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**The Impact of the EU on political transformation in
Central and Eastern Europe. From enlargement to
ENP. With a Case Study on Ukraine.**

M.A. Dissertation in Advanced European and International Studies

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ABBREVIATIONS

| | |
|---------|--|
| AA | Association Agreement |
| AP | Action Plan |
| BTI | Bertelsmann Transition Index |
| CEECs | Central and Eastern European States |
| CFSP | Common Foreign and Security Policy |
| CIS | Commonwealth of Independent States |
| DG | Directorate Generale |
| EC | European Commission |
| EFTA | European Free Trade Association |
| ENP | European Neighborhood Policy |
| EU | European Union |
| EUBAM | Border Assistance Mission on the Moldovan-Ukrainian border |
| EUROMED | Euro-Mediterranean Partnership |
| GMP | Global Mediterranean Partnership |
| IFIs | International Financial Institutions |
| JHA | Justice and Home Affairs |
| NATO | North Atlantic Treaty Organization |
| NEA | New Enhanced Agreement |
| OSCE | Organization for Security and Cooperation in Europe |
| PCA | Partnership and Cooperation Agreement |
| R&D | Research and Development |
| SDLA | State Department for Legal Approximation |
| TACIS | Community Technical Assistance Programme for the Commonwealth of Independent States |
| TAIEX | Technical Assistance and Information Exchange |
| TCE | Treaty of the European Community |
| TUE | Treaty on European Union |
| WTO | World Trade Organization |

INTRODUCTION

Until the recent enlargements in 2004 and 2007, the enlargement policy was considered to be the most effective among all of the foreign policy tools of European Union in bringing stabilization and prosperity in Europe. For most of the Central and Eastern European countries the goal of accession remained at the core of their foreign and domestic policies. The transition from highly centralized countries with the dictatorship of communistic party and the system of central planned economy; to democracy (in Western understanding of this term) where free market economy prevails, is an enormous challenge. Most transformation costs undoubtedly lie with the society. Therefore building and stabilizing a democracy is highly uncertain when the majority of the population is disappointed with the reforms and often even in opposition to them. As past experience has proved, such uncertainty can be mitigated if adequately important incentives are on offer for those states. Membership perspective, “the golden” carrot of EU, has undoubtedly “passed the test”, and was an important factor supporting democratization and stabilization process in Central and Eastern Europe. Strength of this approach was the assurance that after a thorny and complex transition period and commitment to EU’s values, the ultimate reward would be membership, hence the possibility to influence EU’s politics from the inside.

The crucial factor in the process of Europeanization is unquestionable the issue of political conditionality. There are some authors who attribute the main role in promoting democracy to economic development in a given country or transnational exchange. Political conditionality, the top-down mechanism is the factor that can influence reform implementation at start. While economic development and transnational exchange, bottom-up mechanisms are rather those factors that contribute to further consolidation of democratic trends. Often considered as separate factors, political conditionality, economic development and transnational exchange, all contribute to the promoting democracy, however each to a different extent. According to Frank Schimmelfennig:

“Political conditionality is a strategy of reinforcement used by international

actors to bring about and stabilize political change at the state level.[...] In applying political conditionality, they set the adoption of liberal-democratic norms by the targeted states as conditions for rewards by the Western international community. Rewards can be social, such as international recognition or public praise by the international organization, or material-such as financial assistance, trade liberalization, or military protection”¹.

It is widely acknowledged that in order to successfully influence domestic changes within a target country, several conditions should be fulfilled. First and foremost the costs of implementing reforms should be lower than the ultimate benefits of granted award. Furthermore, political conditionality needs to be credible. It means that the respective country on the one hand is aware that non-compliance with stated goals will be followed by assistance being withheld, and on the other hand this country is assured that the successful outcome of implementing reforms will be granted with an award. Finally, criteria of determinacy and legitimacy of conditions are indicated by some authors as factors enhancing the credibility of political conditionality².

Under the enlargement process political conditionality consisted of strong and credible incentives that contributed to a systematic, mostly uninterrupted adoption of fundamental democratic norms and practices.

However, despite enlargement “success story” EU has invented another tool for democracy promotion. European Neighborhood Policy (ENP), officially launched in 2004 was an answer to the extending queue of applicants waiting at EU’s doorstep and the omnipresent feeling in Brussels that EU has just reached its absorption limits. The ENP’s objective, projecting stability and prosperity in EU’s neighborhood does not basically differ from the one under enlargement process. However, the incentives

¹ Schimmelfennig F., “European Regional Organizations, Political Conditionality, and Democratic Transformation in Eastern Europe”, Paper prepared for Club de Madrid - IV General Assembly, Prague, 10-12 November 2005, p. 1.

² Schimmelfennig F., Sedelmeier U. (2005): „Introduction: Conceptualizing the Europeanization of Central and Eastern Europe”, in: Schimmelfennig F., Sedelmeier U.(eds.), 2005, „The Europeanization of Central and Eastern Europe”, Cornell University Press, Ithaka and London, pp. 12.

proposed are of different nature. While the “golden” carrot for candidate states is future accession, the ENP partner states are offered the future perspective of closer relations with EU. Evidently the former is not equal to the latter. Hence, it is interesting to analyze how EU is willing to influence transformation of partner countries using ENP incentives. The aim of this work is not to undermine the whole idea lying at the basis of this new EU’s foreign policy instrument. It needs to be kept in mind however, that the situation in the international environment evolves quickly and often in an unexpected way³. Although ENP has already shown a certain level of flexibility I will argue in the following chapters that in some cases ENP is not the right answer.

This work is organized as follows. The first chapter is a presentation of processes taking place under the EU foreign policy that contributed to the European Neighborhood Policy (ENP) as a general replacement of the enlargement policy. To have a better idea of the role that enlargement plays in the EU’s periphery the history of this process is presented at the beginning. Next I will analyze the criteria that a candidate country needs to fulfill in order to join the EU and the importance of political conditionality in the process. The second part of this chapter is dedicated to the ENP. What were the driving forces behind ENP’s creation, what are the features of this policy, its geographical scope and instruments? Those are just central questions that I’m dealing with in this part of my master thesis. In the second chapter I attempt to present a study case of Ukraine with regard to ENP’s capacity to influence progress of democratic changes without offering membership perspective. First, a general overview of EU-Ukraine relations evolution is given, since the latter has gained independence, which contributes to a better understanding of the present situation between both sides. Afterwards the events of the Orange Revolution will be presented and their impact on Ukraine’s profile within EU’s agenda. Finally, I will undertake the question whether ENP is not an outmoded framework for EU-Ukraine relations and whether EU shouldn’t officially grant Ukraine a long-term membership perspective. Nevertheless, since Ukraine still remains in the portfolio of the ENP it is

³ The recent examples of 2003 Rose Revolution in Georgia and 2004 Orange Revolution in Ukraine.

crucial to evaluate what prospects of development has this policy. Therefore the third chapter brings us closer to the voices of support and of criticism coming both from academic circles and political elites. Since this policy in the recent times finds itself at the crossroads the special attention is attributed to the different positions of EU's member states (France, Germany and Poland) as they are the crucial "players" in the future development of the ENP and several hypothesis of its evolution will be presented. This part should give us a clearer picture of ENP's genuine capacities, existing challenges but first and foremost of possibilities of its evolution, regarding the question of membership for Eastern European countries.

I. Evolution in EU's foreign policy. From enlargement to European Neighborhood Policy

1. Enlargement

1.1. History

The history of European Construction is tightly linked with the process of deepening (which means progressive delegation of national powers to the supranational level in an extending field of policies) and widening (geographical extension of EU's borders by accepting new member states). The idea of integration and accession of new countries was present from the very beginning in the European Community, and since its creation (in 1.01.1993 when the Treaty of Maastricht came into force we no longer speak about European Communities, but the European Union) six rounds of enlargement took place⁴. The first enlargement process took place in the early 1970ties and did not pose any problems regarding the level of democracy in candidate states. It was the accession of Greece in 1981, then Spain and Portugal in 1986 that for the first time proved the effectiveness of political conditionality in enlargement processes. The membership perspective was an important factor in democracy consolidation as the new member states witnessed the collapse of authoritarian regimes only in 1970s. The third enlargement round, similarly to the first is generally considered as a smooth and easy one. The "real" history of political conditionality in enlargement processes begins with the collapse of the Soviet Union and the emergence of new sovereign actors on the European scene, that is Central and Eastern European Countries (CEECs). In the purely political field we can consider that a sort of democratic unity existed among Western European countries. Despite some differences in political and constitutional solutions, those states were characterized by a general similarity of institutions and political

⁴ 1973 (I) – Denmark, Ireland, United Kingdom; 1981 (II)- Greece; 1986 (III)- Portugal,Spain; 1995 (IV)- Austria, Finland, Sweden; 2004 (V)- Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovak Republic, Slovenia; 2007 (VI)- Bulgaria, Romania.

values based on principles of pluralism and liberal democracy. Evidently it was not the case of CEECs engaged in difficult and uncertain transition processes from centrally managed socialist states to decentralized democratic countries. The significance of EU membership perspective for those states is hard to be measured in scientific terms, however it is widely acknowledged that the enlargement process that ended in 2004 and 2007 was a “success story”.

After a certain time of reluctance among Western European Countries toward “Neighborhood” membership aspirations, finally in 1993 EU concluded the Association Agreements in which it has officially recognized the candidate status of CEECs. However the most consolidated democracies in the Eastern Europe had to wait another five years for the opening of the accession negotiations. The term negotiations should not, however, be misunderstood as the accession negotiations are about the conditions and the schedule for adopting the EU’s *aquis* by the candidate state, which is certainly not negotiable.

Finally, after the difficult period of implementing reforms, when the chapters of *aquis communautaire* closed gradually one by one, in 2004 and 2007 the CEECs joined EU. Those dates were, as observers stated, the historical moments of the final reunification of the continent.

Today EU has opened the accession negotiations with two states, that is Croatia and Turkey. In December 2005, the Former Yugoslav Republic of Macedonia was granted the status of candidate state. There is another category of states, considered as the potential candidates for EU membership. In 2003 EU adopted the Thessaloniki agenda, which confirms the perspective of the future accession of Albania, Bosnia and Herzegovina, Montenegro and Serbia.

1.2. Who can join the European Union?

The criteria of accession to the European Union gradually evolved in line with the progress of the European Construction. The major changes emerged after the collapse of communism in 1989, with the appearance of new candidate states. In comparison with the experiences of previous enlargements, those countries were not at all consolidated democracies, since they had just entered the path of transition. Hence, the European Union had to change its approach toward applicants and restrict accession conditions. This shift in EU's foreign policy is best observed within the Treaty on European Union signed on February 7, 1992. According to the Article 11 "it is one of the main objectives of the common foreign and security policy to develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms".⁵ Article 49 of above mentioned Treaty declares that "Any European State which respects the principles set out in Article 6⁶ may apply to become a member of the Union."⁷

For the first time a coherent list of accession criteria was established during the Summit in Copenhagen in 1993. Those conditions, known better as "Copenhagen criteria", are the following:

- At the political level- the stability of institutions guaranteeing democracy and the rule of law, human rights, and respect and protection of minorities;
- At the economical level- the existence of a functioning market economy and the capacity to cope with competitive pressure and

⁵ Treaty on European Union (TUE), Article 11, available at: http://europa.eu/eur-lex/en/treaties/dat/EU_consol.pdf

⁶ Article 6 Treaty on European Union (TUE) „The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States.” Available at: http://europa.eu/eur-lex/en/treaties/dat/EU_consol.pdf

⁷ Treaty on European Union (TUE), art. 49, available at: http://europa.eu/eur-lex/en/treaties/dat/EU_consol.pdf

market forces within the Union

- Acceptance of the Community *acquis*: ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union⁸.

1.3. Political conditionality in recent enlargements.

The concept of Europeanization⁹, which in its broadest meaning “refers to changes in core domestic institutions of politics and for governance, undertaken in the processes of adaptation for European Integration”¹⁰, has already been the subject of extended academic studies. For the needs of this research I will present the characteristics of the Europeanization process within EU’s recent enlargements (that of 2004 and 2007) and I will try to point out the main factors that contributed to the successful outcome of the domestic transition in post-communistic states. As it was already mentioned, during the most recent enlargements EU influenced democratic changes in candidate countries by applying political conditionality to an extent not exercised in previous cases. It needs to be recalled here that the process of transition in Central and Eastern European Countries (CEECs) has presented enormous challenges for societies and governments. First of all, due to domestic conditions that mostly favored the democratic changes and to the omnipresent feeling of rejoining Europe, CEECs can be considered now as examples of a successful transitions. However, in order to achieve such an outcome, for countries that were facing the important internal obstacles (the biggest one - society disappointed with implementation of reforms, easily influenced by euro-skeptic trends), the external incentives were crucial. The membership perspective, officially declared in 1993 was

⁸ Further information concerning the “Copenhagen criteria” available at EU official site:

http://ec.europa.eu/enlargement/enlargement_process/accession_process/criteria/index_en.htm

⁹ For the need of this research I’ll refer to the EU-centric notion of Europeanization, however according to other authors, like Helen Wallace (2000), term EU-ization would be more accurate.

¹⁰ Featherstone K. (2003): „Introduction: In the Name of Europe”, in: K. Featherstone and C. Radaelli (eds.), „The Politics of Europeanization.”, Oxford: Oxford University Press, pp. 4-26.

the incentive that triggered the adoption of liberal democratic rules.

What was the major strength of EU's instruments at that time? EU political conditionality follows the logic of reinforcement by reward¹¹. It implies that EU presents a variety of conditions that candidate state needs to fulfill in order to receive the reward from EU- that is full membership. It is a strategy of rewarding and withholding of the reward, however it never includes the use of coercive force (to punish for non-compliance) or the use of an additional support (toward reluctant government). That's why we call this political conditionality a positive one.

In order to present a deeper and more comprehensive analyze of EU political conditionality in the enlargement process I will refer to the three fundamental criteria, already mentioned in the Introduction i.e.: the size of the reward extending the costs of compliance, credibility and determinacy and legitimacy of conditions.

Starting with the size of the reward, unquestionably the promise of enlargement was more powerful and had stronger influence on the candidate states than any other incentive offered by EU, for example partnership cooperation. The list of incentives that were directed to CEECs consisted of the access to European internal market, access to the subsidies of the EU's agricultural and regional policies, full-participation in the decision making process, only to name the most important ones. In fact some significant benefits were available even before the CEECs joined EU, namely the cohesion funds like ISPA, PHARE or SAPARD. Those instruments helped to rebalance the costs and benefits of the obligations' fulfillment and consequently they contributed to a higher compliance of the targeted governments.

The credibility of EU's conditionality that is, on the one hand EU's threat to withhold the reward in case of failing to adapt the rules, and on the other the promise to deliver the reward in case of compliance, were both high. Especially the credibility of EU's threat to withhold the reward could be clearly observed in the case of Latvia and Slovakia. In 1997, both countries were excluded from the list of candidates invited to the accession negotiations process due to the reluctance of their

¹¹ Schimmelfennig F.(2002): „International Socialization in the New Europe: Rational Action in an Institutional Environment.” *European Journal of International Relations*, 6: 109-39.

governments to comply with EU requirements. In the first case, anti-Russian orientated Latvian government¹² opposed legislation reforms that would facilitate the naturalization process of the Russian-speaking immigrants that lost their Soviet citizenship after the dismantlement of the Soviet Union. In the second, Slovakia's new elected government, headed by Meciar, introduced an authoritarian course into politics within period of 1994-1998, by neglecting such fundamental democratic basis as constitutional balance of powers, independence of judges and finally the freedom of media. EU reacted harshly in those two cases of non-compliance, contributing to the eventual domestic changes in line with EU requirements.

The third aspect, determinacy and legitimacy of the conditions however note certain shortcomings. Firstly, as Mineshima points out, the political conditions were vaguely defined and consequently provoked confusion within targeted governments about necessary steps to take that would satisfy Brussels¹³. Secondly, EU's requirements lacked legitimacy, which is best shown by the example of minority rights protection, since those rules were heterogeneously adopted by EU member states and there was no clear accord about the position of minority rights protection within EU's legislative order.

Despite this last negative aspect of EU's conditionality, in the study of Frank Schimmelfennig and Ulrich Sedelmeier that presented the explanatory factors of Europeanization process in CEECs, we find following results:

“Our research has confirmed the extremely important and strong links between enlargement and Europeanization in Central and Eastern Europe. [...] Moreover our research has shown that enlargement is the main driving force and the main condition of effective EU rule export in this region. [...] In the absence of enlargement and accession conditionality, the export of EU rules would have remained limited, patchy

¹² Not surprisingly keeping in mind the strong „Russification” of the Latvians during the communistic period.

¹³ Mineshima D.(2002): „The Rule of Law and EU Expansion”. *Liverpool Law Review* 24: pp. 77-87, quoted in:

Shimmelfennig F., Sedelmeier U. (2005): „Introduction: Conceptualizing the Europeanization of Central and Eastern Europe”, in: Shimmelfennig F., Sedelmeier U. (eds.), 2005, „The Europeanization of Central and Eastern Europe”, Cornell University Press, Ithaka and London, pp. 12.

and slow [...]”¹⁴

In other words, through the enlargement process EU exercises its external governance on countries that still are far from formally entering the organization.¹⁵

2. European Neighborhood Policy- “Accession is not the only game in town”¹⁶- in research for alternative tracks in EU’s foreign policy.

2.1. The origins - Impact of 2004 and 2007 Enlargements on EU policies towards its Neighbors.

The enlargements of 2004/2007 were incontestably significant moments in EU’s history that marked definitively the reunification of the European Continent, mistakenly divided for almost half of century. In these terms the enlargements were unprecedented, because for the first time in the history of European Project, twelve countries were offered the membership, and the majority of those countries were part the Soviet Union’s block only 15 years earlier. Therefore, the idea of replacing the policy of enlargement by creating a new instrument of EU’s foreign policy towards its Neighbors emerged slowly in the first post-millennium years as the moment of the biggest enlargement in the history of European Union was inevitably coming closer and real. In fact the first initiative came from the British Foreign Secretary Jack Straw, who in his letter addressed to Commission President Romano Prodi, in the spring 2002 presented the idea of EU’s new foreign policy that would cover the relations between Brussels and future Eastern neighboring countries, namely Ukraine,

¹⁴ Shimmelfennig F., Sedelmeier U.(2005): „Conclusions: Impact of the EU on the Accession Countries”, in: F. Shimmelfennig, U. Sedelmeier (eds.), 2005, „The Europeanization of Central and Eastern Europe”, Cornell University Prss, Ithaka and London, pp. 211.

¹⁵ In fact, due to its strict conditionality EU has the potential to influence the outsiders even on a higher scale than the actual member states.

¹⁶ Prodi R.(2002) A Wider Europe – A proximity Policy as the key to stability. Speech by the President of the European Commission at the Sixth ECSA-World Conference “Peace, Security and Stability International Dialogue and the Role of the EU”, Brussels, December 5-6, 2002.

Belarus and Moldova. It is interesting to observe that in this very first concept the EU's Southern Neighbors weren't taken into consideration and the basic intent was to grant the new Eastern bordering countries the status of "special Neighbors" in order to provide substantial incentive that would contribute to further development of those countries and stabilization in the region.

In 2003, the European Neighborhood Policy was launched with the publication of the European Commission's Communication "Wider Europe". The new chapter was opened in EU foreign policy. One year later the next Commission's Communication "European Neighborhood Policy – the Strategy Paper" presented a more detailed plan. This document indicated more precisely the aims and challenges of future relations between EU and its Neighbors and as the previous Neighbor policy, that is enlargement policy, the main objective was to extend the zone of security and prosperity in Europe¹⁷.

To fully understand the reasons why EU had to rearrange the way it maintained relations with neighboring countries, it is crucial to present the external and internal implications of 2004/2007 enlargements that have been incontestably unprecedented and multidimensional exercise¹⁸. The direct consequence of the enlargement process was the development of a new external dimension of European Union, as it had now become a direct neighbor of Eastern and South-eastern European countries. The extended European border now passes from Barents Sea in the North, through the Crimea in the South-East up to Casablanca on the Atlantic shore.

The eastward move of EU's borders has forced it to deal more directly than ever with a number of threats in troubled areas. Frozen conflicts (Transnistria), terrorism, the proliferation of weapons of mass destruction, mass illegal migration,

¹⁷ European Commission (2004): Communication from the Commission. European Neighborhood Policy. Strategy Paper, COM (2004) 373 final, available at: http://europa.eu.int/comm/world/enp/pdf/strategy/Strategy_Paper_EN.pdf

¹⁸ Blockmans S., Łazowski A.(2006): Conclusions: Squaring the Ring of Friends, in: Łazowski, Blockmans (eds.): "The European Union and Its Neighbors - A legal appraisal of the EU's policies of

cross-border illegal trafficking of various kinds- all of those threats posed by the European Union's Neighborhood naturally generate negative implications for European Union's security. It was self-evident that stabilization and transformation of these regions became of a crucial importance. Hence, in the hour of the biggest enlargement, the necessity to find a more strategic approach towards "Wider Europe", and the need to spread reform in the Neighborhood arose so as to assure Europe's order was understandable. Indeed European Union was facing a new emerging dilemma – how to integrate best these countries into a continent-wide project, how to use most effectively EU's "normative power" in order to attract Neighbors to follow the example of Central Eastern countries in their transformation process.

In the atmosphere of international insecurity, in particular after the attack on the World Trade Center on September 11, 2001 European Union was still missing a strategic vision towards assuring safety on the European Continent. Since the necessity to elaborate such common approach was self-evident, finally in 2003 European Council released the European Security Strategy, which describes global threats that world is facing nowadays, and at the same time underlines that "no country is able to tackle today's complex problems on its own"¹⁹.

"It is in the European interest that countries on our borders are well-governed. Neighbors who are engaged in violent conflict, weak states where organized crime flourishes, dysfunctional societies or exploding population growth on its borders all pose problems for Europe".²⁰

Therefore it should be in EU's interest to develop more substantial relations with its Neighbors, to promote an effective multilateralism within international order. Following Steven Blockmans and Steven Łazowski it is obvious that "friendly relations with its neighbors are thus a prerequisite for the European's own smooth and

stabilization, partnership and integration". Cambridge University Press, T. M. C. Asser Institute, Hague, pp. 613

¹⁹ European Security Strategy (2003): A Secure Europe in a Better World, 12 December 2003, Brussels, pp.1.

²⁰ European Security Strategy (2003): A Secure Europe in a Better World, 12 December 2003, Brussels, pp.7.

effective functioning”²¹. In this context EU brings a particular attention in fostering its engagement within the Mediterranean Sea as this region is highly affected by economic problems, social strife and unresolved conflicts. Elaboration of ESS has shown that EU is conscious that strengthening the relations with bordering countries and providing them with more substantial elements, precisely promoting a ring of well govern friends, will necessarily influence the level of stability within EU itself.

An additional exterior implication of the recent enlargements, equally important can be seen with the quality change of cross border cooperation between new member states and their Neighbors.

“The last decade has seen many positive developments in the regions that would soon be the EU’s new borderlands. Cross-border trade and business have flourished. [...] However, EU enlargement could threaten these achievements. New barriers to travel and trade would leave the people on the other side of the border with a feeling of exclusion and anger. Robbed of the prospect of improved living standards, they may well try to slip into EU illegally or resort to crime and smuggling [...] Border checks and immigration controls must not be allowed to turn into a new Iron Curtain.”²²

In the literature, we can meet many different terms aiming to describe, the new situation that the “Old Continent” is facing now, among others: “Fortress Europe”, “Raising the Drawbridge”, “Great Wall of Europe”, “Shengen Wall” or “Paper Curtain”. Introduction of the ENP was therefore an answer to the fears of the bordering countries that with the latest enlargements trade cooperation with the EU as well as people-to-people’s contacts would gradually become more difficult. European Commission in its Communication “Wider Europe” is speaking more precisely about

²¹ Blockmans S., Łazowski A.(2006): Conclusions: Squaring the Ring of Friends, in: Łazowski, Blockmans (eds.): “The European Union and Its Neighbors - A legal appraisal of the EU’s policies of stabilization, partnership and integration”. Cambridge University Press, T. M. C. Asser Institute, Hague, pp. 613

²² Batt J. (2003) The EU’s new borderlands. Working Paper. London: Center for European Reform, quoted in: Primatarova A. (2005): In Search of Two Distinct Tracks for Non-EU Europe and the European Neighborhood, in Fieguth, Hayoz (eds.): Enlarged EU – Enlarged Neighborhood, Perspectives of the European Neighborhood Policy, Bern, pp. 29.

avoiding creation of the new dividing lines on the continent and about fostering stronger cooperation with the direct Neighbors of the EU²³.

Nevertheless, the period after the accession of 10 new member states in EU has shown, not surprisingly, the emergence of certain obstacles in border exchange with new EU neighbors. In fact the inclusion of new countries has logically meant the exclusion of those that were placed now directly at the external border of the EU. For example, after Romania's accession in 2007, the existing free trade agreement between Romania and its Eastern Neighbor Moldova became incompatible with EU's membership requirements and therefore was suspended. Only because of the asymmetrical trade regime obtained by Moldova in November 2007, the eastward push of EU's border won't affect this country trade relation with Romania as much as it was presumed. Another example can be seen in the dropping intensity of people-to-people contacts through Polish-Ukraine border as a consequence of Schengen zone being extended on the new Member States. Prior to December 21, 2007, people were able to travel visa-free Poland and Ukraine, needing only their passports. This change has a significant impact on Ukrainians living in the near border zone, finding their financial resources mostly in economic cooperation with Polish neighbors. At the present, those trade relations are luckily to be abandoned as the visa costs (35 euro) and the time-taking formal procedures pose serious complications. A more profound analysis of ENP's impact on developing stronger ties with Neighboring countries will be part of the following chapters.

The accession of ten member states in 2004 implicated a necessity of certain readjustment between the "old" and "new" member states in political and economic terms. On the one hand EU's extended market now covers approximately half a billion potential consumers. Opening of the EU market to the new member states had been source of many fears, mainly that the lower paid labor force from the post communistic states will take over the working places of the Western Europeans (case

²³ European Commission (2003): Communication from the Commission to the Council and the European Parliament, Wider Europe – Neighborhood: A New Framework for Relations with Our

of the “polish plumber” in France). The other “black scenario” included a vision of massive flow of products, mainly from Central and Eastern Europe, with their high competitiveness in terms of price. Not forgetting about the concerns of Eastern enterprises about their capability to sustain the competitiveness in terms of quality of the Western products entering their markets. Therefore, the fact that enlarged EU needs some time to readjust “old” and “new” markets seems understandable. On the other hand with the EU enlargement institutions were forced to reorganize in order to accommodate bigger number of member states. This need of adjustment is understood in political and technical terms. The entering states have brought to the EU’s political scene their own interests, historical experiences as well as different political cultures. The accession of 2004 and 2007 was furthermore a kind of exam for the institutional framework introduced with the Nice Treaty and further reformed with the recent Lisbon Treaty. The following years will show us how and to what extent these improvements are an effective tool to assure harmonized functioning of EU 27.

Unquestionably the latest enlargements had an immense impact on the reengineering of EU’s institutions, policies and brief its whole political system. As the consolidation of the Community, its stabilization remains nowadays at the core of Brussels interests; it is not surprising that strong reserves towards further enlargement of the EU are present on the European political scene. Not forgetting about the existing commitments of the European Union towards Turkey and Western Balkans and widely accepted fact of “enlargement fatigue”, all above-mentioned factors were major in recognizing the necessity to rearrange the way the EU conducts its relations with adjacent areas. Undeniable is the fact that the present situation of EU 27 demands a certain period of settling down, as the capacities in terms of internal market, labor market, budget and institutional system seem to have reached its limits.

Eastern and Southern Neighbors. COM (2003) 104 final of March 11, available at: http://ec.europa.eu/world/enp/pdf/com03_104_en.pdf

2.2. Geographical dimension

With the intention of underlining the complexity of the challenges that the ENP is facing it seems appropriate to give a short overview of the three geographical dimensions covered by this policy.

Southern dimension. There are several particularities about Mediterranean Region, notably its situation at the crossroads of three continents and necessary interaction between three monotheist religions (Christianity, Judaism and Islam). The proximity of Mediterranean shores additionally facilitates the intraregional contacts; however it might also be the source of clashes, tension, even conflicts. Although the Mediterranean Sea is at first sight a tangible dividing space between different cultures and religions, since the economic difficulties are constantly present within Northern African countries, Mare Nostrum witnesses a permanent migration process towards European Union. The other challenges within Mediterranean space are the unresolved conflicts, namely Israeli-Palestinian conflict, the division of Cyprus and West Sahara conflict. Therefore EU, aware of the complexity of the situation of its closest Southern Neighbors is promoting, for over 30 years, closer relations with Mediterranean Partners²⁴.

²⁴ The history of the relations between EU and the other littoral actors of the Mediterranean Sea goes back to early 1970's, and it is the longest cooperation experience of the EU with its Neighbors. Since then the Global Mediterranean Policy was introduced, with the principal aim to assure free access to EU's market for South-Mediterranean manufactured goods. However the bad condition of the European textile market, in addition with the enlargement of 1986 (bringing inside the EU Spain and Portugal) have been the main reasons of a modest GMP outcome. The next step that has brought cooperation within Mediterranean basin to a higher level was the establishment of New Mediterranean Policy in 1992. Although it didn't foster the expected economic growth within this region, for the first time one could observe a more political approach of the EU towards South Mediterranean countries, especially by placing greater emphasis on horizontal South-South cooperation. In 1994, the Commission came out with an initiative to establish a new framework for EU relations with its Southern Neighbors (Communication from the Commission of 19 October 1994 – Strengthening the Euro Mediterranean: Establishing a Euro-Mediterranean Partnership, COM (1994) 427 final., available at: <http://aei.pitt.edu/2950/01/045.pdf>). The Barcelona Process launched in 1995 is a sort of triple partnership. First pillar refers to political and security partnership that is aiming to create Euro-Mediterranean zone of peace and stability, based on respect for democracy, good governance and human rights. From an economical angle, the objective of the Euro-Mediterranean Partnership (Euro-Med) is to establish a free trade area that will require not only bilateral agreements between EU and respective partner state, but free trade agreements between Mediterranean countries themselves

The launch of the ENP was the latest step in evolution of EU relations with its Southern Neighbors²⁵. At the moment, ENP is directed at 10 South Mediterranean (among them Jordan with no littoral border). The cooperation within the Region is primarily based on Association Agreements signed between EU and respective partner country²⁶.

Eastern Dimension. EU's relation with its Eastern direct Neighbors occupied a central place since the collapse of the Berlin Wall. In order to support the transition process in the countries of Central and Eastern Europe and to cement their commitment to "European" values, EU offered a "golden" carrot - the membership perspective. However, the situation after 2004 and 2007 enlargements has diametrically changed and the core question was how to export the stability beyond EU's borders without implicating the enlargement policy in this process.

As it was mentioned before ENP was originally directed merely towards Eastern EU's Neighbors. However, as a result of the increasing fears of Southern EU member states (namely France and Spain) that 2004 enlargement will implicate a shift of EU's interest from South to the East, the final proposition of the Commission covered all of the EU Neighbors (those with land as well as marine borders). This first, not adopted approach reflects the great importance of Eastern European countries within EU's foreign policy area. Unresolved "frozen" conflicts in the Region, problem of permeable borders and illegal migration flows as well as security of energy deliveries are just the main factors interfering with the internal security of

(Agadir Initiative is an example of such multilateral South-South agreement that establishes free trade area between Egypt, Jordan, Morocco and Tunisia). Last but not least, the cooperation between both partners should put emphasis on promoting the people-to people contacts, in order to better understand mutual cultural background.

²⁵ French project of Mediterranean Union, although accepted by EU, lacks any substance at the present time.

²⁶ The exceptions are Libya and Syria. With the former EU hasn't started negotiating an Association Agreement of the AA due to the domestic situation in the country. Relations with the latter are still governed by the existing Cooperation Agreement (signed in 1977) since the Association Agreement elaborated between the parties in 2006 is still waiting for its signature by the EU Council..

the EU. Threats that by definition call for a concerted cooperation beyond state borders gave EU an additional impulse to elaborate a single policy framework towards its Eastern Neighbors. Another important point that needs to be mentioned here is the will to avoid the situation in which the countries beyond the EU borders feel excluded and conceive European integration progress, without their participation, as the edification of a new wall. Evidently it is in interest of both member states and the Commonwealth of Independent States (CIS) countries to maintain the continuity and quality of people-to-people contacts.

In the East ENP certainly covers a heterogenic Region. Belarus, Moldova and Ukraine, besides their common history as parts of the Soviet Union, differ substantially and call for differentiated approach in order to meet their particular challenges. In Belarus, the Lukashenka regime, often considered as the last dictatorship on the European Continent, only recently faces the consolidation of the opposition movements²⁷ and a further EU commitment in supporting mentioned activities should remain at the core of EU's approach towards Belarus. The Republic of Moldova, in the first years of its independence, thanks to positive economic performance, was predicted to reach satisfactory effects of the transition process. However, problems with secessionist region of Transnistria, and consequently an unstable domestic situation caused a slowdown of reforms, the regaining of power by the communists and stagnation in the economic field. The crucial role for EU within this country would involve intensive engagement in the process of resolving the Transnistria conflict for the Chisinau government to regains its domestic authority and international credibility. And finally Ukraine, to which the third chapter will be dedicated, which after Russia is the biggest European post-soviet country, both in territorial and population terms. Due to the recent events of the Orange Revolution it is consider to be the leader in the region in terms of democratic progress. It is also the main critic of the ENP primarily due to the lack of membership perspective for the Eastern European countries.

²⁷ Hukkala H.,Moshes A.(2004): Beyond "Big Bang": The Challenges of the EU's Neighborhood Policy in the East. Helsinki: Finnish Institute of International Affairs (FIIA) Report 9/2004, pp. 25.

The Russian position regarding ENP is worth mentioning here. This country was initially included to the Commission's new initiative, however, it has expressly refused to join it. Russia argues that it is not a typical EU's Neighbor as the other post-soviet countries and that it requires a special, distinct partnership relation. Moscow is therefore outside of the "rings of friends", however, its position will certainly have an impact on EU's Eastern Neighbors, as they are Russia's "Near abroad".

Southern Caucasus. In order to better understand the role that can be taken by EU in Southern Caucasus it is crucial here to point out several factors that create the particularity of this region. Firstly, it has significant oil reserves and makes an important part of the Eurasian transport corridor. Furthermore, the Region's strategic location makes it a real crossroads of different worlds²⁸ (numerous ethnic groups representing different religions). Other challenges that Armenia, Azerbaijan and Georgia are facing nowadays are unresolved, so called "frozen conflicts".

"Caucasus – one of the regions of the Eurasian continent most affected by what in the last decade has come to be called the "new world disorder"...Most of the armed civil conflicts that have occurred on the territory of the former Soviet Union have taken place in the Caucasus (Nagorno-Karabakh, South Ossetia, the Prigorodny Rayon of North Ossetia and Chechnya)"²⁹.

With the accession of Bulgaria and Romania EU is sharing a marine border with Georgia and is no longer an external actor in the Black Sea Region. Therefore, on elaborating ENP in 2004 it was decided to include Armenia, Azerbaijan and Georgia as well, so as to try to stabilize this new neighboring area.

To sum up, European Neighborhood Policy covers 16 states (see Map 1) that strongly differ in political, economic and cultural terms as well. It might be surprising

²⁸ Łabędzka A. (2006): "The Southern Caucasus" (Armenia, Azerbaijan and Georgia), in: Łazowski, Blockmans (eds.): *The European Union and Its Neighbors - A legal appraisal of the EU's policies of stabilization, partnership and integration*, pp. 577.

²⁹ Cornell S.E. (2001): "Small Nations and Great Powers. A Study of Ethno political Conflict in the Caucasus" (Richmond, Curzon Press) p.17, quoted in: Łabędzka A. (2006): "The Southern Caucasus"

that in order to meet challenges arising from this heterogeneous ‘box’ of states, EU has chosen to refer to a single framework. One could say that it is an unfortunate assemblage of Southern and Eastern neighbors. This subject will be analyzed more carefully in the second chapter of this paper, concerning different perceptions of EU’s member states regarding the future of ENP.

2.3. ENP’s operational framework

The objective of the following part is to present instruments available within ENP in order to give a more analytical approach of this new EU’s foreign policy tool. Since ENP spreads across various sector policy fields (from trade to security issues) and contains both two-sided and multi-sided dimensions, its operational structure is highly complex. By encompassing obviously distinct and extremely differing regions, at its initial stage ENP inherited a range of various instruments. Only recently some decisions have been made so as to replace “old” EU’s foreign policy tools by an ENP’s own mechanism, with the intention of harmonizing instruments directed to EU Neighbors. The recent and so far most effective example is creation of European Neighborhood and Partnership Instrument – financial column of ENP.

ENP, as an inter-pillar policy, constitutes a meeting point between foreign and security, development, enlargement and trade policies³⁰, therefore it fosters a closer cooperation between EU and countries beyond its borders in both political and economic terms. On the one hand the core issue remains the progress in implementation of reforms promoting democratization in neighboring Countries. By establishing the new Governance Facility, EU offers an additional financial incentive for countries that have achieved the best performance in implementing the rule of law, effective governance and in fighting corruption and organized crime³¹.

(Armenia, Azerbaijan and Georgia), in: Łazowski, Blockmans (eds.): *The European Union and Its Neighbors - A legal appraisal of the EU’s policies of stabilization, partnership and integration*, pp. 577.

³⁰ Lippert B.(2007) : “The Discussion on EU Neighbourhood Policy-Concepts, Reform Proposal and National Positions”. Friedrich Ebert Stiftung, Berlin, pp.3.

³¹ The annual budget of the Governance Facility is around 50 million €, in year 2007 allocations were made to Morocco and Ukraine, data available at: http://ec.europa.eu/world/enp/funding_en.htm

Furthermore, ENP enables the partner countries to participate in various EU programs, especially those relating to Common Foreign and Security Policy and European Security and Defense Policy. For instance; Ukraine and Moldova are already aligning themselves with EU's positions regarding foreign policy also Morocco and Ukraine have send their troops in Bosnia and Herzegovina to support the EU's ALTHEA military operation. On the other hand, EU gives an economic incentive to its Neighbors that is a stake in the internal market³²: the expansion of the four freedoms of the common market (goods, services, persons and capital) to the Neighbors.

Principles

The concept of ENP is based on principle of joint ownership and responsibility of both sides. It means that EU is encouraging partners' own reforms and development since the Action Plans (AP), so far central documents of ENP, are jointly elaborated by the EU and the country in question. The above mentioned APs are tailor made for each respective country; therefore, they reflect another principle lying at the center of ENP, the principle of differentiation, that is need to respect neighbor countries' particularities and expectations. The third principle that should be at the base of ENP is partnership.

“We stand firm on the principle that this is not about forcing any country in a particular direction. It is about responding to the decisions you [ENP partners] make toward realizing our common vision of a zone of stability and prosperity. And we are committed to the idea that each country shapes its relations with us individually.”³³

³² European Commission (2004): Communication from the Commission. European Neighborhood Policy. Strategy Paper, COM (2004) 373 final, available at: http://europa.eu.int/comm/world/enp/pdf/strategy/Strategy_Paper_EN.pdf

³³ Barroso J.M., European Commission President (2008), The European Neighborhood Policy: Creating a Ring of Friends Surrounding Europe, in: EU Focus, Special EU Advertising Supplement of the Delegation of the European Commission to the United States, pp.2, available at: <http://www.eurunion.org/News/eunewsletters/EUFocus/2008/EUFocus-NeighbPol08.pdf>

Financial Instruments

Initially ENP had two financial instruments at its disposition: TACIS (Community Technical Assistance Programme for the Commonwealth of Independent States) and MEDA program (supporting implementation of the Euro-Med Partnership). TACIS was the main instrument in assisting the Eastern and Southern Eastern Neighbors in the implementation process of the Partnership and Cooperation Agreements. Its main objective was to support institutional, legal and administrative reforms, provide assistance for economic development and to support the private sector, finally to promote the development of infrastructure networks. MEDA program, created in 1995 within the framework of Barcelona Process, provided support mainly for economic transition, an improved socio-economic balance and regional integration. Until 2007 it remained the major financial supporting instrument for Mediterranean countries (in 2000 it was amended and has since been referred to as MEDA II). After this period both TACIS and MEDA programs were replaced by the new European Neighborhood and Partnership Instrument (ENPI). The proposed budget for this latest EU invention is roughly 12 billion € for the 2007-2013 period³⁴. Compared with a combined total of 8.5 billion € for TACIS and MEDA for the 2000-2006 period this constitutes a significant increase in available resources (precisely 32 percent increase in real terms)³⁵. ENPI targets implementation of the ENP Action Plans and supports cross-border cooperation by financing “joint programs”, bringing together regions of Member States and partner countries. Certainly, the positive side of this new financial instrument is the fact that it will be active on both sides, within and outside EU territory. The amount of funds received by the Neighbors will depend on progress in fulfillment of the basic conditions: establishment of the rule of law, respect for human rights, good governance and market economy.

Alongside ENPI there are additional financial and technical support instruments such as the European Initiative for Democracy and Human Rights,

³⁴ Data available at: http://ec.europa.eu/world/enp/funding_en.htm

³⁵ Ibid.

TAIEX (Technical Assistance and Information Exchange - supporting regulatory convergence and institution building process) and Twinning (cooperation between EU officials and its counterparts in ENP countries). Moreover ENP works in coordination with the European Investment Bank, an institution that provides loans mainly for infrastructure projects.

Legal Instruments

As it is often highlighted the aim of this new policy is not to replace existing frameworks of cooperation between EU and its Neighbors, but to supplement and revitalize them³⁶. Although ENP is a newly established policy it is build on existing legal and institutional agreements.

The EU's cooperation with its Southern Neighbors is institutionalized in a multilateral framework of the Euro-Med launched at the Euro-Mediterranean Conference of Ministers of Foreign Affairs, held in Barcelona on November 27-28, 1995. The main objective of the Partnership, expressed in the Barcelona Declaration is the enhanced cooperation between both sides in political and security, financial and economic as well as social and cultural fields. Specific bodies were established for the purpose of Euro-Med, namely: Conference of Ministers of Foreign Affairs, Euro Med Committee and Parliamentary Assembly (formalized in December 2003 during the 6th Euro Med Conference in Naples). Apart from the multilateral dimension of ENP in the South, most of the Mediterranean Countries have signed Association Agreements (AA) with the EU that now constitutes the bilateral skeleton of ENP. The above mentioned agreements, based on Article 310 TEC³⁷, cover the following issues: trade in industrial and agricultural goods, trade in services and the right of establishment, payments and capital movements, competition, intellectual property

³⁶Karolien P.(2006): The Mediterranean Countries (Morocco, Algeria, Tunisia, Libya, Egypt Jordan, Syria and Lebanon), in: Łazowski, Blockmans (eds.): The European Union and Its Neighbors-A legal appraisal of the EU's policies of stabilization, partnership and integration, pp. 401

³⁷ Art.310 TEC: „The Community may conclude with one or more States or international organization agreements establishing an association involving reciprocal rights and obligations, common action and special procedure”. Available at:

<http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/ce321/ce32120061229en00010331.pdf>

rights, financial cooperation, economic cooperation, agriculture and investments, transportation, telecommunications and energy, science and technology, environment and tourism, statistics and combating illegal crime. The parties of the agreements established an Association Council responsible for examination of any important issues arising from AA. It can also take decisions binding both sides and make recommendations. The second body, Association Committee, is responsible for AA's examination. The political provisions of those agreements concern respect for human rights and democracy and deepening of political dialogue between the partners. It is important here to mention that this political cooperation is based on so-called negative conditionality, which means that in case of breaching of above mentioned values, each side has possibility to take appropriate measures toward the other side³⁸. However it is not hard to notice that all AA have mostly economic connotations, above all they aim at developing an Euro-Med free trade area by 2010. Next to the vertical trade relations with the EU it also requires horizontal agreements among Mediterranean Countries³⁹. An example of such regional cooperation is the Agadir Initiative launched in May 2001 creating a free trade zone between Egypt, Jordan, Morocco and Tunisia. As the consequence of envisaged, developed free trade area, AA's requires from Mediterranean countries to fine-tune their legislation and developed use of EC rules in standardization, quality control and conformity assessment.

Next to economic and political provisions we can also find those concerning security issues like enhanced cooperation in combating drugs, organized crime, human trafficking and concerted actions in fighting terrorism.

In the Eastern EU's Neighborhood, Partnership and Cooperation Agreements

³⁸ According to Nathalie Tocci „negative conditionality involves the infliction of a punishment in the event of the violation of a specified obligation, and the most evident cases in point are diplomatic and economic sanctions”.Tocci N. (2008): „EU incentives for promoting peace”, article published in Conciliation Resources, available at: <http://www.c-r.org/our-work/accord/incentives/eu-incentives.php>

³⁹ Barcelona Declaration, adopted at the Euro-Mediterranean Conference of 27-28 November 1995. Available at: http://europa.eu.int/comm/external_relations/euromed/bd.htm#5

(PCA) provide a legal basis for cooperation with the Newly Independent States⁴⁰. They are based on general principles of respect for democracy, international law, human rights and market economy rules. PCA's main objective is promotion of enhanced cooperation in political, economic and cultural fields. Similar to the case of Association Agreements established between EU and Mediterranean states, PCA's consist of institutional provisions that create a Cooperation Council, Cooperation Committees and Parliamentary Cooperation Committee.

Before ENP was launched the relations between EU and its Eastern and South Eastern neighbors lacked a multilateral dimension. In April 2007, the Commission presented the Black Sea Synergy, a new project that would cover not only ENP states but also other actors from the Black Sea Region (that means Russia and Turkey). The Black Sea Synergy Initiative does not aim at creating new institutions, but is going to base its functioning on already existing cooperation framework of Black Sea Economic Cooperation. Most of the academics highlight the importance of such an initiative for cross-border cooperation in energy, transport and environmental areas⁴¹.

For the moment, the most important common instruments indicating the direction in which ENP should go, are Action Plans (at the moment 12 Action Plans are in force⁴²). Those are political documents where EU and Neighboring countries jointly defined political and economic reform priorities (short and medium term, three to five years) and the agenda. The European Commission strongly emphasizes that it does not seek to impose priorities or conditions on its partners⁴³. Action Plans are mainly composed of six parts: political dialogue and reform, including human rights and governance; economic and social cooperation and development; trade related issues, market and regulatory reform; cooperation on justice, freedom and security;

⁴⁰ With the exception of Belarus that is the only country among NIS that didn't establish contractual relations with EU.

⁴¹ Primatarova A. (2005): "In Search of Two Distinct Tracks for Non-EU Europe and the European Neighborhood", in: Fieguth, Hayoz (eds.): "Enlarged EU – Enlarged Neighborhood, Perspectives of the European Neighborhood Policy", Bern, pp. 42.

⁴² Exception are Algeria, Belarus, Libya and Syria.

⁴³ European Commission (2004): Communication from the Commission. European Neighborhood Policy. Strategy Paper, COM (2004) 373 final, available at: http://europa.eu.int/comm/world/enp/pdf/strategy/Strategy_Paper_EN.pdf

sectoral issues including transport, energy, information society, environment, R&D; human dimension- people-to-people contacts, civil society, education, public health.

2.4. ENP's political conditionality

It is not difficult to observe that political conditionality within ENP is slightly different from the one present within the enlargement process. The results of cost-benefits analysis for candidate and neighboring countries within this two policies helps in formulating following statements.

ENP offers rather low incentives in comparison with an extended and ambitious list of demands addressed toward neighboring countries. EU offers, as it was mentioned before, the possibility for bordering countries to integrate closer with EU. The perspective of a “stake in EU’s internal market” remains at the core of this offer. Indeed closer economic integration was offered before to the Neighbors; however, those states were not interested in EU’s membership and represented already well-functioning economies⁴⁴. Due to their positive market conditions it was realistic to fully enjoy the benefits coming from the inclusion into EU’ Single Economic Market. Conversely, it appears less probable that EU’ Neighbors with the ongoing economic problems will manage to have a positive cost-benefits outcome of simple economic integration with EU. The perspective of stake in EU’s internal market requires from partner states to comply with various regulations concerning, among others, the standardization norms of circulating products, which means in practice the adoption of a massive part of the EU’s *aquis*. Therefore the government of the respective Neighboring country, after comparing the relation between the possible gains and necessary costs of the adjustment to EU’s regulations, will be most probably be less engaged in his commitments.

⁴⁴ Case of EFTA countries: Iceland, Liechtenstein and Norway.

The stated goals within ENP are imprecisely defined and represent a low level of credibility. None of the EU's official documents has specified what in fact represents the prospect of a stake in EU's internal market. Does it embody the extension of all EU's Four Freedoms (free movement of goods, services, persons and capital) to the neighborhood? Does it envisage inclusion of the ENP partners (with the observer status) in EU institutions? Those are just two of many questions relating to the concept of a stake in EU's internal market. The second part of the presented statement that is the low credibility of ENP incentives can be justified as follows. Since the finalization of the recent enlargement rounds, EU introduced the transition periods for full-extension of its internal market rules (notably regarding the labor market) to the new member states. How EU proposition of a stake in its internal market can be considered as credible since this organization is still going through a period of economic readjustment between "old" and "new" member states? Until Brussels comes out with an attractive enough and feasible proposition, there will be low level of compliance among neighboring countries, due to the fear that even the full commitment in reforms implementation won't give the same outcome as it was initially promised.

In addition to the above, ENP is not based on a strict conditionality, as the Action Plans that set the reform agenda, are non-binding legal documents. Summing up, ENP is proposing a small carrot and is carrying an even smaller stick. Frank Schimmefennig has gathered the main obstacles of ENP's political conditionality:

"First, the absence of a membership perspective for those countries removes one of the conditions that have proved necessary in Central and Eastern Europe. Second, even less sizable rewards have not been credibly linked to progress in democratic reforms. [...] Third, the countries of the neighborhood regions are as a rule, authoritarian countries whose governments would incur high domestic power costs of compliance. Thus, failure is over determined. What is more, the disappointing record of the past decade gives no reason for optimism regarding the EU's newly established European Neighborhood Policy, which suffers from, the same impediments as its

predecessors”⁴⁵.

This rather pessimistic picture of ENP’s possibilities introduces us to the second chapter, where study case of Ukraine will be presented.

⁴⁵ Schimmelfennig F., “European Regional Organizations, Political Conditionality, and Democratic Transformation in Eastern Europe”, Paper prepared for Club de Madrid - IV General Assembly,

II. Which political conditionality for Eastern Neighbors? Case study Ukraine

The European Neighborhood Policy is addressed to 16 states that not only differ in terms of their geographical location but what seems more crucial, in terms of political and economic development are miles apart. Therefore, it appears to me unfeasible to present a general assessment of this policy that would at concurrently refer to the EU's relations with each particular ENP partner state. This kind of evaluation would be open to the risk of an extended generalization and would neglect the specificities that each neighbor country represents.

Consequently, I decided to concentrate in this chapter on merely one of the EU's neighbor that is Ukraine. The relations between this country and EU are particularly interesting, as their evolution, since the fall of the Berlin Wall, was the consequence of important changes both within EU and Ukraine.

On one hand, the European Union throughout the 1990ties accelerated in its "transformation" path from a mainly economic community to a political union that can potentially play an active role on the international scene. Furthermore, the enlargements of 2004 and 2007 have provoked a shift in EU's foreign policy with twelve new member states presenting different national interests shaped by particular historical experiences. On the other hand Ukraine, that gained its independence in 1991, has also known important shifts in its politics. The most decisive, Orange Revolution in December 2004 will certainly have an important influence on the quality of EU-Ukraine relations.

In this chapter I will attempt to present the most significant events in the evolution of the EU-Ukraine relations (Ukraine's independence in 1991, signature of Partnership and Cooperation Agreement in 1994, launch of the European Neighborhood Policy in 2004 as the consequence of the "Big bang" enlargement, "Orange Revolution" and finally the start of the negotiations of the New Enhanced

Prague, 10-12 November 2005, p. 12.

Agreement in March 2007). In direct connection to the first chapter, I will try to evaluate the substance and effectiveness of European Union political conditionality towards Ukraine throughout the past 17 years. Then, I will undertake the question of the possible EU's membership perspective of Ukraine and the controversies that arose due to this issue.

1. EU relations with Ukraine prior to the Orange Revolution

1.1. Ukraine politics under Kuchma's regime.

Ukraine is after Russia the second biggest neighbor of the European Union to the East. The fact that in 1911, Vienna Geographic Society marked the geographical center of Europe in Transcarpathian western Ukraine is often being used as incontestable proof of Europeanism of Ukraine.

Ukraine's contemporary history starts on August 24, 1991 with the proclamation of its independence from the Soviet Union. It is a constitutional democracy, with President as a formal head of state elected every five years and a unicameral assembly (Verkhovna Rada) comprising 450 deputies, elected every four years. The first president elected in 1991 was Leonid Kravchuk. Under his presidency, on December 21, 1991 Belarus, Russia and Ukraine formally dissolved the Soviet Union and established the Commonwealth of Independent States. In the domestic sphere this period was characterized by high social disappointment due to the costs of the transition process (Ukraine was facing at that time hyperinflation of dozens of thousands percent), consequently new presidential elections were brought forward in 1994. They were won by Leonid Kuchma, who thanks to the re-election in 1999 has been ruling the country ten years.

Ukraine throughout the 1990ties was following the logic of a multi-vectored foreign policy, balancing between Russia and the West. It is somehow understandable

that primarily due to its population division⁴⁶ and strong historical and cultural ties with Russia this country couldn't make a definitive choice between "East" and "West". What's more, up till 2004 Russia was the largest single trading partner for Ukraine, and it still remains the central source of energy deliveries⁴⁷. Therefore, simultaneously while declaring a strong commitment to the close relationship with its Northern neighbor Russia, Ukraine was sending a clear signal towards Brussels about their membership aspirations. Not surprisingly those declarations, characterized by a strong ambiguity have met a restrained approach from the European Union⁴⁸. Evolution of EU's policy towards Ukraine is illustrated by Pavliuk's four stage division⁴⁹. First phase (1991-1993) is characterized by Ukraine's low profile on the EU's agenda, it is generally speaking a period of neglect. The situation was acknowledged by Leonid Kuchma, Ukraine's Prime Minister at that time:

"One the map of the world leaders, Ukraine does not even exist. They are indifferent to whether Ukraine is independent or not."⁵⁰

On the contrary the years 1994-1996 are considered as a period of relative EU's support for Ukraine, relative because it cannot be compared with the EU's engagement in the candidate countries like Poland or Hungary. The main instrument at that time aiming at economic, technical and humanitarian assistance for Ukraine

⁴⁶ Ethnic groups in Ukraine: [Ukrainian](#) 77.8%, [Russian](#) 17.3%, [Belarusian](#) 0.6%, [Moldovan](#) 0.5% (or Romanians 0.8%), [Crimean Tatar](#) 0.5%, [Bulgarian](#) 0.4%, [Hungarian](#) 0.3%, [Romanian](#) 0.3%, [Polish](#) 0.3%, [Jewish](#) 0.2%, [Greeks](#) 0.2%, other 1.6%. Data available at: http://en.wikipedia.org/wiki/Demographics_of_Ukraine

⁴⁷ At present EU is Ukraine's largest trading partner, as in 2006 it participated in 25% of its exports and 42% of imports. Data available at: http://ec.europa.eu/trade/issues/bilateral/countries/ukraine/pr290108_en.htm Still 35% of imported natural gas comes from Russia and Ukraine remains a transit country for 85% of Russian gas deliveries to Western Europe.

⁴⁸ It is important to mention that within its ambiguous foreign policy, Ukraine has shown a high interest in transatlantic and European structures: Active participation in NATO's Partnership for Peace, accession to Council of Europe, signature of a Charter with NATO in 1997, conclusion of agreements with EU

⁴⁹ Pavliuk O.(2001): „Unfulfilling Partnership: Ukraine and the West, 1991-2001.” Kiev, East-West Institut, pp.81-101, quoted in: Kubicek P.(2007): “Ukraine and the European Neighborhood Policy: Can the EU Help the Orange Revolution Bear Fruit?”. East European Quarterly, XLI, Stephen Fisher-Galati (eds), University of Colorado, No 1, pp.6.

⁵⁰ *The Economist*. 1993. 15 May, quoted in: Kubicek P.(2007): “Ukraine and the European Neighborhood Policy: Can the EU Help the Orange Revolution Bear Fruit?”. East European Quarterly, XLI, Stephen Fisher-Galati (eds), University of Colorado No 1, pp.6.

was TACIS, only recently replaced by the European Neighborhood Partnership Instrument (ENPI). There was an increase in trade exchange between both sides; however even nowadays this relation remains highly asymmetrical. For instance in year 2006 Ukraine trade with EU represented 35.7% of its total trade, whereas Ukraine's part in EU's global trade represented 1.1%⁵¹.

Third phase (1997-1999) can generally be called the period of frustration and fatigue, where each party was disappointed with the position of the other. Especially EU was discouraged by the ineffectiveness of the government in Kiev in the implementation of the reforms that were necessary to foster Ukraine's transition into democracy.

Consequently, the following years 2000-2004 represent the disengagement of EU and an increased wave of critics toward Kiev. In December 2001, the Council of EU issued a report which articulated "profound concerns regarding violence towards journalists"⁵². It referred, among others, to the unresolved murder of *Ukrainska Pravda* journalist Georgy Gongadze in 2000. Voices condemning the authoritarian regime in Ukraine were coming also from the other European organizations tasked with promotion of the democracy and the protection of human rights. In 1999, the Organization for Security and Cooperation in Europe (OSCE) in one of its reports claimed that during the presidential elections, violation of Ukrainian electoral law was "widespread, systemic and coordinated"⁵³. In April 2001, the Parliamentary Assembly of the Council of Europe adopted a recommendation to expel Ukraine from the Council of Europe as a response to the permanent human rights violation. However, this far-going initiative found no back up in any binding decision.

One could say that the decade of Kuchma's presidency was basically "lost" for the tightening of Ukraine's relations with the EU. However I would argue that this pessimistic picture doesn't reflect the reality. It is particularly true for the

⁵¹ Data available at: http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113459.pdf

⁵² European Council (2001). Report to the European Council on the Implementation of the Common Strategy of the European Union on Ukraine, 15195/01, 11 December 2001.

⁵³ Organization for Security and Cooperation in Europe (2000): "Ukraine-Presidential Elections 31 October and 14 November 1999". Final Report. Available at: http://www.osce.org/documents/odihr/2000/03/1299_en.pdf

development of Ukraine's institutional structure. In 2002, the Ministry of Economy was renamed to the Ministry of Economy and European Integration and was, among others, to cover the evolution of trade relations with EU. Under ENP this ministry has become the gravity center of pragmatic approach towards EU integration. Still the most pro-European Ministry at that time was the Ministry of Foreign Affairs committed to the political aspects of relations with EU. Furthermore, already under the Kuchma's regime there can be seen some progress in legal approximation with EU *aquis communautaire*. Inside the Ministry of Justice a Center for Comparative and European Law was created in 2003, replaced one year later with the State Department for Legal Approximation (SDLA). The achievements of SDLA will be presented within part dedicated to the critical assessment of the ENP toward Ukraine.

1.2. Legal framework for EU-Ukraine relations- the Partnership and Cooperation Agreement

The contractual relations between EU and Ukraine were established on 16 June 1994 with the signing of the Partnership and Cooperation Agreement (PCA). It was first such accord signed with any CIS country. According to art.101 of PCA, this document was concluded for the period of ten years and "shall be automatically renewed year-by-year provided that neither Party gives the other Party written notice of denunciation".⁵⁴ Its ratification by the EU member states took four years and it finally entered into force on March 1, 2008. This fact reflects the low position of Ukraine on the EU's agenda at that time. The PCA was supposed to constitute a framework for political cooperation between both Parties, with its provisions including an annual Ukraine-EU summit, ministerial level meetings and exchanges between Verkhovna Rada (Ukrainians Parliament) and the European Parliament; however it contained mainly regulations referring to movement of goods, services,

⁵⁴ Partnership and Cooperation Agreement between the European Communities and Their Member States and Ukraine (1994), art. 101. Document available at: http://209.85.129.104/search?q=cache:PxjgMf43U3UJ:ec.europa.eu/external_relations/ceeca/pca/pca_ukraine.pdf+pca+ukraine&hl=fr&ct=clnk&cd=1&gl=fr&client=firefox-a

persons and capital. The foreseen goal was the establishment of a free trade area, however only after the full implementation of PCA provisions (that means not before 2008) and after Ukraine's accession to the World Trade organization (WTO).

What was European Union political conditionality at that time? The lack of foreseeable membership perspective can be translated to the lack of the "sizable and credible award"⁵⁵ for an authoritarian government for whom the costs of democratic reforms are simply too high. F. Schimmelfennig and H. Scholtz made the attempt to conceptualize the political conditionality. In their research they compared size and credibility of EU incentives within PCA, Association Agreements and Pre-accession negotiations. In the final conclusions PCA represents "minor incentives with a low credibility of the threat to withhold them in case of political non-compliance"⁵⁶. Of course it is not considered here that EU should have offered a membership perspective to a country that was ruled by an oligarchic regime, who was in fact seeking, "Integration without Europeanization"⁵⁷. Such a statement would obviously be absurd. The concept of Europeanization implies a degree of internalization of European values and policy paradigms at the domestic level. In the case of Ukraine under Kuchma's presidency, besides numerous declarations there was no effective commitment from the Kiev side to implement expected reforms. One observer, citing the country's aspirations to join the West, noted that its lofty foreign policy rhetoric mixed with its corrupt domestic political life like 'oil and water'⁵⁸.

Consequently the period of PCA's implementation can be described as a crisis of mutual expectations loaded with permanent accusation from both sides. On the one

⁵⁵Schimmelfennig F., "European Regional Organizations, Political Conditionality, and Democratic Transformation in Eastern Europe", Paper prepared for Club de Madrid - IV General Assembly, Prague, 10-12 November 2005, pp. 11

⁵⁶Schimmelfennig F., Scholz H.(2007): „EU and Democracy in the European Neighborhood: Political Conditionality, Economic Development and Transnational Exchange". National Center of Competence in Research (NCCR), Working Paper No 9, pp. 11

⁵⁷ Wolczuk K. (2004): "Integration without Europeanisation: Ukraine and Its Policy towards the European Union", Robert Schuman Centre for Advanced Studies, European University Institute (EUI) Working Papers, RSCAS No. 2004/15, pp. 1-22.

⁵⁸ Garnett S. (1997): "Keystone in the Arch: Ukraine in the Emerging Security Environment of Central and Eastern Europe". Washington D.C.: Carnegie Endowment, quote in: Kubicek P. (2007): "Ukraine and the European Neighborhood Policy: Can the EU Help the Orange Revolution Bear Fruit?". East European Quarterly, XLI, No 1, pp.2.

hand Ukraine, disappointed with EU's response to its membership perspective did not go beyond the mere technical implementation of the PCA. In 2004, that means ten years after its elaboration and six years after ratification, PCA remained unimplemented to a certain extent (existence of trade and investment barriers⁵⁹). On the other hand European Union was accusing Kiev of slow political and economic reforms and that political and civil rights are violated. Other events for instance Kolczuga scandal in 2002⁶⁰ only worsened already negative perception of Ukraine among EU member states.

In December 1999, the European Council adopted the EU Common Strategy on Ukraine. This document "acknowledges Ukraine's European aspirations and welcomes Ukraine's pro-European choice" however, it points out that full implementation of the PCA is a "perquisite for Ukraine's successful integration into European economy"⁶¹.

1.3. European Neighborhood Policy and Ukraine

When the "Big Bang" enlargement was inevitably coming closer, EU started elaborating new foreign policy tool directed at its new eastern neighbors: Ukraine, Belarus and Moldova. Throughout the 1990ties EU was dominated by "Russia first" approach, and only recently Brussels stopped perceiving Eastern Europe as a Russian sphere of influence and started to see it as an area where the Europeanization concept can be implemented. There are two important reasons for such a shift in EU's policy. First of all the eastward push of EU's borders has forced it to deal more directly than ever with number of threats in troubled areas. Frozen conflicts (Transnistria), terrorism, the proliferation of weapons of mass destruction, mass illegal migration, cross border illegal trafficking of various kinds - all of those threats posed by the

⁵⁹ Wolczuk K.(2003): „Ukraine's Policy Toward the European Union: a Case of 'Declarative Europeanization'", Paper for the Stefan Batory Foundation Project, *The Enlarged EU and Ukraine: New Relations* pp 18-19.

⁶⁰ "Kolczuga" was the radar system that Ukraine was selling to Iraq.

⁶¹ European Council Common Strategy of 11 December 1999 on Ukraine, Document 1999/877/CFSP, found in *Official Journal of European Communities*, 23 December 1999.

European Union's "Neighborhood" have necessarily negative implications for European Union's internal security. It was self-evident that stabilizing and transforming these regions became of crucial importance. Hence, in the hour of the biggest enlargement the necessity to find a more strategic approach towards "Wider Europe", the need to spread reform in the Neighborhood so as to assure Europe's order was understandable. In this case the security was of central importance.

Secondly, new member states that joined EU, brought with their accession a completely different perception of Russia, shaped by particularly tensed historical experiences. For them relations with stable, independent and democratic neighbors in the East were of strategic importance. Therefore, by inclusion of those new members EU had to find a way to effectively respond to their interests.

In 2003, with the publication of the European Commission's Communication "Wider Europe" European Neighborhood Policy was launched. The next key document published by Commission in 2004 – "Europe Neighborhood Policy – Strategy Paper" gave more precise information about the substance and objectives of this new policy. In fact ENP as its predecessor, the enlargement process, aims at extending the zone of security and prosperity in Europe⁶², however, the "carrot" is no longer the membership perspective. Romano Prodi, President of the European Commission at that time admitted that enlargement process is the most powerful instrument to influence the neighbors' domestic changes.

"Enlargement is one of the most successful and impressive political transformations on the European continent that the EU ever made. Such hope is a strange thing. It has much in common with the trust people have in you. It determines how you look at people or events. How does a country envision its future when it is lacking direction or confidence? Hope gives direction and so inspires confidence. But the future must be attractive to inspire hope."⁶³

⁶² European Commission (2004): Communication from the Commission. European Neighborhood Policy. Strategy Paper, COM (2004) 373 final, available at: http://europa.eu.int/comm/world/enp/pdf/strategy/Strategy_Paper_EN.pdf, pp. 2

⁶³ Prodi R. (2002) A Wider Europe – A proximity Policy as the key to stability. Speech by the President of the European Commission at the Sixth ECSA-World Conference "Peace, Security and Stability International Dialogue and the Role of the EU", Brussels, December 5-6, 2002.

He quickly added: “But why should a less ambitious goal not have some effect?”

Ukraine is considered to be the key partner within the European Neighborhood Policy. The contractual relations between EU and Ukraine, as it was mentioned before, are based on the existing PCA. Within ENP framework both parties agreed upon an Action Plan (AP) at the end of 2004. This document, not legally binding, includes a set of objectives that Ukraine should fulfill in order to put the relations with EU on a higher level. Similarly to the APs elaborated with other EU’s Neighbors, Ukraine’s AP consists of six parts: political reform; economic and social reform; trade market and regulatory reform; cooperation in justice and home affairs; transport, energy, information society, environment, science and technology; and people-to-people contacts. As the AP with Ukraine was elaborated under Kuchma’s presidency it didn’t principally differ from the ones established with the other, mainly authoritarian governments of the EU’ Neighbors.

The incentives offered within ENP are a stake in the EU’s internal market as well as participation in the EU’s programs and aid flows. On the other hand this AP is supposed to be an important indicator that would contain clear objectives and schedules for reform implementation. However, according to some opinions “AP is tall on objective but short on specific mechanisms”⁶⁴, even more “AP failed to embrace the actual new position of Ukraine”⁶⁵. Indeed the AP approved on December 9, 2004 only reflected the EU-Ukraine relations prior to the presidential elections.

2. The “Orange Revolution” and its impact on ENP

2.1. Background

It is important to mention that most of the European politicians did not expect the Ukraine’s breakthrough to democracy. In fact the necessary conditions for a bottom-up challenge of the authoritarian regime evolved incrementally. According to

⁶⁴ Kubicek P. (2007): “Ukraine and the European Neighborhood Policy: Can the EU Help the Orange Revolution Bear Fruit?”. *East European Quarterly* XLI, , No 1, pp.14.

Hryhoriy Nemyria:

“A civil society with a growing potential for effective organization and solidarity has emerged, as well as previously unknown phenomenon of the young middle class willing and able to defend its interest”⁶⁶.

Already parliamentary elections of 2002 brought unexpected results with opposition (including Communists) taking 219 of 450 seats in Verkhovna Rada⁶⁷. The activism of social movements like “Ukraine without Kuchma” and “Gongadze case” have only been proof of increasing solidarity within Ukraine’s civil society. Consequently the presidential elections of 2004 undoubtedly represented a challenge for the regime in power with a visible presence of strong opposition movements prepared to defend fair and free elections.

2.2. Events of November-December 2004

After the second round of presidential elections in December 2004, Viktor Yanukovich, candidate supported by Leonid Kuchma, was declared the winner. Those elections were carefully monitored in Europe, especially by the OSCE, and immediately after the results were officially announced, both rounds of elections were estimated as fraudulent. Aware of the massive falsifications, hundreds of thousands of Ukrainians came out onto the streets and consequently protested, both days and nights, demanding new elections to take place. The outcome of those events was influenced by other factors such as modes of external pressures and the nature of the judicial institutions. Javier Solana of the EU, Aleksander Kwasniewski and Lech Walesa of Poland and Valdas Adamkus of Lithuania have actively supported the mediation process between the disputing presidential candidates, that is Viktor Yanukovich and Viktor Yushchenko, Western-oriented leader of Ukrainian

⁶⁵ Ukrainian Foreign Ministry (2004): “On Approval of the EU-Ukraine Action Plan by the European Council”. 14 December. Available at <http://www.ukraine-eu.mfa.gov.ua>

⁶⁶ Nemyria H. (2005): “The Orange Revolution: Explaining the unexpected”, in: Emerson M. (eds.) „Democratization in the European Neighborhood”, Center for European Policy Studies, Brussels, pp. 55.

⁶⁷ Data available at: http://www.ipu.org/parline-e/reports/arc/2331_02.htm

opposition. As a result of the pressure coming from the new EU member states, the European Parliament in its declaration supporting the Orange Revolution expressed its solidarity with the Ukrainian people, whose right to freely elect its president must be recognized and implemented, and not repressed⁶⁸. Finally in January 2005, Viktor Yushchenko, was declared the new elected president of Ukraine. In his inaugural speech on January 23, 2005 the new president stated that:

“Our mode to the future is that of a united Europe. [...] We are part of the same civilization and we share the same values.[...] Our place is in the EU. My goal is a Ukraine in a United Europe.”⁶⁹

Those unexpected events in Ukraine have created new opportunities for EU to apply its influence abroad. At the same time it was widely acknowledged among EU’s officials that this radical change of the situation in Ukraine will necessary pose new challenges.

2.3. Impact of the Orange Revolution on EU-Ukraine relations

Evidently under the old regime ENP was the best Ukraine could hope for, however, taking into account the “democratic” choice that Ukrainians have made it was about time to review the EU’s approach toward Ukraine. Kiev was naturally expecting that the outcome of the Orange Revolution would automatically influence EU to accept Ukraine as a candidate country. However, EU was not eager to act under the pressure of events, the further development of which remained still uncertain. Therefore, Brussels responded by updating the existing AP with ten points. This reviewed document included now: possibility for greater cooperation in foreign and security policy, deepening trade and economic relations with view to a free trade agreement, more support for accession to WTO, more aid and relaxation of visa

⁶⁸ The European Parliament (2004) Resolution on Ukraine, „Situation in Ukraine”, 2 December 2004, PR_TA-PROV(2004)0074.

⁶⁹ Inaugural speech available at the official site of Viktor Yushchenko- <http://www.president.gov.ua/en/>. Quoted in: Piontek E. (2006): “Ukraine”, in: Łazowski, Blockmans (eds.): The European Union and Its Neighbors - A legal appraisal of the EU’s policies of stabilization, partnership and integration, Cambridge University Press, T. M. C. Asser Institute, Hague, pp. 505

requirements⁷⁰. Although disappointed with the EU's response, Ukraine strongly committed to its European-vectored foreign policy considered implementation of the AP and ENP in general as the first step toward European Integration. Evaluating AP's implementation from the time perspective discloses several obstacles. First of all, AP as a document that should constitute a guideline for reform implementation in Ukraine is too vaguely defined. A solution has been found with the adoption by the government in Kiev of the so-called "Road Map on the Implementation of the Action Plan". This document binding for agencies within the executive branch is the most important instance of the "domestication" of an EU-defined reform agenda⁷¹.

It is important here to mention that Ukraine is facing now various irregularities within its administration structure, part of the "heritage" that the old regime has left behind. Strong hierarchical dependence, lack of coordination between different institutions and the absence of political accountability on EU-related issues are the major obstacles for Ukraine to successfully implement necessary reforms. Despite those institutional barriers there can be observed an increased commitment of Kiev to pursue the fulfillment of the obligations agreed within the AP. As Katarzyna Wolczuk notices:

"The most important impact of the AP in Ukraine has been the emergence of enclaves within the bureaucracy, which possess the necessary technocratic expertise, resources, professionalism and connections with the EU-level institutions, similar to what has been observed in the candidate states". According to this author the reform potential in Ukraine is reflected by the fact that "bureaucracy have started to implement AP, without strong and consistent support from the political class"⁷².

One of the most important issues within AP, approximation of Ukraine's law with *aquis communautaire*, has been delegated to the State Department for Legal

⁷⁰ European Commission (2005): "EU-Ukraine- Strengthening the Strategic Partnership", 29 March, MEMO/05/106, available at: <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/05/106&format=HTML&aged=0&language=EN&guiLanguage=en>

⁷¹ Wolczuk K. (2007): "Adjectival Europeanization? The Impact of EU Conditionality on Ukraine under the European Neighborhood Policy". European Research Institute (ERI), European Research Working Paper Series, No 18, pp.14.

⁷²Ibid., pp.19.

Approximation (SDLA), within the Ministry of Justice. Besides providing information on EU legislation, SDLA tries to influence the government to undertake needed reforms, for example the one concerning restructuring of the mining industry:

“The more that 50 years experience of European Communities regulation of the coal industry shows that without proper restructuring, provision of state aid is inefficient and does not solve the problems of the industry. Therefore Ukrainian legislation [in this area] has to be radically reformed”⁷³.

Ukrainian’s bureaucracy has engaged itself in the implementation of the AP. However, without necessary coordination and stable guidelines coming from the central government the perspective of closer integration with EU remains uncertain. The government in Kiev is rather concentrating on what EU is not offering to Ukraine: the membership perspective. Those concerns are mainly the consequence of Ukraine’s great expectations toward EU in the wake of the Orange Revolution. One could say that indeed the “Hour of Ukraine” in the EU has quickly passed and that “Europe has essentially ignored the Orange Revolution”⁷⁴. Since PCA is expiring this year, in March 2007 the negotiations were started on so-called New Enhanced Agreement (NEA). Its scope is still uncertain. Kiev is calling for establishment of an association agreement between both parties that would be the first step towards political integration of Ukraine with the EU. The latter remains reluctant. Brussels is generally committed to the further deepening of relations with its eastern Neighbor, however, due to the generally acknowledged enlargement fatigue, it prefer not to extent the queue of candidate states waiting at the EU’s doorstep.

Some of the experts in this policy area are proposing establishment of an Association for Modernization and Stability. This agreement would be based on

⁷³ SDLA (2006): Overview of the Legal Adaptation of Ukraine with the *Aquis Communautaire* (in Ukrainian). Kiev, quoted in:

Wolczuk K. (2007): “Adjectival Europeanization? The Impact of EU Conditionality on Ukraine under the European Neighborhood Policy”. European Research Institute (ERI), European Research Working Paper Series, No 18, pp.17.

⁷⁴ Kuzio T. (2006): “Is Ukraine Part of Europe’s Future?” *Washington Quarterly* 29:3, Summer: pp.89-108, quoted in:

Article 310 of the Treaty of the European Community (TEC). Among its provisions the membership perspective will not be mentioned, however this agreement could go beyond the free trade association agreements with the Mediterranean countries. One thing among various uncertain aspects is sure. This NEA will constitute a model agreement for the future relations between EU and its European Neighbors.

3. Critical assessment of ENP

ENP was supposed to be an answer to the extending queue of applicants for EU membership and at the same time an attempt to avoid creation of new dividing lines on the European continent. With the EU's enlargement in 2004, Ukraine with a population estimated at 46 million has become the direct Neighbor of EU and consequently of each of its member states. In 2005, ENP entered into its operational phase after EU signed Action Plans with 7 neighbors⁷⁵. It means that it is a relatively young policy and its evaluation poses certain challenges⁷⁶. What is the added value of ENP for EU-Ukraine relations? Certainly, several achievements can be enumerated which supports the opinion that the ENP is a "success story".

First of all AP agreed with Ukraine can be considered as a first step to provide an agenda for reform implementation. Even if its provisions remain too vague for direct application they could serve as a base for further elaboration of reform priorities, this time at the national level⁷⁷.

In the economic, field since ENP was launched, EU actively supported Ukraine's aspirations to join WTO. On December 1, 2005 EU recognized Ukraine's market economy nation status and thanks to this official statement accession negotiation between Ukraine and WTO could be brought on a higher level. Finally on February 5,

Wolczuk K. (2007): "Adjectival Europeanization? The Impact of EU Conditionality on Ukraine under the European Neighborhood Policy". European Research Institute (ERI), European Research Working Paper Series, No 18, pp.17.

⁷⁵ With Israel, Jordan, Moldova, Morocco, Palestinian Authority, Tunisia and Ukraine.

⁷⁶ We cannot for example estimate the possible outcome of ENP's long term objectives like establishment of Free Trade Area between EU and its Neighbors.

⁷⁷ It is already the case of the "Road Map on Implementation of the Action plan" which is adopted by the Ukrainian Cabinet of Ministers each year.

2008 the General Council of WTO approved the accession terms and Ukraine became an official member of this organization on May 16, 2008 after the ratification in Verkhovna Rada. It should be pointed that the membership in WTO facilitates economic relations of a given country with other international actors. The accession implicates application of universal rules concerning trade exchange and foreign investments, therefore, it notably increase the attractiveness of a state on the global economy scene. For Ukraine it will have a particular positive effect with the removal of quantitative restrictions on its steel exports.

In the area of EU's Common Foreign and Security Policy (CFSP) there has been considerable improvement in coordination of Ukraine's foreign policy with Brussels positions. In 549 out of 589 cases, Ukraine's foreign ministry aligned itself with CFSP declarations⁷⁸.

It needs to be acknowledged that Ukraine already has experience in participating in international peace-keeping military operations⁷⁹. Therefore, inclusion of this country in various international missions is not only an asset to the improvement of international security but it is additionally a measure to involve this country in international projects in the wide sense of this term. Up till now Ukraine is participating in non-military missions EUPOL "Proxima" in Macedonia and EUPM in Bosnia and Herzegovina within the framework of the European Security and Defense Policy⁸⁰.

In the security domain there have been some modest results within Justice and Home Affairs (JHA) since the ENP was launched, however, it should be pointed out that cooperation between EU and its Eastern Neighbors in this policy field started even before 2004. Ukraine was the only state that already in December 2001 concluded a specific "JHA Action Plan" with EU.

⁷⁸ European Commission (2006): Communication to the Council and the European Parliament on Strengthening the European Neighborhood Policy. ENP Progress Report, Ukraine, COM(2006) 726 final. Available at: http://ec.europa.eu/world/enp/pdf/sec06_1505-2_en.pdf

⁷⁹ Ukrainians military forces participated in peacekeeping missions in Balkans, at the present time they support peacekeeping forces in Lebanon and Sierra-Leone under the framework of the UN.

⁸⁰ More detailed information available at: http://www.consilium.europa.eu/cms3_fo/showPage.asp?id=268&lang=en&mode=g

Evidently security is EU's priority sector within ENP, therefore, conclusion of readmission agreements⁸¹ with neighboring countries is of primary importance. On the other hand, ENP partner states urge the facilitation of visa procedures, as they are highly concerned with the permeability of EU's external borders. Before improvement of the visa procedures, as O. Haran and O. Sushko argue "the lengthy and cumbersome process of getting visa was one of the most important factors contributing to the prevailing feeling of being discriminated, second-class Europeans amongst the population of Ukraine"⁸². The readmission agreement with Ukraine as well as the visa facilitation agreement was signed on June 18, 2007. Certainly the visa facilitation agreement presents numerous advantages as it fixes the fees for the processing of a visa application at the level of 35 Euros, it establishes the maximal period of the procedure at 10 calendar days, it reduces the list of documents required to obtain a visa and finally it establishes a multiple-entry visas for certain categories of applicants⁸³. However, this agreement from the perspective of the Ukrainians does not introduce significant changes, since the fee to obtain a visa remains the same, even worse it creates a sort of division within population for those who can benefit from the multi-entry visas and a simplified procedure and those, constituting the majority, for whom those advantages are not accessible.

The other field where ENP has brought visible progress is the issue of Transnistria separatist region. In response to a joint letter from the presidents of Moldova and Ukraine, Vladimir Voronin and Viktor Yushchenko, from June 2, 2005, the EU established a "Border Assistance Mission" (EUBAM) to improve the control regime on the Moldovan-Ukrainian border, so far widely considered as an area free from any supervision. Around 70 police and custom officers from 20 EU Member States are

⁸¹ The agreements by which the neighboring countries commit themselves to readmit asylum seekers and (legal and illegal) migrants who were not given the right of residence in the EU.

⁸² Haran O., Sushko O. (2005): "More than Neighbors: a search for a new paradigm of relations between the EU and Ukraine", in: Fieguth, Hayoz (eds.): "Enlarged EU – Enlarged Neighborhood, Perspectives of the European Neighborhood Policy", Bern, pp. 181.

⁸³ EU Press Releases, 18 June 2006, „Further strengthening EU-Ukraine bilateral relations: visa facilitation and readmission agreements are signed today”, Brussels, IP/07/849, IP available at: <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/07/849&format=HTML&age>

participating in this project that has brought so far a satisfactory outcome – the Moldovan-Ukrainian border incrementally transform itself into space where law is being respected. There has been as well an upgrade in Moldavian-Ukrainian dialogue concerning resolution of the conflict over Transnistria. In 2006, both states signed an agreement in which they promised an ex-change of information on cross-border movements of persons and goods and established a new customs regime at the border. This is an explicit example of EU's external governance⁸⁴. EU is projecting parts of its governance system onto neighboring states and by these means is engaging them in implementing specific border policy-related methods.

Those above mentioned points are the main arguments for a positive assessment of the ENP toward Ukraine. It is interesting now to concentrate on voices of critics that challenge the appropriateness of ENP's instruments in relation to democracy promotion in Ukraine.

First of all even before ENP was launched there have been numerous controversies whether the label under this new EU's policy would work. Initially, the European Commission was working on a project called "Wider Europe". Simple semantic analysis could suggest that this new Brussels' initiative would refer to Europe beyond the EU, a continent-wide project that embraces both EU and non-EU states. This label was dropped, mainly due to the inclusion of EU's Southern Neighbors in the project, from now on known as European Neighborhood Policy. This new name did not leave any doubts:

"EU wants to consider itself as Europe and intends to treat all countries not belonging to this EU-Europe simply as neighbors"⁸⁵.

This EU-centric approach can be already seen in older documents issued by the European Commission. Let's take the example of the European Security Strategy

⁸⁴ Kahl M. (2007): "The European Neighborhood Policy and the Borders of Europe", in: Varwick, Lang (eds.): "European Neighborhood Policy – Challenges for the EU-Policy Towards the New Neighbors", Barbara Budrich Publishers, Opladen and Farmington Hills, 2007, pp. 64

⁸⁵ Primatarova A. (2005): "In Search of Two Distinct Tracks for Non-EU Europe and the European Neighborhood", in: Fieguth, Hayoz (eds.): "Enlarged EU – Enlarged Neighborhood, Perspectives of the European Neighborhood Policy", Bern, pp. 34.

from 2003. According to this paper “Europe has never been so prosperous, so secure or so free”⁸⁶. If this statement refers to Belarus, Moldova, Ukraine or Western Balkans, however, it remains questionable.

First of all, from the Kiev perspective, labeling this new foreign policy European Neighborhood Policy is discriminatory as Ukraine is EU’s Neighbor, not Neighbor of Europe. It need to be kept in mind that among states targeted by ENP there are partners of Europe and European partners, countries for which the perspective of EU membership is out of reach and those who can apply to become a full-fledged part of EU. Ukraine’s officials are therefore afraid that by putting together non-European and European states in the same basket, EU is trying to ignore the question of possible membership perspective of countries like Georgia, Moldova or Ukraine.

The Commission, influenced by the recent enlargement success, is trying to reproduce the accession model within ENP; however this attempt might fail as ineffective without the “golden” carrot of the membership perspective. ENP is therefore an ambitious project to influence changes in EU’s periphery without offering sufficiently attractive incentive, as the carrot of ENP is still an undefined stake in EU’s internal market.

The political conditionality of ENP is based on the following logic. If Ukraine will managed to successfully implement projected democratic reforms, to approximate its legislation with EU *aquis*, generally speaking to fulfill the obligations coming from the Action Plan, it would be offered further economic integration with EU. ENP offers better access to the EU internal market, followed by dismantling of various barriers in trade relations. The EU assumes the following: in order to promote democracy in Ukraine, first there is a need to promote the economic development of this country. This assumption is perfectly correct; however, one should argue that the outcome of such strategic approach largely depends on the attractiveness of the proposed incentives. Therefore it should be analyzed if EU’s offer- “stake in the

⁸⁶ European Security Strategy (2003): A Secure Europe in a Better World, 12 December 2003, Brussels, pp.1., available at: <http://www.consilium.europa.eu/uedocs/cmsUpload/78367.pdf>

internal market”-represents a significant added-value and if this prospect is feasible at all in the near future. EU’s economic concessions will be largely based on one-sided cuts of import tariffs. However as Volkhart Vincentz argue, there is a little room left for further cuts of EU tariffs, since ENP partners already enjoy the General System of Preferences (GSP). For example EU’s import tariffs for Ukrainian goods remain on an average of 2% in comparison with usual import tariff of 4.2%⁸⁷. This position is supported by the joint research study of the Center for European Policy Studies (Brussels), Institut fur Weltwirtschaft (Kiel) and International Center for Policy Studies (Kiev). This study argues that “the reduction or abolishment of tariffs will have only a small welfare effect on Ukraine”⁸⁸.

Regarding the non-tariff barriers EU should consider, if it is really serious in promoting economic development in Ukraine, the reduction of still existing quotas on textile and agricultural products. Nevertheless, this aspect is not mentioned in the existing Action Plan.

A stake in EU’s internal market is closely connected with the project of extending the EU’s Four Freedoms (free movement of goods, services, persons and capital) on ENP partners. As regards the free movement of labor the question of credibility of such an incentive is automatically put forward. How EU can envisage the opening of its labor market to Ukrainians if there are strong reserves among “old” member states regarding the accessibility of this market to the “new” member states.

In the theory of political conditionality it is widely acknowledged that the level of compliance of a targeted country is strongly related with the outcome of the cost-benefits analyze. Therefore, I argue that Kiev, in the presence of such widely

⁸⁷ Vincentz V. (2007): “The European Neighborhood Policy: An Economic Perspective”, in Varwick, Lang (eds.): “European Neighborhood Policy – Challenges for the EU-policy Towards the New Neighbors”, Barbara Budrich Publishers, Opladen and Farmington Hills, 2007, pp. 120.

⁸⁸ Center for European Policy Studies (CEPS), Brussels, Institut fur Weltwirtschaft (IFW), Kiel, International Center for Policy Studies (ICPS), Kiev (2006): The Prospect of Deep Free Trade Between The European Union and Ukraine, Center for European Policy Studies, Brussels, quoted in: Vincentz V. (2007): “The European Neighborhood Policy: An Economic Perspective”, in Varwick, Lang (eds.): “European Neighborhood Policy – Challenges for the EU-policy Towards the New Neighbors”, Barbara Budrich Publishers, Opladen and Farmington Hills, 2007, pp. 120.

defined and low-credible incentive, will not be motivated enough true commitment to implementing democratic reforms. Of course it is hardly foreseen that Ukraine will step back from the reform path and fall into political crisis that could obliterate the already existing achievements of the Orange Revolution⁸⁹. However, without a clear perspective about future relations with EU, Ukraine will just muddle through the reforms, lacking coordination and political leadership.

Consequently, I support the idea that EU should afford the most modest step, as it is in the case of Albania and Serbia, by recognizing eligibility of Ukraine for EU membership and the possibility that one day it could join this organization. According to Bertelsmann Transformation Index (BTI), which measures the progress that the transformation countries have made, Ukraine comes close to the group of South East Europe (see Table 1). Immediately there would be strong opposition underlining the ‘enlargement fatigue’ of EU and impossibility to extent its borders forever. Nevertheless, it needs to be kept in mind that enlargement is an open-ended process which means that it is not a premature assumption that this or that country will definitely join the EU. Such an outcome largely depends on the level of compliance of a respective candidate country.

As it was already quoted “Such hope is a strange thing. It has much in common with the trust people have in you”⁹⁰. A country granted the status of at least a “potential candidate” is stimulated to follow reforms the costs of which, both for political elites and society are necessary high. It is explained by the fact that the full compliance with requirements for EU membership (the Copenhagen criteria) will result in the possibility to shape in the future EU policies from the inside and to enjoy all the advantages from a full-fledged participation in the EU project.

So far there has been no official statement from EU that would mention

⁸⁹ In 2006 parliamentary elections the „Party of Regions” (led by former presidential candidate Viktor Yanukovich), has received 32.14% of votes, before the „Bloc of Yuliya Tymoshenko” and the „Bloc our Ukraine” (Party of Viktor Yushchenko), which have received respectively 22.29% and 13.95% of votes. The period from August 4, 2006 to December 18, 2007, when Viktor Yanukovich held the position of Prime Minister, wasn’t characterized by the change in Ukraine’s

⁹⁰ Prodi R. (2002) A Wider Europe – A proximity Policy as the key to stability. Speech by the President of the European Commission at the Sixth ECSA-World Conference “Peace, Security and Stability International Dialogue and the Role of the EU”, Brussels, December 5-6, 2002.

Ukraine's membership perspective⁹¹. On the contrary, there was a strong statement from Brussels which explicitly excluded any connections between ENP and the enlargement process. Maurice Guyader, from the enlargement DG within the European Commission, asked about potential candidate status of Ukraine, said the existence of two separated Directorates General (DGs), one for enlargement and one for external relations and ENP does not need any further explanations⁹².

It is not yet sure if this reluctant approach will change in the near future. We are now at the presence of negotiating a NEA between EU and Ukraine and since its scope is not yet decided we can't exclude a shift in Brussels perceptions regarding Ukraine's membership perspective.

Ukraine with its still unstable interior situation, unfinished transition and strategic location between Russia and EU needs particular attention from Brussels. In spite of numerous problems, it is a country that has achieved noticeable progress where reforms can potentially be successful. Thanks to the external incentives Ukraine, has chance to become a model of successful transition for other countries belonging to CIS.

For that reason, according to Frank Schimmelfennig, "the EU should act quickly to negotiate integration and establish a conditional membership perspective with countries such as Ukraine and Georgia [...] European regional organizations cannot create and stabilize democratic systems on their own. However they are able to make a difference when domestic opportunities present themselves"⁹³(see Table 2).

Therefore the question is following: should EU be simply satisfied with a relatively stable, cooperative state or is it ready to support democratization in Ukraine in more active way?

⁹¹ However there has been a resolution of the European Parliament voted in the wake of the Orange Revolution, on 13 January 2005 that urged to recognize Ukraine's membership aspirations.

⁹² M. Guyader during the Conference „Enlargement of European Union”, 25 April 2008, European Commission, Brussels.

⁹³ Schimmelfennig F., "European Regional Organizations, Political Conditionality, and Democratic Transformation in Eastern Europe", Paper prepared for Club de Madrid - IV General Assembly, Prague, 10-12 November 2005, pp. 14

III. European Neighborhood Policy- Critical Assessment, Possible Evolution.

As it was already mentioned in the Introduction, although the European Neighborhood Policy is a relatively young initiative⁹⁴ it has already provoked an intensive debate regarding feasibility of its stated goals, effectiveness of instruments at its disposal and outcome of its implementation. In order to have a clearer view of ENP, it seems appropriate to present here positions that emerged in the debate concerning the functioning of ENP. This chapter will gather both the opinions expressed within academic circles and the different perceptions of member states regarding the ENP evolution. Such a presentation will enable the reader to conceive the strong and weak points of the ENP and to elaborate his/her own opinion regarding the effectiveness of this policy.

1. Academic debate.

Despite the considerable wave of critics towards the newest EU's foreign policy tool, both from academics and politicians, it would be a partial approach to neglect all of the positive results that brought the ENP's implementation. The European Commission in its press release from November 2005 have already pointed out several achievements of ENP: negotiation and adoption of seven Action Plans; progress with Ukraine on Market Economy status, visa facilitation and energy issues, setting up a border assistance mission on the Moldova – Ukraine border; expanding political dialogue with Mediterranean partners, including, for the first time, the creation of sub-committees to launch regular discussions on democracy, human rights and governance; fact that international financial institutions (IFIs) are beginning to

⁹⁴ ENP has entered into its operational phase in 2005 with the conclusion of the Action Plans with Israel, Jordan, Moldova, Morocco, Palestinian Authority, Tunisia and Ukraine.

take the ENP Action Plans as the basis of their strategic agenda for operations with partner countries⁹⁵.

ENP is often criticized for its blurred perspectives and its generality. Nevertheless some authors like N.Hayoz, F.Kehl and S.Kuster in “The Potential Flexibility of Deliberate Ambiguity – The EU’s Relations with the Regimes in its Eastern Neighborhood”, argue that:

“In its potential ambiguity the ENP can be used flexibly according to the different challenges faced and posed by the regimes present in the countries it covers. [...] It can take account of the local situation, the specific needs as well as potential for mutual benefit. [...] EU can react quicker to changes within countries, which previous cooperation models were sometimes slow to grasp.”⁹⁶

The expected advantage of ENP’s flexibility is its possibility to adapt itself to changing circumstances and evolving challenges. The first time when ENP indeed “reformed” itself was when it included the Southern Caucasus states, previously not considered to be EU’s neighbors. Due to the Georgian “Rose Revolution” this approach has instantly changed. In the European Security Strategy adopted by the European Council in December 2003, we can find following statement:

“It is not in our interest that enlargement should create new dividing lines in Europe. We need to extend the benefits of economic and political cooperation to our neighbors in the East while tackling political problems there. We should take a stronger and more active interest in the problems of the Southern Caucasus, which will in due course also be a neighboring region.”⁹⁷

⁹⁵ European Neighborhood Policy: A year of progress, European Commission Press Release, Brussels, 24 November 2005, IP/05/1467, available at: <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/05/1467&format=HTML&aged=1&language=EN&guiLanguage=en>

⁹⁶ Hayoz N., Kehl F., Kuster S. (2005): “The Potential Flexibility of Deliberate Ambiguity – The EU’s Relations with the Regimes in its Eastern Neighborhood”, in: Fieguth, Hayoz (eds.): “Enlarged EU – Enlarged Neighborhood, Perspectives of the European Neighborhood Policy”, Bern, pp. 42

⁹⁷ European Security Strategy (2003): A Secure Europe in a Better World, 12 December 2003, Brussels, pp. 8.

Finally importance and position of this Region was recognized and by the decision of the Council adopted on June 14, 2004⁹⁸, the three countries of Southern Caucasus were included in the EU's European Neighborhood Initiative.

In the same spirit ENP is going now through upgrading process, as we could see on the example of the ENP strategy paper presented in December 2006 by the European Commission in which it proposed to strengthen the relations with EU Neighbors by offering them further going incentives. It emphasized need for: enhancing economic and trade development (including "behind the border" elements and liberalization of trade flows among partner countries, with a certain level of asymmetry if appropriate), facilitating mobility and managing migration (visa facilitation, removing obstacles to legitimate travel, e.g. for business, educational, tourism, official purposes), promoting people-to-people exchanges (educational, cultural, youth and research exchanges; civil society exchanges, and enhanced civil society participation in ENP; exchanges between regional and local authorities), building a thematic dimension of the ENP (enhanced multilateral and bilateral dialogue with ENP partners in key sectors, like energy and transport networks), strengthening political cooperation (more active EU role in regional or multilateral conflict-resolution efforts, including participation as appropriate in civil and military peace-keeping missions), enhancing regional cooperation⁹⁹.

Indeed in this paper EU has pointed the main issues that so far were at the core of critical analysis of the ENP. Important key problems, such as visa facilitation and concretization of EU's economic offer were addressed by European Commission, however, one should distinguish the high rhetoric of EU's declarations and its real capability and willingness to introduce stated goals.

Despite some positive aspects of ENP framework it is necessary to pass now to the weak points of this new initiative. Many critical voices are referring to ENP's

⁹⁸ 2590th Council Meeting, Luxembourg, 14 June 2004, 10189/04 (Presse 195), pp.13., available at: http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/gena/80951.pdf.

⁹⁹ European Commission (2006): Communication on „Strengthening the European Neighborhood Policy”, Brussels, 4 December, COM(2006)726 final, available at: http://ec.europa.eu/world/enp/pdf/com06_726_en.pdf

objectives. On the one hand we have a policy that aims to bring stability and prosperity within EU's neighborhood as European Security Strategy mentions:

“It is in the European interest that countries on our borders are well-governed. Neighbors who are engaged in violent conflict, weak states where organized crime flourishes, dysfunctional societies or exploding population growth on its borders all pose problems for Europe”.¹⁰⁰

Evidently EU foreign policy is not based on purely altruistic principles, however, a balance should be present between EU's own interests and the interests of its direct Neighbors. Analyze of ENP's objectives defined in the European Commission Strategy Paper suggests, however, a different reality:

“Since this policy was launched, the EU has emphasised that it offers a means to reinforce relations between the EU and partner countries, which is distinct from the possibilities available to European countries under Article 49 of the Treaty on European Union. The objective of the ENP is to share the benefits of the EU's 2004 enlargement with neighbouring countries in strengthening stability, security and well-being for all concerned. It is designed to prevent the emergence of new dividing lines between the enlarged EU and its neighbours and to offer them the chance to participate in various EU activities, through greater political, security, economic and cultural co-operation.”¹⁰¹”

According to A. Primatorova the order in which the priorities are presented within ENP's Strategy Paper is a reflection of the actual objectives of EU:

“The explanations start not with what the ENP is about but jump into what it is not about. It is quite odd to present a policy in this way- not through what it wants to achieve but through what it is eager to avoid.”¹⁰²

¹⁰⁰ European Security Strategy (2003): A Secure Europe in a Better World, 12 December 2003, Brussels, pp.7.

¹⁰¹ European Commission (2004): Communication from the Commission. European Neighborhood Policy. Strategy Paper, COM (2004) 373 final, available at: http://europa.eu.int/comm/world/enp/pdf/strategy/Strategy_Paper_EN.pdf

¹⁰² Primatarova A. (2005): “In Search of Two Distinct Tracks for Non-EU Europe and the European Neighborhood”, in: Fieguth, Hayoz (eds.): “Enlarged EU – Enlarged Neighborhood, Perspectives of the European Neighborhood Policy”, Bern, pp. 34.

Furthermore, still referring to the ENP's objectives we should distinguish those who aim at providing security around EU's borders and those that concern economic relations with ENP partner states. The balance between the two is hard to be achieved since EU is more anxious about the security of its external borders than worried about increasing trade exchange with neighbours, who continue to remain negligible for EU's market (it is particularly true for Eastern European countries). This hypothesis can be as well applied to democracy promotion within ENP. The majority of ENP partner states are authoritarian, with ethnic tensions, poor societies where civic participation barely exists and where transition period provoked more chaos than stability. For those states EU incentives are more likely to help to stabilize existing regimes than to influence a bottom-up reform process. The "common values" such as strengthening democracy and the rule of law, respect of human rights and fundamental freedoms or protection of minority rights, which have been so strongly articulated in Commission's official documents, remain empty declarations.

Other critics point out that ENP's geographical scope is over-extended and that it naturally creates a sort of competitiveness among Eastern and Southern EU's Neighbors. But what is more important and can be perceived as an obstacle to ENP's effective functioning, cleavages and misperceptions can be observed within EU's policy agenda as each member state naturally pursue its own interests regarding Neighborhood.

"Finally, while the ENPI cake is marginally bigger, its shares have slightly changed: 62 per cent now goes to the South (it was 70 pre-2007), 38 to the East (30 per cent previously), although the difference is much less pronounced in per capita terms. Internal disputes over regional allocations, however, have not abated: while the so-called "Club Med" keeps fighting its corner, the now more numerous Central Europeans demand extra resources for their own neighbours."¹⁰³

¹⁰³ Missiroli A. (2008): „The ENP in Future Perspective”- paper presented and discussed at the workshop The Study of the European Neighbourhood Policy: Methodological, Theoretical and Empirical Challenges, 25th-26th October 2007, University of Nottingham, Global Europe Papers 2008/12, pp. 7.

This can be seen within rotated Council Presidency system. In the second half of 2006, “Ost Politik” for the whole European Union was promoted under the German Presidency. However, Portugal holding the next Presidency in the first half of 2007, influenced by the other Southern EU members, urged for a shift of EU’s foreign policy toward South.

Other critical views state that ENP embraces countries which differ too strongly one from another. M.Emerson divides EU’s Neighbourhood into two groups: those countries that have already concluded Action Plans with EU and those that for various reasons lack this legal instrument. Among countries with Action Plans he distinguishes the “willing” partner states (like Moldova or Ukraine) and “passive” ones (example of Azerbaijan). On the other hand, countries with which Action Plans are not yet signed are either “reluctant” (like Algeria) or explicitly “excluded” (Belarus). This author suggests that ENP toward countries that really want cooperation is not being upgraded and remains at the same level as towards reluctant or excluded ones¹⁰⁴. Indeed, sharing a border with EU is one of the most important denominators within ENP. EU imposes the same policy to all of the countries even though they fundamentally differ in terms of political regimes, economic systems and cultural particularities, consequently it may fail to face all the challenges posed in those various regions by applying a “one-size fit all” policy.

In most of the official documents and public statements European Commission is strongly arguing that ENP is based on ownership and partnership principles. However, EU is both politically and economically much stronger, this means that there is no place for an equal partnership. After closer analysis of the Action Plans it is evident that we are at the presence of de facto conditionality:

“The level of ambition of the relationship will depend on the degree of Azerbaijan’s commitment to common values as well as its capacity to implement jointly agreed priorities. The pace of progress of the relationship will acknowledge fully Azerbaijan’s efforts and concrete achievements in meeting those

¹⁰⁴ Emerson M., Noutcheva G., Popescu N. (2007): „European Neighborhood Policy Two Years on: Time indeed for an ENP plus”, Center for European Policy Studies, March, No 126, pp.10.

commitments”¹⁰⁵.

ENP is therefore on the path dependency towards the enlargement policy and is often conceived as a pre-stage for future accession. Nevertheless, it leaves membership question without a clear answer.

The problem of low defined and credibility lacking incentives was already mentioned in the part dedicated to the ENP’s conditionality. Nevertheless, the question of membership perspective should be mentioned again. Why should partner state agree to align on EU legislation and EU foreign policy without having an influence on EU decisions and without benefiting from EU budget founding? As the example of European Free Trade Association (EFTA) shows, economic integration with EU has been successful for countries that weren’t member states and it was their own choice. States like Norway or Liechtenstein refused to integrate with EU politically, but they searched for economic integration that would only benefit their already well-functioning economies. ENP countries, on the contrary, in most cases do not represent strong market economies, therefore it is at the core of their interest to follow the EU integration model that would give them a say in decision making process of EU’s market regulations. Taking into account these massive waves of critics it is more possible for the Commission to continue making propositions that aims at restructuring of the ENP.

2. Political debate. Perceptions of different EU’s member states: France, Germany and Poland.

As far as the CFSP remains in the second, intergovernmental pillar of EU’s construction, the decisions taken within this domain are the result of a consensus reached between member states. For instance the ENP’s creation was to a certain extent a result of a compromise between countries that joined EU in 2004 and the Mediterranean member states. The new member states, constituting a new lobby

¹⁰⁵ Action Plan with Azerbaijan, available at:
http://ec.europa.eu/world/enp/pdf/action_plans/azerbaijan_enp_ap_final_en.pdf

group within EU, claimed the development of more coherent and targeted policy towards its direct eastern neighbors. On the other hand, countries like France or Spain were afraid that with the latest enlargement there will be a shift in EU's foreign policy from the South toward the East; therefore they promoted inclusion of the Mediterranean countries in the new elaborated policy.

For that reason it seems highly interesting and useful to present the positions and interests of EU's member states as they constitute a decisive factor in forming the ENP. For this analysis I have chosen France, Germany and Poland. The reason of such choice is simple: each of these countries has very different perception of ENP, shaped by the historical and cultural links with their direct neighbors and by the specific interest in the bordering regions.

1.1. France

Before analyzing the French position toward ENP's development it seems accurate to present at the beginning the features of French foreign policy since the end of Cold War. This policy, that continues to reflect a mixture of continuity and change, is best described with the term "idealistic realism"¹⁰⁶. On the one hand, the concepts like Mitterand's idea of a European Confederation (that has its roots in Charles de Gaulle idea of *la Grande Europe*) were supposed to underline the French role of an advocate of a new European architecture. It was an idealistic vision of a new European order based on "concentric circles" of countries surrounding EU that were interested in the membership. This concept was closely linked with one of the European security order where *l'Europe puissante* that possesses extensive competence in security and defense can contribute to the peace and stability on the European continent. Here, the realistic component of French ideology interferes. Since Europe needs a powerful and well-functioning EU, the policy of further widening could jeopardize this outcome. Therefore France did not favour rapid

¹⁰⁶ Aggestam L. (2004): A European Foreign policy? Role Conceptions and the politics of identity in Britain, France and Germany". Akademitryck AB, Edsbruk, pp.189.

enlargement that could threaten the *aquis* and effectiveness of the Union. Even the accession of three well-consolidated democracies in 1995, already provoked certain concerns about France losing its central geographical position in the EU.

The geographical position of France and its close cultural and economic ties with the southern flank of the Mediterranean Sea justifies the high priority of this Region for decision makers in Paris. The first visible effect of the French influence on EU's foreign policy was the launch of the Barcelona Process during the French Council Presidency. At the Euro-Mediterranean Conference of Ministers of Foreign Affairs, held in Barcelona on November 27-28, 1995 Euro-Mediterranean Partnership was created as a wide framework of political, economic and social relations between the 15 member states of the EU and 12 partners of the Mediterranean Region. As the upcoming years have shown this Partnership didn't produce as positive outcome as it was expected. Some authors explain this poor result by the low attractiveness of the incentives proposed to the Mediterranean partners and the low political standards for participation¹⁰⁷.

The fear that the 2004 enlargement will be followed with a further EU foreign policy shift from the South to the East contributed to the increased activity of French policy-setters regarding the ENP. The first effect was the inclusion of the Mediterranean countries to the newly established project and successful lobbying for the South direction of ENP's funding. As Inga Czerny describes, within 2007-2013 EU's financial framework for a country such as Ukraine with 46 million of population, ENP projected 494 million euro. In the case of Morocco (31 million inhabitants) and Tunisia (10 million inhabitants) those numbers are 654 million and 300 million respectively¹⁰⁸.

From the Paris perspective ENP is regarded as means to maintain the high

¹⁰⁷ Schimmelfennig F., "European Regional Organizations, Political Conditionality, and Democratic Transformation in Eastern Europe", Paper prepared for Club de Madrid - IV General Assembly, Prague, 10-12 November 2005, pp. 24.

¹⁰⁸ Czerny I. (2007): UE: Białorus zaproszona na konferencje nt. Europejskiej Polityki Sąsiedzkiej (EU: Belarus invited to the conference on European Neighborhood Policy), PAP (Polish Press Agency), available at: http://www.money.pl/archiwum/wiadomosci_agencyjne/pap/artykul/ue;bialorus;zaproszona;na;konferencje;nt;europejskiej;polityki;sasiedzkiej,101.0,262245.html

political value of South Neighborhood to EU. The former French president Jacques Chirac summed-up this approach: “The Mediterranean must remain a strategic priority for Europe”¹⁰⁹.

Under the present presidency of Nicolas Sarkozy, the South vector has significantly strengthened with the proposition to establish a Mediterranean Union. This project highly criticized for its ambiguity and the lack of consultation on EU political level has provoked a vigorous debate among European capitals. The most controversial issue concerned the inclusion in this project of solely Mediterranean states, therefore posing even the problem of cleavage within European Union itself. Finally on March 13, 2008, EU accepted the French proposal, however in a modified shape. The Mediterranean Union that will probably be launched on 13 July 2008 under the French Council Presidency will be a step to improve cooperation within an already existing ENP and it will embrace 44 countries, 17 Mediterranean non EU members and all of the 27 EU member states. This change of Brussels perception that was initially strongly against any arbitrary and unilateral actions of French policy setters can be related to the fact that in the recent statements Paris has mitigated its position toward membership aspirations of Ukraine, which remains no longer closed but a half-opened issue.

1.2. Germany

Since the end of the bipolar order, Germany much exposed to the winds of change as a result of its geographical position on the European continent, has strongly supported the idea of EU enlargement toward the East. Therefore bringing of the Central and Eastern European states into the European Union and NATO and the other Euro-Atlantic organizations was considered as a European task. Evidently it was in Germany’s security interest that it is surrounded by the zones of stability and not by the countries where the transformation process, due to its slowness and high

¹⁰⁹ Chirac J.(2005): speech in Barcelona on 8 May, reprinted in Standpoint No 151, 2 December 2005, available at: <http://ambafrance-us.org/news/standpoint/all.asp>

social costs has provoked deeper poverty, consequently serious security threats. During the period of profound reform in CEECs, Germany, the “advocate” of enlargement was not only politically but also financially supporting those processes. According to German policy setters further widening would not jeopardize the deeper integration within EU, as both processes could be implemented in parallel. This generally positive position toward membership aspirations of Eastern Neighbors was nevertheless limited to the bordering countries and Baltic States. Due to the German “Russia first” policy¹¹⁰ countries like Moldova and Ukraine were generally considered as belonging to a traditional Russian sphere of influence, and Berlin was strongly opposed to taking any steps that could enter into conflict with Russian interests. Gradual changes in Berlin’s position could be seen on the example of Ukraine. In years 1991-1993, both countries established and developed diplomatic relations, since then one could observe an increased intensity of political, economic and cultural contacts. It needs to be stressed that even if Germany started to recognize the EU’s interest in strengthening the relations with Eastern European countries, the only way envisaged by Berlin was the development of a multilateral approach¹¹¹.

Consequently within the framework of ENP, Germany supports the idea of development of deeper relations with the Eastern neighborhood. Frank Walter Steinmeier, German Foreign Minister stated that “The EU needs - and do not take the word as strongly as it sounds - a reformulation of its eastern policy”¹¹². Therefore, it is not surprising that under German Council Presidency in the second half of 2006 European Commission presented a set of priorities aiming to strengthen ENP. Regarding the question of enlargement within ENP, Germany has a rather moderate position. It doesn’t exclude definitely the membership perspective for EU’s Eastern Neighbors; however it shares Commission’s view that neighborhood policy should

¹¹⁰ This approach is understandable. Germany since the end of Cold War was facing the challenges of the reunification and the withdraw of 350 000 Soviet soldiers present at the GDR territory.

¹¹¹ Except of Russia with whom Germany maintains close relations, principally for energy security reasons.

¹¹² Quote in: Steinmeier F.: Europa neu denken (Rethinking Europe), speech on the 35-year anniversary of the funding of the Heinz Schwarzkopf Foundation, Berlin 30 August 2006, available at: <http://www.auswaertiges-amt.de/diplo/de/Infoservice/Presse/Reden/2006/060830-Europa-Schwarzkopf.html>

remain distinct from the process of the EU enlargement¹¹³.

1.3. Poland

Long before joining the European Union Poland showed a strong interest in creating a new Eastern dimension within EU's foreign policy. In Warsaw, there was an impression, not only among political elites but also within society that the future EU enlargement, targeted at Central and Eastern European Countries should not be the last one and that the further extension of the EU's boundaries toward the East should have its continuation. Reasons explaining such importance of the Eastern Neighbors within Polish foreign policy are common historical experiences, cultural links as well as security concerns. Although rarely met in Poland, there is a consensus on the political scene that the stable, democratic and independent Eastern neighbors are the condition *sine qua non* of the national strategic security. The central goal remains avoiding civilization discrepancies between EU and its Eastern periphery, which would feed the insecurity factors and consequently in a long term constitute an important risk to the security within Poland itself.

ENP was established before the 2004 enlargement, therefore Polish influence on the shape and features of this policy remained marginal. Since May 2004, Warsaw disappointed with the lack of membership perspective for Eastern Neighbors has actively lobbied for the fundamental reform of ENP. This view is shared mainly by the other new member states, whose geographical position is similar and consequently provokes similar security concerns. Therefore Poland and other EU's new incomers, especially Baltic States are trying to realize its specific interests concerning Eastern dimension by shaping the evolution of the ENP¹¹⁴.

Unquestionably, the central interest of Warsaw within ENP is reserved for

¹¹³European Commission (2006): Communication on „Strengthening the European Neighborhood Policy”, Brussels, 4 December, COM(2006)726 final, pp.2, available at: http://ec.europa.eu/world/enp/pdf/com06_726_en.pdf

¹¹⁴ From the Polish perspective ENP can for the time being constitute an European framework were Poland with other states can create a common approach concerning relations with EU' Eastern neighbors.

Ukraine. It doesn't come as a surprise since Poland shares a long land border with Ukraine and there have always been strong historical and cultural links between the two countries. It is important for both states, that after Poland joined the Shengen zone, the intensity of cross-border cooperation will not decrease. It should be underlined that the interests of Warsaw are not of an economic nature, since the level of trade exchange between Poland and Ukraine is relatively low (see Table 4). The real interest is to sustain the social contacts between populations, as there is an important part of Polish Diaspora on the Ukrainian side. The relations between both countries are considered in terms of "strategic partnership", since Ukraine is seen as a counterpart against neo-imperial tendencies of Russia. Finally, Poland is a strong advocate of recognizing Ukraine's long term membership perspective, which could enable the reforming forces in Kiev to maintain a pro-western direction of foreign policy and to continue implementation of difficult and social-cost economic reforms. In this perspective ENP is considered to be a sort of training for Ukraine before official recognition of its candidate status. Interesting is the opinion of Janusz Reiter that considers "Ukrainian vector" in Polish Foreign Policy as an element of emerging state ideology. According to this author:

"[...] policy towards Ukraine has made a successful career among elites, mostly because it has filled the empty spaces within country's political ideology. This policy gave us a feeling of mission, which in a further perspective would strengthen our position as a partner"¹¹⁵.

The question that arises here, as the consequence of the Polish new political role as an "advocate" of enlargement, is how far those lofty in rhetoric statements can be credible? Poland as a New Member State is first and foremost pursuing its own interests in the European Union and concentrating on how to use in maximum all the benefits of membership. Therefore Warsaw, half-orientated at consolidating its position in Brussels and half-orientated at promoting Eastern dimension, might fail to formulate and run a foreign policy on its own. Conversely, it would not be necessary

in case of concerted action among EU's member states. This issue of a coherent and stable approach toward East will be presented in the following part.

1.4. Remarks

In the Table 1, I summarized the positions of France, Germany and Poland toward the core issues within ENP. It is easily observed that the French, German and Polish policy setters are generally looking in different directions. France with the proposition of the Mediterranean Union, Poland with a recent proposal of its Prime Minister Donald Tusk regarding the creation of the Eastern Dimension within EU's foreign policy, and finally Germany with a relatively moderate position, being a sort of balance in comparison with diverging interest of respective EU member states, however having a clear preference for the Eastern dimension of ENP.

In this triangle of different perceptions several hypothesis for future compromises can be imagined. France and Germany, representing the opposite ideas of future ENP development already have long experience in cooperation on the EU level. Since the establishment of the European Communities there was a strategic relationship between Germany and France - a decisive motor of European Integration. Within this concept the central place belongs to the so-called "bicycle theory"¹¹⁶, which says that unless you constantly move forwards, you will fall of. Therefore, it is more probable that in this present difficult situation both countries will rather try to find an accord than risk European disintegration.

Poland despite of its competences and experience in contacts with the Eastern Neighborhood is aware that acting alone on the EU's political scene does not give expected outcome. Therefore, Warsaw is looking for a partner among European capitals that would share its vision of the ENP and that would support the

¹¹⁵ Reiter J. (2000): in the discussion „Polish policy towards Ukraine and its perceptions in EU states”, organized by Center of International Relations, Reports and Analyzes, 3/2000, available at: www.csm.org.pl

¹¹⁶ Somek A. (2001) "On Supranationality", European Integration online Papers (EIoP) Vol. 5 N° 3; available at: <http://eiop.or.at/eiop/texte/2001-003a.htm>

strengthening of relations with direct Eastern Neighbors. Not surprisingly Germany is considered to be this strong and reliable partner.

“With Germans we are connected by this natural coincidence of interests in promotion of EU’s Eastern Policy”¹¹⁷. Intensification of German-Polish discussion and eventual coordination of the initiatives concerning ENP could additionally have a positive influence on the bilateral relations between those countries. The negative picture of merely Russia-centric orientated German foreign policy and of Poland being a “Trojan horse of Ukraine within EU”, could be mitigated in mutual perceptions. It should be nevertheless kept in mind that Poland is not on equal footing in this “partnership” as it has to focus on consolidating its three years old membership, which remains at the core of its interests. Under the present debate concerning the future of EU’s foreign policy, the possibility for “Weimar Triangle”¹¹⁸ to play a crucial role in the dialogue between France, Germany and Poland is often evoked. However, in recent years a relative stagnation in “Weimar Triangle” consultation could be observed¹¹⁹, therefore, the present impact of this initiative on the strengthening of the Franco-German-Polish cooperation seems marginal.

Therefore, I would argue that we are already at the presence of the compromise among European political leaders, which however does not aim at consolidating and maintaining ENP in its present shape. With the initiatives like those of France and of Poland, it has become clearer that both Southern and Eastern Neighbors need a more particular approach. Therefore, it is highly probable that the future of the ENP, if not jeopardized, is going towards bigger differentiation between its particular dimensions. Nevertheless it is not certain to which extent this differentiation would be introduced. Two hypothesis regarding EU’s Eastern Neighbors could be foreseen. In the first one European Neighbors and Neighbors of Europe would be separated and

¹¹⁷ Gowin J. (2004): ‘Spor o Europe. Nowa odsłona’ (Conflict about Europe. New phase). Rzeczpospolita, 25 September 2004.

¹¹⁸ The Weimar Triangle established in 1991 is intended to promote co-operation between France, Germany and Poland. It exist mostly in form of summit meetings, the recent one held in Nancy (France) on 19 May 2005.

¹¹⁹ Especially with the Polish opinion that the „Weimar Triangle” represents low importance for the European dialogue. Example: Polish President Lech Kaczynski has cancelled the recent summit due to alleged indisposition, deemed uncredible.

covered by two distinct policies and the accession perspective would be conditionally granted to all of the Eastern European countries. The second (more probable) implicates moving Ukraine from the portfolio of ENP to the one of Enlargement and – regarding other countries that would remain covered by the ENP – further improving of the operational capacities within this policy would be introduced.

CONCLUSIONS

Prior 2004 the neighborhood policy was the synonym of enlargement, the widening process of EU; however the perspective of accepting 12 New Member States provoked a deeper reflection concerning the shape and goal of EU's relations with its Neighbors. The effect was the creation of ENP and clear message that enlargement is not on its agenda. Even if this policy is being implemented for three years now, K.O.Lang distinguished already four stages in ENP's development: take off, deepening and widening, implementation- and the final where we stand at the moment- realism and new challenges¹²⁰.

Since its creation ENP is facing sharp critics, mostly from academics. A. Primatarova enumerates the principal arguments for such negative assessment:

“[...] it is not well targeted, it is deliberately ambiguous, it doesn't address the challenges of new dividing lines with Eastern Europe, it is devoid of any long-term vision, it offers a lot of rhetoric and very little incentives, [...] it is aiming at preserving status quo, it is the result of self-concern rather than mutual understanding”¹²¹.

It needs to be stressed out that the aim of this work is not to question the very idea of ENP. Certainly it is about time for EU to find a more coherent framework that would cover the relations with the Neighborhood and there is still place for certain measures to be taken in order to improve the functioning of ENP. First, regarding the Mediterranean countries, EU should stop insisting on the project of establishing the Free Trade Area by 2010 since it is hardly feasible in the forthcoming future. Instead EU should commit itself to gradually lift the restrictions on agricultural and textile products imports coming from North Africa. Next, in order to gain a higher credibility it should take some noteworthy measures that could contribute to the visa

¹²⁰ Lang K.O. (2007): „European Neighborhood Policy: Where do we Stand- Where are we Heading?“, in: Varwick, Lang (eds.): “European Neighborhood Policy – Challenges for the EU-Policy Towards the New Neighbors”, Barbara Budrich Publishers, Opladen and Farmington Hills, 2007, pp.15.

¹²¹ Primatarova A. (2005): “In Search of Two Distinct Tracks for Non-EU Europe and the European Neighborhood”, in: Fieguth, Hayoz (eds.): “Enlarged EU – Enlarged Neighborhood, Perspectives of the European Neighborhood Policy”, Bern, pp. 39.

facilitation regimes. Additionally EU should make an effort to coordinate its policies with other international actors so as to apply political conditionality that is complementary, not competitive. However what reveals of a crucial importance is the need to precisely define ENP's objectives, that were so far full of contradictions so that give a clearer picture of the priorities within relations with the bordering countries.

“We want a secure external border, but it must be completely permeable, our neighbors must adopt EU institutions to an extent that they can be considered part of the “family”, without being it and we want a “ring of friends” that follows the same objectives although they are very different”¹²².

Nevertheless there is one aspect of ENP that seems to be a fixed impediment to the effectiveness of this young policy, namely its geographical scope. Southern Mediterranean, Southern Caucasus and Eastern Europe are simply too diverse regions to be put in the same “basket”. The problems identified by EU within 16 states covered by ENP and the achievable objectives are certainly not homogenous. While the priorities in the Eastern Neighborhood are fight against corruption and conflict resolution, the Mediterranean urges for more concerted fight against terrorism, and development of transport and infrastructure¹²³. As we can observe the long-term perspectives for both regions are not comparable, also if we divide ENP partner states into groups of European Neighbors and the Neighbors of Europe. Referring to the European Neighbors we should not forget that Eastern Europe itself represents a high degree of diversity. The last European “dictatorship” in Belarus, progressing democratization in Ukraine, Moldavian government headed by communists and three Southern Caucasus states differing in terms of ethnics, religion and political regimes – they all call for a diversified approach. High complexity of the relations with the

¹²² Langer J. (2004): *Wider Europe and the Neighborhood Strategy of the European Union- A Quest of Identity?* Europe 2020, quoted in: A. Primatarova (2005): “In Search of Two Distinct Tracks for Non-EU Europe and the European Neighborhood”, in: Fieguth, Hayoz (eds.): “Enlarged EU – Enlarged Neighborhood, Perspectives of the European Neighborhood Policy”, Bern, pp. 37.

¹²³ Missiroli A. (2008): „The ENP in Future Perspective”- paper presented and discussed at the workshop *The Study of the European Neighbourhood Policy: Methodological, Theoretical and Empirical Challenges*, 25th-26th October 2007, University of Nottingham, *Global Europe Papers* 2008/12, pp. 6.

post-soviet countries requires from EU a more targeted Eastern foreign policy. The adequacy of ENP regarding Neighbors like Ukraine should be questioned. Since European Commission consequently denies any connections between ENP and enlargement, I argue that Ukraine should be moved from the portfolio of the ENP to the one of Enlargement.

The major voices of critics opposing to the recognition of Ukraine as a potential candidate state are often pointing out that this step would only contribute to a superficial “Europeanization” characterized by repeated commitment of political elites to the European values and no substantial changes in the perceptions and identity within Ukrainian society. I argue that this stage of domestic evolution is inevitable for the most of the post-communistic states. As it can be presented with the Polish example, the government in Warsaw, after successfully finalizing the accession negotiations, had to embark on a massive information campaign so as to convince largely skeptical Polish society to accept accession to the EU in the referendum vote. As G. Noutcheva has adequately summarized the early changes in the political discourse with time are internalized and can influence authentic changes in identity and interests¹²⁴. Hopefully the present tuition of Ukraine and its future evolution will be similar to the one of Central and Eastern European states in the wake of the Soviet’s Union dissolution. It would be naïve to assume that Western countries warmly accepted the geopolitical changes on the European continent. It was only in 1993 that EU recognized CEECs candidate status to finally open the accession negotiations in 1997. Norman Davies presents this situation as “Allied Scheme of History”, that is:

“The unspoken acceptance of the division of Europe into Western and Eastern spheres of influence. Whereas Atlantic values are expected to predominate in the West, the East is considered as Russia ‘s legitimate sphere of influence. [...] The hold

¹²⁴ Noutcheva G., Tocci N., Kovziridze T. et al. (2004): „Europeanization and Conflict Resolution: Theories and Paradigms”, in: Coppieters B., Emerson M., Kovziridze T., Noutcheva G., Tocci N. and Vahl M., „Europeanization and Conflict Resolution: Case Studies from the European Periphery, Ghent: Academia Press, quoted in: M.Emerson (2004): „European Neighborhood Policy: Strategy or Placebo?”, Centre for European Policy Studies (CEPS), Working Document, No 215/November 2004, pp. 2.

of the Allied scheme was evident in the reactions to the collapse of communism after 1989”¹²⁵.

This “Allied Scheme of History was present as well in the wake of East European revolutions in Georgia and Ukraine. As stated by T. A. Garton:

“Why won’t these bloody, semi-barbarian east European leave us alone, to go on living happily ever after in our right, tight, little west European (or merely British) paradise”¹²⁶.

We should be aware of the new situation that EU is facing both internally and externally. This is no longer community of 15 states but 27, and its borders don’t finish at Odra River but around 1000 km further to the East. The strong voices of New Member States toward revising ENP will only intensify and it should not be taken by Westerns as impudence, but recognized as a legitimate defense of the national as well as EU interests. It seems unacceptable to leave other Europeans that have made an effort and proved their commitment to the democratization process, outside EU borders without any perspective of joining the “European family”. This strange thing-hope¹²⁷, using once again words of R. Prodi is a necessary factor that pushes people to challenge the reality. While supporting the membership perspective for Ukraine, I’m not talking about any timetables since the development of the situation is, as recent events have proved, unpredictable. It should be simply acknowledged that granting country a candidate status contributes to a higher coordination of reform implementation, intensified cooperation between political elites, consequently for stable, not-interrupted democratization process.

By applying political conditionality of the enlargement process, EU has

¹²⁵ Davies N. (1996): „Europe. A History”. London: Pimlico, quoted in: Primatarova A. (2005): “In Search of Two Distinct Tracks for Non-EU Europe and the European Neighborhood”, in: Fieguth, Hayoz (eds.): “Enlarged EU – Enlarged Neighborhood, Perspectives of the European Neighborhood Policy”, Bern, pp. 34.

¹²⁶ Ash T.G. (2004): „Bitter lemons. Six questions to the critics of Ukraine’s Orange Revolution. In The Guardian, December 2, 2004, quoted in: A. Primatarova (2005): “In Search of Two Distinct Tracks for Non-EU Europe and the European Neighborhood”, in: Fieguth, Hayoz (eds.): “Enlarged EU – Enlarged Neighborhood, Perspectives of the European Neighborhood Policy”, Bern, pp. 34.

¹²⁷ Prodi R. (2002) A Wider Europe – A proximity Policy as the key to stability. Speech by the President of the European Commission at the Sixth ECSA-World Conference “Peace, Security and Stability International Dialogue and the Role of the EU”, Brussels, December 5-6, 2002.

chance to influence the reforms it would like to see in Ukraine. On the other hand, if EU- anxious not to overstretch itself- remains within the ENP logic it can forgo all the options to project stability and to support democratization beyond its Eastern border.

ANNEXES

Table 1. Bertelsmann Transformation Index 2008*

| | Ranking 2008 | Rule of Law | Stability of Democratic Institutions | Status Index** |
|---------|--------------|-------------|--------------------------------------|----------------|
| Albania | 33 | 6.3 | 8.0 | 7.50 |
| Serbia | 31 | 7.0 | 7.5 | 7.75 |
| Ukraine | 35 | 6.8 | 7.5 | 7.35 |

* Available at: http://www.bertelsmann-stiftung.de/cps/rde/xbcr/SID-0A000F14-266D186A/bst_engl/xcms_bst_dms_23848_23849_2.pdf

** Status Index- Status of Political and Economic Transformation.

Table 2. Domestic Constellations and Democracy Promotion¹²⁸

| Party Constellation | Effectiveness of Political Conditionality | <i>Recommended Strategy</i> |
|---|---|---|
| Liberal Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland | Redundant with regard to general democratic change; high with regard to specific norm-violations | Monitoring and judicial enforcement within regional organizations |
| Antiliberal Belarus, Serbia (until 2000), Ukraine (until 2004) | Low | General membership perspective plus assistance to liberal- democratic opposition |
| Mixed Bulgaria, Croatia, Romania, Slovakia, Serbia (since 2000), <i>Ukraine (since 2004)</i> , Turkey | High | <i>Credible conditional membership promise</i> |

¹²⁸ Schimmelfennig F., "European Regional Organizations, Political Conditionality, and Democratic Transformation in Eastern Europe", Paper prepared for Club de Madrid - IV General Assembly, Prague, 10-12 November 2005, pp. 14

Table 3. Position of France, Germany and Poland regarding ENP*

| | France | Germany | Poland |
|------------------------|--|---|--|
| Membership Perspective | NO | OPEN | YES (Ukraine, Moldova) |
| Economical Aspects | Free Trade Agreements with Mediterranean countries | Open internal market, especially in the energy sector, deepening of the Free Trade Agreements | Free Trade Agreements; gradual integration into European Economic Area |
| Financial Instruments | Additional funds for Mediterranean | Reinforcing, funding interregional cooperation | Additional funds for Eastern dimension, coordination improvement |
| Security Issues | Improving dialogue, conflict resolution, fight against terrorism | Improving dialogue, conflict prevention and resolution | Enhancing political and security dialogue, assistance in conflict resolution (Transnistria, Southern Caucasus) |

* Source: Lippert B.(2007) : “The Discussion on EU Neighbourhood Policy-Concepts, Reform Proposal and National Positions”. Friedrich Ebert Stiftung, Berlin, pp.3.

Table 4. Ukraine's part in Polish export/import*

| | Export | Import |
|------|--------|--------|
| 2000 | 2.52 % | 0.97 % |
| 2001 | 2.78 % | 0.89 % |
| 2002 | 2.87 % | 0.89 % |
| 2003 | 2.93 % | 1.09 % |

* Source: Fakowski M., Lang. K.O. (2004) : "Gemeinsame Aufgabe- Deutschland, Polen und die Ukraine im sich wandelnden Europa". Institut of Public Affairs. Warsaw, pp. 34.

Map. 1



available at : <http://img215.imageshack.us/img215/3081/europeanunionfinal40ad.jpg>.

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