

Between Geopolitics and Transformation: Challenges and Perspectives for the Eastern Partnership

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Summary The EU's Eastern Partnership (EaP) faces a double challenge. The transformation of post-Soviet countries it was designed to support has largely failed to emerge. In its place, a conflict with Russia has arisen for which the EaP was unprepared. This spells a dilemma. Rather than support EaP governments on the basis of their reform records, the EU is tempted to back them for the geopolitical choices they have made (namely, for their professed pro-European positions). In the long run, however, the EaP cannot succeed without delivering on its "transformational agenda." Even in countries that have already signed Association Agreements with the EU, the ultimate success of the EaP is in question. This analysis describes the EaP's "transformational challenge." It argues that geopolitical competition with Russia was neither avoidable nor will it be easy to overcome. The key obstacle to change, however, is not geopolitical competition but the veto power of vested interests within EaP countries themselves. Since this veto power marks a crucial difference from conditions that prevailed in EU enlargements in Central Europe, the EaP's response must apply a different transformational logic. The EU must go beyond merely supporting reforms in the EaP and effectively take co-responsibility for them. This involves upgrading the principle of conditionality and getting involved more directly in implementation. The paper concludes by stressing the importance of human resources in state institutions and proposes concrete measures for appointing and retaining qualified personnel and, particularly, independent leaders for key law enforcement and regulatory bodies.

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Introduction

The Eastern Partnership (EaP) emerged in response both to the European aspirations of post-Soviet countries and to the lack of social and economic development, systematic corruption, persistent deficiencies in the rule of law and democracy, and the resulting threat to political stability and regional security in post-Soviet Europe.¹ From the start, the initiative was also a compromise between mainly eastern European EU member states who were interested in expanding EU integration further eastward and EU member states mainly in western Europe who were wary of making additional commitments.

The EaP was correspondingly ambiguous about the EU membership perspective of the countries in its purview, but the Association Agreements to be concluded between individual EaP countries and the EU set out ambitious goals for transformation toward a liberal democracy based on the rule of law, good governance, and a market economy. The key element of the agreement – the Deep and Comprehensive Free Trade Area (DCFTA) to be established with EaP countries – was to offer far-reaching economic integration into the European common market. In particular, economic integration was intended to serve as a key driver of change; a viable market economy required functioning state institutions (regulatory bodies, in particular) and judicial institutions that would improve the rule of law. Since the negotiations and the implementation of the DCFTA were expected to take at least a decade, visa liberalization was added – a feature that could be delivered in the shorter term.

The EaP rests on two implicit assumptions. The first is that it could essentially follow the same logic that underpinned democratic and economic change in Central Eastern European countries during their respective EU accession processes.² Essentially, the EaP was to offer a kind of “light version” of EU enlargement, in which the EU would support reforms while relying on local elites

to implement them. The EaP offered long- and mid-term benefits to societies as a whole, but its success depended on the assumption that local economic and political elites would be interested in reaping them.

The second assumption was that the integration offered by the EaP would find broad popular support as well as the broad support of political forces within the countries. No competing model of integration existed at the time, as it does today in the Eurasian Union sponsored by Russia. To be sure, Russia always had reservations about Western interference in its neighborhood, and relations between Russia and the EU were already strained over various issues. But for most EU policy makers, the EaP was not intended to ignite a conflict with Russia.

Today the EaP faces a double challenge. The transformation it was meant to bring about has largely failed to materialize, whereas a conflict with Russia for which it was not designed has come to the fore. As a consequence, the EaP region has become more instead of less divided.

Because of their democratic deficiencies, it was never anticipated that Belarus and Azerbaijan would fully participate in the EaP’s offers. For its part, Armenia had to opt out of signing an Association Agreement with the EU in September 2013 in order not to strain its relations with Russia. That has effectively left the EaP with the three countries that have concluded Association Agreements: Georgia, Moldova, and Ukraine. This analysis therefore focuses on the reform challenges that the EaP faces in these countries.

Of these three countries, Ukraine faces a war; Georgia seems to be suffering a certain stagnation (though its reform process is most advanced); and Moldova, once hailed as the success story of the EaP, has suffered a major backlash in its development toward democracy and the rule of law.

The result is a dilemma. The EU’s agenda has been increasingly overshadowed and contradicted by a largely geopolitical concern: competition with Russia. In the

short run, this suggests that the EU should support governments for professing to be pro-European regardless of their reform records. In the long run, however, the Eastern Partnership – like any geopolitical goal the EU may pursue in post-Soviet Europe – cannot succeed without delivering on its transformational agenda.

Geopolitical Context: The Ambiguity of the EaP

The escalating conflict with Russia over post-Soviet Eastern Europe caught the EU rather unprepared. The EaP had made no provisions for a confrontation with Russia in the post-Soviet neighborhood. It did not contain instruments for supporting its partners against Russian reprisals. Russia, however, had always opposed the build-up of Western influence in its neighborhood in general and the EaP in particular (though not always with the same intensity). Why, then, was the EU unprepared for conflict?

The answer lies partly in the general nature of EU policy making. The EU's strength tends to lie more in its transformational powers than in a capacity to act strategically. Since EU policies must be negotiated by all member states, taking each state's interests and values into consideration, the EU usually has difficulties setting and following coherent objectives, to say nothing of responding flexibly to the interactive nature of strategy. In times of crisis, this condemns the EU to a *reactive* rather than *pro-active* role. The EaP – as a compromise of diverse viewpoints within the EU – was from the outset defined less by a shared vision of the EU's strategic goals than by two crucial reservations.

First, the majority of EU member states and EU institutions wanted for domestic political reasons to forestall a new enlargement debate. This conflicted with the interests of newer member states who sought further enlargement to the east. This internal tension was never really overcome. In particular the 2008 war in Georgia helped prompt the EU to move forward with the initiative, even though it had not achieved general consensus on the EaP's purpose and reach.

Second, while some of the EaP's supporters did in fact see EU integration in Eastern Europe as a means of containing Moscow, most European leaders and politicians shared reservations about entering into a conflict with Russia. The EaP was conceived as a form of "soft-power" competition but not as an instrument of the "hard-power" competition with Russia that eventually ensued.

As a result, the EaP remained ambiguous. In substance, the integration the EaP offered was, and continues to

be, far reaching. With DCFTA, the economies of partner countries would largely be integrated into the EU's common market. The political reforms it entailed would bring the countries quite close to EU standards. The full implementation of the Association Agreements would pave the way to EU accession – with the process of joining the EU as a comparatively smaller next step.

EU leaders, when responding to EaP partner countries' demands for a clear EU membership perspective, regularly needed to point out that the EaP could bring them closer to eventual future accession. Particularly in Western Europe, however, EU leaders needed to downplay the extent of the integration offers contained within the EaP – in particular implications for future EU enlargement. The different needs involved in addressing foreign and domestic audiences necessarily led to mixed and sometimes conflicting messages.

The compromise nature of EU policies and the fact that the EU as a Union of (still) 28 member states, each with its own pluralistic systems and lacking a definitive authority to clarify positions, leaves broad space for interpretation and speculation about the intentions behind EU policies. As a consequence, one can encounter voices in the EU that can be taken to confirm virtually any narrative – as well as its opposite. This includes the current Russian narrative, according to which the EaP is a deliberate strategy to extend the EU's geopolitical influence at Russia's expense.

In reality, a double case of denial has shaped EU attitudes toward the EaP and its relations toward Russia: first, the denial that the EaP would harm Russian interests and thus that there would be any reason for conflict and, second, the denial of the legitimacy of Russian reservations about the EaP.

1) Russia, following a "realist" understanding of international relations, views the conflict as a zero-sum game for power and influence and expects its interests to be respected. For the EU, the EaP is more about promoting development than about geopolitical interests. Consequently, the EU rejected the EaP as a reason for conflict. Russia, for its part, likely misread EU communication on the EaP as assurances that EU interference in the post-Soviet neighborhood would be limited, therefore underestimating the extent of the integration offers that the EaP in fact embodied. This may explain why Moscow's resistance to the EaP did not harden until shortly before the Association Agreements with Ukraine, Moldova, and Georgia were to be signed in Vilnius in late 2013.

2) On a fundamental level, the EU's strategic culture is built on rejecting the hierarchical relationships of traditional power politics and spheres of influence. Instead, it

aims for cooperation that seeks common gains in terms of liberal values. This culture is what led EU politicians to deny the legitimacy of Russian interference or even its objections to the EaP. Because they considered Russia's objections neither legitimate nor founded, EU leaders – while not themselves intending conflict – disregarded the emerging conflict instead of preparing for it.

A major weakness of the EaP is thus that it was ill-equipped from the start for what turned out to be unavoidable competition and eventual conflict with its largest neighbor to the east. The EaP offers partner countries long-term benefits in terms of development. Russia, however, can provide not only considerable short-term benefits – such as reduced energy prices and loans – to those same countries but also short-term disincentives. These include imposing trade sanctions, limiting access to migrant workers, negative propaganda by influential Russian media, sponsoring domestic opposition, and, not least, raising tensions in separatist regions, supporting armed insurgents, and sponsoring outside intervention. While armed intervention on Russia's part allowed for no direct response from the EU apart from political and economic sanctions, the EaP also offered little by way of an arsenal to counter even the other measures Russia had at its disposal.

Geopolitical Context: The Ambiguity of Russia's Policy

Far from being designed for conflict, the EaP was actually designed to complement the agreements Russia had with the same countries. These included free trade agreements to be negotiated between members of the Commonwealth of Independent States (CIS). It was only later that Russia promoted the customs union with Belarus and Kazakhstan (founded in 2010) and the Eurasian Economic Union (finally established in 2015) as a competing and mutually exclusive integration project. The subsequent escalation of the tension over the EaP can be easily taken as the logical result of a coherent Russian strategy to reassert its influence in its post-Soviet neighborhood. But when the EaP was launched in 2008–09, the extent to which this conflict would escalate was far less certain. At the time, Russian policy was hampered by its own ambiguity. It struggled to balance its desire to protect its influence in post-Soviet states with its interest in reaching an arrangement with the West (or at least with key Western partners).

The country's foreign policy objectives have not changed, but the weight they have been given has – as

Russia places increasing emphasis on defending its influence in post-Soviet states. The EaP was only part of the reason. In fact, Moscow's resistance to the EaP hardened only after its more ambitious policies to strengthen itself at home and abroad had failed. As cause or as a consequence, three primary developments – economic, political, and ideological – underlined this shift:

- Economic developments: Modernization of the Russian economy under Vladimir Putin and Dmitri Medvedev largely failed. Putin had initially set out rather liberal modernization programs, but when rising energy prices removed financial strain, he resorted to reestablishing state control over major industries. This course left him with only the logic of a state-run modernization, which proved insufficient to overcoming the Russian economy's lack of competitiveness. Russia continued to depend on energy exports, with unfavorable exchange rates as one consequence. Industry remained uncompetitive, and liberal reformers who promoted free trade with the West as an instrument of modernization found themselves marginalized. As Russia became more inclined toward protectionism, the rationale grew for consolidating Moscow's own trade block in the post-Soviet sphere.
- Political developments: Until well into the Medvedev presidency, the main foreign policy objective was to reach a broader settlement with at least key Western partners on two major objectives: to be recognized – in particular by the US – as a peer power whose interests had to be respected, and to achieve greater inclusion – essentially, veto power – within a remodeled European security architecture. However, the geopolitical bargain Russia sought proved irreconcilable with the West's mix of geopolitical interests and liberal values. As a result, Russian strategy was readjusted, particularly during Putin's third term as president, on the basis of closer ties to China and an entrenchment in the post-Soviet sphere to counter Western influence there.
- Ideological developments: There has been a deliberate deepening of the rift between Russia and the West, particularly in terms of perceived differences in values. After the break-up of the Soviet Union, Russia's leaders used to justify divergences from the Western model of liberal democracy and market economy by citing the country's distinctive challenges; notions of a “sovereign” or “guided democracy,” though designed to shield Russian leaders from criticism, tended to confirm rather than contradict this. As the country's political system became more authoritarian, however, tensions

with the West intensified. The “color revolutions” and the effects of the 2008 financial crisis threatened the legitimacy of Russia’s political system, and its leaders increasingly resorted to stressing particular “values” to set Russia apart “the West.” Putin’s third presidential term has signaled a major shift in this regard, making direct appeals to conservatism rooted in Russian and Orthodox traditions and to the superiority of “Russian values” over Western “decadence,” all accompanied by an increasingly polarizing propaganda.

Russia’s Objections to the EaP

The economic, political, and ideological developments outlined above considerably deepened the struggle over the EaP. Initially, in 2008, neither the EU nor Russia sought conflict, but this is not to say that confrontation itself was avoidable. Indeed, in its original design – and contrary to its intention – the EaP was bound to lead to a conflict. By its nature, the EaP presented Moscow with economic, political, and ideological challenges that have only mutually reinforced each other with domestic developments in each of these areas and will remain crucial as the conflict evolves:

- Economically, Russia has emphasized its concern that – through both DCFTA and the free trade agreement the CIS countries had among themselves – EU goods could flood the Russian market, bypassing Russian tariffs by way of relabeling. It used this argument, together with concerns about sanitary and food safety standards, to justify the de facto trade sanctions against Ukraine and Moldova in the process of concluding the Association Agreements. Though Russia’s concern is not entirely unfounded, such abuses can be contained through improved use of certificates of origin. Another economic objection is that if EaP countries implement EU standards, they would also diverge from standards shared with Russia, complicating economic transactions. Although Russian companies also need to adjust to EU standards for their exports to the EU, this only adds to Russia’s interest in strengthening its own trade block in order to counter the EU’s agenda-setting power in future trade negotiations. Overall, Russia has stressed its economic concerns not because these concerns are in themselves so important but because they provide the best legal grounds for objecting to the EaP. Such problems could be solved if Moscow had the political will.
- Politically, Russia has had to envision a considerable loss of influence and leverage over EaP countries. If the

EaP succeeds, the economic links between EaP countries and the EU would grow much faster than their links to Russia, gradually outweighing the latter. Political proximity to Europe would follow. A successful EaP would widen systemic differences with Russia. Democratic and economic reform in EaP countries would stabilize them, thereby strengthening them against external political interference. The result, for Moscow, would be a loss of leverage over its neighbors, perhaps eventually culminating in their accession to the EU or to NATO. (Russia should not be expected to discern a fundamental distinction between European integration and NATO enlargement. The one could be the key to the other.) For Russia, a flourishing EaP could effectively spell the dissolution of its sphere of influence in Eastern Europe and leave it with a stark choice: either adjust to the European integration process or become isolated in Europe.

- Ideologically, too, the potential democratic transformation of key post-Soviet states would directly challenge Moscow. As Russia increasingly stresses its own values and the virtues of its political system in comparison with the West, it is emphasizing common cultural bonds – including the Orthodox tradition – with its neighbors, Ukraine in particular. If European integration and Western political and economic models succeed in post-Soviet countries, it would call into question the distinctiveness of Russian values and the very foundation that post-Soviet societies are said to share. By the same token, political developments in other post-Soviet countries could be taken as models of what is possible in Russia. Certainly, Russian leaders have no wish to see the emergence of more pro-Western protest movements such as Maidan nor to see them succeed in bringing sustainable political change.

The Impact of Russian Resistance to the EaP

The key objectives of Russia and the EU in the region are different not only in direction but in kind. Whereas Russia sees the struggle over the EaP primarily as one of interests, for the EU it is a matter both of interests *and* of values. As a result, each side disregards the motives of the other; Russia dismisses EU values as a mere pretext for advancing geopolitical ambitions, while the EU dismisses Russia’s objections as illegitimate. The setting opens little space for compromise; the conflict may be

managed but it will not be solved easily and will likely persist for years.

The form of the current conflict, like its causes, has been asymmetrical. Exploiting EU weaknesses, Russia responded to EU soft power with instruments of hard power. At the same time it developed and employed its own soft power in the form of effective propaganda while the EU was distracted by crises over the euro, refugees, and, finally, the Brexit referendum. But one should not expect too much of a master plan on the Russian side. Overall, Russia's policies look more reactive than strategic.

As noted, Russia's resistance to the EaP was late to harden. Its efforts to prevent Viktor Yanukovich from signing Ukraine's Association Agreement with the EU in November 2013 came at the last minute before the Vilnius summit. This makeshift attempt backfired, bringing about the pro-European Maidan movement and Yanukovich's ouster. This outcome was quite predictable in advance. In the escalation that followed, Russia rapidly created a set of *faits accomplis* – the occupation of Crimea, the conflicts in eastern Ukraine – but it was neither oblivious to international reactions nor willing to risk greater involvement by forcefully extending armed conflict to other parts of Ukraine. Russia's strategy has been clear about the developments it wants to prevent but far less concrete about the *What* and the *How* of its objectives.

Russia, moreover, has been no more successful than the EU in achieving its objectives. Only in the case of Armenia did it manage to turn the country away from European integration and toward Eurasian integration. In Ukraine, Russia's annexation of Crimea and control of secessionists over portions of the Donetsk and Lugansk regions will still spell geopolitical loss if the rest of the country consolidates while maintaining a pro-EU course. Indeed, Russia's intervention turned Ukraine's broad public against it – a high cost that included losing leverage over developments in the country and helping to consolidate Ukrainian identity. Where Russia has used military force, as it did in Georgia and Ukraine, national societies have tended to rally to the pro-Western cause.

The most important impact of Russia's opposition to the EaP is less direct: that the "Russian factor" has strengthened the leverage of vested interests within EaP countries, helping these deadlock the reform process, particularly in Ukraine and Moldova. Russian pressure did not itself prevent any reform, but it strengthened the veto power of vested interests against reform by offering an excuse and by weakening reform pressure from the EU. Geopolitical competition with Russia has pushed the EU into supporting pro-EU governments regardless of

their real reform records. Furthermore, the build-up of pro-Russian parties in EaP countries, combined with Russian propaganda, have had a polarizing effect on citizens, pressuring them to choose between Russia and the EU. This is the case particularly in Moldova today, as it was in Ukraine before the Maidan movement.

This polarization was largely absent from Central Eastern European countries at the time of their EU accession. Although governments there regularly lost elections and power, all important political forces agreed on the need to pursue reforms as well as on their general direction. In EaP countries, on the other hand, every reformer must fight on two fronts: against an opposition that threatens to fundamentally reverse the pro-European course and against vested interests within their own political camps, actors whose blocking powers increase as they can sway the balance. For pro-European forces, the main objective has therefore shifted from pushing for reforms toward reaching compromises on reforms in order to stay in government. Even in Ukraine, where Russia's escalation strengthened national unity, armed struggle has hampered reform efforts; it has distracted the already limited capacities of reform forces in government, thus increasing the possibility of vested interests blocking reforms.

This lack of progress turns out to be Russia's biggest advantage in its struggle with the EU. Time is not on the EaP's side. If it fails to deliver on its promise of reform, it can neither bring about nor maintain political stability. Nor will it be able to maintain public support for a pro-European course. Failure to make progress will sooner or later discredit the project of European integration and turn the tide against the EaP.

Here Russia's political, military, economic, and informational interference is a distraction; the key obstacle to reform is domestic resistance within EaP countries.

Obstacles to Reform in EaP Countries: Social Factors

The EaP's instruments were modeled largely on previous EU enlargement processes, and it was assumed that its target countries would carry out reforms in much the way Central Eastern European countries did. Eight years on, however, only Georgia has registered major "transformational" successes – successes that were in large part unconnected to the EaP, having been started and largely implemented earlier.

Lack of progress is not due to a general lack of a desire for reform within EaP societies or among elites. But re-

form forces in post-Soviet countries have faced far greater challenges, and they have met far greater resistance against reforms than their Central European counterparts. These problems begin with a social fabric that limits the opportunities for rallying broad public support around a reform agenda.

- Most post-Soviet countries lack a strong national identity. National identities are often divided along cultural or ethnic lines or competing historical narratives. These lines are also a predominant factor in dividing the political landscape among different parties, majorities and opposition. This complicates building the necessary social consensus to embark on truly national projects. Every major political project, like European integration, tends to polarize society along identity lines. Here, the stronger national identity present in Georgia helps explain why that country's transformational successes have made it an exception among post-Soviet countries.
- Post-Soviet societies are marked by a high level of interpersonal mistrust as well as by informal rather than formal rules. Due in part to the Soviet legacy, people tend to expect institutions, organizations, laws or rules to be just a facade that in reality serves the hidden agenda of parallel structures and special interests in the background. This creates vicious circles. With low trust in abstract norms, their effective validity within society is also low. People rely on family and personal relations far more than on merits, and the former indeed regularly play a far greater role in social advancement.
- Mistrust has kept the organizational culture at a low level. Since building a minimum of confidence for effective collaboration and information sharing between individuals involves a high degree of investment, the cost of interaction in society is also high. The efficiency of governmental structures suffers from excessive top-down structures of decision making and a low propensity to delegate, share information, engage or collaborate as well as to plan or coordinate capabilities. This, in turn, slows down or even impedes the implementation of policies, even if the necessary political will for reforms exists.
- This mistrust makes societies highly atomized. Broad social interests hardly ever organize themselves in such a way that they could gain importance in political life. Organized civil society is but a thin layer of rather small organizations predominantly dependent on foreign donors and without deep social roots. The high level of mistrust also makes it far more difficult to rally citizens around a positive agenda than to discredit political

projects and their proponents. That is why democratic processes in post-Soviet states have not usually been a driving force for reform but are instead easily coopted by vested interests.

Obstacles to Reform in EaP Countries: Vested Interests

The most important obstacle to reforms is the resistance of vested interests. Oligarchic structures have emerged across post-Soviet Eastern Europe, with the notable exception of Belarus (which therefore does not factor into the examples given below). The term “oligarchic structure” describes the mutually reinforcing control by or crucial influence of businesspeople over economic assets, mass media, political parties, and key state institutions excluded from political and economic competition. The power of vested interests usually rests on five pillars:

- 1) Economic power: In large parts, a rent-seeking economy prevails, divided into monopolistic or oligopolistic structures. Non-transparent ownership structures and offshore connections can be used to conceal operations, including raider attacks and money laundering schemes. The extent of state enterprises, their non-transparency, and their possible privatization offer ample opportunities for those in power to tap into financial flows, or channel them for purposes of maintaining or extending political loyalties and control.
- 2) Systemic corruption: Weak state institutions – and the civil service – are highly vulnerable to the influence of vested interests and resistant to reform. “Systemic” here does not mean that officials are generally corrupt but rather that corruption is so regular that institutions have few defenses of their own to safeguard against it. The extent of corruption and its widespread passive acceptance is closely connected to the low salaries of public servants. It also leads to high turnover, particularly among more qualified and more scrupulous personnel, further weakening institutions. Because of low salaries, office holders are more susceptible to extracting or accepting bribes or to taking “parallel payments” in exchange for political loyalty. This results in dependencies that supersede the hierarchy and duties of public office, reinforced by a vulnerability to prosecution and blackmailing, and a vital self-interest in maintaining the status quo. Corruption, in short, creates parallel and informal chains of loyalty and command.

- 3) Control over state institutions: Corruption and the establishment of “spoils systems” enable those in power to stuff institutions with their own clients, leading to the emergence of parallel structures of command, rewards, and sanctions in public authorities. Vested interests can effectively bypass the control of constitutional authorities in parliament and government. Their main targets have been institutions that can provide direct resources of power such as judicial, law enforcement, and financial authorities as well as key regulatory bodies. Control over these authorities allows them to protect and redistribute economic assets, enforce loyalties, and punish opponents. In Ukraine regional strongholds have evolved under the control of different oligarchs, whereas in smaller Moldova an unprecedented level of oligarchic control over central national institutions has developed.
- 4) Control over parties, or parts of parties: Vested interests maintain strong influence over constitutional powers and protect their oligarchic structures against political interventions. Generally this happens by creating financial dependencies of party structures and/or relevant members. Quite regularly, sub-parties within parliamentary parties have helped obstruct policies their respective parties were elected to promote. Legislation restricting party financing, protecting against corruption, or promoting transparency can be selectively enforced, even abused, to exercise retribution or deter donations from other sources. This can help shield actors from potential competitors within or by other political parties. Laws on state financing of parties, though passed, still need to show an effect. Meanwhile, party financing through membership fees or crowd funding is impeded by low incomes, a lack of relevant traditions, and bureaucratic restrictions. This makes any bottom-up party building particularly difficult, as does the fact that civil society has yet to put down deep roots. Thus, without directly manipulating elections, vested interests can effectively check democratic processes by narrowing down the choices that voters have in the first place – and ultimately controlling them.
- 5) Control over the media: This reinforces oligarchal control over parties and helps them consolidate political power. The extent of truly independent mass media is very limited in all post-Soviet countries. Mass media ownership is usually a political rather than an economic investment and is used to promote

particular interests or parties, discredit opponents, or block coverage of them in the first place. Control over the advertising market can be an additional tool to impede the development of independent media.

Comparing the Eastern Partnership to the EU Enlargement Process of 2004–07

The factors described above were generally also present, albeit in much weaker form, in Central and Eastern European countries before they joined the EU. In former Soviet countries like Ukraine and Moldova, however, they are far more pronounced. Here vested interests enjoy effective blocking powers on a scale that did not exist in Central Eastern European countries. This veto power, next to geopolitical polarization, has been the major distinction between the EaP and previous EU enlargement processes. These vested interests, moreover, have points of intersection with different geopolitical camps; their power is well established and needs to be overcome within pro-European parties.

Lack of progress in EaP countries is often attributed to the absence of a supposedly crucial incentive: a clear EU membership perspective. This explanation falls short, however. There is no way that a membership perspective could overcome the inherent antagonism between serious reforms and vested interests. Representatives of vested interests may advocate for the EU membership perspective in order to increase their political legitimacy at home. But it would offer them no real incentive to undertake reforms. Nor would it remove their power to obstruct reforms.

It is not so much the absence of the membership perspective as the logic of the enlargement processes itself that is unsuitable for post-Soviet countries. This logic was based on the understanding that transformation would follow democratization – that the EU would offer blueprints and assistance but that the countries would undertake the reforms themselves, responsibility for which would rest solely with local elites. But there were two preconditions: 1) that there would be a broad consensus among elites for the substance as well as the direction of reforms and 2) that holding constitutional offices in government and parliament would provide reform forces with the necessary power to implement crucial reforms.

In EaP countries, such a consensus does not exist both because of geopolitical polarization and the strength of vested interests. Nor have constitutional offices provided the necessary authority to push through crucial reforms, being deadlocked or bypassed by vested interests. For re-

formers, merely being in government and parliament has not meant holding the reins of power. Unlike the Orange Revolution in Ukraine of 2004–05 or the April 2009 protest in Moldova, only Georgia's Rose Revolution brought to power leaders who were determined, united, and also strong enough to bring change. (This is another explanation why Georgia is an exception among EaP countries.)

Far more than Central Eastern European countries, the key tasks in Eastern Europe are those of state and institution building: asserting constitutional authorities, checks and balances as well as accountable institutions. It will be quite difficult to reconcile vested interests with this requirement. Even if key representatives of vested interests accept the need for change, the weakness of state institutions still poses a dilemma for them: if they relinquish influence who will take over? Who can ensure that these new forces will be accountable to the rule of law? Instead of becoming truly independent, institutions risk being taken over by a rival, turning an asset into a threat.

To liberate state institutions captured by vested interests may thus prove to be even more challenging than liberalizing an authoritarian state. Here the task is to change the way power is exercised, redefining the command structure within the state. In the case of most EaP countries, there is largely just a façade of a state, with no clear command structure to start with. This would need first to be rebuilt, by eradicating all the parallel, informal, and corrupt chains of control that hide behind the façade.

Reviewing the EU's Interests in EaP Countries

The very limited success of the EaP thus far suggests that the EU must either scale down its objectives or ramp up the means it employs. This requires a thorough review of the EU's interests in EaP countries, weighing two different kinds of interest. The first can be construed as geopolitical. In this respect a maximum goal would be the successful integration of EaP countries into DCFTA under stable pro-European governments and a minimum goal would be preventing their forceful submission to Russia. The second interest is "transformational," – that is, ensuring the development of liberal democracy based on the rule of law and the market economy. Ideally, both interests should go hand in hand, promoting the values and enhancing the security of the EU.

Previous experiences with the EaP, however, show contradictions between geopolitical and transformational goals, at least between the short run and the long run. Short-term geopolitical interests may be prompting the

EU to support pro-European governments even when they show poor reform records. But this approach offers vested interests ample opportunities to exploit EU support for their own ends instead of delivering reform, and with it the EU risks being associated with corrupt actors in the long run, which would ultimately discredit the project of European integration. Considering the post-Soviet realities of these countries, pushing a policy whose immediate goal is to merely prevent pro-Russian forces from coming to power would likely be self-defeating, meeting neither geopolitical nor transformational goals. For the EaP to have long-term success, particularly in Ukraine and Moldova, it must go far beyond what has heretofore been achieved.

The EaP's transformational shortcomings might hypothetically suggest the need for a "realistic" adjustment toward a minimum geopolitical goal. Such a scenario could involve reaching an arrangement with Moscow that would turn in particular the Ukraine and Moldova into kind of a neutral zone. The EU would downgrade its Association Agreements with those countries, largely excluding the political elements and taking the "deep and comprehensive" element out of the free trade zone. In such a scenario, those countries would benefit from simple free trade agreements with both Russia and the EU. This, in turn, would preclude their integration into the Eurasian Union.

Such a geopolitical arrangement, even if it met with Moscow's consent, is a theoretical option only, for it would hardly find consensus within the EU. Both within the EU and within EaP countries it would widely be interpreted as a betrayal of European values: a surrender of the EU's solidarity with post-Soviet Europe held captive by Russian interference and by the veto power of vested interests. But quite apart from values, such an arrangement would also compromise a crucial security interest of the EU that is not linked to geopolitics. The lack of transformational progress within post-Soviet countries themselves entails considerable risks to the EU. For Russia offers no alternative model for sustainable social and economic development. Nor can it realistically subsidize its post-Soviet neighbors in the long run.

Particularly in Moldova and Ukraine, the socio-economic situation is anything but stable. It is not just stagnating but in many aspects deteriorating. The economy's rent-seeking structure neither attracts nor generates much investment or innovation, further decreasing competitiveness and increasing dependence on finance from abroad (in the form of remittances, loans, and international assistance, which may not be sustainable).

People are emigrating en masse, depriving their countries of young, skilled, and well-educated workers while the number of dependents rises. This demographic trend leaves little time for a transformational breakthrough. Over time, this demographic trend will harden clientelist mentalities within society, reinforcing the electorate's authoritarian sentiment and eroding support for liberal reforms.

Which models could flourish in the future if these trends prevail? There is a risk that the habitat will become increasingly favorable to various forms of illegal trafficking and organized crime, which will operate across EU borders. At the same time, the effective privatization of state authorities in conjunction with systemic corruption could undermine the state's legitimacy, leading to state failure or disintegration. This was what eased the takeover of power by separatists in eastern Ukraine; in the worst case, Russia would only need to pick up the fragments piece by piece.

The social and economic decline of post-Soviet countries, the prospect of state capture, and even the disintegration of states could create more direct threats to regional stability and to the security of the EU than the geopolitical ambitions of Russia in Eastern Europe.

Rethinking Conditionality

To meet the transformational challenge, the EU must adjust the EaP's instruments. Current incentives and support for reforms are insufficient. In Ukraine today, the shockwaves caused by both the Maidan movement and Russia's intervention may in fact be rallying enough popular and elite support to the reform agenda to make genuine progress possible. As in other EaP countries, however, this outcome is still far from certain, not for lack of general support for reforms within society but because vested interests are still structurally entrenched.

In order to overcome the resistance of vested interests, EU policies need to become involved far more directly in reforms, effectively allying EU efforts with reforms forces on the ground. This shift in the EaP could be described as a change from *supporting reforms* toward *accepting joint responsibility* for them. If governments will not – or cannot – implement crucial reforms on their own, the EU must shift from setting general reform goals toward putting concrete reform proposals on the table – and then reinforcing reform implementation directly with EU instruments and experts. Such instruments can be employed without infringing on a state's sovereignty – a major concern for the EU. At the same time, they would

reflect the fact that the political and legal framework of relations between the EU and Georgia, Moldova, and Ukraine goes far beyond “international relations as usual,” reflecting those countries' European aspirations and the commitments they have already made under their respective Association Agreements.

As a first step, the EU needs not only to employ *stricter* conditionality but also to *upgrade* that conditionality by detailing and prioritizing standards. The Association Agreements list the adjustments necessary for DCFTA, but the standards put forward by the EU on crucial political reforms have remained rather general and broad. This has made it difficult for the EU to employ concrete conditionality and, if necessary, to exert targeted reform pressure, differentiating between those who promote and those who obstruct reforms. And this makes it easier for vested interests to block reforms from the shadows.

It also allows them to respond to reform pressure with superficial reforms – reforms that appear to address problems but in fact are rendered ineffective, be it through detail provisions or the leverage of vested interests over key personnel – or pocket reforms. These may appear sound in themselves but are fragmented and can easily be bypassed by oligarchic control or corrupt machinations. Furthermore, since most institutions and areas of legislation require some kind of reform, it is possible to sidetrack conditionality by presenting as successes minor reforms that do not meet much resistance.

To work effectively, conditionality needs to be based on clear priorities and concrete requirements. Finally, it needs to be backed by an EU that is ready to exert its leverage to the full. This calls for a series of measures:

- **Prioritizing:** Functional state institutions that ensure the rule of law are the precondition for substantial progress in EaP countries. This requires in particular the independence of the judiciary, law enforcement authorities, and key regulatory bodies, without the interference of political actors, oligarchic control, and corrupt interests. In addition, legislation on the transparency of state enterprises, offshoring, media control, and party financing is crucial to limiting the leverage of vested interests. In giving these areas priority, it is crucial to focus on “game-changer reforms” – reforms that will broadly and effectively change the rules of conduct for all actors in the country. An example of such a reform is to be found in Romania, namely in that country's anti-corruption directorate (DNA): a single independent authority responsible for addressing all charges of high-level corruption. The DNA

has the power to directly conduct and supervise the whole process, from investigation to prosecution. The result is an institution strong enough so that even the most powerful oligarch cannot be sure of being able to control or bypass it.

- **Getting concrete:** A detailed understanding of the desired reforms – not just the desired outcomes – is needed for measuring success. Implementing concrete individual reform steps makes it possible to identify resistance and apply pressure in a targeted way. The EU should be ready to respond to shortcomings not only with criticism but also by putting forward specific and comprehensive reform proposals. Models from other countries can be put forward. One example of a mechanism for working out such proposals is the peer review mission on the judiciary that the EU recently carried out in Moldova. Here experts from judicial authorities of EU member states provided their analysis and suggestions. Future models could involve independent local experts and members of civil society in such a mechanism.
- **Using EU leverage:** This requires first of all putting the transformational agenda before geopolitics. If the EU shows a readiness to compromise on reform, vested interests will exploit this, rendering conditionality toothless. Vested interests within “pro-European” camps continue to be able to play with the threat of switching their allegiance from the EU to Russia. In fact, they still need the EU for political legitimacy and financial support. If the EU compromises, it will lose credibility still further, bringing about the very geopolitical turn they wished to avoid in the first place. The EU should instead insist that EaP countries stick to the commitments made in the Association Agreements. Failure to meet these commitments justifies extending EU conditionality to reform proposals put forward by the EU itself, and in case of rejection, exerting pressure in the form of withholding financial support or suspending parts of the agreements (just as the countries are themselves free to opt out of the agreements). Instead of sharing the blame for malpractice, the EU should make greater use of public diplomacy and be more outspoken about reform requirements and any resistance.

The Importance of Human Resources in Implementing Reforms

To promote real reforms, EU instruments would need to take effect at all stages of reform in which they could be frustrated: their design, their implementation, and the selection of key personnel. Particularly for the major task of institution building, human resources are crucial. The best reform concept for any state institution can only succeed – or be frustrated – through the selection of personnel. The EU should therefore be ready to take a more active role in developing personnel in EaP countries as well as contributing directly with its own missions to the design and implementation of reforms on the ground.

- **Civil service reforms and pay-scale reforms:** Though improving pay will not alone reduce corruption, it is a precondition for attracting and retaining more qualified personnel. Salaries for positions of responsibility in ministries, central agencies, the judiciary, and regulatory bodies need to be raised to levels found in similar jobs in the private sector. This would, moreover, ensure the financial independence of officials. The EU could both push this and ease the financial burden on EaP countries by offering budgetary support. This could take a regressive form, for instance a payment of 80 percent in the first year, 60 percent in the second year, 40 percent in the third year, and so on. In return, the EU could request that high professional standards be applied in selecting and promoting the public servants affected and see to it that EU officials are admitted to monitor procedures.
- **Selecting leaders of major institutions:** Next to sound institutional reforms, the selection of independent, competent leaders for key law enforcement and regulatory bodies such as the Prosecutor General’s offices or the national banks is crucial. Public confidence in national institutions is often so limited that independent candidates are unlikely even to enter a competition organized just on the national level. Nor, if they are selected, is the minimum level of public trust ensured for them to act truly independently. By participating, the EU, as an external actor, can restore confidence, keeping in check the influence of vested interests over selection procedures. The participation of EU representatives in selection procedures has in fact been suggested by previous Moldovan governments as well as

by Ukrainian reformers and members of civil society. In order to avoid interfering with states' sovereignty, EU representatives could only cast consultative votes. Outvoting their advice, however, would cause considerable political damage, and their participation alone would push the procedure toward more transparency and accountability.

- **Contributing EU missions:** The EU should deploy stronger missions to contribute directly to reforms in state institutions. Existing instruments like the EU high-level advisory missions have lacked, and continue to lack, manpower and leverage, as advisors can be sidelined and depend for effectiveness on those they advise. Providing the resources for stronger missions would require a closer combination of the Eastern Partnership with the instruments of the EU's Common Foreign and Security Policy. A recent example is the EU advisory mission that has been deployed in Ukraine since December 2014 to assist in the reform of the civilian security sector. Primary areas for the deployment of such missions should be the judiciary, law enforcement, and key regulatory bodies. To be most effective, however, strong mandates are needed. To address concerns about sovereignty, the role would be non-executive but could go beyond merely advisory and training roles to also include assisting reform implementation, vetting of officials, monitoring, and reporting – in order to obtain both the intelligence and the capacity for targeted reforms as well as to back and capacitate reform forces on the ground. Since experts can easily be isolated when they are deployed individually, strong mission headquarters would be needed and should be tasked with pro-actively taking up reform requirements with all relevant authorities on the national level – thus reinforcing EU leverage for reforms.
- **Delegating officials to state institutions:** Whereas EU missions cannot share executive functions, Ukraine has provided a model for employing foreigners in governmental positions by granting them Ukrainian citizenship. This model can also allow for EU experts to take up executive roles in non-political institutions,

strengthening their capacities and helping to neutralize them against undue influence from political quarters or vested interests. The EU could support this by identifying and delegating suitable personnel and providing financial assistance for their employment. Such programs could also enable recruiting members of the respective diaspora communities and facilitating their return, which could offer large sources of independent, knowledgeable, and competent experts.

So far, the EU has been reluctant to involve itself to such an extent in the transformation of other countries. There is a reason for this, for the EU is rightly wary of contributing to the legitimacy of corrupt governments and bearing the blame in case of failure. The EU is also eager to avoid accusations that it is behaving in an imperial or neocolonial manner. A higher degree of EU involvement could prompt local elites to rely on the EU to fix their problems instead of striving to do so themselves. Finally, the EU has too many other challenges to address now and is not likely to make an ambitious remodeling of the EaP a priority.

Within EaP countries, however, European integration is already a matter not of foreign *policy* but of domestic *politics*. Moreover, for pro-European governments in the EaP, it is actually a major source, if not *the* major source, of their legitimacy. The EU will thus be associated in any case with political forces that identify themselves as pro-European, and will anyway be blamed for their failures. This could be even more the case the more the EU keeps out of the domestic discourse and does not distinguish itself with more active involvement. The EU is already accused of behaving in a neocolonial manner; but it is the lack of progress that really damages its credibility. In the end, it is a matter of failure or success, and the risk of failure may outweigh the additional risk of greater involvement.

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Notes

1 The EaP was launched in 2009 to support the transformation toward a liberal democracy based on the rule of law, good governance, and a market economy while offering gradual integration into the EU's common market, greater mobility for

citizens, and closer political ties in Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Ukraine. (Throughout this text, the term "post-Soviet" excludes the Baltic countries of Lithuania, Latvia, and Estonia.)

2 Twelve countries joined the EU between 2004 and 2007: Bulgaria, the Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, and Slovenia.

