

# Bridges over Convulsing Waters: the EU aspiring Eastern Partners' Role in the Regional Governance

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## *Abstract*

The enlargement of the European Union (EU) to the East in 2004 and 2007 so as to include ten former communist countries and two small Mediterranean islands has triggered new questions on the nature of EU governance. We argue that the accession of Central and Eastern European countries (CEECs) to the EU has affected governance patterns in the EU and beyond. Undeniably, the most recent waves of enlargement have had feed-back effects on Europeanisation mechanisms (Grabbe 2006). Also, the European Neighbourhood Policy (ENP) conditionality attached to the Eastern partners will likely follow similar patterns. The EU is proud of its Enlargement policy, “one of the most successful EU policies”<sup>i</sup>, and is inclined to extend the enlargement mechanisms to future frameworks as the ENP. Through the example of Ukraine, Moldova and Georgia, and possibly Belarus, we argue that the ENP conditionality contributes to the EU's governance export in the same way the preparations for the fifth Eastern enlargement did. Furthermore, we advance the idea that complying with ENP conditionality may bring EU aspiring Eastern partners closer to accession.

## Introduction

It has often been said, by scholars and politicians alike, that enlargement is the most successful foreign policy tool of the European Union (EU) (e.g. Vachudova 2006; Rehn 2008)]. However, using enlargement only as a foreign tool presents the danger of maintaining a tension between this policy and other EU foreign policy tools such as for example, the European Neighbourhood Policy (ENP). This tension requires automatically a compromise between these tools. The example of the aspiring ENP Eastern countries makes this necessity particularly evident. Indeed, having one or the other policies competing, or worst, excluding one another would be particularly dangerous for the consistency of the EU foreign action as a whole. Therefore now that the majority of European states have joined the EU, there is a need to assess *what the purpose of EU enlargement is* and, by extension, how is it affecting governance, especially in the aspiring countries. The subjects of this paper are the EU aspiring Eastern partners, Ukraine, Moldova, Georgia and Belarus.

In addressing these questions, we have to first consider the strategic aspect of the next enlargement if another expansion to the East, towards an inclusion of the Former Soviet Republics (FSRs), is to come on the table. A second consideration is a technical one, referring mainly to the question if they and the Union could manage their accession. A third could be the question of whether the subsequent enlarged EU would still be as effective and efficient in offering deeper integration. The latter question is perhaps a little difficult to assess and as such we will leave it outside the scope of this paper.

Looking at the first aspect of this issue, the strategic aspect of the EU expansion to the FSRs, extending the EU model of governance (however definition we take into account for this concept<sup>ii</sup>) beyond today's confines and building a *safe ring of neighbouring friends* through enlargement or ENP is a very attractive option. The question if the Union *has vocation to reach Vladivostok* is another, open for now, story, which again we will leave outside the present paper. In legal terms, the limits posed by the Treaty to the EU's enlargements concern only the questions if the aspirant country is or not an "European state", without clarifying what this exactly means, and second, that the aspirant has to fulfill the 1993 "Copenhagen criteria"<sup>iii</sup>. Based on this, Moldova, Ukraine and Belarus cannot, a priori, be excluded, and we will show why. The Caucasus states, as well as Turkey and Russia, represent for many, borderline cases, although in the case of Turkey the question is clear following the 3 October 2005 decision to open negotiations with this state.

In light of this preliminary presentation of the problematique, we will proceed as following: in **Section 1** we will present the main characteristics of the way the four countries comply with ENP conditionality to arrive to enlargement, **Section 2** identifies if indeed there is an "EU governance export" through the ENP conditionality the four countries are obliged to apply in order to receive ENP assistance, **Section 3** analyses, through theories of European integration, the stage of their 'Europeanisation', of adaptation to they have been socialized with EU rules

and norms, and if and if yes, how does this play in these countries' case pursuit of EU membership. **Section 4** assesses an exogenous variable which can play a deterring or, on the contrary, an accelerating role in the accession path of these three countries: the geopolitics of energy. The last section concludes.

### **Section 1. ENP conditionality: first step towards enlargement?**

What determines the European Union (EU) to offer the promise of membership? What determined the EU to offer the promise to Western Balkans and why not to ENP ex-soviet states as Moldova, Ukraine, Georgia and Belarus? Does the compliance with the European Neighborhood Policy (ENP) conditionality engender Europeanisation and does this play a role in the way EU grants membership perspective to thus Europeanised aspiring states?

Who can apply for EU membership? According to article 49 (TEU), every *European* state can apply for membership. The candidate country addresses its application to the Council, which acts unanimously after consulting the Commission and receiving the assent of the European Parliament, which acts by an absolute majority of its Members. The conditions of accession are laid down in a treaty of accession, which is subject to ratification by the acceding country and by all the Member States (Article 49 TEU). Later on, another condition was underlying, especially referring to the way EU reinvented itself as a as a community bound together by a set of norms and forms of governance. It was only in 1993, after the European leaders defined additional criteria that the Central and Eastern European Countries (CEECs) were offered openly the prospect of membership. The Copenhagen criteria further defined the enlargement theoretical criteria, leaving open the door for all countries that wanted EU membership. Therefore, the only practical obstacle was the fulfillment of the so-called 1993 Copenhagen criteria.

This conditionality is simple as it summarises principles all modern neoliberal states are organised according to, but the experience of CEECs shows that it is complex in implementation. The attractiveness of the EU as a modern form of political organisation made the conditionality unquestionably when aspirant countries try to adhere: they understand the fact that even without concrete promises, the conditionality is not up for discussion<sup>iv</sup>.

The EU exerts a fascinating attractiveness for the majority of states and people of Europe who experienced authoritarian regimes. Now, it seems to be the case of those which separated from Yugoslavia and the Soviet Union. The EU on the other hand does not seem to have found the appropriate response to those claims and the reassuring answer to the existing EU Members anxiety that the bigger EU is becoming the more unmanageable will be. However, in June 2003, the European Council assembled in Thessaloniki recognized the Western Balkans states, Albania, Bosnia and Herzegovina, FYROM, Serbia and Montenegro, and Kosovo, as potential

candidate states. As for the former soviet states (FSRs), the EU relegated them to the recently inaugurated and renewed with the ENP's Eastern Partnership<sup>v</sup>.

What is the position of the thus-relegated countries with regard to membership? With the exception of Belarus and Russia, the EU's Eastern neighbours intend to acquire a perspective for EU membership in the near future. Ukraine, Moldova, Georgia, Armenia have been making explicit their objectives to achieve full membership. Moldova is active in finding strategies to make itself attractive to the EU (Verdun and Chira 2008), especially by proving that its case is similar to the one of most Western Balkans countries to which the EU had opened the possibility of membership up. Ukraine seems to be selective and sequential in applying the ENP conditionality but it is successfully muscling up its way through the January 2009 gas transit crisis even though only a month before it has been refused a NATO accession road map. Georgia is deep in crisis after the August 2008 conflict and does not seem to recover under Sakashvili's leadership to accede at least to NATO. All in all, it seems that in these countries' cases, complying with Copenhagen conditionality type will not be enough. However, this is the first step and these countries have the example of the CEECs, which even before obtaining a clear membership promise in the early 1990s, have embarked on the road of implementing intensive democratic reforms in order to meet the EU requirements.

A reality check is here necessary. What the Eastern partners are promised under the ENP is just financial and diplomatic support from Brussels. To stall time, the EU came up with an alternative, the Eastern Partnership, which proposes boosting ties with Ukraine, Georgia, Armenia, Azerbaijan, Moldova and Belarus as a reward for democratic and free market reforms.

Under the new European plan, the countries mentioned will be offered financial aid, conditional free trade pacts and an even easier travel regime for their citizens (this could go as far as implementing visa free regimes), as well as new association agreements to be negotiated with the EU. In brief, under the 3 December 2008 proposed Eastern partnership the EU is trying to show that *the EU will do more*, in order to have these countries give up the accession dream at least for now.

*Table: The Eastern Partnership (Source: European Commission: Eastern Partnership 2008, IP, 3 December 2008)*

**A stronger political bond** The EU strives to *raise the level of aspiration* by offering new **Association Agreements** to those partner countries that are *willing and ready* to take on far-reaching commitments with the EU and that meet the essential conditions of ENP.

**Improved market access and promotion of free trade areas** The Association Agreements will include the goal of establishing *Deep and Comprehensive Free Trade Areas with each partner country*, once they have joined the WTO, free movement of goods, capital and services *much like the internal European market* does. On a multilateral basis, encouraging partner countries to develop a free trade network between themselves, which could, in the longer term, join up into a **Neighbourhood Economic Community**. The

new Eastern Partnership can help partners to develop the necessary capacities required to move closer to this goal.

**Increased mobility between the European Union and its Eastern Partners** The European Union is willing to gradually open its borders in a secure and controlled way. The Eastern Partnership foresees offering “**Mobility and Security Pacts**” to promote legal movement of people. A phased approach is foreseen for the Visa policy which aims at initiating talks on visa facilitation with partners, providing additional facilitation including the waiving of fees, improving Member State consular coverage through Common Visa Application centres and, in the longer-term, open dialogues on visa-free travel with all partners.

**Mutual energy security** The EU aims at including **Energy interdependence chapters in the Association Agreements** with Eastern Partnership countries. In this vein, the EU strongly advocates the negotiations on *Ukraine's and Moldova's membership in the Energy Community* as well as *the signature of Memoranda of Understanding on Energy Security with Moldova, Georgia and Armenia*. The EU intends to *enhance the political engagement with Azerbaijan, as a major hydrocarbon exporting partner to the EU*. Finally, a *Commission-Belarus declaration on energy*, covering hydrocarbon transit and energy sector reform should be discussed.

### **Comprehensive Institution-Building Programme**

**Support for economic and social development** The Eastern Partnership will help to tackle the less developed regions

**Multilateral initiatives of the Eastern Partnership** A **multilateral track** will support individual countries' efforts by providing a framework in which common challenges can be addressed (seminars).

- **five high profile flagship initiatives:**

**1. Integrated Border Management Programme** Border Management should be aligned to EU standards, a prerequisite for the progress on the mobility of persons.

**2. Small and Medium sized Enterprise Facilities** - giving an external stimulus to small and medium enterprises through technical assistance, risk capital and loans.

**3. Regional electricity markets, renewables and energy efficiency** - the integration of regional electricity markets, improving energy efficiency and increased use of renewable energy sources. It also includes the interlinking of the electricity grids.

**4. Southern energy corridor** - a key infrastructure initiative serving to diversify transit routes and sources of supply for the EU and its partners.

**5. Prevention of, preparedness for, and response to natural and man-made disasters**

**Implementation and Structure of the Eastern Partnership** Biennial summits plus annual meetings of Foreign Affairs Ministers to review.

### **Current EU Financial Funding in the Eastern Partner Countries**

The European Union already provides funding to the Eastern Partner countries for bilateral programmes under the **European Neighbourhood Policy Instrument (ENPI)**. Between 2007 and 2010 spending is as follows: Armenia 98.4 million Euro; Azerbaijan 92 million Euro; Georgia €120.4 million Euro (additional

funding up to 500 million Euro will be available for Georgia to cope with the consequences of the crisis in August 2008); Moldova 209.7 million Euro; Ukraine 494 million Euro.

### ***Continuity with Enlargement Policy***

Despite the fact that the ENP is to be a different policy and with the efforts to have the Eastern partners desire something different than accession, the ENP closely mimics concepts and instruments first developed by the Commission in the preaccession process of the CEECs and replicated in the SAP used by the EU in the Balkans (Kelley 2004; Magen 2006). As a result, in many respects this policy might involuntarily prepare neighbouring states for membership despite the rhetoric that this is not its aim.

There are a number of reasons why this policy can be considered as a preparatory path to membership. From an EU perspective, there was a desire to replicate the apparent success of enlargement as a verified instrument of EU foreign policy whose methodologies could be adapted and used again. A key feature of the ENP solution structure, at least formally, is the political and economic conditionality. The EU links the award of perceived goods (market access, and technical and financial assistance) to the acceptance of its rules regarding political, legal, and economic domestic conduct. Indeed, the external Europeanisation structures pursued by the EU (enlargement, SAP, ENP) follow mainly a strategy of “reinforcement by reward”. Moreover, at the bureaucratic level, the Wider Europe Task Force (i.e. ENP) was originally staffed by officials from both the enlargement and external relations DG’s, and practically all of the senior professionals responsible for the ENP’s development have transitioned to the new policy domain from work on enlargement or the SAP in the Balkans.” (Magen 2006: 397). Nobody denies the export of mechanisms from the eastern enlargement (fifth EU enlargement to eight CEECs and two Mediterranean countries in 2004 and to the last CEECs Romania and Bulgaria in 2007). On the contrary, all interviewees (Nov. and Dec. 2008 authors’ interviews with civil servants responsible of enlargement, ENP and political representatives) agree that the mechanisms which made the pride of the “overall successful” eastern enlargement - TAIEX, twining, etc. - are very much the same mechanisms of the so-called “Europeanisation East”. How do they work and what is their transformative influence towards achieving the aim of EU accession in the selected countries, the keen Moldova, Ukraine, Georgia and Belarus?

Early ENP pronouncements make conscious references to the Copenhagen criteria and the *acquis communautaire* as appropriate guidelines for the ENP countries. The Wider Europe Communication<sup>vi</sup> provides that “the *acquis* offers a well established model,” and it conditions the granting of economic and political ties to compliance with the *acquis*. The same pattern of imitation is evident in the ENP Action Plans, the agreements concluded between the EU and ENP states and its actuality and validity

stressed in the Eastern Partnership Communication from 3 December 2008. The EU-Moldova Action plan signed in February 2005 for example, made provision that the authorities from Chisinau will receive support from Brussels in order to harmonize its legislation with the *acquis*. Together with the Country Reports, the Action Plans constitute the main instruments of the ENP's system of inducing and monitoring compliance.

As for the perspective of the Eastern European neighbouring states, there is evidence that these states do not implement the reforms requested from Brussels only for short term advantages, such as market access, reduction to trade barriers, technical and financial assistance, visa facilitation. They indeed consider that these reforms represent a preparatory stage for EU membership.

### **The Attractiveness of the Enlargement Policy: a Powerful Foreign Policy Tool?**

The borderline cases of the countries of the Caucuses, Russia and Turkey are cases that challenge the notion of enlargement as a foreign policy tool. If one is to look at the strategic importance for the EU from a foreign affairs point of view, i.e. in maintaining the best possible relations with each of them, enlargement is the way the EU can do this: first, by answering the accession aspirations of each of them, and the way it deals with Russia, as one possible barrier to the FSRs EU integration.

The most courageous EU bureaucrats find themselves fearful of successive vetoes in the Council for eventual next enlargements. For now, they are committed to the agreed enlargement agenda, as it has been spelt out in the 2006 "Renewed Agreement on the Enlargement". They are also jealous of the success of the fifth enlargement, and would not change an iota in what the Council agreed of fear of diminishing their mandate even further, and thus compromising their dearly loved policy. Yet, they agree that progress in the way of reforms and voluntary compliance with the Copenhagen criteria may position any aspiring countries in a privileged position to be considered if the political momentum presents itself, i.e. if the political determination will come to be sustained by a miraculous change of mood within the EU member states public opinions. But for the moment the EU is extremely prudent in extending the enlargement agenda as it fears disapproval by the public opinion in EU member states. At the same time, nobody says that the accession of these countries is indefinitely off the table. Quite the contrary: if the political momentum presents itself, the progress in the way of reforms will likely bring the same results as that of the past few years<sup>vii</sup>. Exogenous factors as Russia's desire to keep these countries under its influence did not deter the political and reforms flow since the ENP inspired Action Plans have been put in place. And there were reasons to fear Russia's unhappiness in the matter. The inclusion of Belarus, for eg., the co-member of the "Union State" with Russia, could be especially painful for Moscow in a moment of stagnation of integration with this neighbouring state. It was just a few years ago that Belarus was contemplating deeper integration with Europe (for example introducing a monetary union). Under these circumstances, where a process of

implementation of the ENP-inspired EU-respective country Action Plans brings about applauded reforms by the EU, plus a favorable political momentum, a promise of membership is to be expected.

## **Section 2. Is there an “EU governance” export through the ENP?**

The first eastern EU enlargement was a success overall, even if not without criticism from the general public preparing one aspect or another. Yet quite a few more objections should be expected from the general public and in most Member States if the existing enlargement agenda is to be expanded. Broadening the agenda is perceived as a risk of weakening the Union. Furthermore, even the enlargement policy itself may come under increasing criticism. Indeed, expanding again soon may bring risks of diluting the objectives of the Union and delaying important internal reforms that can only further weaken the Union’s capacity to deal with further, well prepared, enlargements. Thus, even its proponents of further enlargements are for the moment inclined to oppose extending the agenda, working exclusively under the slogan “the agenda is the one we have” and we have to just “consolidate it”.

This means first of all dealing for now with the Balkans under the pretext “we cannot leave a hole in the middle of the EU”. The next step is to proceed with Turkey, following a political decision that has already taken. Both groups of candidates, the Balkans and Turkey, present tremendous challenges for the Union. Ensuring the success of the process of integrating harmoniously these candidates is a tough task.

For the Eastern Partnership countries, the implicit promise if reforms<sup>viii</sup>, hope that these countries might join is a driving force to apply the conditionality<sup>x</sup>. The EU is acting under the umbrella of applying the ENP conditionality for disbursing the ENPI aid, both sides have an expectation that this is a first step towards accession conditionality.

As for a time perspective, the EU officials are adamant that we only have to talk within the framework of the 2006 “Renewed agenda on enlargement”, which ... excludes talking about enlarging! Even saying “further enlarging later”, i.e. enlargement further the present agenda is out of question. Talking about a timeframe is excluded<sup>x</sup>. In brief, the FSRs have the right to apply under the Treaty, but we cannot know if the moment will come that the EU can assess their application. Yet, some talk that playing by the rules may bring a promise<sup>xi</sup>.

*What of each of these countries?*

Moldova<sup>xii</sup>

At the moment the Moldovan political elites’ bet on EU membership appears the most supported in the polls (77%).<sup>xiii</sup> This orientation was the safest internal political strategy to ensure the communist party’s re-election and permitted an

alliance between communists and the opposition to advance European integration. The adaptation in view of resembling EU candidates to membership has implied without doubt that Moldova had to incur considerable political costs (Russia's concern about this development, stemming from the more general over EU enlargement to the East - which has been watered down by EU's support to Russia's WTO accession - is a case in point).<sup>xiv</sup> But given the advantages Moldova acquired through the ENP, and more opportunities to open up naturally through the open relationship with the EU Member States, especially with neighbouring Member States, we can therefore safely assume that Moldova's embracing of the EU integration aim, is rather steadfast, it brings 'increasing returns', and changing it would not serve any logical political purpose, electoral for the party in power or ensuring Moldova's a safe international stand.

Moldova's communist ruling party plays nonetheless a double card. In the context of its diminishing popularity, the governing Moldovan communist party is using the East (Russia) – West (EU, NATO) disagreements, especially the disagreement towards the Russia's missile program, to attract political capital. First, it is playing some of its cards to get Russia to agree on some concessions over Transnistria. This strategy can work in the context where Russia, as the legal successor of the Soviet Union and where *Yedinaya Rossiya* ('United Russia') Party of the powerful Putin-Medvedev couple is growing in influence, is sensible, as it is interested on keeping former soviet Republics on its influence sphere, by contributing to solve their internal issues. Russia could therefore be willing to agree to temporary and inconsequential concessions to solve the Transnistrian conflict if this helps a complying Moldovan government. Second, as the role of the EU in the region and the popular support<sup>xv</sup> for EU integration is strong in Moldova. The party uses language that indicates clearly its support of Moldova's integration into the EU. In the case of EU's vision for Moldova we can argue that the EU kept a safe, unassuming and unengaging position: EU cannot be accused that it does not fulfil its promises of including this country in the club for the simple fact it never promised it membership!

## Ukraine

Ukraine is no longer seen as a slightly corrupt country. The reforms and the more frequent access of Ukrainians to travel in Europe and of Europeans to Ukrainians resorts for e.g., may sustain a more favourable view of the EU member states public opinions towards Ukraine's accession.

As for its EU perspective, Ukraine has always wanted to draw the parallel between the mechanisms in place now, through ENP, and the enlargement accession negotiations process (the adoption of the *acquis*). Ukraine would like a more thorough screening, which everybody agrees is an influential and significant. Certainly, there are similarities with the enlargement screening, but no monitoring although some elements exist under the ENP, and not the same depth, and certainly

not a similar political dialogue as the carrot/stick logic does not apply. In conclusion, the dialogue is weaker as no pressure possible from the EU. The same objective exists, but the approach may differ from country to country. There are for sure variations between Ukraine and Georgia, for example, and Moldova seems entitled to what Ukraine gets. One can look at the different ENP reports, it is difficult to assess what the impact of the ENP monitoring has been. Moldova, for example, the principal motor of reform is the ENP – prompted Action Plan – and this has certainly had an impact but one has to look carefully at its real impact.

## Georgia

In Georgia, where the support towards EU accession is quite strong, one has to ask himself if this support is going to be ultimately accompanied by the political one. As in the other eastern partners, in Georgia the political will is the strong variable, as well as the implementation of the *acquis* which is in the same time the strongest challenge.

## Belarus

Since the Russia's invasion of Georgia followed by the recognition of Abkhazia and South Ossetia has created a new, favorable reality with regard to Belarus. Indeed Russia today is seen by some, possibly even many, as posing a security threat to its neighbours, Belarus and Ukraine at first. The EU thus seems to have changed its strategy towards Belarus. On 17 December, the EU's High Representative for the Common Foreign and Security Policy Javier Solana welcomed the decision of the Belarusian Ministry of Justice to register the For Freedom movement, the key opposition force led by President Alexander Lukashenko's staunchest opponent Alexander Milinkevich. In Solana's words, legalizing the For Freedom movement will "further support positive developments in the relationship between the European Union and Belarus". The EU current strategy towards Belarus is in line with the ENP and the new Eastern partnership.

By virtue of their geographical location Belarus and Ukraine are likely to be more strongly influenced by impulses coming from the EU than countries further away in the periphery. The EU's new Eastern Partnership, due to be formally endorsed in spring next year, is a sign that the EU is prepared to make an effort to engage its new neighbours in a more structured relationship.

Of course in the current circumstances significant budgetary commitments proposed by the European Commission (600 million euro to be spent in 2010-2013) may be watered down. The prospect of opening European borders in due course for the neighbours to move freely may also run into opposition. And yet some new incentives are there. Will they be big enough?

### **Section 3. Towards Moldova, Ukraine, Georgia and Belarus' EU membership?**

In light of these developments, what kind of predictions offer the theories of European integration to the EU fate of these countries, Moldova, Ukraine, and Georgia, for which EU membership is not yet in the cards. These countries, keen in acquiring an EU perspective, are assigned to a more restrictive framework, the ENP, but an Europeanisation process is under way: how does this play in these countries' pursuit of EU membership?

Borrowing from theories of European integration we can offer discern two explanations that offer insights into why first Moldova, Ukraine, and possibly later Belarus and Georgia, may or may not be granted candidacy status. The first one, 'rational intergovernmentalism' (Moravcsik 1998; Moravcsik and Vachudova 2003) suggests that candidacy and ultimately membership is offered when the prospective candidate country has something to offer the incumbent EU Member States. This will confirm the argument of those who say that the next eastern enlargement will be accomplished on a strategic basis. And this generally refers to the security of energy supply. Indeed, the EU may be interested in obtaining energy security by associating these countries. Indeed, Ukraine is the only country with a secure and modern transit system for the main gas supply for the EU, the gas from Russia. Belarus has the most modern compressing facilities for this gas. Georgia is an important transit country for oil from the Caspian, and an alternative route to Europe. Both can therefore be important to secure alternative supplies of oil to the continent in order to get it independent from Russia and the Middle East. These arguments would have stand until now too. The fact that the EU Member States did not agree in the Council for a membership offer to these countries speaks of the uncertainty of what there is to gain from these countries at this time, and what to lose if Russia finds these arrangements awkward in its relations with the EU's Member States. Thus, the theory provides us with insights, but also has its limits.

A second approach 'social institutionalism' focuses on whether a country (here: Moldova, Ukraine, in first instance, and Belarus and Georgia possibly in a second instance) has incorporated norms and values resembling those of the EU (the liberal norms of social and political order in the domestic sphere, and in democratic peace and multilateralism in the international arena). Following this logic, the eastern partners, Moldova, Ukraine, Belarus, Georgia, Armenia and Azerbaijan seem to consider the EU rules as having an intrinsic value, regardless of the material incentives for adopting them (Börzel and Risse 2003; Kubicek 2003: 14-15; Schimmelfennig and Sedelmeier 2005: 19). This follows from the logic of democratisation through reforms these countries seem to follow, in a more or less uniform pattern, and independent of a strategy designed to convince the EU of their candidate suitability.

We argue that these two approaches do not satisfactorily explain the eastern partners' case. The rationalist intergovernmentalist account might very well explain the present political situation in Eastern Europe. However we would argue that

there is good reason to believe that weighing only “what’s in for us”, as the rationalist intergovernmentalists would do, would only offer a partial explanation of the phenomenon of the FSRs obtaining a promise of membership from the EU. Moreover, if the eastern partners complied with the rules and regulations required by the EU (Copenhagen-type requirements) opposition by individual Member States to these countries’ requests to be considered for membership will lose its influence in the negotiations. As for the social institutionalist approach, it seems unable to account for the importance of political motivation as a drive for seeking EU candidatureship – something that our research has suggested as a major force. From our research we noted a keen awareness on the part of the interviewees in the studied countries that by adjusting to EU rules membership might follow, and that positioning the country so that it would have a better chance applying for membership was a worthy objective. Moreover, these theories are designed to explain the behaviour of countries with an accession perspective, which is not the case of our countries. In other words we feel the existing explanatory approaches are inadequate to explain our findings. As such the policies of these non-invited, potential candidate countries of the future are ‘under-theorised’<sup>xvi</sup>, or ‘suffer from almost reflexive reliance on prior models (i.e. explaining the first eastern enlargements) which may not be suitable to the challenges the ENP attempt to address’.<sup>xvii</sup>

The theory we suggest to decrypt the trend the EU may follow in considering the aspiring FSRs is the ‘increased returns’ theory. Paul Pierson’s (2000) ‘increasing returns processes’ theory could offer what we think may be a more valuable framework as to why the aspiring FSRs’ efforts create path dependence towards EU accession. The basic idea is that aspiring FSRs’ efforts to converge with EU rules, through legal and institutional adaptation<sup>xviii</sup>, together with the country’s geopolitical situation and the support from EU Members States will put the countries in a good position to be eventually granted candidacy status. Unless ‘exogenous factors’, such as, for e.g., Russia’s pressure, armed conflicts, effects of the international financial crisis, etc., derail the process, we argue that aspiring FSRs’ will likely achieve the required degree of political and economic reform, as well as administrative capacity to cope with EU membership.

An explanation in light of this analysis points to the capability of the eastern partners to persuade the EU of their stability and their success in proceeding towards membership once and if the political momentum presents itself. A series of phenomena can produce increasing predictable courses of political events in Moldova, Ukraine, in first instance, and Belarus and Georgia possibly later on, towards ‘a single optimal outcome’ (Pierson 2000: 253), in our case, EU membership. A vision of ‘political equilibrium’ towards which the theory of ‘increased returns’ points out, which in our case is European integration, is an attractive aim in these countries where polls<sup>xix</sup> show increased popular support. The reverse, ‘steps away from equilibrium’ (Pierson 2000: 254) are more difficult than the ones before, and not safely to assume politically unless set to lose electorate.

The 'increasing returns' approach suggests that the benefits of any individual action or those of an organization are often enhanced if they are coordinated or 'fit' with the actions of other individual actors or organizations. The case of Moldova and Ukraine's legal and institutional adaptation to embrace the *acquis communautaire* particularly fits this description. The same approach points that it is best to 'bet on the right horse'. For Moldova and Ukraine politicians, as well as Georgians, this means to bet on the political choice ensuring the highest electoral returns, i.e., European integration. At the moment the wrong horse seems to be for the three eastern partners to align its foreign policy to Russia (which may change unexpectedly as during Russia's sudden embargo towards Moldova's products and Moldova's exclusion from the CIS trade agreement in 2003, during pressure towards Ukraine and armed intervention in South Ossetia in relation to Georgia). But as the approach suggests, actors must constantly adjust their behaviour to how they expect others (in this case, the EU and Russia, as well as the United States for the eastern partners seeking NATO membership) to act. If the EU does not commit, disappointment and accession 'fatigue' may take the overhand. In that case, EU membership may become the 'wrong political horse' to bet on, especially if Russia becomes more light-hearted towards its former satellites seeking now EU membership. So our analysis suggests also that while seeking EU membership, there may be time sensitivity for the eastern partners to adapt to the EU rules. For the moment, membership is not on the table, but the Association agreement to which the way is freed now since the adoption of the Communication of 3 December to further associate the Eastern partners, may offer a very profitable to bring closer these countries to membership should the right momentum come. Let us turn to a discussion of some of these countries.

#### **Section 4: A deterring Exogenous Factor? The Geopolitics of Energy and the aspiring FSRs' EU Integration**

In this section we will assess an exogenous variable, the geopolitics of energy, a factor that can play a deterring or, on the contrary, an accelerating role in the accession path of these three countries.

Energy is a powerful foreign policy instrument in the Kremlin's hands. The price that Russia's neighbours and perceived satellites nowadays, in contrast with the times of the Soviet Union, pay for gas, when it was practically free, is relevant. In the past it was free, now it is close to half the Western Europe pays which is very high for these countries. The same goes for the transit of oil and gas.

Ukraine is trying to muscle up its way by keeping the price of transit for the Russian gas to Europe high. Moldova and Belarus, less powerful, are doing a double game. Moldova's President Voronin showed to Putin at the CEI Summit in Chisinau in the Fall of 2008 that he is happy to give Russia a hand to rebuild the CEI during Moldova's presidency of the organisation in the first semester of 2009. On 22 December, President Lukashenko went to Moscow in the attempt to negotiate a

favourable gas deal with the Kremlin<sup>xx</sup> mirroring his good will to have the independence of South Ossetia and Abkhazia recognized by his country, which to date are only recognized by Nicaragua and Hamas, apart from Russia itself. Moscow is apparently extending preferential treatment to Minsk in gas matters in return for its loyalty<sup>xxi</sup>.

By contrast, the EU-Russia relations are to be read from the point of view of common interest related to energy offer and demand, as well as transit, hence the association to this cooperation of transit's countries as Ukraine and Belarus, rather than from the point of view of the post-Cold War. Moreover, the credibility of EU's energy policy depend on EU's aptitude in engendering cooperative solidarity as a new way of governing resources as energy sources and finding new alternative fuels and curtailing many of the activities enabled by today's conventional fuels.

The EU is presented with a new chance: to put together potential-conflict feeling industries (as it did in the 1950s with the coal and steel), today, *the extraction of energy generating raw materials, their refinement and the building transit of energy infrastructures*, and extend its successful model well beyond its borders, towards... Vladivostok<sup>xxii</sup>.

### **Back to theory...**

*Moldova, Ukraine, Georgia and Belarus ' EU accession: just one element in a much bigger picture?*

In light of the account regarding the geopolitics of energy in the part of the world subject to our research, more theoretical investigation is to be done. Indeed, in the region analysed, it appears that we do not have to do only with a mere reconfiguration of the balance of power (premised on changes in the distribution of powers across the system's units affecting only the polarity within an unaltered anarchical system of states as international relations realists would argue). Likewise, there is no question of traditional state sovereignty under attack, although the classical Westphalian system, rooted in the primacy of modern, territorial bounded sovereign state is subject to a post-territorial, post-modern (auto-)transformation. What is sure is that concepts and metaphors borrowed from theories of international relations (IR) and International Political Economy (IPE) as ``empire``, ``neo-medievalism``, ``multi-level global governance`` could help to make sense of recent changes in the structure of international regimes as the one analysed here, i.e., the reconfiguration of power in the post-soviet territory.

As during the post-Westphalian transformation, the reconfiguration of power in the post-soviet territory in relation to the exploitation and transport of oil and gas derivatives is giving us the first glimpse of a new fundamental transformation in the structure of the international system. We seem to look at the first post-Westphalian

change of the instruments by which foreign affairs are asserted: *energy rather than arms*.

Our case studies are the pieces of a strange puzzle: the intermediaries, allies, dependents of one of the biggest sources of energy holders in the world, Russia. As far as the world is slowly heading towards the dreaded Peak Oil (the turning point for the transition from a century-and-a-half during which the available supply of oil grew each year, to a future characterized by declining annual supplies)<sup>xxiii</sup>, and a protocol (as for example the proposed *Oil Depletion Protocol*<sup>xxiv</sup>) to regulate it and manage it is not in place, energy may trigger an escalation of violence in the international arena. This transformation in the structure of the international system calls therefore for instruments of global governance able to avail armed conflict. *Cooperation in a context of multi-level global governance is the instrument able to achieve it.*

In this context, scholars looking at the EU-FSRs aspiring to accede to the EU are often falling into the trap of not contextualizing these countries' relations with other international organizations and with other countries, especially their neighbors, and looking at the EU-aspiring countries relations just in the context of the ENP. EU aspiring FSRs could be the missing link of a more open cooperation with Russia in a more multi-layered, global governance of world's energy supplies.

Thus, one debate looks at whether the study of these kinds of interactions can go "beyond traditional, intergovernmental conceptions, to embrace a governance<sup>xxv</sup> perspective"<sup>xxvi</sup>. Along with these debates<sup>xxvii</sup>, it appears to us that innovative ways of governance (as identified in Toemmel and Verdun) seem to emerge in the case of the inter-regional politics of energy in Europe concerning EU and Russia, and the countries of the region among which our cases. This is not an explored field by the theory. According to us, there are two ways of exploring them: an innovative governance approach (finding the right combination of methods – hierarchy, cooperation, negotiation, competition - which goes into the inter-regional politics of energy in Europe concerning EU and Russia), informed with insights from theories of European integration, particularly *rational intergovernmentalism* ("what's in for us", where all three parts, the EU, Russia and the aspiring FSRs find their count in the sharing of common interest), and *path dependency* (once some mechanisms are in place towards the achievement of a perceived optimum political aim, i.e. reforms engendered through ENP mechanisms but with a view towards EU integration as in the case of our case studies, it is difficult to go back without being politically penalised). But this is the subject of a new research.

## **Conclusion**

The eastern neighbours have the vocation to accede to the EU but the EU is guarding itself to commit until the existing enlargement Agenda as agreed in 2006 is consolidated. Of course, the hope is there and many of the EU Member States are favourable in principle to seeing more of the eastern neighbours acceding.

The ENP reports show a mixed picture, however: there is some good progress in certain areas whereas less in others. The red thread is the political will and the consistency. In Moldova, for example, the principal motor of reform is the ENP – prompted "National Reform Action Plan" EURMAP – and this has certainly had an impact on reforming this country's institutions and laws in the way the EU desires. But one has to look carefully at the durability of this impact. In Georgia, the incidents in August 2008 as well as the delays in being accepted as a NATO member stopped to a tough halt its dreams to get closer to an EU candidate suitable position by stopping this country's impetus to adapt EU rules. The advancement in the way of reforms may accelerate the process of integration and if the political will is still there, and because things move historically (as the example of the CEECs integration and of the very rapid opening in the case of the Western Balkans), we may expect any kind of development, including membership perspective.

These countries are relegated to the ENP framework, more cooperation is to be expected under the Eastern partnership, and they will be considered one by one in the very cautious way to open up to them the perspective of membership. The approach to get the EU's attention differs also from country to country and this is according to each country specificities: Moldova is a smaller country, with closer – although dysfunctional – ties with an EU members State, Romania; Ukraine is a bigger state, richer in resources, which can offer obvious advantages to the EU if it joins, but in the same time and for the same reasons, may suffer from stiffer opposition from the EU member states public opinions. Georgia, which can offer its important positioning as an important energy route for Europe, was very keen in getting closer to the EU. It seems as though its wings have been brutally cut by the wakeup call in received in August 2008, and by the geographical handicap. There are therefore for sure variations between Ukraine and Georgia approaches to get EU's attention, for example, and Moldova seems to feel that it is entitled to what Ukraine gets.

Contrary to any preliminary assertions, the possible governance of energy supplies the world face, and Russia implication into that, may on the contrary present the EU with the opportunity to come up with alternatives in terms of global governance of this matter, and especially through cooperative solidarity. The aspiring FSRs can play favorite roles in this regional play, and turn this role in their favor, either negotiating their EU entry, preferential prices for oil and gas from Russia, NATO entry, etc.

We can therefore assume that these two factors will perpetuate attitudes to make these processes endure. And if the other major factor, i.e. EU's willingness and capacity to enlarge, is also in place, we can expect that this country's European integration objective will be attained.

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### NOTES

<sup>i</sup> Quote from DG Enlargement officials, authors' interview, Brussels, Nov. 2009.

<sup>ii</sup> To give definitions.

<sup>iii</sup> The Copenhagen European Council of June 1993 laid down the basic criteria for accession which future members would have to meet in addition to the conditions in the Treaty, namely: 1. a political criteria: stability of institutions guaranteeing democracy, rule of law, human rights and respect for and protection of minorities; 2. an economic criteria: a functioning market economy and the ability to cope with competitive pressure and market forces within the Union; and 3. the full adoption of the *acquis communautaire*; adoption of the common rules, standards and policies that make up the body of EU law. In December 1995, the Madrid European Council revised the membership criteria to include also the appropriate adjustment of administrative structures between the membership criteria. The Copenhagen criteria further defined the enlargement theoretical criteria, leaving open the door for all countries who wanted to accede to the EU. Therefore, the only practical obstacle was the fulfillment of Copenhagen criteria. This great conditionality machine is simple in essence, while hugely complex in implementation. If you sincerely want to join the club, here are the rules you have to respect, namely the infamous 30,000 pages of EU legislation included in 29 different negotiations chapters.

<sup>iv</sup> Some authors, Heather Grabbe among them, agree, although analysed why aspirant states apply domestically with the Copenhagen criteria.

<sup>v</sup> European Commission, Eastern Partnership 2008, IP, 3 December 2008, available at <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/08/762&format=HTML&aged=0&language=EN&guiLanguage=en>, last accessed 11 January 2009.

<sup>vi</sup> Available at [http://ec.europa.eu/world/enp/pdf/com03\\_104\\_en.pdf](http://ec.europa.eu/world/enp/pdf/com03_104_en.pdf), last accessed 12 January 2009.

<sup>vii</sup> As results from authors' interviews with DG Enlargement officials, Brussels, 25 November – 2 December 2008.

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- <sup>viii</sup> Authors' interview, Brussels, 2 December 2008.
- <sup>ix</sup> Authors' interview, Brussels, 2 December 2008.
- <sup>x</sup> Authors' interview, DG Enlargement, Brussels, 25 November 2008.
- <sup>xi</sup> Authors' interview, Brussels, 2 December 2008.
- <sup>xii</sup> Verdun and Chira, 2008, pp.
- <sup>xiii</sup> EURASIA, IDIS VIITORUL, AXA, 2008, p.
- <sup>xiv</sup> In its attempts to keep former satellites within Russia's influence, the *Yedinaya Rossiya* ('United Russia') Party of Vladimir Putin even went on to propose a joint economic area - a kind of a Eastern-European union to include Russia, Belarus, Kazakhstan, Ukraine, Turkey, Moldova and some other countries, aside of integration forms as CIS and GUAM active in the region. The *Stolichniye Novosti* [Capital City News] newspaper of Moscow quoted Russian State Duma deputy Sergei Markov as saying that such economic area should be analogous to the European Union, and should use an analogous organization model. *Yedinaya Rossiya proposing to create an alternative to EU*, Infotag, 7 August 2008.
- <sup>xv</sup> EURASIA, IDIS VIITORUL, AXA, April 2008.
- <sup>xvi</sup> Magen, p. 387.
- <sup>xvii</sup> *idem*, p. 383.
- <sup>xviii</sup> Parliamentary Assembly of Council of Europe, 2007, p.2.
- <sup>xix</sup> To give source.

<sup>xx</sup> 'President Lukashenko had a very good reason to head to Moscow on Christmas Eve. According to some reports, he had hoped to secure the price of \$128 per 1000 cubic meters of gas in 2009 but in the end had to settle for \$140 (some sources quote \$160). Curiously, neither Gasprom, nor Beltransgaz were present at the talks in a sign that the deal was struck at the highest political level and that the two companies were virtually irrelevant. Gasprom officials may be unhappy as they had hoped to press Minsk into paying 220-230 dollars next year. In the attempt to unpack the non-transparent price setting mechanism governing transactions between Gasprom and Beltransgaz (Belarusian state company 50% owned by Gasprom), experts refer to the existing 5-year contract between the two gas monopolists. The contract *inter alia* prescribes that for 2009 the number "shall be calculated on the basis of the gas price paid by Germany minus the 30% export duties (that Germany pays), minus transport expenses and minus 20% discount". The price may be revised only once a year to take account of the latest market trends'. Prokhorova (2008), available at <http://www.eu-russiacentre.org/our-publications/column/christmas-tale-president-lukashenko.html>, last accessed in 5 January 2009.

<sup>xxi</sup> 'On the issue of recognition Alexander Lukashenko, who is not a novice in the game of playing Russia against the EU, made a smart move leaving it to the recently elected Belarusian parliament to decide. By doing so, he can keep on the right side of the EU. If the legislature supports the recognition of Georgia's two breakaway provinces, he may write it off as the downside of the democratic reform. But the space for Lukashenko's manoeuvres is gradually shrinking. From the EU's standpoint Minsk is on probation due to expire in April next year. By then Minsk has to prove that its liberalization drive is earnest and sustained. In August Lukashenko took a step in the right direction by releasing the last internationally recognised political prisoners. The EU is closely watching this game.' Prokhorova (2008), available at <http://www.eu-russiacentre.org/our-publications/column/christmas-tale-president-lukashenko.html>, last accessed in 5 January 2009.

<sup>xxii</sup> The idea has been already circulated among theorists of European integration (Schmitter – author's interview), (Nies, 2008).

<sup>xxiii</sup> Heinberg (2006), p. 7.

<sup>xxiv</sup> Drafted by Dr. Colin J. Campbell, Heinberg (2006), p. 5.

<sup>xxv</sup> Magen, (2007), p.365.

<sup>xxvi</sup> The governance approach had its origins in two different sets of conceptual perspectives. The first, referring to "governance without government," was elaborated by Rosenau and Czempiel (1992; see in

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particular Rosenau 1992) with regard to international relations or, more specifically, to order in world politics. In his seminal article, Rosenau argued that, although a global public regime, let alone a world government, does not exist, some kind of order is being established. It results from cooperation among states, creating international regimes, and from complex interaction between a plurality of actors, both public and private or nongovernmental, pursuing different objectives, but all contributing to provide common goods and thus to establish order in a globalizing world. The second conceptual perspective is rooted in research on changes in statehood at the national level (Kooiman 1993, 2003; Rhodes 1997; Benz 2004a). In this context, the emergence of new or alternative modes of governance is seen as a reaction to a declining capacity of the state to direct economic growth and social progress and to solve complex problems of modern societies. Scholars of this approach assume that public regulation and intervention are increasingly being shared with or partly delegated to private or nongovernmental actors. This in turn requires enhanced coordination between different actors, thus shifting modes of governance from hierarchy to cooperation, from regulation to delegated self-regulation, from top-down political steering to horizontal coordination. Both these approaches, whether referring to national political systems or to the international realm, have in common that they contest the exclusive role of the state in providing common goods and shaping public order. (Toemmel and Verdun, 2009, p. 10-11).

<sup>xxvii</sup> See Schimmelfennig and Wagner, (2004), pp. 657-660.