

Eastern Partnership Review

Institution-Building Instruments in the Eastern Partnership: Still Drawing on Enlargement?

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Contents

Summary	4
List of abbreviations	5
1. Institution Building in the European Neighbourhood Policy	7
1.1. Twinning	7
1.2. TAIEX	9
Table 1. Twinning projects in the ENP countries in 2009.	9
Table 2. TAIEX projects in the ENP countries, 2007-2010.. . . .	10
1.3. SIGMA	11
Table 3. Twinning, TAIEX and SIGMA in the ENP: a comparison.	11
2. Institution Building in the Eastern Partnership	12
Table 4. The CIB programmes in the Eastern neighbour countries	13
3. Evaluation of the institution-building instruments in the Eastern Partnership	14
Conclusion and recommendations	16
List of interviews	16
References	17
Documents	17
Literature	18

Summary

This policy paper reviews the instruments of institution-building – of support to the administrative capacity to implement policies – in the European Neighbourhood Policy and the Eastern Partnership in particular. Among the key instruments, one can identify TAIEX, Twinning, SIGMA, and the Comprehensive Institution Building (CIB) Programmes. The paper argues that these instruments keep on drawing on the logic of enlargement, where they originate, and that they have become central in the implementation of EU policy in the Eastern neighbourhood in order to show the EU's capacity to deliver results. After a short assessment of the instruments available for the East, some recommendations are made in regard to the necessity to improve coordination between the various EU instruments and donors as well as between the bilateral and multilateral aspects of the Eastern Partnership, and the need for the ENP to stick to its principles of differentiation and ownership.

List of abbreviations

AA	Association Agreements
AP	Action Plan
CIB	Comprehensive Institution-Building (initiative or programme)
CIS	Commonwealth of Independent States
CSP	Country Strategy Paper
DCFTA	Deep and Comprehensive Free Trade Areas (or Agreements)
EaP	Eastern Partnership
EC	European Communities
EEAS	European External Action Service
ENP	European Neighbourhood Policy
ENPI	European Neighbourhood Policy Instrument (ENPI)
EU	European Union
IBPP	Institution-Building Partnership Programme
IPA	Instrument for Pre-Accession
IRP	Institutional Reform Plan(s)
MEDA	EU Assistance Programme for the Mediterranean Countries
NCP	National Contact Point
NIP	National Indicative Programmes
OECD	Organization for European Cooperation and Development
PAO	Programme Administration Office
RTA	Resident Twinning Adviser
SIGMA	Support for Improvement in Governance and Management
TACIS	Technical Assistance to the Commonwealth of Independent States
TAIEX	Technical Assistance Information Exchange Office
WTO	World Trade Organization

Since the beginning of the 2000s, ‘institution-building’ has become a growing part of the foreign policy of the European Union (EU). The European Neighbourhood Policy (ENP), launched in 2003, was defined as a policy aimed at reaching stability, prosperity and security not only in the relations with Eastern neighbours who would be interested in knocking on the EU’s door, but also in the relations with its Southern neighbours¹. While Russia declined the offer to join the programme, the countries of the Southern Caucasus were accepted as ENP partners in 2004. As the ENP aimed to strengthen the bilateral relations with the Eastern and Southern neighbours, the subsequent regional approaches, either reinforcing the Northern dimension, or creating new institutions like in the Black Sea Synergy, the Union for the Mediterranean and the Eastern Partnership, aimed to develop a multi-lateral, networked approach in the ENP².

The Eastern Partnership, launched in 2009, clearly created new multilateral institutions in EU policy towards the East (cf. Delcour, 2011). However, in parallel, it drew the line for a reinforcement of bilateral cooperation at various levels. One may mention the reinforcement of the contractual relations with the neighbours through the negotiation of Association Agreements (AA), Deep and Comprehensive Free Trade Areas (DCFTA), visa liberalization, cooperation in the field of energy, the support to economic and social policies, and, finally, assistance aimed at strengthening institutional capacities in order to meet the requirements of the AA, DCFTA and other subsequent measures. The reason why this paper focuses on one of these issues only – institution-building – may be summarized as follows: without institutional capacity, the AA, the DCFTA and institutional reforms cannot be correctly implemented, and neither the EU nor the partner countries can prove their ability to deliver policies.

‘Institutional capacity building’ or ‘institution-building’ is a notion which has known growing use in the EU foreign policy towards transition

and development countries since the 1990s. In the 1990s, the EU realized that there was an absence of the *acquis communautaire* in the institutional implementation of policies. Despite the strong integration process that was continuing over the years in the European Communities (EC) and the EU, the necessity of a European administrative space is still debated in the absence of a unified public administration and a unique status for civil service (Olsen, 2002; Trondal, 2007; Shout and Jordan, 2008). However, the related literature did not concentrate much on the promotion of administrative institutions and institution-building in EU external relations, although the debate has definitively moved to the outskirts of the EU since the beginning of the process of Eastern enlargement (cf. OECD / SIGMA, 1998, 1999; Verheijen, 2002; Dimitrova, 2002) and the launch of the European Neighbourhood Policy (Del Sarto, Schumacher, 2005; Tulmets, 2005; Tocci, Cassarino, 2011). The capacity of the EU to not only transfer its norms abroad and adapt them to the local contexts³, but also to support institutions that are able to implement these norms has thus remained an open field of investigation.

In defining EU policies for the support to institution-building, the European Commission was very much inspired by the experiences of other international institutions, especially the Organization for European Cooperation and Development (OECD). The OECD defines ‘institution-building’ as a “process whereby people, organizations, and society as a whole unleash, strengthen, create, adapt, and maintain capacity over time” (OECD, DAC, 2006). Surprisingly, the Commission does not propose any definition of institution-building in its communications, although the term is often used in these documents. In fact, the European Commission seems to refer to ‘good governance’ when the given institution-building includes democracy promotion and defense of EU values⁴, and to ‘institution-building’ when it particularly focuses on public administration reforms (Tulmets, 2011). In internal documents, the Commission refers to an institution as including “a ministry, an agency or a similar gov-

1 The beneficiary countries of the ENP are thus Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, the Palestinian Authority, Syria, Tunisia and Ukraine.

2 The Northern Dimension was deepened under the Finnish EU presidency (2006), the Black Sea Synergy was launched under the German EU presidency (2007), and the Union for the Mediterranean was launched under the French EU presidency (2008). In the same vein, the Eastern Partnership was launched by 27 EU member states and six partner countries with the adoption of the Prague Declaration at the first EaP summit on 7 May 2009 (during the Czech EU presidency).

3 On policy transfer see Dolowitz, Marsh (1996).

4 The European Neighbourhood Policy Strategy Paper of 2004 indicates that “the privileged relationship with neighbours will build on mutual commitment to common values principally within the fields of the rule of law, [and] good governance (...)” (European Commission, 2004a). And the European Neighbourhood and Partnership Instrument (ENPI) clearly indicates in its article 2.1 that Community assistance shall “encourage partner countries’ efforts aimed at promoting good governance ...” (EU Council, European Parliament, 2006).

ernment institution with a specific responsibility. It can also include a cluster of institutions that have a shared administrative responsibility” (European Commission, 2009b).

In this paper, we argue that through the promotion of institution-building in the bilateral aspects of its foreign policy, the EU is still following the path of EU enlargement despite a politically different context – albeit mainly in its procedures. While the ENP is now under the competencies of the European External Action Service (EEAS), the bilateral relations with the neighbours are still being defined by the European Commission. This institution, in contrast to the EU members, is still very much inspired by the Eastern enlargement in the definition of its procedures toward the neighbours and promotes a differentiated approach with the partners. It is therefore not surprising to see that three instruments, Twinning, TAIEX and SIGMA, have been transferred and adapted to the ENP. In order to support further reforms, the Commission introduced financial incentives and the Governance Facility, which was inspired by the cooperation in the South, but also a specific procedure called the Comprehensive Institution-Building (CIB) programme, which was created in 2009 with the Eastern Partnership and inspired by EU accession. It is thus interesting to first investigate where the instruments for institution-building originated from and how they have evolved in the ENP before attempting to understand their innovative use in the Eastern Partnership⁵.

1. Institution Building in the European Neighbourhood Policy

Interestingly, the first attempts at introducing tools of institution-building in the relations with the countries of the Commonwealth of Independent States (CIS) did not start with the launch of the ENP. The first measures were actually taken around 2000, when the deficiencies in the management and implementation of the TACIS⁶ projects were confirmed. The idea was to reinforce the institutions managing EU funds and thus to allow for more transparency and accountability in this matter. However, the attempts to do so were not evaluated

as successful. It is only with the launch of the ENP that institution-building made a comeback in the TACIS programme.

The very first ENP documents elaborated by the Commission already insisted on the notion of institution-building (European Commission, 2003, 2004a, 2004b). Despite the absence of any prospect of EU accession for the partners, the EU’s expectations that the partners would take over the *acquis* and implement institutional reforms were already expressed in these seminal documents. At that time, similar instruments and procedures as those in enlargement were already present in the Commission’s documents, which had mainly been elaborated by civil servants who had previously worked at DG Enlargement (Del Sarto, Schumacher 2005; Tulmets 2005; Kelley, 2006). Institution-building was explicitly seen as a way to add stability and predictability to the partner countries. It is thus not surprising to find in the ENP similar instruments as those created for the enlargement strategy: TAIEX, Twinning and also SIGMA. These instruments were introduced chronologically in order to help the ENP countries build sound public governance institutions. However, one needs to clear up how they are complementing each other.

1.1. Twinning

The first institution-building instrument to be introduced in the ENP (already in 2004) was the institutional *Twining*. Twinning was created in 1997 as an instrument that allowed for the sending of national experts to their partner organizations in the candidate countries to help with the countries’ sectoral reforms for a maximum of two years. At the time of accession, Twinning projects not only helped the candidates to take over the EU *acquis* and introduce new legislative reforms, but the projects also helped them to create the structures that were necessary for inter-governmental cooperation, central and regional financing, empowerment of governmental agencies, and consultation mechanisms. The Twinning instrument was then adapted to further accession negotiation contexts. In 2001, a ‘Twining manual’ was elaborated for the CARDS programme⁷, which delivered assistance to the countries of the Western Balkans. It was also adapted to Turkey. From 2001 to 2003, Twinning enabled similar projects in the form of the ‘Institution-Building Partnership Programme’ (IBPP)

5 The paper mainly draws on first hand documents, secondary literature and interviews done in Brussels.

6 TACIS, which stands for Technical Assistance to the Commonwealth of Independent States, was created by Council Regulation No. 1279/96.

7 CARDS was created by Council Regulation No. 22666/2000.

in the TACIS programme⁸, which were not very successful. And in 2003-04, Twinning was finally introduced into the European Neighbourhood Policy Instrument (ENPI)⁹.

The Twinning exercise consists of a close and specific cooperation between a beneficiary country and one or several EU member states with the aim of making sure that the *acquis communautaire* will not only be assumed in the beneficiary country, but also correctly implemented. Twinning, from its conception to its evaluation, is thus a project which takes place within the institutional triangle of the European Commission (Headquarters and delegations), the administrations of the member states and the relevant administrations of the beneficiary countries. Twinning projects aim at reaching operational results that are defined on the basis of benchmarks that are agreed in advance. Twinning thus defends the concepts of partnership, ownership and transparency.

From the beginning, Twinning was conceived as an alternative instrument to classical technical assistance in that civil servants and experts on public administration from the member states themselves are strongly involved in all the phases of the project. From 1998 on, Twinning contributed to a distinct shift in the conception and implementation of EU assistance: in contrast to classical assistance policy, it is understood as a two-way street through a permanent co-operation between professionals or specialists within the same sector, with commitments and responsibilities being taken on by both Twinning partners through the definition of precise benchmarks that are agreed in advance (European Commission, 2009a). The aim is to build long-term relationships on a day-to-day basis between member states and beneficiary countries – between their ministries, agencies and bodies – on national, regional and local levels. Twinning thus replaces the top-down ‘teacher-pupil’ situation of classical technical assistance with communication between professionals in the same sector. Plus, an amended version of Twinning – Twinning Light – was created to allow for smaller projects, sometimes follow-up projects, with faster implementation (interviews, European Commission, 2004, 2009).

In order to harmonize the rules and procedures of Twinning, the Commission worked on the elabo-

ration of a common Twinning manual, which was issued in June 2005 (European Commission, 2005). With the 2007-13 financial framework, the manual applies to the Instrument for Pre-Accession (IPA) (replacing PHARE, CARDS and the separate assistance to Turkey) and the ENPI (replacing TACIS and MEDA¹⁰), which is also made available to Russia. While the statistics and databases elaborated at the Commission since 1998 registered 1403 projects for the period of 1998-2008 in PHARE, CARDS, the Transition Facility (a programme for newly accessed members) and IPA (European Commission / EuropeAid, 2008), the number of Twinning projects in the neighbourhood remained rather low compared to the number of countries covered by the ENPI. In 2009, around 215 Twinning projects were under way in twelve ENP countries: Algeria, Armenia, Azerbaijan, Egypt, Georgia, Israel, Jordan, Lebanon, Moldova, Morocco, Tunisia and Ukraine. However, in May 2011, this figure increased to 263. The projects take place in a large number of fields: finance (23%), trade and industry (17%), justice and home affairs (15%), health and consumer protection (7%), employment and social affairs (6%), transport (5%), agriculture (5%), environment (5%), energy (5%) and telecommunications (3%) (EuropeAid, 2011).

Since its creation, the Twinning instrument has particularly evolved. While the core idea is to send an expert, a Resident Twinning Adviser (RTA), who will advise on the spot and receive the necessary complementary expertise from the EU member states, to the beneficiary country, the procedures also allow for study visits of individuals from the neighbour partners in the member states, and these are actually more frequent than the visits by RTAs to beneficiary countries. Twinning is therefore a way for the representatives of the neighbour countries to become better acquainted with the EU and the member states’ legislation and administrative functioning. In this sense, it contributes to further socializing the neighbour partners in the EU’s institutional settings.

However, in practice, the Twinning instrument remains rather bureaucratic and its procedures require a strong involvement of the administrations on both sides. It is also not very flexible as every benchmark and deadline has to be set in advance. The preparatory phase is thus very time consuming. After the Eastern enlargement, experts from the ‘new’ member states have been encour-

8 In the years 2002-03, the EU launched calls for proposal for a total of 68 IBPP projects in the context of the TACIS programme (40 for Russia, 16 for Ukraine, 5 for Armenia, 3 for Georgia, and 4 for Kazakhstan).

9 ENPI: EC Regulation No 1638/2006 of the European Parliament and the Council of 24 October 2006.

10 MEDA: Council Regulation No. 1488/96; MEDA II: Council Regulation No. 2698/2000.

Table 1. Twinning projects in the ENP countries in 2009

ENP South		ENP East	
Algeria	16	Armenia	13
Egypt	34	Azerbaijan	22
Israel	7	Georgia	14
Jordan	17	Moldova	11
Lebanon	12	Ukraine	36
Morocco	47		
Tunisia	34		
Total	167	Total	96

Source: Own compilation from EuropeAid (2011).

aged to participate in Twinning projects and thus to transfer their own experience of taking over the *acquis* and implementing it. Interviews with various participants of Twinning show that this experience is indeed very much valued among candidate countries and in the neighbourhood, especially in the East (interviews, 2010). Twinning projects are seen as a way to influence institutional reforms in the longer run through the preparation of important laws and the creation of new institutions. They should occasion reforms along European standards and take into account the EU *acquis*. This facilitates communication between the EU and the partner administration, and, indirectly, business activities. While the larger EU members with their large administrations are able to apply to the majority of the projects, smaller member states, like the Netherlands, Sweden or Denmark, are also very active. East Central European EU members still have difficulties in participating in Twinning as the lack of financial and human resources often represents a hurdle in the preparatory phase of the projects and in the long-term involvement of their administrations in the Twinning exercise. In some cases, they are still busy with important reforms at home and are rather reluctant to let some of their experts, of which they do not have too many, go abroad for two-year missions. As the organization of field missions implies some involvement in terms of time and money, the East Central European members generally prefer to focus on some partner countries in specific sectors where they see that they have a comparative advantage over the other EU members (interviews, 2009-2010).

1.2. TAIEX

The *Technical Assistance Information Exchange Office (TAIEX)* was opened to the ENP in 2006. It was first created in EU policies in 1995 at the time of the publication of the “White Book on the Internal Market” and set up in January 1996 to provide the candidate countries with technical assistance on approximation of legislation in the fields targeted by the White Book. TAIEX projects represent short term missions ranging from one to five days, which can be deployed in a span of four or five weeks. With time, the instrument was perfected, and the list of experts and the scope of activities were enlarged. At the end of the 1990s, TAIEX was proposed to the Western Balkans and Turkey. And in 2006, there was a gradual extension in the use of the instrument to the Eastern and Southern neighbourhood, including Russia (decision 2006/62/EC), “to promote the voluntary approximation of the EU *acquis* on the basis of commonly shared norms” (EuropeAid, 2008, p. 3). The extension is supported by a TAIEX National Contact Point (NCP) within the Programme Administration Office (PAO), which acts also as the NCP for Twinning in each partner country. TAIEX provides peer-to-peer assistance by public experts from EU member states to partners and stakeholders in the beneficiary countries through three forms of assistance: expert missions, workshops or seminars (in the beneficiary country), and study visits in EU member states (*ibid.*). More than 5800 experts were mobilized in all EU programmes operating with TAIEX in 2010 (DG Enlargement, IB Unit, 2011).

So far there have been some 550 TAIEX requests covering a large range of *acquis*-related issues, and these were received from twelve neighbour countries. The beneficiary institutions of TAIEX are generally involved in the transposition, implemen-

tation and enforcement of EU legislation, and thus they cover public administrations and agencies, national parliaments, judiciary, translation co-ordination units, and also private sector associations with a mission of public service and social partners. The experts mobilized for the seminars, workshops, study visits and missions are almost exclusively public sector officials of member states.

The aim of TAIEX, besides strengthening public institutions and approximating the EU *acquis*, also involves achieving the priorities stated in the ENP Action Plans and the National Indicative Programmes. Between 2006 and 2009, TAIEX missions were deployed in sectors as various as finance and social affairs (27%), agriculture and environment (15%), justice, liberty and security (15%), competition and customs (13%), trade and industry (13%), energy (5%), transport (5%), and telecom (3%) (EuropeAid, 2009). Between June 2005 and May 2008, 2,50% of the TAIEX budget of €22 million was allocated to the East and 2,45% to the South, while the main share went to the Transition Facility and the pre-accession activities. And between May 2008 and May 2011, 8,18% of the total TAIEX budget of €25 million was allocated to the East and

8,33% to the South, the rest being mainly dedicated to the Instrument for Pre-Accession (IPA) (DG Enlargement, IB Unit, 2011).

According to table 2, the TAIEX missions have mobilized a slightly larger number of experts in the East than in the South. This may be explained by the fact that some countries in the East have expressed their wish to become potential candidate countries, and they are thus currently more involved in aligning their national law to the EU *acquis*. However, the countries in the South are very much interested in having access to the EU's internal market, which explains the high number of projects in this region. The figures confirm that the countries that are the most advanced in their relations with the EU and the most economically integrated with the EU market, like Egypt, Israel and Morocco in the South, and Ukraine, Moldova and Georgia in the East, have hosted the highest number of TAIEX missions. Furthermore, in all the ENP countries, the number of TAIEX projects is increasing each year.

Table 2. TAIEX projects in the ENP countries, 2007-2010.

<u>ENP countries</u>	2007	2008	2009	2010	Total
Algeria	-	-	4	18	22
Egypt	4	10	10	17	41
Israel	9	8	11	13	41
Jordan	2	4	11	13	30
Lebanon	-	1	2	9	12
Libya	-	-	1	8	9
Morocco	3	13	11	19	46
Palestinian Auth.	-	-	3	4	7
Tunisia	2	6	3	12	23
Total ENP South	20	42	56	113	231
Armenia	2	11	7	20	40
Azerbaijan	1	2	1	11	15
Belarus	1	2	7	15	25
Georgia	5	8	11	26	50
Moldova	23	18	13	19	73
Ukraine	10	12	31	62	115
Total ENP East	42	53	70	153	318
Total ENP	62	95	126	266	549

Source: Own compilation from DG Enlargement, 2010, 2011.

1.3. SIGMA

The *SIGMA* (Support for Improvement in Governance and Management) programme of the Organization for Economic Cooperation and Development (OECD) was extended to the ENP in 2008. Created in 1992, it is a joint initiative of the OECD and the EU, and it is principally financed by the EU to allow for short-term projects and advice in the field of horizontal institution-building. It works on a demand-driven basis, and its activities are framed by the ENP Action Plans and National Indicative Programmes. *SIGMA* operations are managed by a National Contact Point (NCP) within the Programme Administration Office (PAO), which also acts as an NCP for Twinning and TAIEX projects (EuropeAid, 2009).

This flexible programme has the capacity to assist partner countries in various fields, including administrative law and justice, expenditure management, internal/external audit, procurement/concessions, civil service, policy capacities and co-ordination, regulatory management and property rights (*ibid.*). Experts who work for *SIGMA* projects generally come from the *SIGMA* office or EU member states. They are mobilized for a period of one day to six months and work in the partner country with central agencies that are responsible for the horizontal management of systems of governance. In 2008, *SIGMA* has been supporting public administration reform in Azerbaijan, Egypt, Georgia, Moldova, and Ukraine; public internal

financial control in Armenia, Azerbaijan, Egypt, and Morocco; and public procurement in Armenia, Jordan, Moldova, Morocco, and Ukraine (EuropeAid, 2009).

The three instruments presented above – Twinning, TAIEX and *SIGMA* – strongly participate in the implementation of the European Neighbourhood Policy Instrument (ENPI) in the field of governance and institution-building. EU assistance priorities, together with the countries concerned and other relevant actors, are identified in the Country Strategy Papers (CSPs), which cover a seven year period, the National Indicative Programmes (NIPs), which cover a three year period, and detailed annual documents. The priorities identified in the Action Plans (AP) are also useful in guiding the programming of assistance programmes (DG Relex, 2011).

If one now looks for the complementarities between Twinning, TAIEX and *SIGMA*, one immediately notices that the three instruments operate along different temporalities. They may overlap on the ground when the topics to advise on are similar, but in principle, they follow different purposes: while Twinning is sought as a means to receive advice in the long run, TAIEX and *SIGMA* are mobilized for more punctual missions. All the projects are demand-driven: this means that the partners have to identify their own needs before drafting the project fiches which are circulated within the EU.

Table 3. Twinning, TAIEX and SIGMA in the ENP: a comparison

	Twinning	TAIEX	SIGMA
Introduced in the ENP in	2004	2006	2008
Duration	1 to 2 years	1 to 5 days	1 day to 6 months
Delay before starting	1 to 2 years	5 to 6 weeks	1 to 6 weeks
Areas of activity	Preparation of legislative and institutional reforms, implementation of <i>acquis communautaire</i> ,		
best practices in EU members	Implementation of <i>acquis communautaire</i> , best practices in EU members	Public administration reform, public internal financial control, public procurement (general governance management systems)	
Format	Resident advisor representing 1 to 3 EU members, plus experts from EU members	Individual experts from EU member states	Individual experts from OECD, EU member states or other relevant countries
Flexibility			
	Low	Medium	High

Source: Own compilation from EuropeAid (2007, 2008), interviews (2009-2011).

However, given the strong politicization of administrations and the poor knowledge of EU procedures in the partner countries, it was rather difficult to start Twinning projects in the neighbourhood (interviews, DG Enlargement, 2009). This is one of the reasons why TAIEX and SIGMA have been sought as complementary instruments to Twinning. Nevertheless, the number of institutional reforms has been rather low in the neighbourhood compared to that of the Eastern enlargement. Furthermore, all these projects remain difficult to coordinate, whether at the EU's headquarters in Brussels or in the EU delegations in the partner countries. This is why the EU has sought to introduce new measures: it sought them not only to encourage reforms and better identify the institutional needs in the ENP countries, but also to find better synergies between EU instruments, EU member states' activities and other donors.

2. Institution Building in the Eastern Partnership

Beside classical technical assistance and the three main instruments of institution-building in the ENP (Twinning, TAIEX and SIGMA), in 2006 the Commission created a 'Governance Facility' to reward good progress in the field of governance and institution-building through financial measures. The purpose of the Facility was to provide financial disbursements to beneficiary countries that would be linked to an evaluation at a punctual moment. This is the reason why only Ukraine and Morocco received additional funding in 2007 on the basis of the positive evaluation of their progress. However, this logic was very much linked to positive conditionality, to granting resources to the 'best pupils' while correspondingly forgetting to support the weakest partners (interview, EuropeAid, 2011). In the late 2000s, there was in fact no instrument that would tackle institution-building on a regular basis and in a more structured way while disregarding the level of advancement of domestic reforms. But with the creation of the Eastern Partnership, the EU proposed to go further: the 'Comprehensive Institution-Building' (CIB) initiative launched in 2009 represents a set of procedures which aim at monitoring reforms and better coordinating assistance measures. These procedures should also allow for differentiation and mutual accountability.

The idea of the Comprehensive Institution Building (CIB) Programmes was first put forward

in the Commission's communication on the Eastern Partnership (2008), which was reaffirmed in the joint Eastern Partnership Declaration of the Prague Summit (2009). The concept was further detailed in an information note presented to EU members in the ENPI Management Committee in September 2009 and to the partner countries during the Eastern Partnership Road Shows in September-October 2009 (European Commission, 2009b). Despite the strong multilateral aspects of the Eastern Partnership, the CIB procedures reinforce bilateral relations: they set benchmarks and allow for the monitoring of reforms in the field of administrative capacity. And we argue that they are strongly inspired by the experience of enlargement. Indeed, the CIB programmes present many similarities with the accession related 'Action Plans for Administrative and Judiciary Capacity', which at the time of the EU enlargement towards the East had helped to monitor the reforms in the fields of administrative capacity in all relevant sectors (interviews, Commission, 2004, 2011).

The CIB builds the ground for the identification of concrete measures and projects of institution-building and the monitoring of their implementation. With the creation of the European External Action Service (EEAS), it also envisions the possibility of better coordinating the programmes of the European Union and the initiatives of the member states.

In order to allow the CIB implementation, additional financial resources (€173 million) have been mobilized for the EaP partners for the period of 2011-2013. In the words of the Commission, the CIB represents a more structured mid-term approach. It is "an Eastern Partnership framework developed and implemented jointly with the authorities of the partner country to ensure effective institution-building of a limited number of core institutions that are central in preparing the ground for and implementing future AA and DCFTAs" (Commission, 2009b). The core idea of the CIB is that the pre-conditions and obligations needed to negotiate and conclude the AA and DCFTA are defined in detail and prioritized in further documents, the Association Agenda for Ukraine, and the ENP Action Plans for Armenia, Azerbaijan, Georgia and Moldova. Some limited funding may also be available for CIB preparatory activities in Belarus. In order to facilitate communication, a CIB coordinator is appointed within the governmental body responsible for ensuring political coordination of the negotiation and implementation of the ENP

Action Plans and Association Agenda.

The CIB programme comprises two parts:

- a *Framework Document*, which identifies the institutions to be strengthened. It outlines the key issues to be tackled and the possible tools to be mobilized. It is agreed through a ‘memorandum of understanding’ that is co-signed between the EU and the partner country;
- a (set of) multi-annual *Institutional Reform Plan(s)* (IRP) outlining the priorities to be pursued in order to upgrade the institutions and identify the measures to be taken, the necessary expertise and the funding sources. These plans are prepared and adopted by the partner country.

In order to prepare the *Framework Document*, the European Commission (DG Relex and AIDCO) and the EU delegations in the relevant countries draft an analysis of the partner countries’ relations with the EU and of their implementation. To do this, they mainly rely on the ENP progress reports, the monitoring of the implementation of the ENP Action Plans, the reports from sub-committees, DCFTA related country assessments, the work of the EaP multilateral platforms and panels, and the partner country’s reforms agenda. This allows for the identification of the key reform challenges in advancing toward an AA / DCFTA and a list of core institutions that have a central role in implementing the reforms. On the basis of this list, a number of institutions are selected and listed in the Frame-

work Document that is to be covered by the CIB. The *memorandum of understanding* signed between the two parties then only outlines the conclusion of the Framework Document, the key institutions that will be supported and the preconditions necessary for the implementation of the CIB (European Commission, 2009b).

The development of the *Institutional Reform Plan(s)* is led by the partner governments. The European Commission and the EU delegations support the process by providing technical assistance, organizing TAIEX assessment missions and using the SIGMA programme for actions and measures to address the gaps identified and ensure the transfer of know-how (European Commission, 2009b). It is only afterwards that the partner country is able to draft a limited number of IRPs, which are in line with the Framework Document, which is already agreed at this point. The IRPs contain clear reform objectives, measures with actions and indicators, the means to be provided, a timeframe for implementation and the different sources of funding (donors or the national budget) (*ibid.*).

The CIB is co-financed by the partner country and the Commission and open to co-financing from other donors. In addition, the European Commission has developed a ‘CIB framework support programme’ in line with the ENPI procedures in order to support a number of specific areas identified in the IRPs. To do so, full use is being made of the Twinning arrangements, TAIEX and SIGMA missions. Technical assistance may be mobilized

Table 4. The CIB programmes in the Eastern neighbour countries

	Armenia	Azerbaijan	Georgia	Moldova	Ukraine
CIB financial allocation 2011-2013	€32,81 million	€19,20 million	€30,86 million	€41,16 million	€43,37 million
CIB coordinator	Ministry of Economy, in dialogue with the Ministry of Foreign Affairs	Ministry of Foreign Affairs for the political documents and political steer; Ministry of Economic Dev. for IRPs and implementation	Deputy Prime Minister and Minister of European and Euro-Atlantic Integration	State Chancellery of the Prime Minister’s Office	Ministry of Foreign Affairs for the Framework Document; main department of the Civil Service
Key reform areas	1. Political association / econ. integration (AA negotiations); 2. Visa facilitation and readmission agreements; 3. Trade policy reform	1. Justice and home affairs, visa facilitation and readmission agreement; 2. Trade: WTO accession; 3. Civil service reform	1. AA negotiations and coordination; 2. DCFTA preparations 3. Democratic oversight bodies	1. Public administration reform 2. DCFTA/trade policy reform; 3. Rule of Law	1. EU regulatory approximation; 2. Trade: SPS and state aid monitoring; 3. Public administration reform

Source: EuropeAid (2011).

when the capacity in the counterpart institution is very limited or there are no counterparts to set up a Twinning project. The support programme is a component of the respective bilateral annual programme, which enters into force with the signing by both parties of a 'Financing Agreement'.

Eventually, the CIB aims at enhancing coordination between the EU member states and the Commission (and other donors) in the field of institution building. Beside Twinning, TAIEX and SIGMA, in which experts from the member states participate, the implementation of the CIB may be done through the provisions of expertise, training and other assistance financed under the member states' own programmes. Furthermore, coherence will be ensured between the CIB and the complementary activities that take place at multilateral events in the context of the Thematic Platforms (seminars, conferences, exchange of best practices, etc.) (European Commission, 2009b).

The CIB programmes have evolved with different rhythms in the five EaP countries mentioned in table 4, and it took over a year to have the IRPs accepted after the EU delegations started their work in 2010 and the framework documents were signed in October-November 2010. The adoption of the IRPs in particular implies a certain political involvement of the partner countries: the Armenian parliament accepted the IRPs in September 2011; in Ukraine, the technical issues were finalized in May-June 2011; in Moldova, the IRD is about to be negotiated; in Georgia, the IRD is ready, but still not approved; and in Azerbaijan, the technical documents are ready, but the decision is still pending (interview, EuropeAid, 2011). However, it is not possible to evaluate the CIB programmes in the Eastern Partnership at this point as they have not been implemented yet.

To summarize, we have been presenting here the three main instruments used in the ENP to support institution-building – Twinning, TAIEX and SIGMA – as well as the CIB programmes, which represent a new management procedure. All the instruments are conceived as complementing each other, and the CIB should improve their coherent use. The real innovation in the ENP policy is the CIB programme, which was launched with the Eastern Partnership to improve coordination in the support of capacity building. One now needs to evaluate the use of these instruments so far before drawing some recommendations on their future use.

3. Evaluation of the institution-building instruments in the Eastern Partnership

In reviewing the ENP in May 2011, the European Commission and the EU High Representative for Foreign Affairs and Security Policy have proposed an approach called “more for more” (European Commission, High Representative, 2011). The “more for more” approach defines five benchmarks against which the EU can assess progress and adapt the levels of support: “free and [fair] elections, freedom of association, assembly, expression, free press and media, rule of law, independent justice or judiciary, fight against corruption” (Füle, 2011; cf. European Commission, High Representative, 2011, p. 3). But as Popescu has argued, this approach is not new in that it is very similar to the Governance Facility. Popescu also stated that “the concept is laudable and fair, but also quite slippery” as it remains difficult to objectively decide which countries will receive more than the others (Popescu, 2011).

Regarding institution-building, we argue that this approach very much draws on the experience of accession. On one side, it reinforces the conditional approach, thus rewarding the ‘best pupils’ for their efforts towards reforms with financial incentives (cf. Schimmelfennig, Lavenex, 2009). On the other side, in the field of institution-building, the EU keeps on drawing on more classical instruments (i.e. Twinning, TAIEX and SIGMA) which have proved efficient during enlargement and allow for a differentiated approach. The introduction of the CIB programme in the Eastern Partnership is thus a further proof of the EU’s continuing use of procedures which were considered as useful during the Eastern accession and which represent for the partners a progressive step towards coming closer to the EU.

While one can see here a clear example of policy transfer from one policy context to another, one has to state that the European Commission had to carry out a gradual adaptation of these instruments to the policy context of the partner countries. In fact, it was noticed that Twinning could not work the same way in the neighbourhood as in enlargement given the absence of a clear accession incentive. Furthermore, in the neighbourhood, public administrations were much more politicized and civil servants less informed about EU procedures than their counterparts in East and Central Europe, which hindered the implementation of the first Twinning projects in the neighbourhood countries. The experts, despite their experience in previous

projects, recognized that they were facing more difficulties in the projects' implementation in the ENP countries than in candidate countries. Very often, the necessary conditions to prepare a Twinning project were simply missing in ENP countries (interviews, 2010).

These are some of the reasons why TAIEX was introduced in the ENP: it was introduced as a complementary instrument which would (among other tasks) prepare the necessary conditions to start Twinning projects. From 2008 on, SIGMA allowed for the preparation of missions at a more political level, thus setting up the frame that was necessary for the implementation of other projects. However, it remains difficult to follow the real implementation of all these projects without the agreement of the partners. It is still a challenge to coordinate the different activities on institution-building between the various EU instruments, and it is also a challenge to coordinate these activities with the numerous initiatives of the EU member states and other international donors. With the creation of the European External Action Service (EEAS), it was necessary to look for further procedures in order to ensure better coordination. Furthermore, there is the need to ensure coherence between the priorities set in the various EU documents, like the Action Plans, the Country Strategy Papers (elaborated for 7 years) and the National Indicative Programmes (defined for 3 years), so as to ensure an efficient assistance policy.

The CIB proposed in the Eastern Partnership represents a real innovation in the EU instruments that aim at fostering reforms in the partner countries. As we have seen, it implies further political engagement of each partner country: working conditions have to be set in advance in specific documents, which need to be accepted at the relevant political levels. But as already argued, this procedure is not particularly new. While several civil servants moved from DG Enlargement to DG Relex and then the EEAS, it is not surprising to see some ideas that stem from the technical management of enlargement dominate the bureaucratic aspects of EU relations with the Eastern neighbourhood. This position is certainly increasingly at ease with the EU rhetoric, which has slightly evolved on this issue. While the first speeches on the ENP mentioned the possibility to come closer to the EU in "everything, but the institutions" (Prodi, 2002), recent speeches by Commissioner Füle indicate between the lines more flexibility on the issue of one day seeing the EU's doors open to the Eastern neighbourhood. This is most exemplified by the declaration of the

EaP summit in Poland, which states that "the participants of the Warsaw summit [...] highlight the particular role for the Eastern Partnership to support those who seek an ever closer relationship with the EU" (Council of the EU, 2011).

The replication of the accession experience is particularly supported by some EU members. The Polish EU presidency, for example, has insisted on sectoral cooperation and institution building. This may be motivated by the fact that the presidency of the EU Council has officially lost competencies in the field of foreign policy since the ratification of the Lisbon treaty. Thus the thematic approach represents a way to stay active on the communitarized aspects of foreign policy (interview, Polish Permanent Representation, 2011). However, the Poles have always been vocal on the necessity for the Eastern neighbours to respect EU norms and take over the EU *acquis*. The EaP declaration furthermore underlines that "progressive approximation with EU rules and practices require a high degree of commitment from partner countries to complex and broad-ranging reforms, underpinned by strong institutional capacity" (European Council, 2011). And without any surprise, it reiterates the participants' welcome to "the launch of Comprehensive Institution Building Programmes to support the implementation of the future Association Agreements including DFCTA" (*ibid.*, point 10, p. 4). On this point, the Lisbon treaty has possibly contributed to enhancing the cooperation between the Commission and EU members on sectoral cooperation.

All in all, while reshuffling old wines in new bottles, the EU still somehow gives the impression of being innovative. But the question remains whether the partners will stay motivated and whether the EU will have the necessary resources to keep the expectancies high on the agenda. Concretely, it means the possibility to increase the number of Twinning, TAIEX and SIGMA projects and to monitor properly the CIB programmes. While the idea of drawing on the experience of enlargement to foster reforms in the East makes sense given the potentiality of the Eastern neighbours for becoming candidates, the question remains how far the experience with the CIB will contribute to reinforcing differentiation and ownership in the EaP. Interestingly, the instrument presents a potential of being further adapted, as after the Arab Spring of 2011, the Commission and High Representative have decided to extend CIB programmes to the Southern dimension of the ENP as a key tool for the support of democracy (EC and High Representative, 2011b, p. 17).

Conclusion and recommendations

All in all, the question of knowing how instruments originally designed for enlargement can be adapted to the ENP is not a new one (Del Sarto, Schumacher, 2005; Tulmets, 2005; Kelley, 2006; Comelli, 2011). It is therefore acceptable to ask a similar question regarding policy transfers that transfer an EU member state's experience of accession to the Eastern Partnership. The adaptation of instruments like Twinning, TAIEX and SIGMA, as well as the CIB, shows that such a transfer of policy instruments is possible. However, **these instruments have to stay flexible enough so as not to hinder the finding of solutions that would be adapted to the national context and institutional past of each partner country.** It seems that in times of crisis, the EU is not able to offer more than what it already knows best. So the new use of the instruments is worth trying if both parties agree.

Nevertheless, a few elements need to be taken into consideration:

- The “more for more” approach is clearly motivated by a desire to prove the EU's further engagement in the neighbourhood. Beside the multilateral track, it should **remain a priority for the EU to keep flexibility in its bilateral procedures and negotiations** so as to respect differentiation and, correspondingly, the national institutional history of each country. The accession experience has shown that taking into account legacies of the past indeed allows for a better ownership of institutional reforms.

- However, overlaps between the “more for more” approach in the multilateral track and that in the bilateral track should be avoided. **Better complementarity and synergy should take place between the bilateral and multilateral aspects of the Eastern Partnership** in order to avoid the risk of having a bilateral/multilateral split in the ENP. Complementarity between the EU's instruments is not always easy to achieve, though. Furthermore, **better use should be made of Twinning project reports and the experience of RTAs in the partner countries** so as to identify further necessary reforms. This would allow for a better definition of the partners' needs and a more targeted involvement of TAIEX and SIGMA experts. This approach should avoid a lack of continuity between “stand alone” projects and allow for coherent long-term sector planning.

- **Better use should be made of the transition experience of East Central European EU mem-**

bers. Regarding the ENP East, it is to be expected that some lessons that the ECE countries learned during enlargement may be replicated in the East due to the countries' relatively similar communist and institutional pasts. The idea of having tandems involving one ‘old’ and one ‘new’ member state would thus make sense not only in the Twinning projects, but also in the other EU instruments. This could, for example, take place in the TAIEX ‘people to people’ programmes.

- In general, **the CIB should avoid bureaucratic procedures as much as possible so as to avoid restraining motivations for reform in the partner countries and allow for better coordination of assistance measures.** Participative procedures should be put to better use so as to allow for more ownership. This can, for example, take place in the definition of more precise benchmarks or the choice of institutional models along which institutional reforms will be monitored in order to prepare the implementation of AAs and DCFTAs. However, the documents should not be over-detailed so that there would not be a lack of flexibility in the selection of the institutions to support.

- The CIB procedures should also allow for better coordination with EU members and other donors. In times of competition, **the EU offer has to remain an original offer.** In fact, a lot also depends on the good will of the societies themselves and on whether they will take the EU offer seriously.

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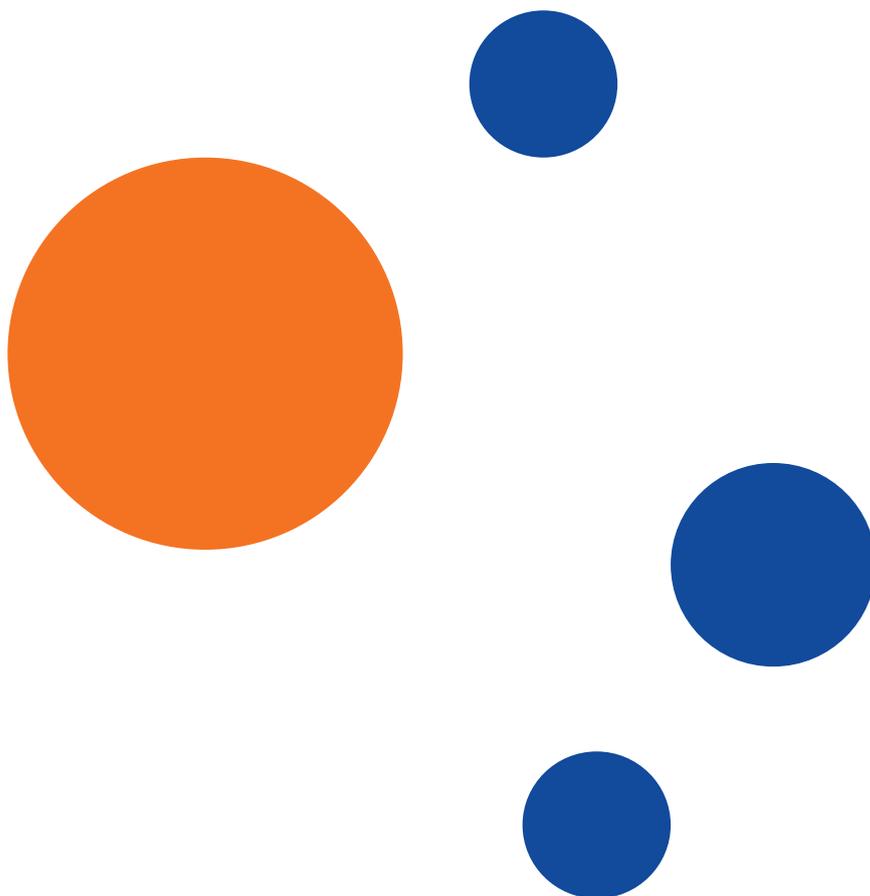


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