

# The Fuzziness of the EU's Neighbourhood Policy\*

by  
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## After Enlargement: What?

As a consequence of the accession of eight central European countries to the European Union (EU) on the 1<sup>st</sup> of May 2004, the political and economic environment in the eastern part of Europe has changed fundamentally. Poland, the Czech Republic, Hungary, Slovakia, Slovenia and the three Baltic countries Estonia, Latvia and Lithuania have agreed to accept a new institutional setting that has proven not just to be quite demanding but also, in fact, to be quite successful.

By agreeing to accession the 15 „old“ member countries have principally accepted that the „new“ member countries (eight from central Europe, two—Malta and Cyprus—from the Mediterranean) have met the “Copenhagen Criteria” of 1993 by developing institutional stability, implementing a democratic order, acknowledging human rights and guaranteeing the rights of minorities. Furthermore, membership confirms that these countries have developed a functioning market economy enabling them to stand competitive pressures from within the EU's internal market. Finally, the EU's old members consider it realistic that the new members meet the requirements and accept the goals which come from the entire body of European laws, their common set of all the treaties, regulations and directives passed by the European institutions as well as judgements laid down by the Court of Justice, the „acquis communautaire“ – accounting for some 80.000 pages.

There is no doubt that EU enlargement and the related opening of borders for goods, services, capital and people will lead to more integration of these countries into the European Union. At the same time, however, between the new

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members and Belarus, Moldova, the Russian Federation, and Ukraine, a new external border of the EU has come into being that causes considerable controls as well as significant political and economic restrictions. The EU's new eastern border separates countries politically, economically, and culturally, that—not only during the 20<sup>th</sup> century--carry a common history of cooperation. The danger may occur that the border will become a poverty line causing instabilities and considerable risks such as illegal migration. The Ukrainian fall 2004 "Orange Revolution" can be understood as an attempt of large parts of the population to overcome the threat of isolation and to reduce the multifold dependency on Russia by getting closer to the European Union. In Moldova, too, expectations have emerged to converge towards "Europe", the European Union. The relationship, however, of the Union with Belarus will remain renunciatory, at least as long as the Lukashenko regime keeps its authoritarian character. The Russian Federation plays a special role which is based on the partnership and cooperation agreement, agreed upon already in 1994, and the summits taking place annually.

As a response to the upcoming danger of alienation and the setting-up of new borders in Europe, the European Union, already in 2003, has developed some kind of buffer strategy to be applied to those neighbouring countries in eastern Europe and the Mediterranean<sup>1</sup> that cannot expect to become a member of the Union soon, or at all. This concept of „European Neighbourhood Policy“ (ENP)<sup>2</sup> offers improved cooperation and privileged partnerships via the introduction of a net of association and cooperation agreements aiming at the strengthening of „stability, security and welfare“. The countries in question are to be stabilised on the basis of a joint european set of values, and to be involved by economic cooperation as well as political dialogue. The EU's relations with Russia, under the headline of „strategic partnership“, employ, as was mentioned explicitly in the strategy paper, the same instruments.

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<sup>1</sup> These countries include, from the former Soviet Union, Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine, and on the southern rim of the Mediterranean Sea, Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Syria, Tunisia as well as the Palestinian Authority.

<sup>2</sup> For more information on the "European Neighbourhood Policy", cf. [http://europa.eu.int/comm/world/enp/index\\_en.htm](http://europa.eu.int/comm/world/enp/index_en.htm).

The vision of ENP is to create a ring of countries around the EU members that share the basic values and goals of the EU. They are to be entangled in ever closer relations which include not just more cooperation but, in certain areas, integrative measures. The membership option, however, is not envisioned. The EU simply wants to reduce security risks originated by organised crime and violent bilateral conflicts. In cooperation with these "ENP"-countries priorities are set which let them getting closer to the Union. For this reason action plans are being developed that focus on political dialogue and reform, on trade and means that allow for a gradual participation in the internal market, on justice and domestic affairs, on energy, traffic, information society, environment, research, innovation, as well as social policies.<sup>3</sup>

This sounds enticing and convincing. A closer look, however, cannot but come to the conclusion that ENP has some major flaws: the policies suggested are fuzzy, to say the least. Here are some considerations:

### **1. The "European Neighbourhood Policy" (ENP) framework targets countries too diverse to be covered by just one policy**

The European Union's "European Neighbourhood Policy" (ENP) is designed to offer cooperation and a privileged relationship with the new neighbouring countries located in Eastern Europe as well as those south of the Mediterranean Sea, by creating a system of gradual cooperation and/or association contracts. The Russian Federation is not explicitly mentioned as an ENP country, but virtually all the goals, in connection with the bilateral "strategic partnership" laid down in 1997 "Partnership and Cooperation Agreement (PCA)"<sup>4</sup> and the 2004 "PCA Protocol"<sup>5</sup>, apply to Russia analogously<sup>6</sup>. The intended relations with these

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<sup>3</sup> In fact, ENP has become the most recent playing field for those who try to conceive the future deepening and widening of the Union. Here are some of the most recent analyses: E. Brimmer/S. Fröhlich, eds., *The Strategic Implications of European Union Enlargement* (Washington, D.C.: The John Hopkins University, 2005); R. Dannreuther, "Developing the Alternative to Enlargement: The European Neighbourhood Policy", in: *European Foreign Policy Affairs Review*, Vol. 11 (2006), No. 2, pp. 183-201; N. Hayoz/L. Jesiën/W. van Meurs, eds., *Enlarged EU – Enlarged Neighbourhood* (Bern etc.: Peter Lang, 2005); J. Kelley, "New Vine in Old Skins: Promoting Political Reforms through the New Neighbourhood Policy", in: *Journal of Common Market Studies*, Vol. 29 (2006), No. 1, pp. 29-55; A. Marchetti, *The European Neighbourhood Policy. Foreign Policy at the EU's Periphery* (Bonn: Centre for European Integration Studies, 2006).

<sup>4</sup> Cf. [http://europa.eu.int/comm/external\\_relations/russia/intro/index.htm](http://europa.eu.int/comm/external_relations/russia/intro/index.htm).

<sup>5</sup> Cf. [http://europa.eu.int/comm/external\\_relations/russia/russia\\_docs/protocol\\_0404.htm](http://europa.eu.int/comm/external_relations/russia/russia_docs/protocol_0404.htm).

countries are aimed at „strengthening stability, security and well-being for all“<sup>7</sup>. In effect, this offer aims at an improved relationship without membership.

The question arises, however, whether this goal, the implicit exclusion of these countries from EU membership for the foreseeable future, can succeed. This question is particularly justified for Ukraine which is not only a European country but has, as a consequence of the 2004 “Orange Revolution” democratisation processes, put pressure on the EU to consider membership in the longer run. It seems incoherent to provide Balkan countries and even Turkey prospects for membership - in which case the ENP does not apply - and not to grant this prospect to Ukraine, although, one has to admit, it would take a long time before Ukraine would qualify for EU membership. On the other hand, as a result of its oppressive political regime, Belarus has not yet been able to benefit from the EU’s ENP policy. This is likely to change only if Belarus were to demonstrate its commitment to democratic values as defined by the EU, the Council of Europe and the Organization for Security and Co-operation in Europe (OSCE).<sup>8</sup> Recent developments during and after the March elections are unlikely to let this happen over the next couple of years.

Furthermore, the ENP countries appear as an amalgamation of states that are, by ENP principles, not dealt with sufficiently on the basis of their economic, political, cultural and historic particularities and peculiarities. This condition relates especially to former republics of the Soviet Union that are wholly or partly European: Belarus, Moldova, Ukraine, and Russia – countries that have still to overcome their transitional post-communist structures. They have a joint history of “real socialism” and of central planning, and, in many ways, remain intricately interwoven, mentally, politically, and economically.

Still other countries, especially those in Northern Africa, exhibit distinctly different traditions and structural patterns. Thus, assistance and support for further transformation in the European ENP countries must be individually designed

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<sup>6</sup> For more information of the EU’s policy vis-à-vis the Russian Federation cf. [http://europa.eu.int/comm/external\\_relations/russia/intro/index.htm](http://europa.eu.int/comm/external_relations/russia/intro/index.htm).

<sup>7</sup> Cf. <http://europa.eu.int/rapid/pressReleasesAction.do?reference=IP/04/632&format=HTML&aged=0&language=EN&guiLanguage=en>.

<sup>8</sup> More information on the EU’s policies towards Belarus you get at [http://www.europa.eu.int/comm/external\\_relations/belarus/intro/index.htm#overview](http://www.europa.eu.int/comm/external_relations/belarus/intro/index.htm#overview).

which, in all likelihood, will be different from efforts that may help such ENP states as the Maghreb countries or, say, Israel.

For this reason it should be considered to call for a distinct “East European Neighbourhood Policy” (EENP) with special emphasis on ex-Soviet republics in Europe.

## **2. An “East European Neighbourhood Policy” (EENP) should ask for a comprehensive political change and concentrate on economic security first**

Even though the prospect of EU membership short or mid-term is not involved for these countries, EENP participation requires the mutual commitment to a comprehensive set of values “principally within the fields of the rule of law, good governance, the respect for human rights, including minority rights, the promotion of good neighbourly relations, and the principles of market economy and sustainable development. Commitments will also be sought to certain essential aspects of the EU’s external action, including, in particular, the fight against terrorism and the proliferation of weapons of mass destruction, as well as abidance by international law and efforts to achieve conflict resolution.”<sup>9</sup>

### Action Plans

On the basis of these principles the ENP calls for the adoption of “Action Plans” between the EU and the partner countries. These Action Plans define a set of priorities, whose fulfilment is aimed at bringing the partner countries closer to the European Union. These priorities cover a number of key areas for specific action: political dialogue and reform; trade and measures to prepare partners gradually to obtain a stake in the EU’s Internal Market; justice and home affairs; energy, transport, information society, environment and research and innovation; and social policy and people-to-people contacts. So far, only with Ukraine and Moldova have Action Plans been agreed upon.<sup>10</sup>

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<sup>9</sup> European Neighbourhood Policy – Strategy Paper, COM (2004) 373 final, Brussels, 12 May 2004, at [http://europa.eu.int/comm/world/enp/pdf/strategy/Strategy\\_Paper\\_EN.pdf](http://europa.eu.int/comm/world/enp/pdf/strategy/Strategy_Paper_EN.pdf), p. 3.

<sup>10</sup> Cf. EU-Ukraine Action Plan, at [http://ec.europa.eu/world/enp/pdf/action\\_plans/ukraine\\_enp\\_ap\\_final\\_en.pdf](http://ec.europa.eu/world/enp/pdf/action_plans/ukraine_enp_ap_final_en.pdf); EU-Moldova Action Plan at [http://ec.europa.eu/world/enp/pdf/action\\_plans/moldova\\_enp\\_ap\\_final\\_en.pdf](http://ec.europa.eu/world/enp/pdf/action_plans/moldova_enp_ap_final_en.pdf).

## Russia

With regard to the Russian Federation, already on 31 May 2003 the EU and Russia decided to create in the long term:

- a Common Economic Space,
- a Common Space of Freedom, Security and Justice,
- a Space of Co-operation in the field of External Security,
- a Space of Research and Education, including Cultural Aspects.

At the EU-Russia summit meeting in May 2005 a single package of road maps for the realization of the four Common Spaces was decided upon.<sup>11</sup> The Russian side has made a point in not becoming an object of ENP they consider to be too paternalistic. The road maps, however, mirror the ENP principles, but there is a particular emphasis on energy. At the EU-Russia Summit in May 2006, the leaders of both sides agreed to develop a new agreement to replace the Partnership and Cooperation Agreement (PCA), which will reach the end of its initial ten-year period on the 30<sup>th</sup> November 2007. The EU Commission is suggesting that the new agreement covers the vast area of cooperation built up in the intervening years, notably set out in the common spaces road maps adopted at the summit in May 2005. The leaders agreed that the PCA will remain in force until it is replaced by the new agreement, to avoid a legal vacuum. Negotiations will not be easy because it has to be kept in mind that Kaliningrad remains a key issue of the EU-Russia relationship. This problem has not yet been dealt with sufficiently, even after Kaliningrad/Königsberg's 750<sup>th</sup> anniversary festivities of 2004.

## Ukraine

On 21<sup>st</sup> February 2005 a joint Action Plan between the EU and Ukraine, a priority partner country, was endorsed. It was the first one of its kind with a country of Eastern Europe and can be viewed as a model.

Not surprisingly, the plans for closer cooperation focus on economic issues that are essential for further steps in the framework of EENP and even potential accession:

- macro-economic reforms in Ukraine
- movement of goods and services: further removal of export and import restrictions; Ukraine's accession to the WTO, and a free trade agreement between the EU and Ukraine and partial participation in the EU internal market

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<sup>11</sup> Cf. [http://europa.eu.int/comm/external\\_relations/russia/summit\\_05\\_05/index.htm](http://europa.eu.int/comm/external_relations/russia/summit_05_05/index.htm).

- movement of capital: liberalisation of capital movements (direct investment, current payments); protection of foreign investment
- movement of people: equal treatment of migrant workers; coordination of social security systems

Other key areas include Ukraine's recognition as a market economy, tax reform, a competition policy that is compatible with the EU regime, the protection of intellectual and industrial property rights, open public procurement, statistical methods compatible with European standards, financial control regarding public finances, and allowing for an enterprise policy that promotes SME's.

Emphasis on the economic relationship between the EU and its Eastern neighbours will foster a gradual inclusion not just of economic policy but of other policy areas mentioned above, such as political dialogue and reform, cooperation in justice and home affairs, transport, energy, information society and environment, as well as people-to-people contacts.

### **3. A successful EENP depends on priority setting of the European Union**

Currently, ENP has been affected by two sources of irritation, in addition to the fundamental political crisis that followed the failed referenda on the constitutional treaty in France and the Netherlands.

A first disruptive factor is the Baltic Sea gas pipeline to be built from Vyborg to Greifswald and be finished by 2010. Russia has, for strategic reasons, chosen to bypass the traditional transit countries Ukraine, Belarus and Poland. Furthermore, the pipeline will have a connection to Kaliningrad which is currently being supplied with Russian gas via Belarus and Lithuania.

It is true, the European countries are very much interested in a diversification of their energy imports and, thus, support a variety of supply routes including the one in the Baltic Sea. Germany in particular is interested in good relations with Russia and aims, as part of a „strategic partnership“, at „energy partnership“. Both sides consider the pipeline to be instrument and element of this double partnership.

On the other hand the pipeline deteriorates the position of Germany's eastern neighbours vis-à-vis Russia. Their exclusion has led to fierce criticism, particularly in Poland and in the Baltic countries. There can be no doubt that, legally, Germany and Russia have all sovereign right to strike such a deal. But Germany and the European Union, which supports the deal, have to take into account the

political, economic and strategic implications for the EU members Poland, Estonia, Latvia and Lithuania.

The second source of irritation is more of indirect nature and cannot be assessed completely so far. It relates to efforts of Ukraine and Moldova, together with Georgia, Uzbekistan and Azerbaijan (these countries form the „GUUAM“ group, founded in 1996 as an alternative to the Russia-dominated CIS), and with some help from the USA, to counter Moscow's dominance in Eurasia and Central Asia. The GUUAM group could play an increased role in this respect and, in fact, there have been ideas, e.g. in Berlin's Foreign Office, to create, for political reasons, an ENP that addresses, in a particular way, both Eastern Europe and the former Soviet republics in the Caucasus. In addition, one has to acknowledge that the importance of CIS to those countries which are privileged to enjoy the EU's ENP is in fact diminishing. This raises the question whether, over the next years, CIS will survive in its current shape.

The creation of a functional and efficient ENP suffers from the current incertitude regarding the future of the European Union, its deepening (e.g. constitutional agreement) as well as its widening (e.g. Turkey, Ukraine). The rejections by France and the Netherlands of the EU's constitutional treaty and the subsequent postponement of further referenda, as well as the difficulties to cut deals on the EU's future finance, taken together, indicated a considerable uneasiness and insecurity about the “finalité politique” of the Union. It may also well be that the pace of the recent EU enlargement was simply too high. There exists a widespread perception within the public of an enlargement too quick in implementation and too comprehensive in scope, resulting in uncontrollable European integration. Nevertheless, the EU started accession negotiations with Turkey in October 2005 and, pushed by Austria, offered the same to Croatia. In 2007 Bulgaria and Rumania will also become EU members.

Against this background, it is save to say that the EU's east european neighbours will not become members for a long time. Before the accession perspective becomes real, they remain subjects of ENP. A particular “East”-ENP could help to support these countries on their way from post-soviet structures to democracy, market economy and a modern society. These countries could thus be enabled to contribute decisively to the political and economic security of Europe.

At the same time the EU's EENP approaches would have to meet the EENP countries' expectations to come closer to the Union by, e.g., acquiring accession status while at the same time acknowledging the EU's reservation regarding the incalculable risks that may result from further enlargements and/or an increased opening towards the East. The EU's long-range reaction to Ukraine's quest for accession, and her coming to terms with diverging political priorities between member countries such as Poland and Germany, will undoubtedly be essential for the future of ENP and of EU enlargement.