



When regional-based socialisation fails: Diversifying and strengthening the EU's approach to its neighbourhood

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Massimo Gordini

Abstract

The EU has long used socialisation, and with it, regional ties, to advance its interests in its neighbourhood and contribute to shaping the values and norms of its partner countries. Relying on the role of 'regional champions', however, comes with the risk of negative socialisation should EU values not be respected in the very EU member states tasked with acting as facilitators for the partner countries. Brussels can work to mitigate these risks by moving beyond the strongly regional framework, introducing clear references to the pillars of the rule of law in its agreements in the neighbourhood and by protecting civil society cooperation from government interference.

Keywords

ENP, Rule of law, Foreign policy, EU values, Socialisation, Democracy

Introduction

In its neighbourhood policy the EU has consistently sought to have its partners adopt its values and norms, integrating the *acquis communautaire* into their legal systems to the greatest possible extent. While this is often a highly technical procedure, it cannot be reduced merely to the mechanical acquisition of a number of laws and regulations.

The faithful reproduction and enforcement of a set of rules, however clearly defined and binding, and the support provided to third countries to achieve these are generally perceived as fundamental steps, but not enough to achieve true Europeanisation.

Corresponding author:

Massimo Gordini, Open Dialogue Foundation, Rond-point Schuman 6/5, Brussels 1040, Belgium.
Email: massimo.gordini@odfoundation.eu

Decision-makers, enforcers and the general public in the target countries need to be involved on a more personal level to get them acquainted with the methods and praxis of the EU. This has long meant that person-to-person contacts have remarkable importance in the process, the ultimate goal of which is to make the representatives of the target country full members of the EU in terms of thinking and inner norms and values—in other words, meaning that they reason and feel like members of the Union, holding its rules and core beliefs as their own.

This article will argue that, given the crucial role socialisation plays in the EU's efforts to spread its model and norms, particularly in its neighbourhood, it would be a cautious and useful choice to prevent member countries that fail to comply with requirements regarding fundamental values from influencing partner countries.

The article is structured as follows. In the first part, socialisation and regional ties will be analysed, with a focus on their role in the European Neighbourhood Policy (ENP) region and ENP programmes. In the second section, the case of Poland will be discussed: it is an important country in this field but a potential longer-term risk when it comes to socialisation. Lastly, in the third part, some ways to mitigate the problem will be presented, namely including clearer rule of law requirements in agreements with third countries, working through civil society and avoiding over-reliance on individual member countries in ENP projects.

The importance of socialisation and regional ties

The adoption of norms and values through interaction with those who hold them is generally called 'socialisation'. Its popularity as a pillar of EU foreign policy, in particular with regard to its neighbourhood and countries that have a potential future as EU membership candidates, is remarkable (Lavenex and Schimmelfennig 2009, 795–8). Using socialisation as an underlying guiding principle, the EU has designed a number of tools and instruments that rely on peer-to-peer contacts and personal exchanges, such as twinning and the Technical Assistance and Information Exchange (TAIEX). These programmes focus on the personnel of local administrations: it is noteworthy that the partner administration must be comparable in size, structure and goals pursued, which, together with the need for the more primordial person-to-person ease of connection, suggests that countries with historical, cultural and linguistic ties are more likely to be paired together. Another example of creating socialisation, this time not focusing on governments but rather on civil society and society as a whole, is the Eastern Partnership Civil Society Forum (Kostanyan and Vandecasteele 2013).

Given the very nature of socialisation, it is understandable that cultural proximity can greatly contribute to the effectiveness of any policy built around this principle. Such cultural proximity is also often linked to the geopolitical interests of a given country which will lead it, in typical EU fashion, to become the main sponsor of a given country or region in the EU's foreign policy. This has been a particularly evident trend in the ENP, with France (supported by Spain and Italy, among others) championing the Southern

neighbourhood, and Poland, with other Eastern (although not exclusively) members advocating for the Eastern neighbourhood. Cultural similarities and geopolitical interests have also contributed to the creation of pairs, both in the pre-accession phase and in the ENP: the most notable being Romania with Moldova and Poland with Ukraine. Socialisation builds upon and promotes regional ties.

Some numbers give a picture of the importance of geopolitical interest in the member state and cultural/geographical proximity in the twinning instrument. The yearly TAIEX and twinning report shows that France, Italy and Spain dominate twinning projects in the Southern neighbourhood, while Lithuania and Poland top the list in the East (European Commission 2021, 17–18).

These projects are no small matter when it comes to important institutional reforms that touch on issues of rule of law, democracy, good governance and general human rights. According to a Commission report on these programmes, in 2018, 192 agents worked in the area of justice and home affairs, of which 18% specialised in rule of law and the judiciary (European Commission 2018, 4). In the same year, 37% of the projects implemented under the twinning programme were related to the field of justice and home affairs, a higher percentage than in any other policy field. Sixty-two agents from EU member states were sent to Ukraine, some of whom worked to guide the Ukrainian parliament's commissioner for human rights towards implementing EU best practices, thereby ensuring the stronger protection of Ukrainian citizens (European Commission 2018, 3).

Through these peer-to-peer exchanges, the EU works to support its Eastern and Southern partners to help them achieve new standards of good governance in various policy fields. Socialisation is, ultimately, a fundamental element. The political willingness for reform is supported by EU experts through interactions between public servants to ensure proper implementation at the administrative level.

Possible troubles for regionalism: the case of Poland

Poland has played an important role in the Eastern dimension of the ENP. It is the country that, together with Sweden, pushed for the creation of the Eastern Partnership (EaP). It has long advocated for the accession of Eastern European countries and ever closer cooperation and ties with them, at many points being one of the most vocal member states on the issue (Schumacher et al. 2018).

While its contribution has been and still is essential for the European future of the EaP countries, in particular Ukraine, the current rule of law issues the country is experiencing cast a shadow on its possible future role. The independence of the judiciary has been severely jeopardised, with the prosecutor's office having been turned into an instrument of political persecution and independent judges and prosecutors becoming the targets of their own government. The ruling party has gone to great lengths to replace previous bureaucrats with their own loyalists, or to create a system of control by the politically

appointed higher echelons that wipes out any independence of the lower levels. By so doing, the government has obtained a worrying degree of control over state structures that goes well beyond what could be expected of an average executive in a liberal democracy.

The defiance of the Polish ruling party, however, is not limited to praxis: it spills over into theory and could constitute, both in terms of example and theoretical interpretation, a negative influence for neighbourhood countries. Polish officials have strongly insisted that the rule of law is a term that is not defined in any relevant and clear manner in the treaties, which they regard as the only ultimate source of interpretation—and conveniently so, disregarding a whole corpus created by the Court of Justice that better defines the rule of law (Pech 2022).

As useful anecdotes, a leading Member of the European Parliament (MEP) from a country often under heavy scrutiny over violations of the rule of law once promised a reward for anyone who could find the definition of the rule of law in any binding EU document (Pech 2022, 2). Furthermore, during a European Parliament Committee on Foreign Affairs meeting about the rule of law in the EaP countries in July 2022, the same MEP insisted that the rule of law was nowhere to be found in EU treaties and documents and that it was up to national constitutions and constitutional courts to define it. This remark had little to do with the topic being discussed but showed his vexed interest in avoiding any possible definition of rule of law other than that given by member states for themselves (European Parliament, Committee on Foreign Affairs, from 11:52).

The enlargement process has been suffering as a result of such attitudes, increasing fatigue in Western countries and concerns that new members could go down a similar path to Hungary and Poland. While little more than an anecdote, that MEP's overreaction to a discussion about the rule of law in EaP countries contributes to fears that new member states could take a similarly defiant approach, suddenly undoing all the work that has been done to improve their structures.

In terms of regional concerns, however, the situation in Poland could show that socialisation is a double-edged sword, especially if it is left mostly in a few specialised hands: what might happen if the incentives of the socialisers are not in line with those of Brussels or the EU at large? What if the EU's agents are able to transmit the minimum technical requirements of the *acquis* but have a negative impact on the acquisition of the *esprit* behind them?

The importance of cultural acceptance and understanding of the rule of law is not secondary when it comes to, for instance, Ukraine—and this is where socialisation can play either a positive or a negative role. Králiková (2022) writes that when EU values and norms are transplanted from the Union into a third country, it does not happen in a vacuum: the receivers actively participate and shape the outcome according to their understanding, pre-existing values, interests and situation. Burlyuk (2015, 9–11)

demonstrated that, for a long time, the very concept of the rule of law in Ukraine was used by legal practitioners under pressure from Western partners without their full understanding of the meaning of the term. Such practitioners retained a *de facto* preference for Soviet-inspired models of legal organisation, while using surface-level categories borrowed from Western codes. Burlyuk also showed that the idea of the rule of law was not grasped by the public and was actively hindered by established interest groups, among which the most important were those led by oligarchs.

While somewhat dated, these findings, in particular those related to legal practitioners, provide a warning that the adoption of the *acquis* must always be accompanied by a deeper-level identification with the values that underpin it. The failure of local elites and the public to fully accept the deeper level of these values could lead to post-accession crises. This requires socialisation that does not expose the receiver, the third country, to individuals who do not have an interest in promoting such ideological, values-based adherence to EU norms.

Overall, it means that the current system of neighbourhood policy, which is quite dependent on regional ties with their cultural and societal connections, might need to be redesigned to avoid putting all the Union's eggs in one basket—with all the accompanying risks if a given member state should stop behaving in a way that is aligned with the EU's values.

Ways to mitigate the problem

Rule of law in agreements

Despite what national governments, such as those of Hungary and Poland, might say, the rule of law has been clearly defined. While this did not occur in the treaties, it has been achieved through a number of rulings of the Court of Justice of the European Union and in other legislation, including the rule of law conditionality regulation (Pech 2022, 24).

As Ukraine, much like other neighbourhood countries, has had a rocky path towards judicial reform, the February 2022 decision in Case C-157/21 regarding the permanent conditionality mechanism (CJEU 2022) provides some important points for a definition of the rule of law and also touches upon the main issues that make Poland an unreliable regional partner. In paragraph 290, the Court identifies 'the principles of legality, legal certainty, prohibition of arbitrariness of the executive powers, effective judicial protection and separation of powers, . . . the principles of equality before the law and non-discrimination' as essential to the rule of law (CJEU 2022).

Ultimately, it would be useful to centralise understanding of the rule of law, making it very clear and open to as little interpretation as possible, to avoid failures of socialisation or adaptation. Mentions of documents defining the rule of law should be included in any future agreements between the Union and its neighbourhood partners, ideally with binding commitments on both sides to deliver on those.

Diversifying the source of socialisation

It is also important to change the source of socialisation: partner countries have already been exposed to the EU for a long time, and the regional character of socialisation, while still valuable, can be overcome should the need arise. In this case it would be important to select personnel for socialisation-based programmes that hail from countries that score well in terms of infringements in the sector of a given project. In other words, again using the example of Poland, it would make little sense to use Polish state experts for good-governance or rule-of-law socialisation programmes while Poland itself is not performing well in these fields: the advantages of the ease of socialisation do not balance out the disadvantages of having potentially unreliable actors involved. It would make more sense, wherever possible, to sacrifice regional ties in favour of more trustworthy players.

Working through civil society

Civil society has an exceptionally important role to play in bringing partner countries closer to the EU. This is a field in which socialisation is again very relevant and where it would be even harder, given the highly informal nature of such ties, to centralise the process and go beyond a regional framework. Polish non-governmental organisations (NGOs) have acquired a wealth of knowledge and connections and have successfully operated in Ukraine, the Caucasus and even Belarus for a long time, delivering remarkable results, due, among other elements, to the ease of contact and their ability to understand their partners' reality (Pospieszna 2014, 121–51). On a regional level, the EaP Civil Society Forum has successfully brought together EU and EaP civil society organisations, creating an environment that is highly beneficial for socialisation and multiplies opportunities for cooperation, both within the national frameworks of the individual countries and on a bilateral basis with EU groups (Kostanyan and Vandecasteele 2013).

However, regional cooperation could again be hijacked if left without oversight. The Polish government has been actively seeking to create a network of pro-government NGOs and civil society organisations. These organisations are for the most part GONGOs, that is, government-organised non-governmental organisations. A 2017 report from Human Rights First showed that the government was already diverting funding away from well-established civil society organisations towards its cronies—Father Rydzyk's vast network and *Ordo Iuris* being two well-known examples—and had even gone so far as to establish a new type of organisation, pro-government NGOs, that would compete with the existing ones (Human Rights First 2017).

The response to such a threat needs to be twofold: it is crucial that civil society cooperation with neighbouring countries is diversified, reducing dependence on regional ties, to keep the best benefits of geographic proximity while divesting away from it wherever necessary. A campaign to attract new members from a larger pool of countries to the EaP Civil Society Forum, for instance, would be a first step. In addition to this, any

mechanism of multilateral cooperation involving civil society should avoid all forms of veto regarding its membership and take actions to prevent any GONGOs or NGOs-turned-GONGOs from hijacking operations. When allocating funds for regional cooperation, the EU should seek to act through its own actors on the ground, such as representations in local cities, and not rely on national governments.

Conclusion

The importance of regional ties to promote socialisation cannot be overstated: building upon cultural and geographical proximity, the EU has been able to maximise its influence and facilitate approximation and adoption of the *acquis* in its neighbourhood, including at the level of inner values and norms.

Faced with the risk of some member countries, particularly Poland, moving away from EU values, the EU might want to reconsider its approach in a few ways and diversify away from a strongly regional framework. Clear and binding rule of law standards, the protection of civil society from government interference, and the expansion of socialisation programmes to the entirety of the EU or at least to a wider array of member states could help Brussels protect the advantages of regional socialisation from its potential disadvantages.

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Author biography



Massimo Gordini is an advocacy officer at the Open Dialogue Foundation and an alumnus of the College of Europe. His focus areas include EU affairs, human rights, democratisation, ENP and EU foreign policy.