, Syria, Tunisia and Ukraine.
* Key documents: Association Agreements, Partnership and Cooperation Agreements, Country Reports, Action Plans, Periodic Progress Reports.
* Key funding: European Neighbourhood Policy Instrument (by 2014, the European Neighbourhood Instrument).
* Actions: Regular monitoring of implementation, contributing to setting of priorities through consultations run (See more in chapter IV).

CHAPTER II – FROM ENPI TO ENI

WHAT CAN THE READER LEARN FROM THIS CHAPTER?

- INTRODUCTION TO ENPI AND THE NEW ENI
- KEY CONCEPTS OF COMPLEMENTARITY AND COHERENCE ON FINANCIAL ASSISTANCE.
- KEY CONCEPTS "BLENDING" AND BUDGET SUPPORT.

HOW TO USE THIS CHAPTER?

- TO BUILD CAPACITY ON THE FINANCIAL INSTRUMENT OF ENP.
- TO CRITICALLY ASSESS THE BLENDING MECHANISM AND BUDGET SUPPORT.

EUROPEAN NEIGHBOURHOOD PARTNERSHIP INSTRUMENT

Since 1 January 2007, as part of the reform of EC assistance instruments MEDA[13], TACIS[14] and various other programs, these have been gradually replaced by a single instrument, the European Neighbourhood and Partnership Instrument.[15] The main aim of ENPI was defined within the ENP framework. It is supposed to contribute to enhanced cooperation and economic integration between the EU and its neighbours. The ENPI is managed by EuropeAid, whose decisions taken at the political level are turned into actions on the ground.[16]

Regulation (EC) №1638/2006[17] lays down the general provisions establishing the ENPI and outlines phases of the ENPI assistance cycle and programming phase. It also lays out the fundamental principles of ENPI assistance: complementarity, partnership and co-funding. Indeed, ENPI assistance is to complement or contribute to national, regional or local strategies and measures.

The ENPI implementation modalities include:

1. Budget support
2. Projects (call for proposals)
3. Other modalities (blending mechanism) (items are elaborated in subsections below)

The ENPI Regulation[18] stressed that ENPI support should be coherent with the objectives and principles European Consensus for Development[19] (adopted in 2005) puts reduction of poverty, development based on Europe's democratic values (including respect for human rights, social justice, rule of law… etc) and national ownership of development strategies at the heart of EU assistance. In this regard, ENPI programs and projects should be consistent with EU policies.

In addition, the regulation also stresses that coherence between financial assistance from ENPI and the financial assistance provided through other EU internal and external financial instruments, as well as the European Investment Bank (EIB), must be ensured.

Another important point raised in the regulation is in regard to the role of different stakeholders. Accordingly, the regulation underlines that "…The beneficiary countries shall associate the relevant partners as appropriate, in particular at regional and local level, in the preparation, implementation and monitoring of programs and projects".

ALLOCATION OF RESOURCES

ENPI assistance is disbursed through three types of programs:

- National programs for each partner country: one for each of the 16 participating countries;
- Regional programs: three regional programs—one each for the East and the South, and one trans-regional program covering both;
- Fifteen Cross-Border-Cooperation (CBC) programs.[20]

ENPI allocations		
	Amount (m €)	
	2007-2010	**2011-2013**
Bilateral	1034,5	1283,4
Regional	247, 75	262,3
Interregional	523,9	757,7
Cross-border	234	293
Neighbourhood Investment Facility	700	
Governance Facility	Tentatively €50M per year	

The ENPI had a budget of €11.2 billion for 2007-2013. With the launch of the EaP in 2009, it was increased by €350 million. Later in May 2011, following the popular uprisings in the Southern Mediterranean Partners, the ENPI's budget was boosted by additional funds amounting to €1.242 billion. Around 95% of the ENPI budget is allocated to national and multi-country programs, while the remaining 5% is allocated for CBC programs.

THE THREE STAGE PROGRAMMING PROCESS UNDER THE ENPI AND RELATED DOCUMENTS

- Country Strategy Papers (CSPs) or Regional Strategy Papers set out the priority areas and the assistance strategy for five to seven years;
- National Indicative Programmes (NIPs) or Regional Indicative Programmes translate assistance priorities identified in the CSP into funding priorities. They specify, for a three or four year period, the indicative financial allocation and its distribution between the focal areas of cooperation;
- Annual Action Programmes (AAPs) detail the activities and projects that will be implemented from each annual budget allocation.

Funding of the Eastern Partnership Initiative

EaP funding compromises €600 milion, that increases the overall amount of ENPI funds for the Eastern partners up to €19 billion during 2010-2013.

The funds were distributed in the following way:

- Comprehensive Institution Building programs to assist reforms (about €175 million);
- Pilot regional development programs to address regional economic and social disparities (about €75 million);
- Implementation of the EaP, focusing on democracy, governance and stability, economic integration and convergence with EU policies, energy security, and contacts between people with the aim of bringing the partners closer to the EU (about €350 million).

ENPI PROGRAMMING PROCESS

The ENPI assistance mode and relevant programming (See Box) documents can be classified as:

1. **National Programme** – aims to support the implementation of ENP Action Plans. Country Strategy papers, that cover the priorities for the implementation period of ENPI, are one of the key programming documents. They cover the whole period, namely six years. National Indicative Programs, that outline the financial allocations for implementing the priorities defined in Strategy Papers and that are revised at mid-term (thus NIPs cover three-year in principle), and Annual Action Plans that provide details, financial allocations and a timetable, add to relevant programming documents.
2. **Regional assistance programmes** cover two regions – Southern Mediterranean and Eastern partners. Therefore two regional strategy papers (one dedicated to Mediterranean partners, the other to Eastern partners) outline the general framework for the six-year period. The Regional Indicative Programs presenting the financial allocations for the priorities in respective Strategy papers (that cover a three-year period) are key programming documents.
3. **Inter-regional assistance programmes**, that are complementary to country and regional programming documents, aim to provide effective and efficient support for the achievement of ENP objectives at the inter-regional level.
4. **Cross-border co-operation programmes** – through land border programmes between two or more countries sharing a common border and multilateral programmes covering a sea basin, the CBC programmes are intended to benefit those regions of neigbouring countries that directly share a land or maritime border with the EU, and their counterparts on the EU side of the border. During the 2007-2013 period, 13 CBC programmes (9 land borders, 1 sea crossing and 3 sea basin programmes) have been established along the Eastern and Southern external borders of the EU with total funding of €950.516 million. The programmes focus on common challenges particularly in fields such as the environment, public health and the prevention of and the fight against organised crime. Given the particular role dedicated to local ownership, the programmes intend to promote local governance. The Cross Border Strategy document (for six years) and the Indicative Program (for three years) are the main programming documents.
5. **The Governance Facility** has been established in order to provide additional support – "to acknowledge and support the work of those partner countries that have made most progress in implementing the agreed reform agenda set out in their Action Plan". The GF funding is available "on top of national allocations, to support key elements of reform agenda""[26] The facility corresponds to the basics of the ENP policy as it encourages partner countries' efforts aimed at promoting good governance. The 2007-2013 budget for the Governance Facility was €300m.

Inter-regional Program priorities [21]	Instruments
Promoting reform through European advice and expertise.	Technical Assistance and Information Exchange instrument (TAIEX)[22], Support for Improvement in Governance and Management (SIGMA)[23] .
Promoting higher education and student mobility.	TEMPUS[24], ERASMUS MUNDUS[25].
Promoting inter-regional cultural action.	Inter-regional (East-South) action focusing on the independent cultural sector and contacts between people.
Promoting co-operation between local actors in the partner countries and the EU.	CIUDAD – a capacity-building instrument for modernising and strengthening local and regional government.
Promoting investment projects in the ENP area.	Neighbourhood Investment Facility (NIF).

PROBLEMS AND CHALLENGES RELATED TO THE ENPI

The ENPI regulation is legally binding until the end of 2013[27] and will be replaced by a new financial instrument – the European Neighbourhood Instrument (ENI). The regulation establishing ENI acknowledges the positive aspects of the ENPI but also acknowledges the challenges and lessons learnt from ENPI.

The lessons learnt include:

- The complex and lengthy programming process that includes broad consultations between the EC and procedural steps, which take around 18 months. Such lengthy processes make it problematic to form an adequate response strategy geared to the actual situation in country and limits the relevance of adopted documents.
- Broad scope of priorities that distracts the instrument from contributing to the core objectives and focus of the ENP, and from ensuring policy coherence[28] – the scope of the ENPI addressesthe implementation of partnership and cooperation agreements, association agreements or other relevant agreements, the promotion of good governance and equitable social and economic development. In addition, it includes 29 thematic areas of cooperation. All of this combined makes it problematic to ascertain the core objectives and the focus of the ENP. However, ENPI assessments reveal that the linkages between the ENP policy framework and assistance programming documents remain mixed[29].
- Lack of integrated approach regarding anti-corruption measures – 90 percent of the ENPI funds goes directly as budgetary support. However, almost all partner countries have problems with budget transparency, including the monitoring of budgetary processes. The ENPI regulation lacks specific means to address corruption in budget support schemes[30] (see more on budget support in the subsection below).
- Environmental and social impacts of the funding – the ENPI regulation does not require environmental and social assessment of ENPI funded programs and projects. Taking into account that national (especially environmental) legislation often does not correspond to EU directives and established

practices, the impacts may be controversial and problematic for local populations affected by specific ENPI programs/projects.

- Ineffective use of measures, particularly the Governance Facility – despite its positive engagement, the GF has been used only a few times. Taking into account that the selection criteria of recipients under this facility has not been clear, the overall problems associated with governance issues and the protection of human rights both in the Eastern as well as the Mediterranean region does not permit the option of using it.

PROPOSED EUROPEAN NEIGHBOURHOOD INSTRUMENT FOR 2014-2020

In accordance with the Joint Communication of 25 May 2011, the new European Neighbourhood Instrument (ENI)[31] will provide support to 16 partner countries to the East and South of the EU's borders from 2014 until 2020. In December 2011, the EC submitted a proposal to the European Parliament to approve the new external assistance instruments[32], including the European Neighbourhood Instrument[33] for 2014-2020.

The ENI programs would be structured in the same way as ENPI. The draft regulation proposed the following programs:

1) **bilateral programmes** covering support to one partner country;
2) **multi-country programmes** which address challenges common to all or a number of partner countries, and regional and sub-regional cooperation between two or more partner countries, and which may include cooperation with the Russian Federation;
3) **cross-border cooperation programmes** addressing cooperation between one or more member states on the one hand, and one or more partner countries and/or the Russian Federation on the other hand, taking place along their shared part of the external border of the EU.

The draft ENI regulation proposes a number of important changes, that would strengthen **coherence** between the financial instrument and the ENP policy framework, in order to ensure more efficient allocation of the resources and implementation of jointly agreed priorities between partner countries and the EU and member states.

In order to encourage the partner countries, ENI would apply **differentiation and** the '**more for more'** principle: according to the draft regulation, special attention will be given to those partner countries that are truly engaged in building a strong and sustainable democracy based on the rule of law.

As the revised ENP in 2011 centralises this more for more approach, the ENI establishes a strong linkage with the more for more approach by indicating that criteria for financial allocations should reflect the differentiation principle. It would reflect an individual country's "level of ambition of the country's partnership with the Union, its progress in building deep and sustainable democracy, its progress in implementing agreed reform objectives, the country's needs and capacities, and the potential impact of Union support"[34].

However, despite the good wording within the regulation, it is still not clear how the indicators for the more for more principle will be formed, and how the implementation monitoring will be tackled. (See box on concerns about 'More for More' principle)

CONCERNS WITH THE 'MORE FOR MORE' PRINCIPLE

The new concept of 'More for More' should provide for a fully meritocratic ENP that lays the grounds for a more equitable differentiation between neighbours, based on their own performance rather than the geopolitical interests of the EU.

However, it is unclear how the principle will translate in practice given that, in the past, it has often been the success of economic reforms and member states' geopolitical interests, rather than a country's democracy and human rights records, that makes the difference, both in the eastern and southern neighbourhoods.

Often the priority sectors in which governments in neighbourhood regions implement reforms, e.g. public finance management, public procurement, economic liberalisation and privatisation, ignore other areas such as research and innovation, education, agriculture, health protection and so on. As a consequence, the reform measures align with the EU acquis only selectively.

To remedy this, there is a need to establish both quantitative and qualitative indicators to assess the real progress each neighbourhood country achieves. The results of such an assessment, based on well-defined indicators, would help shape EU funding decisions and build on the "More for More" principle. This would also help avoid controversial and fragmented reforms, that in the end decrease a country's overall commitment towards harmonisation with the EU Acquis.

A system of qualitative and quantitative indicators for each neighbourhood country – based on the model of the European Integration Scoreboard – is one preferred example.

The ENI would streamline its scope through focusing the cooperation on the key policy objectives of the ENP action plans as agreed with the partners. In general, the areas of cooperation would be downsized, with up to six priorities for the forthcoming seven year period.

This will make EU support more relevant, efficient and focused. The major objectives to reach include promotion of human rights and fundamental freedoms, stronger and more inclusive growth, support for progressive economic integration into the EU internal market, confidence building to contribute to security and the prevention and settlement of conflicts. The focus will be also to increase people to people contacts, sectoral cooperation (e.g. energy and climate change) and the development of civil society organisations.

The draft ENI regulation, in coherence with the new Common Rules and Procedures for External Action Instruments[35], will simplify and mainstream implementation provisions. The programming process would become shorter, less complex and streamlined in a way that ensures an adequate, appropriate and timely response strategy towards partner countries. The European Commission will prepare a comprehensive multi-annual Single Support Framework for the next seven year period based on the ENP APs (or equivalent documents) rather than the diverse programming framework of ENPI. It also simplifies the EU assistance delivery procedures in the situation of crises or threats to democracy, the rule of law, human rights and fundamental freedoms, or natural or man-made disasters.

The ENI regulation provides increased linkages with EU internal instruments and policies to strengthen the policy-driven nature of EU assistance, through mechanisms for the pooling of funds from internal and external instruments of the EU budget. The aim is to enable partner countries and their citizens to participate in successful EU internal programmes in areas such as student mobility, youth programmes or support to civil society.

With regard to the participation of stakeholders, the ENI regulation strengthens the role of civil society – and CSO groups are considered not as mere beneficiaries of the ENI funds, but will be entitled to a more effective role both in planning, as well as implementation and monitoring of ENI activities.

In this regard, the ENI regulation reads as follows: "Union support under this regulation shall, in principle, be established in partnership with the beneficiaries. The partnership shall involve as appropriate, national, regional and local authorities, other stakeholders, civil society, social partners and other non-state actors in preparing, implementing and monitoring Union support."

While the given clause is still not legally binding to ensure public participation through designed procedures at all stages of programming, the progress in comparison with ENPI is visible.

In this regard, whereas the participation in ENPI programming and monitoring has been problematic and opposed by a number of beneficiary countries' governments, followed by an increasing practice of substituting CSOs with government organised non-governmental organisations, the EU should be leading in its programming exercise in order to establish best practice cases. In addition, the procedure of involving civil society should be more than a tick box exercise, with genuine participation ensured.[36].

PROPOSED BUDGET FOR ENI

The proposed budget for the new ENI is €18.2 billion, defined under the Multiannual Financial Framework (MFF)[37] for 2014-2020. The major parameters of MFF were adopted in 2011.

MFF represents the EU budget – the spending plan that translates the EU priorities into financial terms and limits expenditure over a fixed period and defines the maximum amounts available for each major category of spending (heading).

The proposed budget should be adopted both by the European Parliament and the European Council before it enters into force.

MAJOR TOOL FOR ENPI AND ENI DELIVERY – BUDGET SUPPORT

The EU is one of the world's largest providers of budget support – the method through which development aid is provided directly to developing country governments, rather than to specific projects.

Budget support is a structured and systemic aid modality that is directly channelled into the financial management, accountability and procurement systems of a country so that a beneficiary country ('partner country') can manage development programmes and poverty reduction policies according to domestic priorities. These features are intended to strengthen domestic accountability and responsibility, which supports the principles laid down in the Paris Declaration on Aid Effectiveness (2005) and the Accra Agenda for Action (2008).

Budget support provides key advantages over project-based and other types of aid, as it allows the dispersal of aid through a centralised structure, it can harmonise aid programmes and avoid the type of aid proliferation and fragmentation that increase transaction costs. It allows optimal finance for long-term, sustainable development strategies by increasing funds for recurrent costs, can stipulate resources for long-term national planning, budgeting and oversight functions, including Public Financial Management systems (PFMs) but also the judiciary, the parliament and civil society, among others – the type of oversight functions that are vital to sustainable and accountable development.

Thus, budget support is recognised as the most appropriate tool for aid delivery by the international community.

However, the EU itself recognises that, "Corruption is one of the key factors that affect the balance of arguments for and against budget support. Failure to tackle corruption undermines confidence in both the budget and the wider political economy, and has implications for both financial and development risks."[38] The added budgetary discretion, without effective oversight, afforded to partner countries creates increased opportunities for rent-seeking and corruption, while there is a concern that budget targets are realigned in response to the increase of funds, for example when government funds supplanted by general or sectoral support are diverted towards arms acquisitions.

Finally, there is a clear 'attribution' problem – if a country provides project-based support, for instance in the construction of a road, it is simple to see the cause and effect of the project. Budget support (at least in terms of general budget support) does not provide clearly observable results. (See Box on Egypt)

In order to respond to this dilemma, in 2011, a new communication, entitled "The Future Approach to EU Budget Support to Third Countries"[39], was adopted, defining the new approach to budget support. The communication refers to the Lisbon Treaty and reinforces the coherence and efficiency of EU measures and EU aid to generate real quality change in the partner countries in order to correspond to poverty reduction and eradication as the EU's primary development policy objective[40].

Protests in Tahrir square, Cairo, 25 November 2011.
Photo by flickr.com/photos/darkroomproductions

EUROPEAN COURT OF AUDITORS ON EU SUPPORT FOR GOVERNANCE IN EGYPT – WELL INTENDED, BUT INEFFECTIVE

In June 2013, the European Court of Auditors published a highly critical report on EU assistance that has aimed to promote key areas of governance in Egypt in the periods before and after the Uprising of January 2011.

The audit focused on Public Finance Management (PFM) and the fight against corruption on the one hand, and human rights and democracy on the other hand. For the period 2007-2013 approximately €1 billion in aid was allocated by the EU to Egypt. As more than half of this amount is channeled through Egypt's treasury, using budget support, considerable reliance is placed on the country's PFM.

The audit found that overall the Commission and the European External Action Service (EEAS) have not been able to manage EU support to improve governance in Egypt effectively. While partly this was due to the difficult conditions they faced in Egypt, the report stressed that there were shortcomings in the way the Commission and EEAS have managed their cooperation with Egypt.

The audit report concludes that "**The main human rights programme was largely unsuccessful.** It was slow to commence and was hindered by the negative attitude of the Egyptian authorities. The Commission and the EEAS did not use the financial and political leverage at their disposal to counteract this intransigence. Some elements of the programme had to be dropped completely. Funds channelled through Civil Society Organisations (CSOs) were not sufficient to make a discernible difference.

Following the Uprising no new major initiatives were taken to tackle key human rights issues and the measures taken have had little impact to date. **Women's and minorities' rights were not given sufficient attention** in the Review which followed, despite the critical need for urgent action to counter the tide of **growing intolerance."**

According to the report the Commission and the EEAS failed to ensure that the Egyptian authorities tackled major weaknesses in the PFM. **Lack of budgetary transparency, an ineffective audit function and endemic corruption** were all examples of these undermining weaknesses. The Commission and the EEAS did not react to the lack of progress by taking decisive action to ensure accountability for considerable EU funds, which continued to be paid directly to the Egyptian Authorities.

Earlier forms of budget support involved General Budget Support (GBS) – representing a transfer to the national treasury in support of a national development or reform policy and strategy and Sectoral Budget Support (SBS) – representing a transfer to the national treasury in support of a sector programme policy and strategy. The recipient government's Finance Ministry or Treasury Department administers both these forms of budget support. Thus, "from a technical financial perspective there is no difference between the two, bringing in aid fungibility"[41]. (see Box)

AID FUNGIBILITY

Fungibility is where one unit of an asset can easily be interchanged with another unit of the same asset. If we assume the asset is money (here aid or domestic revenue), the fungibility of aid concerns how governments choose to allocate their domestic resources given an allocation of foreign aid. The problem (from a donor perspective) arises, for instance, when a government receives aid for a sector-specific purpose but then reallocates at least part of its own resources that were originally budgeted for this purpose and transfers them to issues of higher political priority. Thus, in the worst case, even ear-marked projects in social sectors can indirectly co-finance clientele networks, a repression apparatus, or even military arms races. This potential challenge of fungibility exists independently of whether aid is given through projects or budget support, but is potentially more acute with budget support.

The new EU Budget Support approach alters the forms of budget support and the conditions associated with such.

It offers:

"*1. Good Governance and Development Contracts* (GGDC) to provide support to a national development or reform policy and strategy in promotion of human rights and democracy and to reflect commitment to the fundamental values of human rights, democracy and rule of law. As stated in the Budget Support Guidelines[42], the discussions of the Budget Support Steering Committee43 and the Budget Support dialogue will address all issues related to Budget support operations.

This includes as well monitoring the recipient country's human rights situation through:

- political reporting from the Heads of the EU Delegation (and/or of EU Heads of Mission when appropriate) that includes continuous information and assessments of political developments, also in terms of fundamental values, and recommendations are formulated as appropriate.
- ongoing political dialogue between the EU and the partner country as a forum to address concerns and challenges relating to fundamental values, including human rights issues.
- the EU Human Rights country strategies as tools representing comprehensive assessments covering the principles defined in Article 21, and also identifying the activities envisaged to attain the objectives. They take into account, and link to, the Universal Periodic Reviews undertaken in the United Nations context.

Based on the outcomes of EC monitoring, the following country situations can be related, as illustrated in the folowing chart[44].

Mostly stable or positively progressing situation	Continue to deploy activities planned with GGDC including its disbursements, make minor modifications or adaptations to better provide for promoting fundamental values.
Some concerns arising, but an overall respect of fundamental values is nevertheless still observed.	The Commission (Geographic Director), following the advice of the EU Head of Delegation, EEAS and the Regional Budget Support teams may **propose mitigation** measures, changes to activities and approach to follow in relation to disbursements, to the Budget Support Steering Committee. DEVCO and the EU Delegation then undertake the necessary financial or contractual adjustments or measures, as appropriate.
Significant deterioration of fundamental values.	The EEAS and the EU Delegation, with support from the Budget Support regional teams, will provide a report, including an analysis of the political impact on the budget support operations and their recommendations for action to the Geographic Director, who then refers this BS programme, with his recommendation, to the Budget Support Steering Committee for decision. The Budget Support Steering Committee will then decide on the **re-orientation of the planned budget support aid towards other delivery modalities, and/or the adoption, of precautionary measures.** The Development or Neighbourhood Commissioners, and the HR/VP will be consulted, as appropriate.
Extreme cases	Overall cooperation needs to be suspended, appropriate measures are decided by the EU institutions, which can include a reallocation of funds to non-governmental channels.

2. *Sector Reform Contracts* (SRC) will ensure provision of budget support to address sector reforms and improve service delivery. According to the Guidelines, the improvement is through ensuring both accessibility (equitable access) and quality of the service delivery particularly to the poor and promotion of gender equality and children's rights. Whereas GGDC requires a precondition of positive assessment of countries' adherence to fundamental values, the SRC does not require any precondition, yet once the sectors supported are related to fundamental values, like the justice sector (in relevance to rule of law, human rights, etc), the Guidelines states that "particular care" is taken.

3. *State Building Contracts* (SBC) to provide budget support in fragile and transition situations. They remain unique, not combined with GGDC and SRC but rather should prepare the ground for GGDC or SRCs by supporting the formulation of national/ sector development policies, consolidating the macroeconomic framework. Moreover, whereas the former two forms, namely GGDC and SRCs, cover a period of three to six years, the SBCs are designed to include one to two year commitments, and are more targeted.

PROPOSED BUDGET FOR ENI

The new 'budget Support' approach has several features that need further monitoring during its implementation. These include:

1. The budget support based on the aid effectiveness agenda and commitments set out in the Monterrey Consensus (2002), the European Consensus on Development (2005), the Paris Declaration on Aid Effectiveness (2005), and the Accra Agenda for Action (2008). However, the same neighbouring countries still are not part of the Paris Declaration, and even in cases where countries have signed on, implementation is rather formal than genuine[45].
2. Issues related to fraud and corruption remain critical as budget support is more vulnerable to corruption and misuse than other forms of aid. The new budget approach requires that "partner countries need to be actively engaged in the fight against fraud and corruption and be equipped with appropriate and effective mechanisms covering the whole 'anti-fraud and corruption cycle' (prevention, detection, investigation and sanctioning) as well as adequate inspections authorities and judicial capacity."[46] Although this approach foresees the capacity development to combat corruption[47], the absence of effective domestic accountability mechanisms and the systemic corruption[48] in partner countries should be well assessed in advance.
3. The overall objective of all different forms of budget support is eradicating poverty, promoting sustainable and inclusive growth, and consolidating democracies. Therefore the implementation of economic conditionality for budget support such as trade liberalisation or privatisation will undermine budget support objectives.
4. Mutual accountability, partnership and dialogue are well underscored in the new approach. However the limited capacities and space at national levels for participatory processes and policy dialogues should be considered. Therefore, the proposed Budget Dialogue Platform is supposed to include all relevant stakeholders and the dialogue is stated to be "properly documented to help demonstrate the contribution that budget support is making". It is important to underline that although documenting of the dialogue process is important, the systematic disclosure of information and ensuring equal access to information, including public and timely access of all "properly documented" papers by all relevant stakeholders, would provide real added-value for the dialogue.
5. The EU considered the publication of the budget as the eligibility criteria for all forms of budget support, and considered that it is a key component for transparency and oversight of the budget. However, the lack of transparency over budget spending represents a major concern in almost all ENP countries.
6. Another eligibility criteria is a stable macro-economic framework. In this regard, the Guideline states that "central for assessing the stability of the macroeconomic framework and the policy response is the relation of the country with the IMF and the analysis provided by this institution. Satisfactory implementation of an IMF financial programme in support of a medium term adjustment and reform programme or of a Policy Support Instrument, will generally provide a good assurance that the macroeconomic framework is stability oriented." However, the IMF's role in partner countries should be well assessed

and scrutinised before considering its financial programme's 'successful implementation' as a satisfactory indicator. The IMF, together with other IFIs, was at the forefront of shaping the Structural Adjustment Programs (SAP), which developing countries, including Arab countries, were compelled to adopt since the 1980s. The SAPs usually promoted the reorientation of macroeconomic policies to focus on combating inflation, attracting foreign direct investment and greater openness to trade and capital flows, while marginalising employment and equitable income distribution. At the same time, all SAPs evaded democratic scrutiny from local stakeholders (political parties, labour unions and civil society groups) in host countries, therefore undermining the basic principles of democracy and participation.[49]

Although the new governance structure for EU budget support[50] has positive aspects to ensure policy coherence and a coordinated approach, the lack of genuine participation of civil society in the overall approach has yet to be tackled. Therefore the ENI decision-making structure should enable genuine public participation through[51]:

- Routine access for CSOs to relevant documentation and final agreements in the country, and in the national language;
- Increased public participation in setting priorities;
- The participation of NGO representatives in joint Monitoring/Steering committees – these need to be selected by the NGO community;
- The results of monitoring and evaluation should be open to the public without reservation to highlight existing shortcomings within institutional, legal and political frameworks to ensure increased responsibility and operational effectiveness.

CHAPTER III – THE ROLE OF INTERNATIONAL FINANCIAL INSTITUTIONS

WHAT CAN THE READER LEARN FROM THIS CHAPTER?

- INTRODUCTION TO THE EBRD AND THE EIB
- THE ROLE OF THE IFIS IN THE IMPLEMENTATION OF ENPI/ENI
- KEY CHALLENGES ON EBRD/EIB INCLUDING TRANSPARENCY, MONITORING, IMPACTS TO DEVELOPMENT LEVELS
- EBRD AND EUROPEAN PARLIAMENT
- EIB EXTERNAL MANDATE: OLD AND NEW

HOW TO USE THIS CHAPTER?

- TO BUILD CAPACITY ON EBRD/EIB
- TO CRITICALLY ASSESS THE ROLE GIVEN TO THE BANKS IN IMPLEMENTATION
- TO ASSESS BLENDING MECHANISM
- TO ADVOCATE FOR HUMAN RIGHTS-BASED APPROACH TO THE BANKS

Introduction

The potential impact of the EU funds on the neighbouring area is arranged through different regulations. These explain too how EU financial assistance can be used through the European Investment Bank and the European Bank for Reconstruction and Development.

Indeed, there are a number of ways in which the EU funds may be used by regional development banks, bilateral institutions and the EU's 'house bank' – the - EIB – to operate in the neighbourhood area. For instance, the EU budget guarantee can be used for EIB operations outside the EU, including the neighbouring area, in the form of loans, equities and shares from ENI funds to financial institutions, as well as grants through the so-called EU blending mechanism (explained more in the following sections).

With regard to the regulations, initially the ENPI regulation (EC) No 1638/2006 of the European Parliament and of the Council reaffirms that Community assistance under the instrument may also be used "for contributions to the EIB or other financial intermediaries, in accordance with Article 23, for loan financing, equity investments, guarantee funds or investment funds".

In addition, in 2008 the EC officially launched the Neighbourhood Investment Facility (NIF) in order to provide Community and member states with grant support for lending operations carried out by European multilateral and bilateral development finance institutions in ENP partner countries.

The draft regulation establishing common rules and procedures for the implementation of the Union's instruments for external action[52] 2014-2020, clarifies that Union financial assistance may be provided through the following types of financing, including: "(a) grants; (b) procurement contracts for services, supplies or works; (c) budget support; (d) contributions to trust funds set up by the Commission; (e) financial instruments such as loans, guarantees, equity or quasi-equity, investments or participations, and risk-sharing instruments, possibly combined with grants; (f) shareholdings or equity participations in international financial institutions, including regional development banks."

In addition, it may be also provided " through contributions to international, regional or national funds, such as those established or managed by the European Investment Bank, international organisations, Member States or by partner countries and regions, for attracting joint financing from a number of donors, or to funds set up by one or more donors for the purpose of the joint implementation of projects."

Actually this means that after approval of the draft regulations, not only would the EIB be eligible to receive the funds under ENI, but so also would regional development banks such as the EBRD, as well as member states' bilateral development financial agencies like KfW (Germany), AFD (France) and others.

CASE STUDY: TBILISI RAILWAY BYPASS PROJECT, GEORGIA

The Tbilisi bypass railway project was approved by the NIF in November 2009 in order to relocate transit of hazardous goods like crude oil and oil products from the densely populated area outside the capital and increase the efficiency and safety of railway operations. The project will construct a new railway section that bypasses the central area of Tbilisi and modernise other railway stations. According to the project, the redevelopment of the freed-up territories will promote development in the northern part of the capital.

NIF is providing EUR 6 million from the EU budget for environmental mitigation measures and an additional EUR 2.5 million from the NIF trust fund for the development of a spill response plan. In May 2010 the EBRD and EIB each approved EUR 100 million for the project.

The project was approved before an environmental and social assessment was prepared. According to the EBRD Board minutes where the project was discussed, the bank "announced its intention to possibly request in the future, and in particular, once studies related to the project will be completed, further support from NIF for this project. The Chair communicated to EBRD the environmental concerns of the EC delegation in Georgia, to which EBRD replied. It was agreed that EBRD will take all necessary measures to prevent or mitigate the environmental risks mentioned. The Chair announced that the ESIA will be distributed to the board members, given the importance of the issues raised (land property, environmental impacts, etc.). It was agreed that the lead institution, and co-financiers will organize as soon as possible a coordination/information meeting on the project with all parties concerned, including EC delegation and embassies in Georgia."

The project is problematic for a number of other reasons. It will require the construction of 18 to 20 metre-high embankments in the densely-populated Avchala district, where the trains loaded with the hazardous freightwill move. The project left around 900 families without proper compensation for their land, and studies prepared for the project do not assess the impacts of brake fluid on living conditions in the area. The nearby Tbilisi sea is also at risk: a spill of just half a cistern would mean that nearly half of the reservoir's capacity would become useless, leaving the population of three districts as well as about 20 thousand hectares of agricultural lands without water. Moreover a number of the cases were reported by affected people and landowners of intimidation from the police during public discussions on the ESIA and project implementation.

In 2010 the EBRD's Project complaint mechanism began receiving complaints from landowners affected by the project and requests from opposition to the Tbilisi city council to investigate corruption. In response the EBRD initiated an audit and a problem solving initiative between Georgian Raliways and the complainants. While the findings of the investigations and audit are not public, the EBRD was forced to postpone disbursement of the loan until all claims were cleared.

It is worth mentioning that in September 2010 Georgia refused a subsidised loan from the EIB and one from the EBRD in November 2011. In March 2012, the NIF board cancelled funding for the project as a result of the cancelled loan agreement between Georgian Railways and the EBRD. In order to finalise the project, Georgian Railways issued USD 250 million in obligations and hopes to receive money from the state budget.

From the outset CSOs have questioned the economics of the project, including on the state-owned railway and the country's foreign debt. Some explain the project's economics as such: "Ultimately Georgia faces a serious challenge; despite self-restriction imposed by the Georgian Constitution, according to which the state debt should not exceed 60 percent of GDP, in recent years the growth of Georgia's debt exceeds the rate of GDP growth that should lead the authorities to the decision of "tightening their belts" and even freezing the debts. It is also important that Georgia minimises budgetary deficit as one of the major factors of accumulating foreign debts as well as launching the gradual redemption of issued eurobonds. The government should focus on eurobonds issued by Georgian Railway as well as on serving the debts taken by the Railway"

In January 2013, the project was stopped while the state prosecutor started an investigation. According to the investigation, the new management of the railway company claims that the finalisation of the project will require extra costs: a number of concerns have been noted about increased operational costs (electricity, maintenance) as a result of decreased train movement due to the improperly planned route,.

LESSONS LEARNED

NIF allocated project finance even before the ESIA studies were finalised and the total economic costs and project benefits were known. The rational is unclear as to why the banks and the NIF financed a project with such dubious economic benefits that does not even satisfy the original project goal of improving safety for Tbilisi's residents. The NIF governance structure is designed in such a way that it successfully can ignore any public concern. The project was from the beginning widely promoted by the government through the participation of European financial institutions and the EU, and with its drastic impacts and outcomes of the project, it was widely reported within Georgian and international media. It is doubtful that the project increased the visibility of EU finance in a positive way.

It should also be noted that the local EU office maintained very positive relations with CSOs. The delegation made efforts to incorporate the concerns of CSO groups regarding the project's environmental and social issues, as evidenced by the board minutes.

Outside the European Commission's Berlaymont building during the presentation of the EIB annual report

THE BASICS OF THE EIB

Set up in 1957 under the Treaty of Rome[53], which established the European Economic Community (later the European Union), the European Investment Bank is the in-house bank of the European Community. With more than EUR 50 billion of approved loans per year the EIB is also the biggest international public financial institution operating globally. The EIB is headquartered in Luxembourg with an increasing number of regional offices set up in recent years.

As a body of the European Union, the EIB states that its mission is to further the objectives of the EU by 'making long-term finance available for sound investment'. Therefore, the EIB should meet EU objectives through its loans, and thus promote sustainable development inside the EU and out. In addition, the EIB should ensure the additionality of its loans, the use its resources to arrange loans for projects that although financially and socially viable, have associated risks that make them unappealing to more commercial lenders. In other words, the EIB should be able to make worthy projects happen that otherwise would not happen. However, the EIB constantly fails to deliver on either of these obligations.

The EIB is financed by the EIB's shareholders – as of 2013 the 28 member states of the European Union – that jointly provide the EIB's capital through their respective contributions reflecting their economic weight within the Union.

Outside the EU, EIB lending is based on EU external cooperation and development policies, that is based on the two main agreements under which the EIB lends outside Europe. In Africa, Caribbean and Pacific (ACP) countries, the EIB operates under the Cotonou Agreement, whose explicit aims include "reducing poverty with the objective of sustainable development[54].

Similarly, the EIB's External Lending Mandate (ELM) gives the institution the capability to guarantee its operations in eastern Europe, Asia and Latin America (ALA) from the EU budget. The ELM covers a seven year period, and it defines the allocation, conditions and priorities for investments in each region as proposed by the European Commission, and approved by the European Council and European Parliament.

With regards to the Middle East and North Africa region, EIB involvement has been evident for several decades. The launch of Euro-Mediterranean Investment and Partnership Facility (FEMIP) in 2002 represents an important intensification of a more than 30-year financial partnership between the region and the EIB.

Since 2002, €13bn has been invested through FEMIP to countries that meet the challenges of economic and social modernisation and enhanced regional integration, particularly in the run-up to the creation of a free trade area with the EU. With a budget of €8.7bn for the 2007-2013 period, FEMIP gives priority to financing private sector ventures, whether they be local initiatives or foreign direct investment[55].

One major direction of the EIB's lending to MENA countries is the energy sector. And it looks like that it will remain a top priority for its investments in the region as part of the EU's strategy to diversify its sources of energy, particularly natural gas. The EIB is also heavily involved in supporting public-private partnerships – the partial sale of state companies – for basic utilities such as electricity and water.

Since 2007 the EIB external mandate has been enlarged to also cover Russia, Ukraine, Moldova, Armenia, Azerbaijan and Georgia. This mandate is for projects of significant interest to the EU in transport, energy, telecommunications and environmental infrastructure. The total amount of the external mandate is €3.5 bn through 2013. The scope (extended in mid-2009) now also covers loans for small and medium-size enterprises (SMEs) via banks in the Eastern Partnership countries within the framework of the Joint IFI Action Plan.3

Since September 2009 the EIB has been able to launch SME loans for the EU's eastern neighbours, while prior to this the EIB had been able to offer its SME loan products only to banks within the European Union, Western Balkans and pre-accession countries.

There is also a €1.5bn Eastern Partners Facility (EPF) under which financing will be extended at the EIB's own risk (i.e. without EU guarantee). The EPF enables the EIB to support EU Foreign Direct Investments (FDI) in Eastern Neighbour countries, with a €500m ceiling for projects in Russia. The bulk of the facility will be used to support investment-grade projects/structures; financing up to €150m can be structured pursuant to the Structured Finance Facility, which provides for a higher risk-bearing capacity. During the 2007-2010 period EIB financing operations under the external mandate in the Eastern Neighbourhood and Russia have been carried out in close cooperation with the EBRD, under terms set out in a tripartite memorandum of understanding between the European Commission, the EIB and the EBRD.

On May 23, 2013, the EC submitted a legislative proposal to the European Parliament and the European Council for an EIB external lending mandate that envisages the provision of an EU budgetary guarantee for up to €28bn of EIB financing operations outside the EU, out of which €3bn would be optional and possibly activated after a mid-term review. The Commission proposes to further focus the EU budgetary guarantee on the highest value-added EIB financing operations, in particular within the pre-accession region and the EU's southern and eastern neighbourhood. The Neighbourhood and Partnership countries will receive €12 400 000 000, with the following indicative sub-ceilings:

(i) Mediterranean countries: €8 400 000 000;
(ii) Eastern Europe, Southern Caucasus and Russia: €4 000 000 000[57].

The major directions for investment in the draft ELM proposal include: 1) local private sector development, including support for SMEs; 2) the development of social, environmental and economic infrastructure; 3) climate change mitigation and adaptation – in order to reinforce the climate change dimension of the EU budgetary guarantee to EIB financing operations outside the EU, a 25% minimum target of all EIB financed operations over 2014-2020 will be introduced.

While the proposal may sound very positive, a careful assessment of the new draft ELM proposal for 2014-2020 reveals a number of problematic areas that require increased focus and attention from CSOs. These include:

- The focus on SMEs development – the development of SMEs in countries is a good trend. However, over the last decades in order to reach SMEs in beneficiary countries, the EIB has increasingly engaged in 'intermediated lending', involving mostly western commercial banks with little or no interest in development, and that are often operational in tax havens. These intermediated loans, so called "global loans", come with reduced transparency and due diligence, provide small portions to the ultimate beneficiaries and come with a number of challenges that can undermine any positive development impacts. Such investments to SMEs are also contradictory to the Paris Declaration and Accra Agenda of Action (namely article 18 of AAA on increasing aid's value for money) as the development effectiveness agenda assumes that donors will strengthen their efforts to enforce the local private sector to the maximum. In this regard, the legislative proposal should set the framework for SME development in a way that ensures that the EIB exclusively works with locally embedded financial intermediaries that are focused on providing financial services to the poor in a responsible and transparent manner, or that are supporting sustainable development more widely.

- While tackling climate change is now one of the top global priorities , it is nonetheless problematic that the EIB would provide loans – and not grants – for climate change adaptation, due to northern historic responsibility. Concerning funding for adaptation, the EU should prioritise financial support in developing countries for adaptation through the existing UN Adaptation Fund, and restate its support for the establishment of a Green Climate Fund under the UNFCCC on Climate Change, to be managed in a democratic and transparent way by institutions and agencies independent from the IFIs and other financiers, such as the World Bank and the EIB itself. Concerning mitigation actions, the EIB within the EU itself remains a major CO_2 emitter compared to neighbouring countries. Meanwhile the EIB should stop the development of fossil fuel projects in the neighbourhood area that aims to facilitate energy export from neighbourhood countries to the EU in order to ensure the EU's energy security.

- The proposal does not require explicitly that all EIB investment projects will undergo proper due diligence in line with the Union's social and environmental principles that require the investment project promoter to carry out local consultations and disclose their results to the public. Indeed, again in light of the Paris Declaration rule of ownership and AAA article8, it should be noted that all projects should be consistent with the development strategies of the 'recipient' countries. This basically requires that "projects supported by the EIB are fully in line with EU environmental and social legislation as well as environmental and social legislation of the beneficiary country".

- The proposal engages the increased use of the blending mechanism. However, it should be highlighted that so far the EIB blending operation has not sufficiently demonstrated the development impact of blended finance. On the contrary, 'blending' tends to rather support the development of large scale investment projects with great potential to undermine the socio-ecological rights of affected people, while being questionable from a development and financial additionality point of view (see chapter below on EU blending mechanisms)

CASE STUDY: THE GIZA ELECTRICITY PROJECT

The Giza Electricity Project was launched in 2010 in order to support "the Government of Egypt's power sector investment plan to meet the growing electricity demand in the country and ensure access to reliable supply of power– all prerequisites for sustained economic growth and achieving the country's social development agenda".

The EIB is partly financing the project together with the World Bank and other financial institutions. The energy sector has received by far the lion's share of EIB loans in the country. The bank invested EUR 300 million during the first phase of the project in 2010 and provided an additional EUR 50 million for the second phase in 2011.

Civil society groups are monitoring the project and the EIB's engagement and believe that the project:

- violates Egyptian laws related to construction on agricultural lands. As a resulf, 73 acres of farmland have been destroyed, and it is expected that hundreds more will follow.
- lacks standards for public participation and has offered no remedial action for tenants who lost their land and were evacuated from the project site.
- lacks transparency and integrity during implementation especially with regards to the environmental and social impact assessments.
- negatively impacts land and crops due in part to the disposal of construction debris in a nearby canal, the disruption of groundwater sources and the flow of the canal, and the drying up of wells in the area. Severe consequences are expected for the quality of Nile river waters.
- negatively impacts the livelihoods of local communities by compromising their access to drinking water and water for irrigation and fishing; and
- will damage surrounding agricultural lands and crops because of fumes from the power plant's chimneys.

The EIB should therefore reassess its involvement in the project because of these environmental and social impacts, given its objectives of eradicating poverty and contributing to sustainable development.

North Giza power station

Action against nuclear power outside EBRD offices in Kiev

THE BASICS OF THE EBRD

The European Bank for Reconstruction and Development (EBRD) was established in 1991, in response to the major changes in the political and economic context in central and eastern European countries[58]. Today it has 65 shareholders, of which 63 are countries, and the other two are the European Union and the European Investment Bank. The EU itself owns three per cent of the capital of the EBRD. The EU, the European Investment Bank (EIB) and EU Member States collectively own 62.8 per cent of the capital of the EBRD. Since 2011 it has extended its operations to the Southern and Eastern Mediterranean (SEMED) countries. For now this includes Egypt, Jordan, Morocco and Tunisia.

According to its mandate, the EBRD must "foster the transition towards open market-oriented economies and to promote private and entrepreneurial initiative in the Central and Eastern European countries committed to and applying the principles of multiparty democracy, pluralism and market economics.[59]" It is also obliged "to promote in the full range of its activities environmentally sound and sustainable development"[60].

However the results of the bank's operations, even on its own terms, have been mixed.[61] After 20 years of operations, only one out of the EBRD's 30 countries of operation – the Czech Republic – has graduated. Many of the bank's eastern countries of operation are far from being democracies and some cannot even be called market economies. Moreover, the structural weaknesses in western economies that served as models for the former eastern Bloc have become all too apparent during the financial and economic crisis.

Concerns about human development impacts have long been asked of the EBRD, but the institution is not well-equipped to deal with these, either in terms of expertise or its systems for measuring its success. The bank does not take poverty eradication as its primary focus in its developing country operations, although this is required for EU action under Article 21.2 of the Treaty of the European Union. Instead, it hopes that economic transition will have positive impacts, without proof that this is actually what is happening. As the UK Department for International Development's Multilateral Aid Review in March 2011 put it, "The link between the impact of EBRD's programmes on transition, and their impact on people's lives is not always well articulated".[62]

The roots of the problem lie in the EBRD's mandate, which prioritises markets over rights-based and developmental considerations, and in the medium term the mandate needs to be re-examined. However even the current mandate offers much scope for improvement, as the EBRD is mandated to promote sustainable development in all its activities. Unfortunately, with some exceptions such as investments in energy efficiency, the EBRD has largely followed a business as usual approach. In this regard, what is usually generally missing from EBRD discussion is the impact of transition for people on the ground and on the wider environment.

Although the EBRD is owned mainly by EU member states and the European Commission (with a more than 60% share), the issue of accountability towards the European institutions remain problematic. This includes also the European Parliament that has limited tools for monitoring or influencing the activities of the EBRD. Only in 2011, the European Parliament took a step forward when it adopted a legislative resolution that includes conditions for the EU's subscription to additional shares, i.e. for increasing the EBRD's capital. Its requests to the bank included the following:

- By 2015 the Commission should present a report assessing the effectiveness of the existing European public financing institutions in Europe and its neighbourhood, including recommendations on their cooperation and the optimisation and coordination of their activities.
- On its website, the EBRD should provide appropriate information about the beneficiaries, the impact of its financial intermediary operations and the evaluations of projects.
- The EU's representatives at the EBRD should endeavour to avoid the bank financing any projects implemented with the use of tax havens, defined as "characterised notably by no or nominal taxes, a lack of effective exchange of information with foreign tax authorities and a lack of transparency in legislative, legal or administrative provisions, or as identified by the Organisation for Economic Cooperation and Development or the Financial Action Task Force".
- The EU Governor at the EBRD should report annually to the European Parliament on the promotion of EU objectives, especially Article 21 of the EU Treaty on the European Union, the Europe 2020 Strategy, and the significant increase of the transfer of renewable energy and energy-efficient technologies. S/He is also obliged to report annually, among other things, on measures to ensure transparency of operations of the EBRD through financial intermediaries, and on how the EBRD has contributed to the Union's objectives.

In addition to owning shares in the EBRD through member states and the EC, the EBRD is largely used by the EC as a channel for grants and as a blending mechanism, especially in the neighbourhood area. In 2012, the EBRD received over €92 million in contributions from the EU, representing over half of the total grant funding provided to the EBRD by the donors for technical assistance, loan guarantees, etc.

The EU funds are channeled through the following loan/grant blending facilities to the EBRD[63]:

- *The Neighbourhood Investment Facility (NIF)*: by December 2012, the EU, through the European Commission, has made €766.9m available to the NIF, with EU member states contributing another €77m. The NIF has approved funding for 32 EBRD projects amounting to over €195.6m of grants, which has leveraged nearly €9bn of EBRD loans and a significantly higher total project value. €20m of NIF funding was made available for projects in the SEMED region.
- *The Western Balkans Investment Framework (WBIF)*: launched in 2009, WBIF provides technical assistance, grant co-financing investments and other grant-funded instruments. It pools resources from the EU, partner international financial institutions such as the EBRD and 19 bilateral donors for investment in the transport, energy, environment and social sectors and in private sector development.
- *The Investment Facility for Central Asia (IFCA)* was launched in 2010. It blends EU budget grant funding with loans by financial institutions to promote investments in infrastructure, energy, environment, SMEs and social infrastructure in five countries across Central Asia. IFCA has contributed over €42m to EBRD projects, including over €17m in 2012, supporting access to finance for micro, small and medium-sized enterprises (MSMEs) and sustainable energy, municipal and environmental infrastructure and energy efficiency projects.

The EBRD closely cooperates with EU institutions on current and emerging policies that are linked to IFI growth plans, environmental issues or initiatives such as Vienna 2.0 (a private-public sector platform) to secure adequate capital and liquidity support to western banking groups for their affiliates in central, eastern and south-eastern Europe.

AFTER THE ARAB SPRING IN EGYPT: A CASE OF THE EBRD

Following the series of popular uprisings known as the 'Arab Spring', the Group of 8, international financial institutions (IFIs)[I] and governments in the region created a new economic agreement called the Deauville Partnership, conceived during the 37th G8 summit in May 2011. One leading member of the Deauville Partnership is the EBRD.

The EBRD entered Eastern European markets primarily during the Soviet Union's financial crises,[II] and the bank has said that is taking a similar opportunity in the Arab Spring countries.[III] In 2011 the EBRD amended its Agreement Establishing the Bank in order to expand its operations to countries of the Middle East and Southern and Eastern Mediterranean (SEMED)[IV]. Within this context, the Egyptian government has requested to become a recipient country, and on 19 June 2011 the EBRD and the Arab Republic of Egypt signed an agreement as an important first step for the EBRD to set up a permanent office in the country

The EBRD defines its cooperation with the Egyptian government under two particular conditions;

- Article 1 of the Agreement Establishing the Bank states that "countries where the EBRD carries out its purpose to foster transition to a market economy must demonstrate a commitment to and application of principles of multiparty democracy and pluralism."; and
- "The EBRD recognizes that its countries of operations – and future countries of operations – are on a path to democracy and market economy, and at the start of that transition much still remains to be done to strengthen institutions, practices and customs."[V]

While Article 1 strictly requires a commitment to multiparty democracy and good governance as preconditions to bank operations, the events unfolding currently in Egypt run counter to those principles. In the absence of a legislator and an arbitrary system of state torture, the oppression of opposition and other human rights violations have been reported by national and international human rights and development NGOs. As such there are concerns that EBRD operations in Egypt violate Article 1, and are also questionable in terms of their developmental impact, with NGOs reporting such assertions to board directors and officials and in person during the EBRD Annual General Meetings and Business Forum 2013 in May 2013.

It is also worth noting that in June 2013, the European Court of Auditors reported serious misgivings about EU aid to Egypt, based on the appalling human rights situation in the country and the failure of one billion euros of EU money to tackle the ongoing situation and to contribute positively to the democratic development, social justice and stability in Egypt, posing questions as to the legitimacy of such funds and coherence to overall EU standards of good governance and democracy. [VI]

Nevertheless, since the bank's annual meetings, the country has spiralled further from principles of democracy. With the ousting of Mohammed Morsi, Egypt has witnessed the violent dispersal of Morsi supporters during the 'Rabi'aa sit-in,' which has been condemned as 'unjustified group punishment'[VII] by the state and considered to be the most heinous killings in modern Egyptian history."[VIII]

Moreover intimidation and oppression of civil society by state officials continues. On 18 December 2013 police forces raided the offices of the Egyptian Center for Economic and Social Rights (ECESR) and arrested six staff and volunteers. The police forces arrested them without any legal basis, destroying and confiscating ECESR equipment. Such practices constitute a return to the 'police state' of the Mubarak dictatorship.[IX] This incident contradicts the EBRD's mandate, as protectors of human rights are subjected to violence, with no room for sustainable, democratic implementation of projects.

Egypt has received financial assistance from the EBRD for 8 projects with four signed projects with the total business volume at EUR 48 million and a project value of EUR 110 million. [X]

EBRD policies have been criticised for failing to address the larger challenges of development, such as the problem of climate change. Putting EBRD environmental policy in practice, the Bank's impact does not seem to put enough emphasis on the transition to a low carbon and energy sustainable economy, which is particularly concerning given that that EBRD is the only of the multilateral development banks to have an explicit environmental mandate in its charter. Most worryingly, albeit the EBRD release revised polices for thermal generation that highlights EBRD approach to finance cleaner energy and to contribute to countries' switch from coal to gas, taking upon itself the commitment not to finance coal-fired generation. Approach. [XI], EBRD Managing Director for the Southern and Eastern Mediterranean (SEMED) , Hildegard Gacek, met with Egyptian Minister for Trade and Industry, Mounir Fakhri Abdel-Nour, to discuss a number of projects among which is the Bank's financing the shift to the use of coal to power cement factories[XII], in place of natural gas.

EBRD mentioned in its Country assessment to Egypt in regards to the operational themes; its focus upon the support of the SMEs. We could illustrate encountered imbalance regarding the implication of such policy demonstrated in its financing to "Nestle Egypt". [XIII]

Concerns also persist about the EBRD's interest in privatization in Egypt, in the presence and development of a legislative framework that fosters past legacy of corruption and absence of accountability to investors; one of the main critiques to the Mubarak era. State administrative courts have since revoked investor acquisitions due to allegations of corruption, made possible by the weak legislative framework that has little measure of accountability. Instead of building an anti-corruption legislative framework, successive post-revolutionary governments have since amended existing legislation in a way that facilitates corruption and even oversteps the rulings of the Egyptian judiciary. First amendments to the Law of Investment Guarantees and Incentives issued through Act No.8 of 1997 and amended by decree through Act No.4 of 2012, better known as the "law of reconciliation with investors. The second is the amendment of some provisions of Law 89 of 1998, through issuing the Law to Regulate Bids and Tenders through Law 82 of 2013.Several other laws are expected within the transitional government's plan to amend the legislative framework for investment in Egypt, as part of what it calls investment stimulus.[XIV]

These laws have allowed the state to make amends with investors in cases of corruption and the embezzlement of public money, thus enabling the revocation of court decisions against privatisations and providing impunity to investors in front of economic, administrative, or criminal courts.

I. The IFIs involved in this partnership are; the World Bank, the International Financial Corporation (IFC), the European Investment Bank (EIB), the European Bank for Reconstruction & Development (EBRD), the African Development Bank (AfDB), the Islamic Development Bank (IDB), Arab Monetary Fund (AMF), the Arab Fund for Economic & Social Development (AFESD), and the OPEC Foundation for Development.

II. "The history of the EBRD." [EBRD. http://www.ebrd.com/pages/about/history

III. EBRD Concept Note July 2012. Appendix IV.1

IV. Ibid

V. EBRD Concept Note July2012. Appendix I. Representative and Accountable Government. Civil Society, Media and Participation. Rule of Law and Access to Justice. Civil and Political Rights.

VI. Simpere, Anne-Sophie, and cross-posted from the Bankwatch blog. " Bankwatch » Blog Archive » Little impact of EU aid for Egypt – Ongoing abuses and Brussels scrutiny puts EBRD's best laid plans in question ." Bankwatch.: http://bankwatch.blogactiv.eu/2013/06/24/little-impact-of-eu-aid-for-egypt-ongoing-abuses-and-brussels-scrutiny-puts-ebrds-best-laid-plans-in-question/

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IX. Urgent | Open Call: Egyptian Human Rights Organizations Oppressed… A Return to what is Worse than the Pre-January 25th –Era, http://ecesr.com/

X. "Egypt." [EBRD. http://www.ebrd.com/pages/country/egypt.shtml

XI. "The EBRD's Energy Strategy." [EBRD. http://www.ebrd.com/pages/sector/powerenergy/energy-strategy.shtml (accessed January 14, 2014).

XII. "Ministry of Industry and Foreign Trade." Ministry of Industry and Foreign Trade. http://www.mfti.gov.eg/reports/press_release.asp?Id=2357 (accessed January 14, 2014).

XIII. Egypt Country assessment, http://www.ebrd.com/pages/country/egypt.shtml

XIV. Two laws were established within this framework.. See Zayed Hatem and Khalil Heba, Egypt and International Arbitration: Protection of Investors No Consolation for Public Money, http://ecesr.org/en/wp-content/uploads/2013/11/Investment-Report-English-W-Apnx.pdf

A protester during the 20 April demonstrations in Cairo.
Photo by flickr.com/photos/96884693@N00

LGBF	Date	Grant funding	Participatory financiers (end 2010)
ITF: EU-Africa Infrastructure Trust Fund 47 African countries	2007	Grant funds allocated: €308.7 million from 10th EDF + €64 million from MS budgets	AFD, AfDB, BIO, COFIDES, EIB, FINNFUND, KfW, Lux-Development, MoF Greece, OEeB, SIMEST, SOFID, PIDG
NIF: Neighbourhood Investment Facility Countries eligible for the European Neighbourhood and Partnership Instrument (ENPI)	2008	€745 million 2007-13 from EU budget (ENPI) + €70 million from MS budgets	AECID, AFD, CEB, EBRD, EIB, KfW, NIB, OeEB, SIMEST, SOFID
WBIF: Western Balkan Investment Framework Western Balkans	2009	€110 million from EU budget + €10 million EIB, €10 million EBRD, €10 million CEDB + grants from MS budgets	CEB, EBRD, EIB, KfW
LAIF: Latin America Investment Facility Latin American countries	2010	€125 million 2009-13 from EU budget	AFD, BCIE, BID, CAF, EIB, KfW, NIB, OeEB
IFCA: Investment facility for Central Asia Central Asian countries	2010	€65 million 2011-13 from the EU budget	NIF accredited institutions can participate.
AIF: Asia Investment Facility	2012		
CIF: Caribbean Investment Facility	2012	€40 million	AFD
IFP: Investment Facility for the Pacific	2012	€10 million	

BLENDING MECHANISMS

Since 2007, the European Commission, together with member states, has set up eight regional blending facilities[64] (see chart below[65]), covering the entire region of EU external cooperation. This has been done in order to address the issue of scarcity of resources for external assistance due to the financial and economic crisis. Moreover, the mechanism is favoured as the EC starts to look for more "efficient ways", using available resources and for achieving higher "leverage effects" of external assistance through blended instruments where loan grant blending (LGB) instruments attract public and private finance into those areas of EU policy priority"[3].
In theory, through blending the EU pursues the following objectives:

- Achieving EU policy goals more effectively, i.e. increasing "aid effectiveness" and "aid coherence";
- Optimising financing packages for beneficiaries and, therefore, enhancing credibility and leveraging resources;
- Promoting donor cooperation, in particular between European aid actors;
- Enhancing the visibility of European aid.

Despite the fact that EU blending facilities remain modest in size – €1.5bn grants from the EU budget, the European Development Fund (EDF) and member states –"the final financial impact of the facilities is not, as the grant instrument has been successful in attracting funding for projects by European bilateral financial institutions (EBFIs), the EIB, other IFIs and other funding sources (especially from the partner countries themselves)". For instance the NIF has an accumulated grant value of €277 million for 39 projects, leveraging close to €5.1 billion in loans from EBFIs and IFIs for a total project cost value of €10.13 billion for 2008-10.

BENEFICIARIES OF EU GRANTS (MILLION EUR) AS LEAD FINANCER: 2007-2011

	EIB	EBRD	AfD	KfW	Others	TOTAL
ITF	179	0	46	56	13	294
NIF	92	152	82	82	3	411
WBIF	99	32		57	38	226
LAIF	7	0	5	18	4	34
TOTAL	377	184	133	213	58	965
	EIB	EBRD	AfD	KfW	Others	
%ITF	61	0	16	19	4	
%NIF	22	37	20	20	1	
%WBIF	45	15	0	23	17	
%LAIF	20	0	14	54	12	
%TOTAL	39	19	14	22	6	

EU PLATFORM FOR BLENDING

In 2012 the EC set up an EU Platform for Blending in External Cooperation[67]. This latform, without any reference to "development" in its title, aims to "provide recommendations and guidance on the use of blending in the external cooperation of the European Union. As stated by the EU, "the new EU Platform will act as a major forum to build on the successful experience so far in this area and look at how to improve the quality and efficiency of blending mechanisms, taking due account of the policy frameworks that govern the EU relations with the different partner countries, notably EU Development, Neighbourhood and Enlargement policies. This includes promoting cooperation and coordination between the relevant actors, thereby increasing the impact and visibility of EU external cooperation".

The mandate and structure of the platform, however, raise a number of concerns about how fit for purpose the mechanism is, due in part to the risk of financial incentives that outweigh development principles. There are concerns also that the existing blending mechanisms lack transparency and accountability, unclear criteria for project selection, monitoring and evaluation and questionable value-add from the EU.

It should be stressed that before this recommendation was made to establish the platform to promote and enhance the blending facilities' role in Development Cooperation, no evaluation or review had been made of the existing blending mechanisms. The proposed platform also emphasises blending grants and loans in order to leverage more money from the private sector. However, it overlooks the need to support the local private sector, which has more potential as a long-term, sustainable solution, and omits the mobilisation of domestic private sector actors in neighbouring countries through innovative approaches. In addition, the involvement of different stakeholders in this platform is problematic, the European Parliament having only an observer status and CSOs being totally out.[68]

The experience with the Neighbourhood Investment Facility (reviewed in detail below) part of the ENPI instrument illustrates perfectly how development principles may be ignored easily under the blending mechanisms due to the financial incentives.

THE NEIGHBOURHOOD INVESTMENT FACILITY

Established in May 2008, the NIF is mandated to match loans from European public institutions with grants and direct contributions from member states to ensure a sustainable leveraging effect. The NIF supports the strengthening of interconnections between the EU and its neighbours in the transport and energy sectors by addressing common environmental concerns and supporting other relevant activities, including the development of SMEs. The NIF can also allocate grants to cover expenditure for technical assistance, interest subsidies and direct equity investments.

The NIF plays a significant role in the promotion of large infrastructural projects like transmission lines and motorways in the southern and eastern Neighbourhood regions, projects that are then implemented by the EIB and EBRD, as well as other EU bilateral institutions like Germany's KfW.

For the period 2007-2013, the EU allocated €700 million to the NIF. The facility also benefits from financial contributions made by member states, whose resources are pooled in order to better streamline their delivery to partner countries. Since its establishment, the NIF has provided support of €417 million to 52 projects and leveraged an additional €6.3 billion from EU financial institutions[69], for a total value of all projects reaching €14 billion.

The Commission presents the NIF as a blending mechanism that has added value and a leveraging effect: financing operations of a larger scale with several finance institutions, increased concessionality, reduced transaction costs, donor co-ordination and harmonised procedures. However, there are a number of problematic issues within the NIF decision-making structure and operations, including the scarce availability of information about NIF operations. While the NIF annual report is the main source of information about its activities, the list of proposed projects in the NIF website is not updated,[70] and the agenda and notes from Directors meetings and decisions regarding particular projects are not published. This clear lack of transparency[71] about blending decision-making creates space for potential misallocation or waste of funds.

THE PROJECT ELIGIBILITY CRITERIA AND PUBLIC PARTICIPATION

While the NIF should support the priorities of the European Neighbourhood Policy, EU Country Strategy Papers and National Indicative Programmes, increased coherence is needed between these strategies and the projects the NIF selects for financing.

An analysis of NIF annual reports between 2008 and 2011 finds that grants, technical assistance and loans are broadly in compliance with the goals of the facility in the transport and energy sector. However, with such broad formulations the NIF has supported projects like Ukraine's "Power Transmission Network Reinforcement Project". NIF's €10 million contribution, along with €650 million from the EIB and EBRD, was used to support the creation of an electricity transmission corridor from Ukraine to Europe for three of Ukraine's outdated nuclear power plants. A majority of the units at those plants are reaching the end of their designed lifetime in the coming years[72].

Research shows that there is little information about how specific projects are selected for financing.[73] According to the UK's Department for International Development, the NIF and other facilities "lack formal and specific guidelines or criteria". DfID continues that while several facilities have similar templates "their role, the extent (and stage in the process) where they are discussed and decisions are made as to the suitability of, for example, grant shares and instruments is not clear". Coupled with the lack of transparency at the NIF, the DfID research concludes that it is hard to identify whether such facilities have effective decision-making structures.

Additional research suggests that the "lack of the formal checks and balances in the process at an early stage" means "that the project template would be discussed before filling it out without the need for extensive discussions on the project proposal" and without space for debate[74]. Moreover, there is a "clear perception that the chair of the group mattered for which projects were being considered for blending."[75] This approach calls into question the objectivity of the decision-making process.

While procurement procedures are agreed among donors, monitoring and evaluation are delegated to the lead financial institution and carried out according to their respective procedures. The Commission relies on external independent audits and evaluations from the lead finance institution that do not necessarily assess the added-value of EU involvement in the project. Studies show that "standards of monitoring and evaluation are not well consistently set for the facilities. It is important that the projects are monitored carefully on their delivery, not only for the loan recovery. Given the existence of a grant element, impact evaluations should be performed as is the case for other grant-supported activities in the EU."[76]

The NIF has no mechanism for public participation during any stage of project preparation and implementation. Typically, the participating financial institution engages the public. In theory, EU country offices represent the liaison points with the public for projects funded through the NIF, as they provide their opinion on the projects to the EBRD and EIB and as well monitor their implementation. However, in best-case scenarios when public consultations are organised by local offices, it is done at a stage when projects have been at least initially aapproved by the NIF and thus all efforts are directed at mitigating project risks rather than discussing the actual need of the project, its environmental and social impacts or assessing alternative, sustainable solutions.

Such a situation is problematic given that the blending mechanisms should promote "positive externalities and help mitigate negative externalities associated with a specific project. Blending mechanisms may be used to finance projects with high social and/or environmental impact (positive externality) but, which are not financially sustainable. The grant element compensates for the insufficient financial return (at least in the short term) until the project becomes sustainable. Blending mechanisms also consent to use the grant element to bear any additional cost needed to solve the issue of negative externalities associated with a given project. For example, the construction of a dam could have a negative impact on the surrounding environment and communities. Blending mechanisms, through the grant component, may provide an incentive for the recipient to sustain the costs needed to make the project more environmentally friendly and to reduce the adverse impacts on society[77]".

In spite of this, the NIF still supports economically, socially and environmentally destructive infrastructure projects through such grants. This is especially true in the context of NIF, when project selection criteria remain so ill-defined. As a result, the blending mechanisms enable countries and both public and private companies to realise projects that would not otherwise be possible without NIF grants, including those driven by government interests that lack development outcomes. In some instances, projects supported by the blending mechanisms may have drastic impacts on local people and the environment, with no means available for these communities to communicate to the NIF.

People outside a public hearing about the Khudoni dam project in northwestern Georgia

CASE STUDY: THE EU AND UKRAINE'S ENERGY SECTOR

In 2005 Ukraine and the EU signed a memorandum of understanding on cooperation in the field of energy[a] in order to integrate their electricity and gas markets as a key priority for cooperation and to enhance "the energy security of the European continent."

EU financial institutions including the EBRD and the EIB are active supporters of this integration: between 2005 and 2013[b] both banks invested approximately EUR 650 million in a number of high voltage transmission line projects developed by the Ukrainian state-owned utility Ukrenergo.

The NIF is also actively involved in upgrading and constructing high-voltage transmission lines in Ukraine, as well developing other energy transit infrastructure. The grants for such types of projects count for 18.7 percent (or Euro 18.7 million) of all financing from the NIF in Ukraine in 2008-2012 (with the amount of grant support totaling EUR 100 million through 24 projects)[c].

In 2009 the NIF approved a EUR 10 million grant for the "Power Transmission Network Reinforcement" project[d]. The EBRD was appointed as implementing organization. The project aims to reinforce the power transmission network of Ukraine by constructing a bunch of transmission lines that are separate from each other.

The EBRD used the grant in 2010 to prepare technical documentation for the "Second backbone ultra high-voltage corridor" project[e]. The corridor[f] will form a continuous 750 KV transmission corridor over 1000 kilometers from east to west and connect three Ukrainian nuclear power plants (totaling twelve nuclear reactors) and two hydro pumped storage plants, enabling the physical connection with the

EU for the electricity exports[g]. The rest of the grant was used for the development of documentation for the 330 KV Novoodeska-Artsyz transmission line that would enable connection of Ukrainian generating capacities with Romania.

The route presented to the public by the EBRD crossed valuable wetland territories including a Ramsar site. So in May 2009 twenty five Ukrainian NGOs protested against the routing of transmission line[h], and as a result the EBRD required the project sponsor to develop an alternative routing before it would further consider the project.

In 2010 the National Ecological Centre of Ukraine (NECU) requested from the NIF information regarding the grant "Power Transmission Network Reinforcement", including the documents that were presented to the NIF operational board prior to its decision on the project[i]. Despite a number of promises from the NIF staff that the list of activities, research or studies that are expected to be financed within the scope of the approved grant will become public, this never happened. Relevant information about transmission lines was also never disclosed. The NIF advised NECU to communicate with the country delegation and raise its concerns there. Yet it remains unclear how CSOs should learn about projects before they are approved.

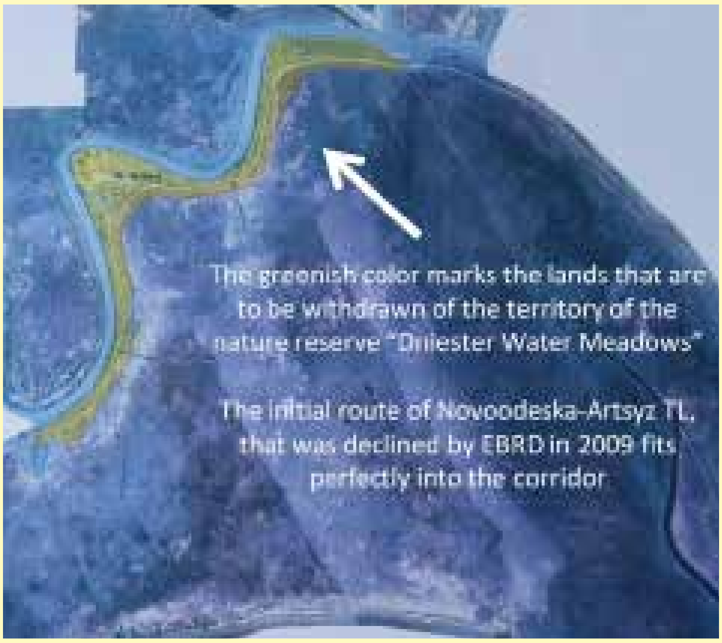
At the same time, Ukrenergo has focused its efforts on eradicating the obstacles in the way of the project, namely the status of the protected area of the wetlands. Early in 2013, authorities in the Odesa region announced a decision to change the margins of the nature reserve in order to accommodate for a transmission line corridor[j].

In February 2013 NECU notified the NIF about the problems of the transmnission line routing, and in spite of promises by NIF staff to discuss the issue with the EBRD, there is no information about developments at the Novoodeska - Artsyz project.

Key challenges, outcomes and recommendations

The key challenge in working with the NIF is its lack of information and the possibility of public participation. NIF representatives consider their role as technical support, while its support places a huge priority on the project for possible investors, "leveraging loans from European Finance Institutions as well as own contributions from the ENP partner countries."[k] There is no way for the public to learn about the projects that are going to receive grants from the NIF, and the public has little means to influence the grants that are issued.

In addition, decisions on grants by the operational board are made on very scarce information (two to three-page summaries), without a clear assessment of a project's overall impact on the ground. In the case of Ukraine, grants have provided for a number of transmission lines that in fact facilitate massive export-oriented infrastructure that have serious environmental and social impacts on the country's economy and environment.



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c. NIF website: http://ec.europa.eu/europeaid/where/neighbourhood/regional-cooperation/irc/nif_ukraine_en.htm, last accessed 29.10.2013
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f. Total approximate cost of the project is Euro 2,6 billion.
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CHAPTER IV – CIVIL SOCIETY ENGAGEMENT

WHAT CAN THE READER LEARN FROM THIS CHAPTER?

- THE ROLE GIVEN TO CSOS IN THE PARTNERSHIP
- CHANNELS FOR CIVIL SOCIETY ENGAGEMENT IN ENP/EAP
- CHALLENGES FOR CSOS ENGAGEMENT
- ENI REGULATION AND CSOS

HOW TO USE THIS CHAPTER?

- TO BUILD CAPACITY
- TO HIGHLIGHT REMAINING CHALLENGES FOR EFFICIENT CSO ENGAGEMENT

The EU acknowledges that the role of civil society is crucial in order to contribute to the development of democratic institutions, ensure open and fair policy dialogues and better public accountability. However, the potential for the deep involvement of CSOs in ENP processes, especially during programming, implementation and monitoring, is limited. In general, there is a lack of entry points for CSOs both at the national level, as well as in EU decision-making and implementation. The barriers include not only institutional capacities, but also weak human resources and finances for CSOs to be involved in ENP processes at the same level as EU and partner countries' governments. This was clearly recognised by the EC in 2011, and the new ENP suggests that it is supposed to make partnership more inclusive, and considers vibrant civil society as one of the key foundations for deep and sustainable democracy together with strong, transparent and accountable institutions.

In this regard, the EU has launched a number of initiatives for development and support of Civil Society in Neighbouring areas since 2011 (see Box).

However, a number of questions still need to be addressed to understand the effectiveness of such EC initiatives:

- Does civil society actively and effectively participate in the policy design, implementation and auditing of programmes and projects?
- Are there new mechanisms of dialogue and how they respond to identified challenges for establishment of 'deep and sustainable' democracy?
- How effective is the aid allocated to the partners, in regard to partnership created between the donors and civil society?
- Are partner CSOs considered as development agents at the EU level?

However it should be also well noted that the answers to these questions are still controversial, and again depend on the willingness of partner countries' governments, rather than the setting of unified minimum standards of engagement of civil society in the neighbourhood area.

The number of calls[78] to the EU highlights the importance of the problems in the process of strengthening the role of CSOs, including:

- Establish a more consistent and institutionalised process of engagement with civil society organisations, including participation in various aspects of policy design, program definition, implementation, and evaluation. This necessitates an adequate and consistent access to information that allows civil society groups to undertake a constructive contribution.
- Promote open processes of engagement with civil society groups, especially at the national level through the European National Delegations, allowing for expanding outreach and engagement to new groups over time, and avoid limiting the process to the groups selected or outreached to by the EU institutions, especially at the national level.
- Expand the role of the SPRING program from allocating grants among civil society groups to enhancing mechanisms of engagement of civil society in policy design and program identification within the EU-Arab cooperation and partnership, as well as in setting benchmarks and indicators for programmatic interventions within the SPRING program and other partnership mechanisms.
- Consider the added value of establishing an open and representative advisory group of civil society groups from partner countries to assist and take part in the processes to be established as part of the EU response towards changes in the region, including the SPRING programme.
- Revise the project-based approach of cooperation with civil society, which is based on pre-defined programmatic frameworks, and facilitate the mechanisms of cooperation and support to civil society groups with a vision of supporting long-term sustainable democratic civil society engagement in Arab countries.
- Clarify the practical steps to be taken towards operationalisation of the direction adopted under the EU Strategic Framework and Action Plan on Human Rights, including on establishing focal points on human rights and democracy in EU delegations and an EU Human Rights Special Representative, and means of engagement with civil society.

SPRING

The SPRING programme (SPRING stands for Support for Partnership, Reform and Inclusive Growth) was adopted as a new initiative for the Arab region in 2011. The four pillars of the new package are:

- A €350 million flagship initiative to support the political transition (the SPRING programme);
- A Special Measure designed to support poorer areas in Tunisia to the value of €20 million;
- Additional resources for higher education through the Erasmus Mundus (€66 million); and
- A Neighbourhood Civil Society Facility totaling €22 million and covering the period 2011-2012.

The Civil Society Facility

The Neighbourhood Civil Society Facility is made up of three components, to be funded over 2011-2013:

- Component 1: Strengthening capacity of civil society, through exchanges of good practice and training, to promote national reform and increase public accountability, to enable them to become stronger actors in driving reform at national level and stronger partners in the implementation of ENP objectives.
- Component 2: Strengthening non-state actors through support to regional and country projects, by supplementing the funding available through thematic programmes and instruments.
- Component 3: Promoting an inclusive approach to reforms by increasing the involvement of non-state actors in national policy dialogue and in the implementation of bilateral programmes.

Funds

Amount: €22m
Budget Source: European neighbourhood and partnership instrument (ENPI)
Duration: 2011-2013
Retrieved from http://europa.eu/rapid/press-release_MEMO-11-638_en.htm

European Endowment for Democracy

The EED is a joint political project by the EU and its member states. It was defined as a political objective in the May 2011 Neighbourhood Communication and in Foreign Affairs Council Conclusions in June and December 2011. Following an agreement by all Member States, EP and Commission/EEAS, the EED was established in October 2012 as a private law Foundation under Belgian Law, governed by its own Statute and governing bodies. The Foundation's main purpose is direct grant-making to pro-democracy activist and/or organisations struggling for democratic transition in the European Neighbourhood and beyond, through specific flexible procedures. The initial budget for EED will be around €14 million. The EED will have its headquarters in Brussels. The EED is in the process of completing its setting up process and recruitment of staff. The EED should be operational during the first half of 2013

Channels for CSO engagement in ENP

Although having limitations, there are several channels for CSO involvement in the ENP/EaP processes. The involvement of CSOs in these spaces is particularly important in order to[79]:

- Promote increased transparency and the prevention of corruption and fraud;
- Prevent the lobbying of corporate interests on

the part of the private sector;
- Facilitate the elaboration of high-quality projects and absorption of funds;
- Promote the improvement of limited administrative potential;
- Facilitate the involvement of independent experts in designing and implementing the project in order to improve social integration, gender equality, environmental protection, and quality of life;
- Ensure effective use of European taxpayers' money;
- Promote the culture of inclusive democracy;
- Increase the sense of ownership among the public in order to legitimise projects as well as the European Neighbourhood Policy;
- Respond to increased demand for assistance on the part of the EU.

Involvement in the process of ENP Progress Reports

The implementation of the European Neighbourhood Policy (ENP) and the commitments made in ENP Action Plans are scrutinised through annual progress reports prepared by the European Commission.

Usually, Action Plans define reform priorities in the EU partner countries, which countries committed to undertake in order to increase integration with the EU. Priorities usually cover: (1) political reform, including democracy, rule of law, human rights, freedoms, security sector reform, and cooperation on foreign policy issues; (2) economic and social reforms, which include certain macro-economic reform measures, trade related steps and regulatory measures; (3) cooperation in the justice field; (4) changes in the transport, energy and environment sectors, and; (5) cooperation in the media and information society matters.

Action Plans vary in priority setting across countries. As was mentioned in Chapter 1, they often lack a strong human rights based approach across various sectors as well as coherence between the development objectives and the economic objectives set.

The annual progress reports outline achievements and areas requiring further efforts. The EC prepared annual progress reports also take into account assessments by partner country authorities. As a result, the Action Plans can be amended and/or updated to reflect the assessment in the progress report. On an annual basis since 2008, CSOs from partner countries and the EU are invited to contribute progress report preparation through the submitting of information, reports or assessments on the implementation of the commitments made in Action Plans.

Therefore the monitoring of Action Plans by CSOs could result in assessments of:

1. AP priorities and actions from the human rights based approach.
2. How the partner government implements AP and its alignment with international human rights laws.
3. Sectoral reforms and their implications for socio-economic development and environmental protection (See Box Example of ANND).

THE INVOLVEMENT OF CIVIL SOCIETY IN ENP ACTION PLAN PREPARATION, IMPLEMENTATION AND MONITORING

The involvement of civil society in ENP Action plan preparation, implementation and monitoring varies from country to country. Basically, there was no procedural requirement from the European Commission to involve civil society in the preparation of the action plans, so the experiences vary drastically.

However, since 2004, the role of civil society organisations in the preparation, implementation and monitoring of ENP Action plans has significantly increased. Reporting and monitoring by civil society and non-governmental organisations, whether national or international, became one of the major sources on which the EU draws in assessing the annual progress being made. While written unified procedures for receiving inputs do not exist, the different European national delegations are applying the various tools, including the meetings with CSOs and NGO representatives, public hearings.

Additionally, since 2008, the Commission requests the submission of written comments from interested parties, including NGOs and other organisations active in the fields covered by the Action Plans, to provide information, reports or assessments, as it begins the preparations for its package of ENP progress reports, which cover implementation of ENP Action Plan in the respective years. It is very important that civil society organisations use the human rights based approach and benchmarks to report on and assess progress on the ENP.

The timeframe for submission of reports is about a month and a half. The information on submission time and further details can be found on http://ec.europa.eu/world/enp and http://www.enpi-info.eu.
(Source:http://bankwatch.org/ENP-guide/index.php?title=Civil_society_involvement_in_the_preparation,_implementation_and_monitoring_of_ENP_Action_Plans).

ANND, along with partner civil society organisations in several Arab countries, has been contributing since 2010 to the review process of ENP Action Plans through yearly progress reports. For those purposes, ANND takes the following steps:

- Follow the ENP website and the EU Delegation at country level to stay informed about the timeframe for the review.
- Undertake an analysis of the Action Plan and collect information on progress or regress of the sectors that have been identified as priorities in the Action Plan.
- Report on progress on a specific sector mentioned in the Action Plan through a human rights lens (thus comparing progress to the benchmarks and obligations under international human rights covenants).
- Attempt to follow and analyse financial flows to relevant countries and sectors to show any discrepancy in the allocation among sectors or the nature of the financial allocations.
- Attempt to show any discrepancy between the sectoral priorities identified in the Action Plan, such as the level of alignment of the priorities identified under the economic sector with those of a social or developmental nature.

1. It should be stressed that the ENP's new approach to also covers the content and process of progress reports' preparation. Since 2011, the progress reports have "become increasingly forthright in assessing progress, in particular towards deep and sustainable democracy. They will represent a tool for applying the incentive-based approach and establishing a stronger link with all relevant aspects of the EU response, including financial assistance. They will include country specific recommendations which partner countries are invited to address"[80].

2. In this regard, CSOs must include specific recommendations in their submissions towards ensuring the actual implementation of the priorities of Action Plans.

INVOLVEMENT IN ENPI/ENI

The ENPI does not specify the specific procedures for involvement of CSO actors in programming activities, but rather mentions to ensure partnership through the involvement of all relevant stakeholders, where it is appropriate. The experience of ENPI planning, programming and implementation shows that the national authorities are either not able or simply not willing to develop transparent mechanisms for public participation, holding national dialogues etc. There have been a number of successful cases of civil society engagement in a number of the countries – these have resulted in a change of priorities in indicative programs, as well as the introduction of new benchmarks.

In accordance with the ENPI regulation, another opportunity for involvement was the so called Midterm Review (MTR) that wasconducted in order to review the programming documents at their mid-term or whenever necessary.

MTR considers the revision of the indicative plan, including the allocation of funds to prioritised sectors and programs. It is led by the Commission headquarters (DG EEAS) and takes more than a year to be accomplished. The process includes consultations with CSOs in the EU partner countries, which may take the form of dialogue with national European Delegations, ad hoc meetings during programming missions, or online consultations and with possible specific events.[81] Civil society's contribution to the MTR has, in a number of cases, influenced priority sectors in National Indicative as well as in Regional indicative programs. However, the experience differs from country to country and also, to a large extent, depends on the willingness of the local EU Delegation to engage the CSOs in programming, as well as the availability of public participation space in partner country.

Taking into account the fact that ENI will simplify decision-making procedures, it was expected that ENI would be clear and involve obligatory rules for CSO involvement in all stages of the programming, rather than communicating with CSOs on an ad-hoc basis. Indeed, the new ENI is progressive in terms that it broadens the scope of partnership, and specifically mentions "CSOs, social partners and other non-state actors' role in preparing, implementing and monitoring Union support", therefore acknowledges the role of CSOs not only in implementation but as well in early preparation and further monitoring stages.

This too increases the need for genuine partnerships with CSOs, that can play the role of watchdogs in order to secure the correct use of the funds. It is important to note that without opening the ENI funds to more public scrutiny and participation, the control of the funds may become too concentrated in the hands of the national managing authorities.

In this context, in order to ensure the CSOs increased value in ENI programing, implementation and monitoring, it is important to set up clear standards and mechanisms for application of the partnership principle[82], including:

- Provide a basis for ensuring the "partnership" notion and establishing common minimum standards for ensuring CSOs' participation[83]
- Ensure timely and continuous disclosure of information on the programming documents and their availability in local languages;
- Involve a wider number of CSOs in Single Support Framework planning and revision processes through EU delegations;
- Ensure representatives of self elected CSOs are represented in Budget Support joint Monitoring/Steering Committees.
- Provide capacity-building as a step towards increasing the level of CSO involvement in implementation and monitoring.

In order to achieve this, there is a need that civil society representatives must:

- Request the relevant information from EU and national authorities in order to ensure the availability of EU official documentation publicly, regardless of language barriers.
- Request the obligatory participation of civil society in the ENI programming, implementation and monitoring process (letters, statements, monitoring reports); particularly in order to ensure civil society's involvement in the joint monitoring efforts of the European Commission and governments.
- Ensure proper observance of the principle of partnership which emphasises CSO involvement at all stages of ENI funding disbursement; where CSO involvement becomes an indispensable condition in all recipient countries.
- Request trilateral dialogue if appropriate – the civil sector, national governments, and the EU involvement of civil society in the EU-government dialogue and policy development process on equal footing with the national government.
- Require, in order to ensure Budget transparency, from national governments transparency not only in budget planning, as well as in terms of budget spending, through an increased role of Parliament in budget preparation and implementation. In terms of EU budget support it i important that agreements between the EU and governments include paragraphs on the involvement of civil society in monitoring ENPI programmes, through the secure participation of CSOs in joint monitoring committees. In this regard, CSOs from the neighbourhood region should also scrutinise the EU support's compliance with the Paris declaration on Aid effectiveness.

How to increase NGO capacity to work on ENP/ ENI issues

The capacity and resources of CSOs to undertake the monitoring of these processes remain limited due to its complexity and too the unwillingness of national governments to cooperate.

In general, due to the complexity of the ENP and its importance for any country's development direction, it i important that CSOs, through coalition building and networking, jointly work on the issue in order to achieve more. This would also contribute to overcoming the fact that while bigger, well-organised civil society actors seem to benefit from tapping into European structures and resources, smaller ones become increasingly excluded, or their inclusion has merely a symbolic character. Intensification of networking and supporting of its enlargement, developing mechanisms for coordination and exchange of information with international organisations, including those ones working in Brussels, would help to realise a more timely and direct impact on the EU's decision making structures.

It should be noted that increased awareness and improved CSO knowledge concerning the EU's development and foreign policy, decision making structures, funding instruments and budget would help in the development of correct advocacy strategies vis-à-vis the EU institutions and national governments.

THE EAP CIVIL SOCIETY FORUM

In May 2009, the proposal to establish a Civil Society Forum was endorsed by the Prague Summit, where the Eastern Partnership was launched. In a joint declaration, the Summit "invited the European Commission to develop and propose modalities for the establishment of a Civil Society Forum of the Eastern Partnership".

The first Civil Society Forum was held on November 16 and 17 with the participation of over 200 representatives of civil society from EaP countries as well as EU member states.

The aim of the Forum is to gather the representatives of civil society from EaP countries and EU member states who follow the agenda of the EaP, prepare comments and inputs for discussion, provide recommendations and oversee the implementation of EaP agreements. The Civil Society Forum provides an opportunity to civil society to become a partner of the governments and institutions.

The Forum creates four working groups, based on Eastern Partnership thematic platforms:

- Democracy, good governance and stability;
- Economic integration and convergence with EU policies;
- Environment, climate change and energy security;
- Contacts between people.

The recommendations prepared by the Forum were presented to the meeting of the European Council of Ministers in August 2009. In this final declaration, CSOs expressed a wish to become natural institutional partners of the EU institutions, member states and the EaP authorities in planning, implementing, monitoring and evaluating the Eastern Partnership programmes. This initiative provides an opportunity for the partner countries to integrate with European institutions by developing stable democratic structures and by enabling stronger participation of civil society in areas such as human rights, electoral standards, media freedom, combating corruption, training and networking of local authorities.

The Forum elects a steering committee of 17 representatives from both the EaP and EU states. The steering committee includes national coordinators who will facilitate the national platforms' creation in relevant countries, as well as working group coordinators who will facilitate the thematic working groups. The creation of national platforms is an ongoing process in the majority of East ENP countries.

The national platforms should be considered as important mechanisms, that will be used for monitoring both multilateral and bilateral components of the Eastern Partnership and facilitate these processes – by the preparation of policy recommendations, monitoring the fulfillment of the conditions, and communication with the public about the Eastern Partnership.

Therefore, it is important to strengthen the Forum on regional and national levels, and to ensure wider participation of civil society actors in Eastern partnership mechanisms

GLOSSARY

AAP	Annual Action Program, based on National or Regional Indicative Programs, identifying projects and initiatives to be funded under ENPI and their specific allocations.
Budget support (BS)	International financial assistance through which money is sent directly to the target country's national budget. There are two forms of BS: general Budget Support and sectoral Budget Support, that is, assistance for specific sectors of the national economy – healthcare, education, and so on.
CIBP	Comprehensive Institution-Building Program.
ENP	European Neighbourhood Policy, the EU's general policy framework for interaction with its immediate neighbours.
ENPI	European Neighbourhood and Partnership Instrument, a policy framework for financial and technical cooperation between the EU and ENP countries.
ENI	European Neighbourhood Instrument.
Entry point	Opportunity for non-state actor (NSA) involvement in the policy process.
GF	Governance Facility. ENPI funds to facilitate majorprogress in improving governance.
Indicative Program	A document defining funding allocations for the priority areas set out in the Strategy Paper for a 3-4 year period.
IFS	Instrument for Stability.
INSC	Instrument for Nuclear Safety Cooperation.
IRP	Inter-Regional Program.
JMA	Joint Managing Authority in Cross-Border Cooperation, the authorised executive body of a participating EU Member State selected to manage the CBC program on behalf of all participants.
JMC	Joint Monitoring Committee, the main joint decision-making body in Cross-Border Cooperation programs.
JMG	Joint Monitoring Group, established to monitor the use of Budget Support, composed of national and EC officials. It is in charge of overseeing, coordinating data collection in line with the achievement of a set of benchmarks, preparing a Progress Report, and drafting a mid-term review.
MDG	Millennium Development Goal.
National Program	A national-level program for the delivery of EC assistance through ENPI.

NIF	The Neighbourhood Investment Facility fund, set up to support lending to ENPI countries by international financial institutions aiming at mobilising additional funding for infrastructure projects in the Neighbourhood area.
NIP	National Indicative Program, defines in greater detail the focus of operations in 2007-2013 in accordance with the Country Strategy Paper.
NSA	Non-state actor. Non-state institutions, civil society organisations.
OQSG	Office Quality Support Group.
Programming	A decision-making process aimed at defining the EC strategy, budget and priorities for spending aid in non-EU countries.
RIP	Regional Indicative Program.
ROM	Results-Oriented Monitoring System.
RSP	Regional Strategy Paper.
SIGMA	A joint EU-OECD technical assistance initiative whose purpose is to assess progress in reforms and to assist beneficiary administrations in establishing good public sector practices and procedures.
Strategy Paper	A document covering a seven-year period of the EC's financial perspective and identifying EU assistance priorities for a target country or region.
TACIS	Technical Aid to CIS program, a foreign and technical assistance program implemented by the European Commission to help members of the CIS and Mongolia, in their transition to democratic, market-oriented economies. TACIS has been subsumed in the EuropeAid program.
TAIEX	Technical Assistance and Information Exchange, an instrument introduced in the ENP framework. TAIEX aims to foster political and economic cooperation in a number of areas, primarily the approximation, application and enforcement of EU legislation[84].

ENDNOTES

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24. An EU instrument that supports voluntary convergence with EU developments in the field of higher education deriving from the Lisbon agenda and the Bologna process in the partner countries of Eastern Europe, Central Asia, the Western Balkans and a worldwide programme which provides scholarships for students and scholars. Mediterranean region, mainly through university co-operation projects.
25. http://eacea.ec.europa.eu/erasmus_mundus/index_en.php
26. http://ec.europa.eu/world/enp/pdf/governance_facility_en.pdf
27. ENPI actual implementation will, on the other hand, last until 2015.
28. ibid
29. http://www.academia.edu/2063604/Improving_the_EUs_Aid_to_its_Neighbours_Lessons_Learnt_from_the_ENPI_Recommendations_for_the_ENI
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36. In order to respond to the evolving relationship with Russia, the regulation stressed that Russia would stay the eligible partner country under ENI regional and Cross-Border Cooperation programmes, while

for bilateral cooperation the new Partnership Instrument (PI) – a major innovation of the 2014-2020 external instruments package, with a budget of €1.13 billion – would be formed. The PI's overall objective is to advance and promote EU interests by supporting the external dimension of internal policies (e.g. competiveness, research and innovation, migration) and to address major global challenges (e.g. energy security, climate change and the environment).

37. More on MFF available at http://www.consilium.europa.eu/special-reports/mff/10-things and http://www.europarl.europa.eu/news/en/pressroom/content/20130128BKG59902/html/An-introduction-to-the-EU%27s-Multi-annual-Financial-Framework
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41. The future of EU Budget support: political conditions, differentiation and coordination by European Think-Tanks Group available at http://www.odi.org.uk/publications/6570-budget-support-eu-development-policy-political-conditionality
42. http://ec.europa.eu/europeaid/how/delivering-aid/budget-support/documents/bs_guidelines-part_ii-programming,design_management_en.pdf
43. Budget Support Steering Committee chaired by the Director General of DEVCO, includes: a) The responsible Geographical Director b)Representatives of the EEAS (geographic/horizontal, for programming and political and fundamental values aspects) c) Relevant Thematic/Horizontal Directors d) Representatives of the Geographical services e) Representatives of the thematic services (for the sectors concerned) f) One representative from DG ECFIN (for macroeconomic/financial aspects) g) One representative of unit DEVCO A2 (secretariat). The Committee will meet as regularly as is necessary.
44. Prepared in light of the Budget Support Guidelines http://ec.europa.eu/europeaid/how/delivering-aid/budget-support/documents/bs_guidelines-part_ii-programming,design_management_en.pdf
45. http://bankwatch.org/sites/default/files/comments-ENP-ENI-Nov2011.pdf
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47. Accordingly it is stated that, within the new budget support, partner countries need to be actively engaged in the fight against fraud and corruption and be equipped with appropriate and effective mechanisms covering the whole "anti-fraud and corruption cycle" (prevention, detection, investigation and sanctioning) as well as adequate inspections authorities and judicial capacity. The Commission will also promote capacity development in this area. In this context the Commission will promote the cooperation between the European Anti-Fraud Office (OLAF) and the inspection and judicial authorities of the partner countries. Retrieved from http://ec.europa.eu/europeaid/how/delivering-aid/budget-support/documents/bs_guidelines-part_ii-programming,design_management_en.pdf
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53. This section is developed using the "Citizens' guide to the European Investment Bank", an April 2008 publication of the campaign "Counter Balance: Challenging the European Investment Bank."
54. As the EIB website clearly states: "The European Investment Bank has been a development partner in most ACP countries for some 30-40 years.")
55. The EIB has a significant track record of supporting the Mubarak regime for instance, lending nearly €4 billion to Egypt in the decade preceding the Arab Spring. In the whole MENA region, the EIB invested €15.5 billion in the same decade, twice as much as in any other region outside Europe. "The great Middle East beanfeast", CounterBalance, www.counterbalance-eib.org
56. http://bankwatch.org/ENP-guide/index.php?title=EIB_External_Mandate_2007-2013#cite_note-0

57. http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2013:0293:FIN:EN:PDF
58. It operates in all Eastern Partnership countries, western Balkans and Turkey, as well as in all new member states, with the xception now of the Czech Republic.
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