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Den Haag

Conversations on the future of Europe in the world

The EU and its Eastern Neighbourhood

Session 3: The EU and the Rule of Law in the Eastern Neighbourhood: the case of Ukraine

The Hague, 23 November 2021

Summary of Proceedings

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Conference
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The Hague has a long-standing history and strong connection with Europe. Over 7000 inhabitants in our International City of Peace and Justice work at more than 30 European organisations established in the city. As the International City, we believe in the strength of co-operation, both in the city as well as on the European level, to shape the future of Europe. Therefore, The Hague creates inspiring meeting places in co-operation with our local, national and international partners to involve local citizens in the work of our International City of Peace & Justice.

Only together are we able to realise a shared European future!

Questions or remarks? Contact us via 'Europa@denhaag.nl'

Summary of proceedings

The conference, “The EU and its Eastern Neighbourhood”, was held over three sessions at The Hague Humanity Hub in The Hague on Tuesday 23 November 2021. Nearly one hundred people participated in all or some of the three sessions, including Ambassadors accredited to the Netherlands, representatives of international organisations, journalists, academics, civil society representatives, students and concerned citizens.

The third session addressed the topic, ‘The EU and the Rule of Law in the Eastern Neighbourhood: the case of Ukraine’.

The ‘Conversations on the future of Europe in the world’ series is meant to attract diverse views and opinions and to stimulate discussions as part of the wider ‘Conference on the Future of Europe’ process. Opinions expressed in meetings or in reports from meetings do not necessarily reflect the views of LINKS Europe or The City of the Hague.

The Chairman of the session, **Ambassador (rtd) Robert Serry**, who was the first Ambassador of the Netherlands to independent Ukraine, welcomed participants and introduced the topic of the session. He said that it was important when talking about Ukraine to remember where the country had started from thirty years ago, and especially the dire situation in the field of rule of law then. He then gave the floor to the keynote speaker, **Lydia Izovitova**, the President of UNBA, who joined the meeting online from Kyiv. UNBA is at the forefront of the process to strengthen the rule of law in Ukraine and has recently celebrated the 9th anniversary of its founding.

**Lydia Izovitova,
President, Ukraine
National Bar
Association (UNBA)**

The president of UNBA started by reminding the audience that Ukraine is currently a party to the EU's Eastern Partnership and co-operates with the EU on the basis of the 2014 Association Agreement. This Agreement, in terms of its scope and thematic coverage, is the largest international legal document in the history of Ukraine, and the largest international agreement with a third-country ever concluded by the European Union. "These are great milestones for the foreign policy of our country, but their achievement required time and, most importantly, the persistent efforts of politicians, diplomats and advocates, including lawyers, who paved the way for the independence of their professional community", she remarked.

The following are extracts from her presentation:

Independent advocacy in Ukraine hardened in the times of confrontation with the totalitarian regime when Ukraine was still part of the USSR. The struggle peaked in the late 1980s as a response to state pressure on the Bar. Since 1991, the Bar went through three major stages, and each new stage was marked by amendments to pertinent legislation and the Constitution. Fortunately, every time the Bar succeeded in gaining more independence, and thus brought us closer to European standards of the legal profession.

In 1992, the first post-Soviet law "On the Bar" ensured transition of the Bar from being under complete control of the State towards quasi-self-governance. Only 20 years later, on July 5, 2012, the Parliament adopted the Law of Ukraine "On the Bar and Practice of Law", which provided for the incorporation of the first independent professional organisation of advocates – the Ukrainian National Bar Association – with a single

membership. Thus, the Ukrainian Bar now had to operate under a model of true self-governance.

The Bar of Ukraine is grateful to the Parliamentary Assembly of the Council of Europe, which adopted a Resolution in 1995, recommending that Ukraine establish an independent professional organisation of lawyers, which later became one of the conditions for the subsequent conclusion of the EU-Ukraine Association Agreement.

It took Ukraine 17 years to implement this PACE Resolution in relation to the Bar. The Ukrainian National Bar Association became the first and only all-Ukrainian professional organisation with mandatory membership for all advocates of Ukraine. The 2012 Law of Ukraine “On the Bar and Practice of Law”, implementing the recommendations of both PACE and the Venice Commission, took into account the best European practices of Bar organisation, and European standards of Bar self-government.

Lydia Izovitova said that “in essence, European standards in relation to the status and operation of the Bar in Ukraine have been in place for more than nine years. This is a truly landmark contribution to the development of Ukraine as a state governed by law. This important achievement turns the constitutional rights and freedoms of citizens into real opportunities and provides a mechanism for their protection, primarily from the encroachments by State.”

Adaptation of key European standards of advocacy independence and self-government into the national law paved the way towards the integration of the Ukrainian Bar with the European professional community, even the conclusion of a comprehensive EU-Ukraine Association Agreement, which occurred only 2 years after the establishment of UNBA.

Incorporation of UNBA satisfied one of the preconditions for the future conclusion of the Association Agreement, namely establishment of a professional Bar Association and protecting the status of the legal profession by law.

Izovitova said that recently, the Ukrainian National Bar Association celebrated its ninth anniversary of incorporation. Today there are more than 62,000 licensed advocates in Ukraine. The current Law on the Bar changed the old concept: the powers of the Bar are not delegated by the state as in preceding years; instead, the Bar derives its powers directly from the Constitution and the law in areas such as self-governance,

managing access to the legal profession, resolving issues of disciplinary liability of lawyers, keeping the Unified Register of Advocates of Ukraine, etc.

Lydia Izovitova added that the adoption of key European standards of Bar independence and self-governance to the national core law has paved the way for us to integrate into the European professional community. The Ukrainian National Bar Association has started co-operation with the Bars of Germany, Spain, France, Italy, the United Kingdom, Lithuania, Georgia, Kazakhstan.

It is extremely important for the Ukrainian Bar to maintain contacts with colleagues in the Eastern Partnership countries and the European Union.

We have already established and developed relations with the bar of Azerbaijan and Georgia.

Our relations include the exchange of visits, invitations to professional events on a national scale, mutual support within international organisations such as the CCBE or the Council of Europe, and the provision of expertise on changes to national legislation.

At this event, which is being attended by a professional audience of all countries participating in the Eastern Partnership of the European Union, I would like to reiterate the openness of the Ukrainian bar to share our own experience of building an independent bar with our colleagues.

For 9 years, we have been convinced that the Law of Ukraine “On the Bar and Practice of Law” embodies European standards of legal independence and provides the legal community with effective tools for building a self-governing organisation capable of ensuring a high level of professional standards and ensuring protection of advocates’ professional rights and guarantees. This law allowed us to transition from the post-Soviet eclectic model to the European, holistic formula of an independent bar. It established clear safeguards against state control over the bar and undue political influence.

The experience of the Ukrainian Bar in the implementation of this law can be used, with the support of European institutions, in any country of our region in order to strengthen the bar as a human rights defence institution in the interests of all citizens.

After the intervention of Ms Izovitova, Ambassador Serry introduced the speakers on the panel: **Brian Mefford**, Non-resident Senior Fellow at The Atlantic Council and Founder and Director of the consultancy Wooden Horse Strategies; **Ivan Grechkivsky**, Chair of the International Relations Committee at UNBA; **Lino Brosius**, Senior Programme Manager at the Center for International Legal Cooperation (CILC); and **Dr Valentyn Gvozdiy**, Vice President of UNBA.

**Brian Mefford,
Non-resident
Senior Fellow,
Atlantic Council;
Founder and
Director, Wooden
Horse Strategies**

Ukraine is a large country of 42 million people, and it is inevitable that the process of change and reform takes time. However, the progress that has been made in the last two decades in the area of rule of law is significant. It is also sustainable, because it is being driven from the grass roots, by forward-looking members of the legal profession, as well as by Ukrainians in general who are adamant that they want to see everyone equal before the law. The process has been slowed down by Russia's destabilising influence: the Kremlin does not want to see a democratic, prosperous, rule-of-law based Ukraine as this will undermine its own legitimacy. The process of the de-oligarchisation of Ukraine is now also going on earnest. Like dinosaurs, Ukrainian oligarchs are a dying species and are not part of Ukraine's future. Brian Mefford emphasised that throughout the past two turbulent decades, the problem has never been the competence of the judges and lawyers, but rather the political will to sustain the process of reform, and this will continue to be the case.

**Ivan Grechkivsky,
Chair of the
International Relations
Committee, UNBA**

When the founding congress of the Ukraine National Bar Association was held in 2012, the situation was somewhat odd. The law that established UNBA was an excellent law that gave Ukrainian lawyers the autonomy to run their own affairs, but organisationally, UNBA hardly existed – it had no office and only a basic structure. Furthermore, whilst the Ukrainian Bar had, as a result of the law, been completely reformed, the reform process in other areas, such as the police and the Prosecutor's Office, had only just started. All this has now changed. UNBA has become an effective organisation, and progress has been made in other rule of law sectors. We can see this from the number and seriousness of cases that are brought to our attention which are much less, and much less serious. In

this short period, UNBA has also been able to move beyond knowledge acquisition to knowledge development. We now have our own experience and tools, for example in the digital field, that we can share with others.

**Lino Brosius,
Senior Programme
Manager, Center for
International Legal
Cooperation**

For the Ukrainian legal professional, the process of legal reform can be tiring since it, in many ways, lacks continuity. Every new incoming government starts some new process before the one launched by the previous one has had time to settle down. This exhausts the legal professionals and raises questions about the purpose of the new changes. However, it is important to say that in the Ukrainian Judicial system there are professionals who work with a lot of commitment and dedication to improve the system and to administer justice to the best of their capabilities. Lino Brosius argued, however, that there needs to be better co-operation between judges, prosecutors and lawyers; and whilst each have their separate competencies, it is by working better together that they can improve the system in a sustainable way and increase the trust of citizens in the rule of law process.

**Dr Valentyn Gvozdiy,
Vice President, UNBA**

The rule of law in Ukraine is on the right track, even if we have to accept that there is yet much more to do. UNBA plays its role in this, and is able to do this effectively because its team works across all generations of lawyers. In its work, it is also adamant in keeping out of the political process absolutely, because if we fail to do so and are embroiled in political controversy, we become very vulnerable. This means we often do not talk about things that are outside our direct competence. This gives us more flexibility in protecting citizens from the state, which has many tools at its disposal. We have acquired a lot of experience in the course of our work which we feel we can share with others in other countries going through similar processes.

Discussion

There followed a discussion during which members of the audience engaged with the panellists on a number of topics, ranging from Ukraine's record in its relations to the judgements of the European Court of Human Rights, the situation of national minorities in Ukraine; corruption, and how the EU-Ukraine Association Agreement has impacted the judicial reform process.

Participants also made the following suggestions and recommendations

- 1) The EU needs to understand and appreciate the great progress achieved in Ukraine in the area of rule of law, and the future of EU-Ukraine relations need to be built on a more equal basis based on the new reality.
- 2) The EU should consider using the experience of UNBA in helping rule of law reform in other Eastern Partnership and transition countries.
- 3) Many participants spoke about the need to recognise that reforms in the rule of law sector take time, and problems cannot be fixed with short term projects or programmes. There was a need for consistency, small steps and repetition.
- 4) More esprit de corps was needed between different elements involved in the Ukrainian rule of law sector, and the EU and other international partners should promote this.
- 5) It was felt that the signing of the Association Agreement between Ukraine and the EU in 2014 had helped accelerate the reform process and it was right for the EU to seize the moment despite the fact that some may have felt it was a bit premature. A membership perspective can play a similar role going forward.
- 6) The process of de-oligarchisation was important for Ukraine so that the influence of Oligarchs can be removed from the media and from political party finance. There was a genuine demand at the grass roots for Oligarchs to be brought to justice. This will be one of the challenges and tests for the country ahead.

At the end of session three, the Director of LINKS Europe, Dennis Sammut, thanked all participants in the one day conference "The EU and its Eastern Neighbourhood" and said that opinions and ideas will be summarised and fed into the Conference on the Future of Europe process.

About the Conference on the Future of Europe

The Conference on the Future of Europe is a citizen-led series of debates and discussions that will enable people from across Europe to share their ideas and help shape our common future.

The Conference is the first of its kind: as a major pan-European democratic exercise, it offers a new public forum for an open, inclusive, and transparent debate with citizens around a number of key priorities and challenges.

It is part of President von der Leyen's pledge to give Europeans a greater say on what the EU does and how it works for them. All Europeans - whoever they are and wherever they are - can take part.

The Conference aims to reflect our diversity, and to bring Europe beyond its capital cities, reaching every corner of the EU, strengthening the link between Europeans and the institutions that serve them. It does so through a multitude of Conference-events and debates organised across the EU, as well as through an interactive multilingual digital platform. Young people in particular are encouraged to take part and share their ideas. European, national, regional and local authorities, as well as civil society and other organisations can also organise events to involve as many people as possible. #TheFutureIsYours

For more information: www.futureeu.europa.eu

About LINKS Europe

LINKS Europe is a foundation based in The Hague promoting the peaceful resolution of conflicts and a secure and prosperous Europe, in friendship and solidarity with its neighbourhood. Our work is organised around five thematic areas:

1. **Peace through dialogue and confidence-building**

LINKS Europe is a peace-building organisation. We support the quest for peace through track 2 and track 1.5 initiatives, including through dialogue and confidence-building. Our work is currently focused primarily on areas in the EU's neighbourhood, with particular emphasis on the South Caucasus.

2. **A European Union in friendship and in solidarity with its neighbourhood**

LINKS Europe firmly believes that peace and prosperity in Europe are strongly dependant on peace and prosperity in Europe's neighbourhood. It supports an extensive EU commitment to the future of neighbouring regions, including through political and economic co-operation, support for peace initiatives, and extensive people-to-people contacts. We group the EU's neighbourhood in six clusters: North Africa and the Sahel; Turkey, the Balkans and the Levant; Russia and Eastern Europe; The South Caucasus; The Gulf and Red Sea Regions; and Central Asia. Whilst each cluster has its own specificity, there are also a number of common features resulting from geographic proximity and common historical experiences and connections.

3. **A Global Europe that provides safety, security and prosperity for its people and is a force for good**

Europe's increasing ambition to become a global geopolitical player is a result of necessity. We believe this will happen despite the reluctance of some and the shortcomings of others. It is therefore important to engage with this debate and help forge the new global Europe that can provide safety, security and prosperity for its citizens and be a force for good in the world. The process of 'The Conference on the Future of Europe' provides us with an excellent focus and platform to do this in a structured way.

4. **Connectivity as a tool for peace and prosperity**

In an increasingly interdependent world, isolation is not the solution. Developing proper connectivity that works well for all concerned is one of the biggest challenges of the time. Connectivity, in areas such as transport and communications, is also a potential tool for peace, improving trade and business, facilitating people-to-people contacts, and enabling countries and communities to develop shared interests. LINKS Europe is contributing towards the debate on how connectivity can contribute to peace and prosperity.

5. **Understanding radicalisation, and developing responses to it**

Globalisation and connectivity have their negative side too. Radicalisation has shown a capacity to spread quickly, often leading to violence. Vulnerable groups – be they whole communities and tribes in the Sahel, or disenfranchised sons of migrants in the slums of Paris – are prone to fall victim of radicalisation. No religious or ethnic group is immune. White communities impacted by economic downturns are equally likely to succumb to extreme ideas, leading some to see violence as a solution. LINKS Europe works to understand the phenomena, including the connection between radicalisation and violent conflicts, and on ways of fighting back against this dangerous trend.



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