



# **EASTERN PARTNERSHIP IN A CHANGED SECURITY ENVIRONMENT: NEW INCENTIVES FOR REFORM**

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# **Eastern Partnership in a Changed Security Environment: New Incentives for Reform**

Study

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# CONTENTS

<b>Introduction</b>	<b>4</b>
<b>1. Events in Ukraine: Russian and European perceptions</b>	<b>6</b>
1.1 Russia's strategic goals in the region	6
1.2 Diverging views in Europe on Russia	7
1.3 Liberalisation of trade relations between Russia and EU	9
<b>2. Eastern Partnership: Challenges and Perspectives</b>	<b>11</b>
2.1 Russia's direct influence on EaP	12
2.2 (In)sufficient incentives for reform for EaP countries	15
2.3 EaP and power balance in the region	17
<b>3. Guidelines for EaP Reform: Roadmap to Membership Perspective</b>	<b>18</b>
<b>Conclusions</b>	<b>26</b>

## INTRODUCTION

Although 2014 – which marks the centenary of the start of the First World War – was an opportunity for politicians to celebrate the long-lasting peace in the old continent, in reality it became a challenge for the European security system based on the inviolability of borders, democracy, political dialogue and peaceful settlements of disputes. At the end of 2013, the pro-Western movement in Kiev driven by the non-signing of the EU Association Agreement was perceived by Russia as a violation of the balance of power in Eastern Europe. Russia's response was direct intervention: deployment of soldiers in the Crimea on the orders of President Vladimir Putin and, within a few weeks, annexation of this part of Ukraine; regular movement of troops and armaments to Ukraine across the uncontrolled border and the actual separation of Eastern Ukraine from the rest of the country.

Putin's foreign and security policy doctrine is exactly the antithesis to Western political, economic and cultural penetration into the post-Soviet space. For example, the 2013 Russian foreign policy concept emphasizes the need to enhance the Eurasian economic union and Ukraine is mentioned specifically as a country with which integration is a priority. This time, however, Russia's response to Kiev's decisions was no longer the previously effectively employed "soft" methods: pressure with respect to gas prices knowing the fragility of the Ukrainian economy and the oligarchs' interests; the use of the military fleet stationed under a bilateral agreement in the Crimean city of Sevastopol; demand to repay billions in loans; and promotion of anti-Ukrainian sentiments among the Russian population of Ukraine.

The current conflict opens a new page even in terms of the turmoil that has been besetting Eastern Europe. Putin's escalation of the conflict is ideologically based on the "New Russia" concept, and was essentially very different from, for example, the aggression against Georgia in 2008. Then Russia drew the "red line" which the EU or US integration projects could not cross, now Russia has decisively crossed the "red lines" laid down by the West.<sup>1</sup> For example, according to the 1994 Budapest Memorandum, Great Britain, Russia and the US gave security assurances that they would not use force against the territorial integrity of Ukraine. As a result Ukraine gave up its nuclear weapons stockpile. But the agreement collapsed after Russia annexed the Crimea, although this action was almost unanimously condemned by the UN Resolution adopted by 100 countries, including two guarantors of the territorial integrity of Ukraine. Despite that both European and American leaders called on Russia to stop – at first by terminating support to the "men in green", later by ceasing conflict escalation and supply of weapons, and not carrying out unilateral humanitarian operations –

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<sup>1</sup> Ivan Krastev, Russian Revisionism: Putin's Plan For Overturning the European Order. March 3, 2014  
<<http://www.foreignaffairs.com/articles/140990/ivan-krastev/russian-revisionism>>

withdrawal from all these “red lines” was made, because the West avoided getting into a direct confrontation with Russia. Particularly since countries in the West have limited influence in the region. Back in March 2014, Fiona Hill, an expert at the Brookings Institution, asked rhetorically: “What can we do? We’ll talk about sanctions. We’ll talk about red lines. We’ll basically drive ourselves into a frenzy. And he’ll [Putin – *Author’s note*] stand back and just watch it. He just knows that none of the rest of us want a war”.<sup>2</sup>

Russian actions did not result from what some observers call the “humiliation” or “isolation” of Russia. Such opinion is based on the assumption that the Kremlin would be more cooperative, had Russia been included in the post-Cold War development of the common European security architecture, rather than feeling pressured by the enlargement of NATO. However, this is essentially disproved by the practice of the Organisation for Security and Cooperation in Europe (OSCE): despite the developed institutional framework, the OSCE has limited functionality, because Russia sees in the OSCE the threatening trend of the expansion of democracy and interference in the internal affairs of countries. The fact that the views of this organisation are contrary to Russia’s view on what a sovereign country is, has been confirmed in Ukraine, where the OSCE observers were on several occasions kidnapped by pro-Russian militants. Similar trends are repeated in other organizations, such as the World Trade Organisation (WTO) or the European Council. According to Jan Techau, the director of Carnegie Europe, Russia will not be satisfied with the European security system as long as it is not guaranteed exclusive rights over the post-Soviet region and power of veto to opt out as it wishes.<sup>3</sup>

These trends originated at the time of the Cold War, but after the disintegration of the Soviet Union and together with the bipolar world, it was more difficult to implement them. A new impetus for Russia’s revisionism was given in 2006–2007. It was caused by various factors: the belief of the Russian elite that the dominating position of the West, especially the US, was coming to an end, that a multipolar world would provide opportunities to expand Russia’s influence, consolidation of the Eurasian ideology, and acceleration of the country’s economic growth due to the exports of raw materials. Eventually revisionism leads to the four strategic objectives:

– The new formula in EU-US-Russia relations: curtailing of the transatlantic relations and a tripartite collaboration on key political, economic, and military issues;

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<sup>2</sup> Peter Baker, Making Russia Pay? It is not So Simple. March 1, 2014 <[http://www.nytimes.com/2014/03/02/world/europe/russia-to-pay-not-so-simple.html?hpw&rref=world&\\_r=1](http://www.nytimes.com/2014/03/02/world/europe/russia-to-pay-not-so-simple.html?hpw&rref=world&_r=1)>

<sup>3</sup> Jan Techau, Why European Security Works Better Without Russia. April 29, 2014 <<http://carnegieeurope.eu/strategieurope/?fa=55461>>

– Revision of the European security system: suspension of NATO expansion, prevention of new military bases and weapons being developed in Eastern Europe by granting Russia a kind of veto right in such decisions;

– New bilateral relations, favourable to Russia, with the EU;

– Creation and maintenance of the buffer zone between Russia and Western Europe.<sup>4</sup>

The processes that have already started and the confrontation in Ukraine call for a reassessment of the EU's role in the political processes in Eastern Europe and the pan-European security architecture, primarily by raising the question whether the EU Eastern Partnership (EaP) policy launched in 2009 responds to the new geopolitical realities. Such reassessment will not avoid the comparison of the context – if prior to the EaP Summit in Vilnius it was discussed how the EU policy in Eastern Europe could be raised to a higher qualitative level, so the recent events challenge the very existence of the policy in the future.

Therefore, the study seeks to answer the question, what dilemmas does the EU ambition to expand its regulatory limits without expanding its institutional (legal) limits face today? What vision of the EaP policy is projected by Russia? By what means does the Kremlin seek to gain *de facto* veto power over the political choices of the EU and partner countries? What are the implications of the Eurasian Union, an alternative integration space promoted by Russia? It is emphasised that the EaP must be reformed by offering new incentives to partner countries in exchange for the introduction of European standards and strengthening of democratisation.

## **1. EVENTS IN UKRAINE: RUSSIAN AND EUROPEAN PERCEPTIONS**

### **1.1 Russia's strategic goals in the region**

The motives behind Russia's military intervention in Ukraine and the process of political settlement of the conflict reveal Russia's perception that "Ukraine is too independent and sufficiently strong to be absorbed by Russia, yet it is not sufficiently independent to freely choose its geopolitical orientation". Therefore, Russia may agree to Ukraine's formal independence and quasi-statehood, but the latter can always be undermined, if the traditional power balance in the region starts to change to Russia's detriment. This is how Russia viewed

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<sup>4</sup> Marcin Kaczmarek, *Russia's Revisionist Policy Toward the West*. OSW Studies, 2009  
<[http://mercury.ethz.ch/serviceengine/Files/ISN/110895/ipublicationdocument\\_singledocument/a402f179-b445-441f-82db-9197c34d1399/en/PRACE\\_33.pdf](http://mercury.ethz.ch/serviceengine/Files/ISN/110895/ipublicationdocument_singledocument/a402f179-b445-441f-82db-9197c34d1399/en/PRACE_33.pdf)>

the Maidan revolution and its possible strategic consequences – Ukraine–EU Association and the signing and practical implementation of an enhanced free–trade agreement. This would have meant that Ukraine would become a part of the customs union with the EU, whereas Russia would lose leverage over Kiev’s relations with alternative integration spaces to that of the Russian, Belarusian and Kazakhstan Customs Union. This would disturb the geopolitical balance in the region.

According to the Russian logic, Ukraine and other EaP countries should accept the status of buffer zones. At the same time Russia is seeking to acquire an informal veto right over further EU and NATO enlargement to the east. It should be noted that the neutrality status imposed on Ukraine at the international level would first of all mean that Russia’s ability to use its own tools to affect the current *status quo* in this country would be much more influential compared with the EU’s leverages. In order to keep Ukraine in the post–Soviet space Russia only needs to maintain the existing rules of the political and economic game; meanwhile in order to expand its European regulation, the EU must change these rules fundamentally. The status of a buffer state would certainly be the factor causing a stalemate in the current situation. It can already be stated that Russian military intervention in Ukraine “suspended” the Ukrainian oligarchic political and economic structure (limited the possible reforms to the minimum) and thus retained Ukraine in the zone with post–Soviet economic and political rules of the game.

The situation after the 2008 conflict in Georgia allows Russia to assume that after the end of the conflict in Ukraine, it will in any case hold more than before the start of the conflict and relations with the West will eventually revert to the “business as usual” situation. Russia hopes to repeat this scenario again. It is important to emphasise that the “business as usual” concept includes not only normalisation of economic relations, lifting of sanctions, and renewal of the political dialogue, but also recognition of Russia as a veto holder in the security architecture of Europe. The practical manifestation of such recognition could be that the expansion of the transatlantic institutions further to the post–Soviet space would not be possible without Russia’s approval.

## **1.2 Diverging views in Europe on Russia**

It is commonly argued that EU-Russia relations are determined by mutual interdependence. However, the analytical “field” lacks analysis as to why despite the mutual dependence, the bilateral EU–Russia relations are based on the Russian rules of the game rather than the principle of legal reciprocity. For example, the EU–Russia energy dialogue is not based on mutual legally fixed liberalization of energy markets, but works under the Russian model of bilateral relations. Fraser Cameron and Aaron Matta argue that the EU has two strong



levers based on mutual interdependence with respect to Russia: the EU's domestic market, in which Russia is interested in participating, and the EU as the main customer of energy resources supplied by Russia. However, these levers are not working. As a result, Tuomas Forsberg and Antti Seppo have described the EU's relationship with Russia over the past decade as power without influence.<sup>5</sup>

One of the reasons for this situation is that EU Member States have different perceptions of Russia, its interests, and geopolitical logic, which could be generalised as “containment” and “engagement” – two opposite models of foreign policy. Both these approaches offer different EU policies towards Russia in resolving the post–conflict situation in Ukraine and building further relation prospects with Russia.

- The advocates of the “**containment**” policy model (e.g. Baltic States) argue that relations between the EU and the Eurasian Union are not only those of competition between two different trading blocs, but of a rivalry between different values, political and economic systems. Those post–Soviet countries, which happened to be located between these two integration spaces, must be offered the prospect of EU membership, because otherwise Russia will see this as a geopolitical vacuum, which it will eventually try to fill. In the case of Ukraine, the advocates of the “containment” policy suggest giving this country the EU membership perspective. Only this option in the EU's relations with EaP countries can create conditions for de–oligarchisation of these countries and dissemination of European standards there, therefore restricting the space of Russian rules of the game. Another important question is under what conditions Russia, in its relations with the West, will be able to return to “business as usual”. According to the advocates of the containment policy, the EU should draw very clear red lines regarding the lifting of sanctions. Any talk about it can be resumed only after Russia's withdrawal to pre–conflict positions. Thus, de–escalation of the situation in Ukraine and de–occupation of the Crimea should be those main red lines.

- The advocates of the “**engagement**” policy model look for a “coexistence” policy with Russia. The search is inevitably related to the recognition of Russian interests in the post–Soviet space. Therefore, the proponents of this policy treat the EaP policy not as an EU instrument to compete with the Russian–led Eurasian Union, but as an opportunity to achieve a win–win situation in the region. In practical politics, arguments that the implementation of EU regulatory standards may cause shock therapy to economical and infrastructural relations with third countries could mean the engagement of Russia in practical implementation of the DCFTA. Russia has repeatedly suggested the idea of tripartite (Russia, the EU and Ukraine) negotiations regarding Kiev's aspiration to sign the Association and free trade agreements. The advocates of the engagement

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<sup>5</sup>Tuomas Forsberg and Antti Seppo, “Power without Influence? The EU and Trade Disputes with Russia”, EUROPE–ASIA STUDIES Vol. 61, No. 10, December 2009, 1805–1823

policy are likely to discuss another proposal from Putin – “the common economic space from Lisbon to Vladivostok”. At the start of the Customs Union of Russia, Belarus and Kazakhstan, Putin stressed that “membership in the Eurasian Union will enable its members to integrate into Europe faster and from a much stronger position”.<sup>6</sup> It is argued that, having strengthened the post–Soviet space integration, the countries of the region will have more leverage to build the free trade space “from Lisbon to Vladivostok” jointly with the EU on terms favourable to them. (More on that – section 1.3).

At first glance the “engagement” vision may seem to be more favourable to Russia, since proposals to resolve the conflict include involvement of the Kremlin in the EaP policy treating such a policy as a part of the broader integration project that encompasses the European and Eurasian unions.<sup>7</sup>

### **1.3 Liberalisation of trade relations between Russia and EU**

Due to the standard EU external relations policy, it would be difficult to implement the free trade area in practice according to the concept “from Lisbon to Vladivostok”. The perception of the deep and comprehensive free trade area nurtured by the EU since 2006 is based not only on the elimination of tariff barriers between the EU and the partner country, but also on the adoption of a large portion of EU regulatory standards by the country with which the negotiations regarding the common economic space are being conducted. Free-trade agreements offered to EU partner countries are no longer based solely on the tariff reduction logic and cover many more questions: elimination of non-tariff barriers, liberalisation of the services sector, elimination of the state protectionist measures, favourable conditions for direct foreign investment, etc. These agreements, therefore, are of a comprehensive nature and partner countries have the status of a “policy adopter”. Hence, by offering free-trade agreements, the EU requires not only to modernise the partner country’s economy, but also to modernise such areas as sanitary and phytosanitary standards,<sup>8</sup> technical requirements, public procurement, competition policy and state aid to meet high EU standards.

In other words, any significant liberalisation of the EU trade with Russia and other eastern neighbours, particularly the movement of people and capital and provision of services, would inevitably be associated with

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<sup>6</sup> Hannes Adomeit, “Putin’s ‘Eurasian Union’: Russia’s integration project and policies on Post–Soviet space”, Neighborhood Policy Paper, No. 4, 2012, 4.

<sup>7</sup> Heinrich Bonnenberg, “EU’s Eastern Partnership to Blame for Crisis over Ukraine”, 2014–03–28. <<http://www.atlantic-community.org/-/eu-s-eastern-partnership-to-blame-for-crisis-over-ukraine>>

<sup>8</sup> Veronika Movchan and Ricardo Giucci, “Quantitative Assessment of Ukraine’s Regional Integration Options: DCFTA with European Union vs. Customs Union with Russia, Belarus and Kazakhstan”, Institute for Economic Research and Policy Consulting, Berlin/Kyiv, 2011, 5.

the adoption of EU regulatory norms in these countries. Since old GOST or individual national technical and regulatory standards apply in the countries of the Eurasian Union, differences between the regulatory standards will remain for quite a long time and will act as non-tariff restrictions on trade between the EU and the members of the Eurasian Union.

After all, adoption of EU requirements for product quality, especially the regulatory production standards, would be costly to many businesses of the Eurasian countries and would increase end-product prices. As long as the level of income in these countries is much lower than in the EU, transposition of stringent regulatory standards would be too expensive. This will be particularly the case if adoption of EU rules is not directly related to the interest of exporters. For example, speaking about the environmental standards that govern production processes, but not the product quality standards, their adoption would undoubtedly be a long process and it is not clear whether it would ever be finalised. So we can hardly expect that Russia will agree to become the “adopter” to EU norms.

The main motive for Russia to adopt EU standards would be the need of exporters of these countries to sell their products on the EU market, but given that the majority of Russia’s exports to the EU are energy raw materials, which would not be regulated by the free trade agreement, there will be no motivation for Russia.

Theoretically, it would be possible to imagine a free-trade duty-free area between the EU and Russia or the Eurasian Union. Such an area would be based on an agreement regarding the recognition of regulatory differences. However, it is necessary to take into account that the EU and the Russian-led Eurasian Economic Union are two different systems of economic and political structure, regulatory standards, rules and even values. Standards or technical requirements and the characteristics of the political and economic system of these alternative integration projects differ: unlike in the EU, there are very strong trends of political vertical structure and oligarchic business in the Eurasian economic space with the particularly strong economic-political nexus. Thus, the development of the concept “Europe from Lisbon to Vladivostok” under the principle of mutual recognition of regulatory differences, would require the EU to recognise the GOST standards, one of the main categories of the standards of the former Soviet Union, which are now the inter-state CIS standards.<sup>9</sup>

This would mean that it would be difficult to match the concept of “Europe from Lisbon to Vladivostok” with the EU’s aspiration to expand the principles of a free society or governance based on the rule of law and also the space of a liberal economy. Such a concept would not only prevent initiation of political

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<sup>9</sup> Shumylo-Tapiola. “The Eurasian Customs Union: Friend and Foe of the EU?”, p. 14.

and economic reforms in Eastern Europe, but would also maintain Eastern European countries on the trajectory of developing a post-Soviet space with its typical political vertical and business-politics nexus.

Nevertheless, if the EU decides to establish a common economic area “from Lisbon to Vladivostok” based on the DCFTA concept, it will face the dilemma of whom it should negotiate with? It is likely that Russia will want the EU to negotiate with the Eurasian Economic Union rather than with Moscow. If Russia were to adopt such a position it would indicate an attempt to narrow the content of negotiations, to postpone decisions and to wash out the content of political commitments (the implementation of the principle of the rule of law, etc.). The EU must maintain the position that the negotiations between the EU and the Eurasian Union are possible only when all the members of the Eurasian Union become members of the WTO. Otherwise, Russia, which has completed its WTO accession negotiations, would acquire an opportunity to indirectly renegotiate the terms at the expense of members of the Eurasian Union. In other words, the EU should negotiate liberalisation of trade and economic relations with each member of the Eurasian Union until all three become members of the WTO.

In conclusion, EU could propose Russia to negotiate on single economic space between EU and Russia, but with one essential condition – mutual recognition of regulatory differences could not be agreed. Russia should agree to be the “policy adopter” of the EU rules of the game, instead.

## **2. EASTERN PARTNERSHIP: CHALLENGES AND PERSPECTIVES**

The EU’s EaP policy today faces three main challenges:

a) Russia’s influence on the entire EaP political architecture, whereby Russia seeks to turn the bilateral EU and a partner country format into a tripartite format, thus washing out the fundamental principles of this policy;

b) The traditional inclusion-segregation dilemma, whereby in exchange for political and economic reforms and adoption of costly EU rules, partner countries are offered only integration into the EU internal market rather than full-fledged membership in the Community; this raises doubts as to whether the costs of adaptation to EU norms are not higher than the incentives offered by the EU;

c) The debate within the EU regarding the future of the EaP policy caused by the emerging number of those claiming that the EaP policy must not violate the balance of power in Eastern Europe.

## **2.1 State of play and Russia's direct influence on EaP**

From the beginning of the EaP initiative, Russia has not concealed its anxiety that with the dissemination of European standards the whole region will inevitably gravitate towards Europe, and it has therefore started looking for measures to stop the European integration of EaP countries. The following are the “traditional” measures applied by Russia with respect to EaP countries: (1) trade sanctions, (2) export restrictions of energy resources, (3) escalation of “frozen conflicts” and (4) influence on internal political processes through its influential agents. The use of which particular measure depends on various factors, but all of them are aimed at preventing the post-Soviet EaP countries from escaping from the Russian zone of influence.

Furthermore, the formation of the Eurasian Union, an alternative integration space, has accelerated. It is related both to the preservation of Russian influence in post-Soviet states and the desire to have more leverage in the negotiations for cooperation scenarios with the EU. Several authors note that the aim of the Eurasian Economic Union is to create an alternative integration centre of gravity to the EU normative power and to offer the post-Soviet states favourable conditions of accession and participation. Russia also sees this union as an opportunity for post-Soviet countries to strengthen their bargaining power in creating a common economic space with the EU. The party with the greater influence can negotiate more favourable terms for itself. In Russia's case, it is to demand that the US reduce its influence as much as possible, which for EU countries does not seem such a natural question. NATO and other structural connections testify to the continuation of the strategic alliance with the US, although the Obama administration has clearly showed less US involvement than the Bush administration.

Despite these Russian measures, in late June 2014 the EU took a historic step of signing Free Trade and Association Agreements (AA/DCFTA) with Ukraine, Moldova and Georgia. The postponement of the implementation of the main part of the EU-Ukraine agreement until 1 January 2016 gives a pretext for Russia to exert pressure on both parties to the agreement regarding an amendment to the agreement and to use the same scheme when the Association Agreements are signed with the other EaP countries, Georgia and Moldova, in order to stop their European integration. The fact that Russia is gradually becoming an informal veto player in the bilateral EU-Ukraine relations poses a threat to the entire EaP policy.

When considering the likely impact of the EU decision to postpone the implementation of part of the Association and Free Trade Agreement on Ukraine, it should be noted that, on the one hand, the EU market remains open to Ukraine's imports, because the EU continues to apply concessions to Ukrainian production

unilaterally, which will allow Ukraine to reduce its dependence on the Russian market. Moreover, Ukrainian businesses gain a longer transitional period to adapt to greater competition, which they will inevitably face from EU products in the single market. On the other hand, the postponement of the entry into force of the agreement sends a signal to Russia that its pressure does work, that the EaP is no longer just a bilateral EU-Ukraine affair, and that the Kremlin can exert influence on the EaP policy. During this transitional period, Russia still intends to pursue a more detailed revision of the agreement between Ukraine and the EU. In addition, this decision will impede structural reforms that Ukraine was to start when implementing the agreement. In turn, this will serve the oligarchic business structures, which sought to integrate into the EU market, but did not want to adopt European rules that would have restricted the business-politics nexus. Oligarchy, the business-politics nexus and clientelism are those factors that associate Ukraine with the Russian controlled post-Soviet space.

Before analysing the unprecedented situation where the process of the bilateral agreement between the EU and another country was determined by a third party and the potential impact of such a situation on EaP policy, it is appropriate to consider the extent to which Russia's fears of a negative impact of the EU-Ukraine Free Trade and Association Agreement will have on its economy are justified.

The most common argument made by Russia is that the entry into force of the free trade agreement and the abolition of customs duties on goods produced in the EU would mean that due to lower prices these goods would flood the Russian market via Ukraine and would negatively affect entire sectors of its economy, for example, agriculture, transport and aviation. However, according to the WTO rule of the origin of goods, EU goods exported via Ukraine will be marked as "made in EU" and will be subject to Russian import tariffs.

One of the most important aspects of the Association and Free Trade Agreement is that Ukraine will have to transpose EU regulatory and technical standards in order to sell goods manufactured in Ukraine on the single market. On this basis, Russia insists that this would violate "traditional trading volumes where Russia applies other [lower – *Author's note*] standards". First, the application of European standards is valid only for products that are to be sold on the domestic market, but not to third parties. Second, trade flows between the EaP countries and Russia are mostly affected by Moscow's politicised decisions, for example, an imposed embargo on certain goods, which made producers switch to other markets, primarily to the EU.

Finally, it is maintained that in the long run the Russian trade advantage over the EU in Ukraine will fade, because Ukraine will gain access to the world's largest single market without tax tariffs. However, this argument, more than others, reveals that under the guise of economic reasons Russia wants to stop the

Association and Free Trade Agreement for geopolitical reasons: by preventing the spread of western values and standards to the post-Soviet space and securing the region as the zone of its exclusive interests.

Paradoxically, however, Russia made use of trilateral EU-Russia-Ukraine consultations, on which it insisted, well before signing the Association Agreement. On the EU side they were proposed in March 2014 at a joint statement on Ukraine of the foreign ministers of the Weimar triangle – Germany, France and Poland. Although the consultations on inter-ministerial-expert level were to serve as a depoliticised medium for the denouncement of Russian concerns regarding the potential negative impact of the EU-Ukraine Free Trade Association and the consequences of the Russian economy, Russia managed to take advantage of the situation: at a consultation on 12 September, the EU seeking de-escalation, and Ukraine cornered by its difficult economic situation and great losses in the fight against the Russian-supported separatists, agreed to postpone the implementation of the most important – economic – part of the agreement for 14 months.

A week before this meeting, Russia issued a document of several pages detailing its requirements as to how the EU-Ukraine Association and Free Trade Agreement was to be amended, starting with the elimination of customs tariffs on certain goods and finishing with provisions regarding border issues and amendments to the energy and standard compatibility policy that would allow Russia and the Customs Union to gain a better competitive position than the EU would have in Ukraine. On 29 September, a joint statement of the EU Council and the Commission recalled that “the Association Agreement is a bilateral agreement and any adaptations to it can be made only at the request of one of the parties and with the agreement of the other”. While it is said that this provision is a safeguard that will help protect the implementation of the Association Agreement against influence of a third country, a number of reasons make one doubt it.

First of all, nowhere is it stated that the text of the Association Agreement cannot be amended after ratification. Second, as mentioned above, Russia has sufficient leverage both with respect to Ukraine and the EU. Therefore, even though it is not directly involved it may seek amendment of certain provisions by exerting pressure on one of the parties. The fact that such a strategy can be successful is confirmed by the tripartite consultation which was supposed to be a mere discussion space. Finally, the postponement of the economic EU-Ukraine Association and Free Trade Agreement for 14 months by maintaining the *status quo* (the EU has promised to continue to unilaterally waive tax tariffs for the majority of Ukrainian goods and Russia promised not to amend the provisions of the CIS free trade zone until the end of 2015) gives Russia additional time to exert pressure on Ukraine.

Furthermore, the statement issued by Russia’s Foreign Ministry on 18 September 2014 declares that “we hope that during this period [period of postponement of the implementation of the rules of free trade –

*Author's note*] a legally binding decision will be taken to address all Russian concerns by modifying the Association Agreement in the interests of continued bilateral economic relations". Moreover, the EU Council and the Commission issued a statement calling on Ukraine, despite the postponement of part of the agreement, to continue the preparation process, while Russia issued a statement that it "will take countermeasures" if actions towards implementing the free trade agreement go ahead. While it did not elaborate on what would be treated as preparation for the implementation of the DCFTA, it can be said that it will use this vague mention to increase its pressure.

## 2.2 (In)sufficient incentives for reform for Eastern Partnership countries

Incentives offered by the EU in the framework of Eastern Partnership instead of the membership perspective are summed up by David Cadier as being the "three Ms": Money, Markets and Mobility. They are offered as part of the Association Agreement, which draws up a framework for legislative and economic reforms, in exchange for moving towards EU regulations and standards: (a) money is financial aid allocated for the implementation of reforms (e.g. the total amount available for grants in 2011–2013 was € 6.5 billion; (b) EU markets (certain share) might be opened up for partner countries by signing a Deep and Comprehensive Free Trade Agreement (DCFTA), which removes tariff and customs barriers; it requires legislative and technical harmonization, which is considered costly and difficult for partner countries as it requires adoption of up to 80% of the EU's trade *acquis*;<sup>10</sup> (c) mobility – incremental steps towards visa liberalization.<sup>11</sup>

During implementation of the Eastern Partnership Policy, it became clear that the six partner countries had different wishes and/or capacities for adopting European rules and choosing the EU as their main geopolitical direction. It is therefore possible to distinguish at least two blocks of the EaP countries as regards to their differing progress in implementing the programme provisions – more and less advanced partners. **Advanced partners** (Moldova, Georgia and Ukraine) signed the Association agreements. **Less advanced** partners consist of Armenia, which decided to join the Eurasian Union, and Azerbaijan, which does not seem to have economic aspirations, and has rejected signing the Association Agreement; the transformational progress of Belarus, which is a part of the Eurasian Customs Union, is considerably slower.

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<sup>10</sup> Baltang Dorina, Giselle Bosse, "The ENP as an instrument for building a security community? The case of Moldova". Norwegian Institute of International Affairs, 2014, p. 8

<<http://www.nupi.no/content/download/494796/1644873/version/2/file/NUPI+WP-833-Baltag+and+Bosse.pdf>>

<sup>11</sup> Caider, p. 55–56



**Table 1. Approximation rate of EaP countries to the EU<sup>12</sup>**

Sector of cooperation	Approximation indices (1=best performer; 0=worst performer)					
	Moldova	Georgia	Ukraine	Armenia	Azerbaijan	Belarus
Democracy	0.72	0.54	0.64	0.47	0.31	0.20
Rule of law	0.61	0.63	0.60	0.51	0.42	0.23
Justice, freedom and security	0.94	0.67	0.76	0.47	0.76	0.43
Trade and Economic cooperation	0.71	0.54	0.72	0.54	0.57	0.38

In spite of incentives and advances, it is broadly agreed that EaP “failed to replicate a transformative power of the kind witnessed in CEE”.<sup>13</sup> According to Freedom House, the democracy index in partner states during the implementation of EaP stagnated, while in some countries, for example Ukraine, it even decreased.<sup>14</sup>

Even before the Vilnius summit it was discussed that the EU would need to re-calibrate its EaP. The well-known argument is on the table: the association process must be treated as a step forward in the integration process. The prospect of membership was the key motivating integration factor to post-Soviet Central European countries, which became fully-fledged EU members in 2004 and 2007. It is asserted that the biggest incentive for Ukraine and other countries participating in the Eastern Partnership to continue along the path of European integration is precisely the prospect of EU membership. Consequently, the EU should not only state that the door for membership of the Eastern Partnership remains open, but should also clearly articulate that depending on domestic reforms and the development direction of partner countries, the EU is really willing to start a membership negotiation process. The Association process only as a big step towards the integration process will ensure the long-term effectiveness of the EaP.

However, the perspective, while being essential during the integration of CEE countries, might not be that effective in the case of EaP states. According to Tanja A. Borzel and Vera van Hullen, “prospects of EU membership stabilize rather than drive the move towards effective and legitimate governance in candidate countries”. For example, in the case of CEE countries, it has been argued that the EU supported the transition process, but has definitely not driven it, because the “shadow of accession” has hardly been relevant in

<sup>12</sup> EaP Index 2013 <<http://www.eap-index.eu/>>, table taken from Baltang Dorina, Giselle Bosse, p. 10

<sup>13</sup> Caider, p. 52

<sup>14</sup> Wisniewski, Pawel Dariusz, The Eastern Partnership – it is High Time to Start Real Partnership. Carnegie Centre Moscow, November 2013, p. 8–9 <[http://carnegieendowment.org/files/CP\\_Wisniewski\\_Eng\\_web.pdf](http://carnegieendowment.org/files/CP_Wisniewski_Eng_web.pdf)>

countries with strong democratic constituencies, which were dominant in the case of the CEE region.<sup>15</sup> Therefore, it is unclear if “<...> the membership perspective provides a crucial incentive for countries to initiate domestic changes setting the trend towards effective and democratic governance or whether these countries only receive a membership perspective once they have aligned with the trend and made substantial progress.”<sup>16</sup> Furthermore, it is uncertain whether the membership perspective could be effective in a non-democratic political environment. It is highly debatable whether, for instance, ousted Ukrainian President Victor Yanukovich would have chosen to reduce his own non-transparent influence by implementing structural reforms in the areas of judiciary, electoral laws and corruption.<sup>17</sup> And it is even more unlikely in the face of the growing adaptation costs, which are even “higher in non-democratic regimes and illiberal democracies, compared with consolidated democracies”.<sup>18</sup>

In spite of the fact that the membership perspective could still be considered as a prominent tool, it does not seem to be an acceptable solution for many EU countries in the nearest future. It is feared that determined steps to expand the EU in that direction would meet Russian countermeasures and cause even further destabilisation.

### **2.3 EaP and power balance in the region**

Within the context of developments in Ukraine, some EU countries have expressed fears that the EaP policy itself, even without a membership perspective, provoked aggressive actions of Russia in Ukraine. This is based on the notion that the spread of the European model violated the balance of power in Eastern Europe and Russia was forced to defend itself and take steps to restore it. Other political observers go even further and argue that the EaP is only an unsuccessful attempt of “West Roman” Europe to impart western values upon “Byzantine” Europe, whose standard-bearer is Russia.<sup>19</sup>

For example, Professor John J. Mearsheimer from the University of Chicago maintains that it is the US and its European allies who led the pro-active policy in the region that are primarily responsible for the crisis

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<sup>15</sup> Tanja A. Borzel and Vera van Hullen, *Good Governance and Bad Neighbors?* Freie University, Working Paper 35, December 2011, p. 8–9 <[http://userpage.fu-berlin.de/kfgeu/kfgwp/wpseries/WorkingPaperKFG\\_35.pdf](http://userpage.fu-berlin.de/kfgeu/kfgwp/wpseries/WorkingPaperKFG_35.pdf)>

<sup>16</sup> *Ibid*, p. 10

<sup>17</sup> Tanja A. Borzel, *Europe’s Eastern Partnership – a successful failure?* <[http://www.verfassungsblog.de/de/europes-eastern-partnership-a-successful-failure/#.U0u\\_rFV\\_vDs](http://www.verfassungsblog.de/de/europes-eastern-partnership-a-successful-failure/#.U0u_rFV_vDs)>

<sup>18</sup> Amichai Magen, *The Shadow of Enlargement: Can the European Neighbourhood Policy Achieve Compliance?* *Columbia Journal of European Law*, 12(2), 2006, p. 418–419 <[http://iis-db.stanford.edu/pubs/22031/CJEL-final-Magen\\_Offprint\\_12.2.pdf](http://iis-db.stanford.edu/pubs/22031/CJEL-final-Magen_Offprint_12.2.pdf)>

<sup>19</sup> Heinrich Bonnenberg, “EU’s Eastern Partnership to Blame for Crisis over Ukraine”, 2014–03–28. <<http://www.atlantic-community.org/-/eu-s-eastern-partnership-to-blame-for-crisis-over-ukraine>>

in Ukraine, and not Russia. Thus, “the West had been moving into Russia’s backyard and threatening its core strategic interests”. According to the academic, the conflict proves that strategic thinking by engaging *realpolitik* based on power balance remains relevant and that “US and European leaders blundered in attempting to turn Ukraine into a Western stronghold on Russia’s border. Now that the consequences have been laid bare, it would be an even greater mistake to continue this misbegotten policy”. The only solution therefore is to restore the balance of power and to recognise Russia’s influence by suspending NATO and EU integration processes in the region.<sup>20</sup> Although Russia’s aggression is unjustified, according to the American foreign policy strategist Henry Kissinger, “the West must understand that, to Russia, Ukraine can never be just a foreign country”.<sup>21</sup>

However, this approach denies EaP countries the possibility to determine their own future, because reforms and trade agreements proposed by the EU are not enforced through political and economic pressure. The mere fact that the implementation of the EU-Ukraine Association and Free Trade Agreement has been postponed, sets a dangerous precedent, because Russia is becoming a third party which exerts direct influence on bilateral relationships. In addition, Russia’s aggression is essentially contrary to international law – the United Nations Charter, the Helsinki Final Act, bilateral agreements between Ukraine and Russia, etc. The EU should therefore review the content of its policy towards EaP countries and pay greater attention to minimising Russia’s influence on them.

### **3. GUIDELINES FOR EAP REFORM: ROADMAP TO MEMBERSHIP PERSPECTIVE (PERSPECTIVE OF MEMBERSHIP PERSPECTIVE)**

The main problem of the EU enlargement policy is the actual “journey without a map” status. This policy has no clearly coded regulation for enlargement and this determines that pre-accession conditions evolve and the “bar” for adjustment to the EU for candidate countries is being raised. The roots for EU enlargement law are in the Treaty (Article 49), but today there is a great difference between what is defined in the Treaty and how it is interpreted with each stage of development. What we have today, as the concept of EU enlargement policy, is nothing less but the result of all previous enlargement stages.<sup>22</sup> However, for various

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<sup>20</sup> John J. Mearsheimer, Why the Ukraine Crisis Is the West’s Fault

<<http://www.foreignaffairs.com/articles/141769/john-j-mearsheimer/why-the-ukraine-crisis-is-the-west-s-fault>>

<sup>21</sup> Henry Kissinger: To settle the Ukraine crisis, start at the end <[http://www.washingtonpost.com/opinions/henry-kissinger-to-settle-the-ukraine-crisis-start-at-the-end/2014/03/05/46dad868-a496-11e3-8466-d34c451760b9\\_story.html](http://www.washingtonpost.com/opinions/henry-kissinger-to-settle-the-ukraine-crisis-start-at-the-end/2014/03/05/46dad868-a496-11e3-8466-d34c451760b9_story.html)>

<sup>22</sup> Dimitry Kochenov, “EU Enlargement Law: History and Recent Developments: Treaty – Custom Concubinage”, European Integration online Papers.

reasons, the EaP policy reform will be launched from granting the membership perspective, therefore other tools are necessary to respond, at least partially, to the above-mentioned challenges.

Given the fact that each time (i.e. when a new phase of enlargement approaches) the enlargement policy process allows the EU to increase pressure on the candidate countries, the EU may form a model of integration in the EU with the membership perspective tailored to each candidate country (partner). The model would establish “safeguards” to allow control of the ratio between the depth of integration into the EU and the structural domestic political and economic reforms (while retaining the possibility to suspend the integration process). In other words, there would be individualisation of EU enlargement policy in the case of each candidate country, i.e. the EU requirements would be extended beyond the formal *acquis communautaire* frames.

This would help solve different problems of the candidates that have made the largest progress and monitor progress made in different areas:

**Ukraine.** The biggest threat in Ukraine is the possible selective (simulated) transposition of European standards to the national law bypassing the most sensitive sectors in which the adaptation costs are the highest, specifically, agriculture, heavy industry (metallurgy, extraction of mineral resources, manufacture of vehicles) and meat processing. Due to Ukraine’s extremely difficult economic situation, expensive adaptation costs will be a great burden to non-modernised Ukrainian companies. Corruption – Ukraine ranks 144<sup>th</sup> out of 176 countries in the world according to the Corruption Perceptions Index – remains one of the biggest problems that could lead to stagnation in the transposition of European standards, because those businessmen who profit from corruption and the shadow economy and oppose the standards are still influential in the political life of the state. It should be noted that even after the adoption of some of the anti-corruption laws there has been no advance either in the institutional implementation of the laws or in the organisation of public procurement. Amendments to the laws have been adopted, but not implemented, which suggests that Ukraine will face difficulties in adapting to the free movement of goods and their technical regulation. While the Ministry of Economic Development and Trade has prepared a plan for 2013–2017 and passed a law on these issues in November last year, they are still in the initial stages of development. As far as sanitary and phytosanitary matters are concerned, the law concerning harmonisation of the food safety regulation with EU norms has been adopted, but the most important phase of the implementation of the law still lies ahead.

The mechanism for the coordination of European integration, which is not yet clearly defined and is being formed by the new government that came into power after the Maidan Revolution, poses a huge problem. Along with the changes in domestic policy (the need for early parliamentary elections), this may cause serious

problems in supervising the implementation of the AA and DCFTA requirements. There may be premises for selective implementation of these requirements. Regulation of intellectual property rights and of the organisation of public procurement remains fragmentary or absent altogether, despite commitments to the WTO.

**Moldova.** Although the country is, according to various studies, rated as one of the most advanced countries in adopting EU standards, it also faces specific challenges in certain sectors. One of the key challenges is the adaptation to technical trade barriers, which today is regulated by weak supervisory authorities (e.g. the Competition Authority, the National Food Security Agency, Anti-discrimination Board, etc.) with poor expertise. These authorities were established to meet EU requirements regardless of their performance. Initiated legal reforms are not proceeding smoothly and politicisation of the legislative authority is often felt. As a result, the Moldovan government is planning to ask the EU mission of international expert observers to provide expert support to authorities implementing reforms and to assess the extent of the changes that are being implemented. Out of the EUR 60 million allocated by the EU for legal reform, the vast majority of the funds were used to increase the budgets of the institutions and to raise the salaries of judges. The EU mostly focused on reform of the General Prosecutor's Office and the Anti-Corruption Centre and these institutions were modified only with the supervision of influential political figures. A decrease in the transparency of the decision-making process and media dependency can also be observed.

Although Moldova participates in the activities of the European Energy Community (EEC), dependence on Russian natural resources (100 per cent of all gas is imported from Russia) may limit its abilities to implement the DCFTA energy provisions. One of the signals is Moldova's decision to postpone the implementation of the Third Energy Package. Adaptation of agriculture (and key production sectors such as wine, fruit and vegetables and their products), which is an important economic sector in Moldova, to European standards will result in high costs.

**Georgia.** Progress of this country's integration with the EU is two-fold: although the reforms implemented in recent years have strengthened the fight against corruption, the independence of law enforcement authorities (reforms according to the requirements of the Venice Commission were launched) and public awareness of the European integration has increased, Georgia's indicators in the area of integration of trade and economy remain poor. It is estimated that the implementation of the Association Agreement will directly affect the labour market: around 4 per cent of employees will have to move from one economic sector to another, which will be extremely difficult for those on lower incomes. In addition, although there should not be an overall rise in prices, it is expected that food prices will rise. Agriculture is a particularly important sector

in Georgia's economy (it employs 50 per cent of the country's labour force), therefore the essential process of reorientation to Western standards will take place which, in the short term will result in additional costs to Georgian farmers, but in the long term will bring larger profits in the European market. It is necessary to take into account that before the negotiations with the EU regarding the Association Agreement and the Deep and Comprehensive Free Trade Agreement, food safety requirements and quality standards were essentially absent in Georgia. Improvements in these requirements and standards has inevitably been!!! and in the short term will be associated with the increase in prices. Moreover, even after adoption of the necessary legislation (Law on Food Safety) and establishment of the relevant institutions, Georgia's sanitary and veterinary certificates have not been recognised internationally for a long time. Another problem is the simulation of adoption of EU rules specific to Georgia. While Georgia adopted the Euro-integration Law on Free Trade and Competition in 2012, the newly enacted law did not limit the concentration of businesses (for example, there is no clear definition as to when competition could be breached). It is said that despite adoption of the Law on Free Trade and Competition, monopolies in the pharmaceutical business, energy and communications continue to exist.

The fact that the EU has so far failed to provide specific incentives or alternative models of development to EaP countries and paid too little attention to their specific characteristics weakens the Community's normative power in the region. In other words, this shows the limitations of the EU to efficiently promote its normative power.<sup>23</sup> In order to address this problem, a tailor-made approach must be adopted in the EaP policy. Štefan Füle, EU Commissioner for Enlargement, emphasised the importance of differentiation as the most important feature of the EaP, whole role "will only increase, requiring our approach to be tailored and adapted to correspond to our partners' needs, their ambitions and the realities on the ground."<sup>24</sup>

Differentiation should not be separated from the broader perspective of incentives for integration. The current "partnership without membership" model, which was once a kind of EU-Russia regional development consensus, does not generate sufficient premises for partner countries to effectively implement structural reforms. The clearest alternative – the membership perspective – is neither planned in the EaP policy nor would it be supported in the context of the current war in Ukraine, particularly by the southern and western EU countries. According to Dr. Daniela Schwarzer, an expert of the German Marshall Fund of the United States, European politicians must first of all convince their national populations that such incentives are necessary,

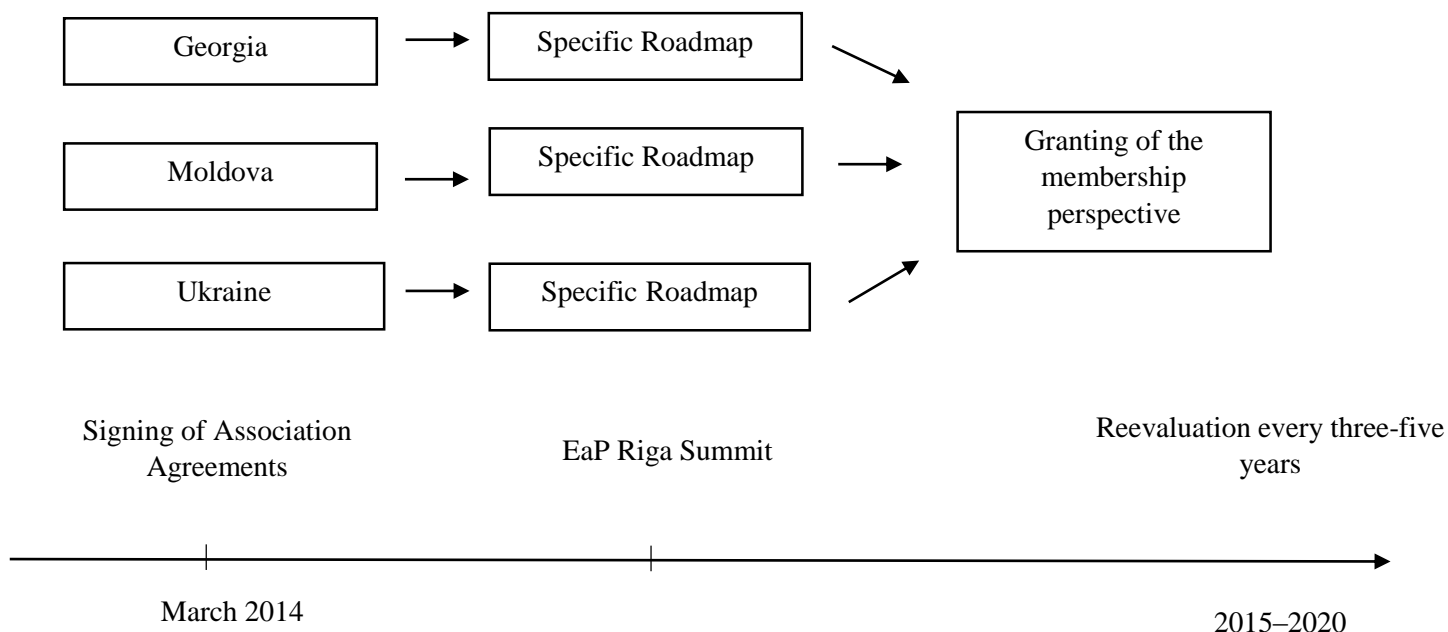
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<sup>23</sup> Aaron Matta, EU Frameworks for Differentiated Integration: Lessons for the Eastern Partnership <[http://thehagueinstituteforglobaljustice.org/index.php?page=News-News\\_Articles-Recent\\_News-EU\\_frameworks\\_for\\_Differentiated\\_Integration:\\_Lessons\\_for\\_the\\_Eastern\\_Partnership&pid=138&id=286](http://thehagueinstituteforglobaljustice.org/index.php?page=News-News_Articles-Recent_News-EU_frameworks_for_Differentiated_Integration:_Lessons_for_the_Eastern_Partnership&pid=138&id=286)>

<sup>24</sup> European Commissioner for Enlargement and European Neighborhood Policy Stefan Füle <<http://www.enpi-info.eu/eastportal/news/latest/38330/All-Eastern-Partners-are-equally-important-to-the-EU,-Commissioner-tells-EaP-Foreign-Ministers-in-Baku>>

but may become a reality only if partner countries show clear progress and willingness to implement costly reforms.<sup>25</sup> Therefore, one of the cornerstones of the EaP Summit in Riga in May 2015 should be the roadmap of reforms differentiated per each individual country, which would result in the granting of the membership perspective.

**Scheme 1: Roadmap**



It is appropriate that the actions specified in the roadmap would be aligned with the application of the Copenhagen criteria required to join the EU. The Copenhagen criteria, which includes political, economic and administrative and institutional (legislative) criteria, cover the main areas in which the EaP countries still face different challenges in developing their institutions, applying democratic principles and improving their economy. It would be relevant to draw up a framework that would provide for internal (intermediate) indicators in order to support the direction towards the Copenhagen criteria, to record partial progress and, by taking over the best practices, to direct not only towards the quantification of outcomes, but also towards quality. Any such framework would not only mean monitoring of the individual “roadmap” of each of the three countries, but also providing a broader technical assistance, from the identification of the problems to the analysis of the

<sup>25</sup> Presentation at the Riga Conference discussion “What Can Be Offered at the Riga Eastern Partnership Summit?” Riga, 14 September 2014.

causes and expert assistance (e.g. expert pool). The framework would be used as a tool to engage the countries into planning a change over a specified period of time; it could be used to define criteria and would create the premises for risk management.

Given the exceptional political risk, which has become one of the main obstacles to providing “eligible” status even in theoretical debates,<sup>26</sup> the roadmap application would ensure the “first threshold” effect, which would allow continuance along the path of further membership and the implementation of *the acquis* in the country which achieves intermediate results. It would act as an incentive for approximation of EU standards and a premise for the EU membership perspective. Moreover, granting the roadmap would be an incentive for reforms and would also “throw the ball” into the hands of the EaP countries, as they would have to implement the aims raised by the EU: to implement EU regulations and standards before the EU takes the politically difficult decision of granting the prospect of EU membership.<sup>27</sup> The framework would be based on standard principles, but a unique roadmap would be applied with respect to each country depending on the problem areas identified in each country.

Through the implementation of this model, the EU enlargement process would consist of more than the usual two stages (the association agreement with the candidate country and the accession negotiations), because interim stages or various intermediate periods between stages would be added as safeguards to allow postponement/suspension of accession of a candidate. Such transformation of the EU expansion policy would allow the EU countries which are sceptical about the enlargement to control the process of integration of new candidate countries (and to suspend it if the results of the negotiations are negative). On the other hand, this would create conditions for the countries participating in the EaP to feel that, depending on the outcomes of the conditions raised by the EU, there is a possibility to move on to a higher league of integration in the EU. It is clear that in the case of Georgia, Moldova, and especially Ukraine it is necessary to strengthen the EU policy of creating more intermediate steps towards full membership. Such logic would ensure the long-term effectiveness of the EaP.

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<sup>26</sup> Christopher Hillion, *The Copenhagen Criteria and their Progeny*, in C. Hillion (ed), *EU Enlargement: a legal approach* (Oxford, Hart publishing, 2004), pp. 1–23.

<sup>27</sup> Arkady Moshes illustrated this dilemma using a metaphor: Ukraine today is like a Jewish student in Soviet university where he had to know the subject in an absolutely perfect way just to get a B, i.e. a prospect of EU membership was never among the proposed incentives. As it turned out Ukraine was never good enough to get a C and was expecting to get an A (a prospect of EU membership). Arkady Moshes. *Ukraine and Eastern Partnership*. Interview on ARU TV <<http://www.youtube.com/watch?v=3j0dkdVwWPU>>



**The importance of the EaP Summit in Riga.** It is important to emphasise that the Riga Summit should become a kind of continuation of the aspirations of the EaP Summit in Vilnius. The Declaration adopted on 28–29 November 2013 stipulates preparation, where applicable, of the Association agendas, including monitoring of progress to ensure EU support for partner reform agendas, supporting steps towards visa free regimes, overall strengthening of relations between the EU and the EaP countries, and the application of the “more for more” principle. This principle essentially supports an individual approach to a particular country and allows it to recognise those countries which have made significant progress and to build deeper relations with them. It can be said that the development of individual roadmaps suggested during Latvia’s Presidency would essentially comply with the principles of the Declaration of the Vilnius Summit and ensure continuity.

Latvia’s Presidency of the EU and the Riga Summit, given the particular involvement and commitment of the Baltic States with respect to EaP, could provide the necessary impetus to solving the further rapprochement of Georgia, Moldova, and Ukraine with the EU: discussing EU technical standards, such as granting further visa-free travel, border control or a more efficient application of the EU Association Agreement, and elimination of technical and political barriers. For example, Latvia has expressed a clear position to assist Ukraine in fulfilling the requirements for visa liberalisation (completion is expected by May 2015).<sup>28</sup> But the biggest boost would actually be the said granting of the real prospect of EU membership according to certain defined criteria. Agreements regarding specific roadmaps for each candidate country could be made at the Riga Summit. On the expert level, it is particularly relevant to maintain the above-mentioned monitoring and technical assistance framework of the roadmaps. The principles of the framework could be discussed and adopted during the Latvian Presidency.

**Recommendations for Lithuania.** Given the recent Lithuanian Presidency of the EU, the accumulated experience, the rather deep involvement of Lithuania in EaP issues, and recognised reputation in the field,<sup>29</sup> it is important to see Lithuania’s potential contribution in mapping the Euro-integration prospects of the countries which have signed Association Agreements. The following are a few main recommendations:

1. Lithuania will make the largest contribution to the EaP by providing political support for further Euro-integration of Georgia, Moldova and Ukraine and trying to “demand” further EU support for implementation of the targets laid down at the Vilnius Summit. Political mediation urging other EU countries to ratify the EU association agreements with those countries could be emphasised. The leadership of Lithuania, Poland and

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<sup>28</sup> Latvia to help finalize EU–Ukraine visa liberalization plan by Riga summit, *žr. novisa.org.ua*

<sup>29</sup> Paweł Dariusz Wiśniewski, *The Eastern Partnership – it is High Time to start a Real “Partnership”*, Carnegie Moscow Centre, 2013.

other countries, which show more support to the EaP or are involved, is particularly important within those countries that are more indifferent towards this policy, usually from countries that are further away or that traditionally maintain better relations with Russia. It is important to use a variety of multilateral or bilateral formats, personal contacts with high-ranking government officials from the EU countries that did not ratify the agreement.

2. Active monitoring of Russia's interests and its actions with respect to the EaP countries and formation of the corresponding position at the EU level are also relevant. The most important political support is speaking out for the granting of the EU membership perspective, provided the EaP countries commit and comply with the set criteria; also rejecting opportunities for Russia to generate a discourse concerning its possible informal veto or to treat the collaboration between the EU and an EaP state as unfavourable to Russia. Wider consultations, including Russia, are possible and are to be encouraged, but without involving Russia in the decision-making process concerning third parties, which is currently de facto taking place with respect to Ukraine.

3. An important issue is recognition of the borders of the EaP. Georgia, Moldova and Ukraine have unresolved "frozen conflicts" in which Russia is an obvious factor. It is appropriate to maintain the position that any "frozen conflicts" which occur due to geopolitical aspirations of a third country should not be an obstacle to further integration of the said countries in the EU. An example is the case of Cyprus whose territorial conflict with Turkey did not prevent it from the accession to the EU.

4. In addition to the political support, Lithuania could offer proactive expert assistance to the said countries. Lithuanian governmental organisations, non-governmental organisations, associations and think tanks have gained considerable experience in these countries on the issues of development cooperation, institutional development, and analysis of political and economic processes. In addition, the know-how of Lithuania's integration into the EU could be implemented in the EaP. Furthermore, Lithuania should start new initiatives, such as the preparation of a roadmap for each partner country, developing initial concepts and presenting them at EU level.

5. Along this scenario, the eligible EaP countries could rely on assistance based on the twin principle – whereby Lithuania would get involved with one of the three countries to share deeper integration expertise, experience and provision of technical assistance. The greatest potential in this area is assistance to Georgia, with which there has been long-standing cooperation (in the areas of legal reforms and institutional management).

6. Over the next several months Lithuania could also actively contribute to raising the issue of a visa-free regime for Ukraine and Georgia and help in providing assistance to comply with the standards. In this context, the active role of the Polish government and non-governmental organisations and also their increasing willingness to cooperate with the Lithuanian authorities (e.g. Ministry of Foreign Affairs) should be noted.

7. If the EU will agree on the “roadmap towards membership perspective” for EaP countries, Lithuania could propose the EU to negotiate on single economic space with Russia. However, one essential condition must be met – mutual recognition of regulatory differences could not be agreed. The “red line” for Lithuanian position should be that Russia must agree to be the “policy adopter” of the EU rules of the game.

### **CONCLUSIONS: EAP POLICY SCENARIOS**

In view of the current dynamics of EU EaP policy dynamics, Russia’s aim to acquire an informal veto power over EU enlargement to Eastern Europe and to influence the association and free-trade agreements, three EaP policy scenarios are possible.

**New incentives for reform in Eastern Neighbourhood.** EU relations with the EaP countries have so far relied on the external incentives model. Its essence – efficiency of adoption of EU rules and regulations – depends directly on the ratio between incentives offered by the Community and adaptation costs. If partner countries are expected to adopt and implement 80 per cent of the norms of the EU *acquis* through the reform of their national systems and this is not supported with incentives to the extent of the opening of the single European market, this undermines EaP policy opportunities to promote processes of democratisation and implementation of the free-market.

Prior to the escalation of the conflict in Ukraine it was stated that the existing incentive model was inefficient, did not take into account the specific characteristics of the EaP countries which had made different progress, did not apply differentiation, and insufficiently prioritised key reform areas. In addition, events in Ukraine not only strengthened the critical position with respect to any enlargement of the EU in many EU countries, but also created a “fatigue” in discussing deeper co-operation with the EaP countries within the Russian zone of influence, including the fear of escalation of similar conflicts. In order that these trends would not prevent the path to the EU as a normative power and would create incentives for reforms in these countries, it is necessary to find a “middle way” between the greater commitment of the EaP countries in implementing reforms and sufficient European incentives in the process.

This “middle way” is located between two poles – de facto suspension of the EaP programme or new initiatives and the rapid granting of the prospect of EU membership to partner countries. The main focus of the interim version would be a roadmap – granting the perspective of membership perspective to EaP countries. In other words, a roadmap would be drawn with clearly identifiable criteria for each partner country in accordance with the level of progress the country has made, which would highlight several fundamental areas of reform in each country (e.g. most of the problems in Ukraine are associated with oligarchic economy, business and politics nexus and corruption). Consistent and continuous implementation of these reforms and compliance with the interim criteria will not only encourage European values in the societies of these countries, but in the long run will also change the attitudes of EU citizens and politicians towards the post-Soviet space and towards the opportunity to deepen cooperation with the countries of this space. In other words, the EaP countries must themselves demonstrate that they are willing to take on more responsibility and to implement costly structural changes. This will be done with the knowledge that the implementation of the roadmap and compliance with the criteria will lead to a formal membership perspective. In return, the EU would provide specific assistance for the implementation of reforms (monitoring missions, expert support, additional targeted grants, and transfer of best practices). The EU could use the momentum for further consolidation of support for Euro-integration, with particular focus on the communities of EaP countries living in areas that are more exposed to the Russian propaganda machine. For this reason, it is necessary to pay more attention to the publicity of integration, discussions about its benefits and potential challenges, destruction of myths spread by Russia, and support for newly established pro-Western media (in Ukraine a lot of them were established after the Maidan Revolution).

The implementation of this model would resolve the problem of asymmetry whereby the EaP countries are invited to adapt the major part of EU legal norms without the prospect of joining the Community. On the other hand the EU should not be required to make a prior commitment to providing the perspective of EU membership. This would be an obligation for the political elite of EaP countries, that often uses the EU card to pursue narrow interests. If the current situation remains, “freezing” of the EU standard adoption process in Ukraine and other EaP countries can be expected.

Considering the fact that the search for transformation of the EaP is likely to produce a new wave of negative response from Russia, a model of economic interaction – free trade between Russia and the EU – must simultaneously be proposed. The starting point could be the idea of the Common Economic Space between the EU and Russia formulated in 2003–2006. The key difference from the year 2006 is that EU free trade agreements are associated with the adoption of European rules by third countries. Therefore, the

incompatibility between the European and Russian regulations and standards should be resolved by maintaining the requirement from the partners to transpose the European rules. In addition, a search for the “lowest common denominator” should be proposed to Russia by at least adopting the “WTO Plus” rules in the mutual trade relations. This would allow the EU to expect more predictable trade relations with Russia and would reduce a negative impact of the association between the EaP countries and the EU on the trade balance with Russia.

**Retreat of EU ambitions and engagement with Russia.** Although there is a consensus on the need to reform the EaP policy, the direction of change may be the opposite to the proactive model of new initiatives and incentives to adopt EU rules. This logic is based on the provision that the turmoil in Ukraine was caused by over-active EU’s attempts to democratise and westernise post-Soviet countries in spite of their cultural, social and economic ties with Russia. Besides, this policy ignored Russia’s strategic interests and its overt criticism, thus creating preconditions for a conflict.

When reviewing the EU policy in the region, such common interests as economic and energy interdependence between Russia and the EU and the EU’s strategic goal to restore stability in the region must be emphasised. Following this logic, economic sanctions applied towards Russia should be reviewed. In addition, Instead of the export of European economic and trade regimes into the post-Soviet space and thus competing with the Russian-led Eurasian Economic Union, the EU could adopt the free trade space concept “from Lisbon to Vladivostok” proposed by Russia. This would, however, cause difficult dilemmas: the concept of the deep and comprehensive free trade area based not only on the elimination of tariff barriers between the EU and the neighbouring country, but also on the adoption of most EU regulations by that country. The question would then arise which spaces of integration – the EU or the Eurasian Union – would become the adopter of the regulations and tariffs.

Along the lines of such logic, the EU would recognise the zone of Russia’s interests, while, under Russian “care”, Ukrainians, Moldovans and Georgians would lose the opportunity of self-determination in selecting the direction – political, economic and cultural – of the civilisation for their country. This approach would essentially mean the return of Europe to the times of the balance of power and *realpolitik*, because the “first – Russia” principle would continue to dominate in the EU’s Eastern policy and would allow the Kremlin to control the agenda of the EU’s relations with the EaP countries. This would undermine the role of the EU as a normative power and the centre of gravity and the possibility to reform these countries according to the European model. The vision of the “Russian” European security system would come true.

Such a scenario between Russia and the EU in trade relations could lead to new initiatives, e.g. a less binding free-trade regime without the need for harmonisation, based on specific agreements in different trade sectors and the free trade area, rejection of the export of European standards and regulations and the use of the “mutual recognition” principle.

**Muddling through – the future of the EaP policy after the crisis in Ukraine.** The current situation has created a complex puzzle involving economic, political and security issues. In order to resolve the problems, it would be difficult to expect radical shifts and initiatives that could complicate the situation even further, so realistically, attempts to jump start the *status quo* are being implemented, although they are relatively slow and complicated. The EU initiative to postpone implementation of the trade part of Ukraine’s Association Agreement until 2016 illustrates these attempts and responds to the situation, paradoxically, satisfying the interests of many, at least partially: Russia was able to put off Ukraine’s rapprochement with the EU and to prevent the movement of European goods to the Russian market, Ukraine will have a longer adaptation period to implement European standards, the interests of local oligarchs who have long postulated a desire to be able to export Ukrainian goods to Europe, but not to import European competitive products to Ukraine are satisfied; finally, it helped the EU to stabilise the conflict at least temporarily and to sit down at the negotiating table.

In the near future, due to continuing economic sanctions and the achieved stability in Ukraine, it would be difficult to expect a breakthrough in the normalisation of trade relations between the EU and Russia for some time, particularly since the differences in the regulatory standards and overall further EU-Russia relations will remain. Such stagnation would entrench the role of Russia as a holder of the veto power in regional integration processes. Consequently, this would show that the EU initiatives and bilateral projects with the countries of the region (such as Ukraine) could be blocked using aggressive measures as a result without incurring heavy losses.

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