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Why the EU Should Differentiate More Within the Eastern Partnership

The next High Representative of the Union for Foreign Affairs and Security Policy will have the major task of managing EU relations with Eastern neighbouring countries. This will be a great challenge facing the intra- and international problems in the region: The conflict between Russia, Ukraine and other countries of Russia's "near abroad", secessionist movements, the energy crisis, democratization, the fight against corruption – to name only a few. The next European Commission (term 2014-2019) will also have to deal with the upcoming EU accession wave concerning Western Balkan countries while furthering talks with Turkey. The article deals with the external dimension of differentiated integration using the example of the Eastern Partnership. A multi-speed Europe has become reality since the Eastern enlargement in 2004/07. Against this background and due to recent developments in the Eastern neighbourhood, the EU needs to adjust its enlargement policy.

Facing a substantive review of its governance of macro-economic policies in the wake of the global economic and financial crisis and a certain fatigue after the 'big bang' expansion in 2004/07, the EU has to reform its enlargement policy. Primarily, the EU has to tackle the issue of Europeanization towards the Eastern neighbours. Within the Eastern Partnership (EaP), the EU tries to avoid the controversial topic of accession. Nevertheless, the EaP target countries – most notably Georgia and Moldova – are not shying away in expressing their interest in prospective EU accession. The EU enlargement policy is enshrined in the Treaty on European Union giving membership perspective to "any European State which respects the values referred to in Article 2 and is committed to promoting them" (Article 49 TEU). The EU has developed a catalogue of accession criteria (Copenhagen Criteria) for candidate states. However, the case of Turkey has become a litmus test for bringing a country closer to the EU via the membership perspective. Turkey joined the EU customs union in 1995 and has been a candidate for EU membership since 1999 without any substantial progress.

The Eastern Partnership and the Limits of EU Expansion

Following a differentiated, regionalized approach, the Eastern Partnership (EaP) was designed to complement the Northern Dimension and the Union for the Mediterranean in the framework of the European Neighbourhood Policy (ENP). The Eastern Partnership initiative was launched on May 7th, 2009, at the Prague summit of EU member states and EU officials. With the

ambition to create a joint Neighbourhood Economic Community (NEC) in the long run, the EaP outlines four thematic platforms of good governance and democracy, economic convergence with EU legislation, energy security and people-to-people contacts. It also introduced five flagship initiatives – covering policy areas from border management to good environmental governance – for the target countries Armenia, Azerbaijan, Belarus, Georgia, the Republic of Moldova and Ukraine.

The use of preconditions, incentives and other instruments to ensure that a third country's political, economic and legal development converges with the EU values, norms and policies is a key feature of the EU's external relations, especially towards its neighbours. A monitoring system was introduced to observe the performance of the EaP target countries – similar to

the mechanisms used in the Eastern enlargement by the European Commission, including the listing of priority areas in individual Action Plans and the assessment of progress in periodic Commission reports. The Eastern Partnership can be seen as a special trajectory of the ENP which is based on a similar rationale of positive conditionality and additional incentives for the best performing countries. The leverage of conditionality is lower than in the enlargement process, because the biggest "carrot" (EU membership) is not offered by the EU at this stage of association. The pooling of countries, based on the assumption that competition between states enhances the EU's conditionality effectiveness, seemed logical during Eastern enlargement of 2004/7. For the Eastern partner countries, however, the picture is not so clear: The EaP tar-

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get countries do not share a common, mutually-agreed objective and the final goal of the EU policy is less tangible than in the enlargement process.

While in the CEE countries, which joined the EU in 2004/07, EU integration was almost an undisputed political aim and the benefit of accession was considered higher than the cost for reform, the EaP countries include authoritarian regimes and reluctant participants who are unable or unwilling to integrate into the proposed EU model of governance. While the strategy of conditionality has systematically increased the EU's influence on candidate countries, this mechanism is not necessarily working in the same manner for those in the EaP framework. Due to the asymmetric interdependence between the EU and the accession countries in Central and Eastern Europe (CEE), the prerequisites for effective conditionality were good, at least during the accession process. The accession desire was strong among all candidate countries, as they were depending on access to the European market and capital inflows from the EU. The EU accordingly had relatively more bargaining power vis-à-vis the acceding countries from CEE, compared to the EaP. The EU's political conditionality was based on a "reinforcement by reward" strategy, offering external incentives (financial aid, trade and cooperation agreements, and ultimately EU membership) for the fulfilment of political and economic conditions. Studies on political conditionality have shown that a credible and conditional EU membership perspective for the CEE states is a necessary (but not sufficient) condition for the adoption of policies and rules.

The EaP still lacks this necessary component for domestic impact. Rather than unilaterally imposed by the EU based on its *acquis*, the Action Plans at the core of EaP programming are negotiated and monitored between the EU and its partners bilaterally ("joint ownership"). However, the negotiations within the Action Plans are not taking place on equal footing, as conditionality feeds in via the "more-for-more" approach. From the EU perspective, variation between the EaP partners is reflected in "country-specific" and "tailor-made" Action Plans. The first wave of Action Plans which conformed to the ENP framework in February 2005 included Ukraine and Moldova, the most aspiring target countries at that time. The countries of the Southern Caucasus were only formally included in the ENP after Georgia's "Rose revolution" in 2003. For those countries, the Action Plans provided

for feasibility studies on the options for enhanced bilateral trade relations, including the Deep and Comprehensive Free Trade Agreement (DCFTA). The "stake in the internal market" (offered by the EU already in 2003), as well as the level of economic integration, was the major aspect of differentiation among the EaP target countries.

More-for-More: Approaching the Inner Circles of Integration

Against this backdrop, the political and legal differentiation reflected in the ENP Action Plans and bilateral agreements directly translates into the differentiation in terms of financial support. The "more-for-more" approach ties the availability of financial support to the implementation of the partner country's reform agenda. According to Regulation No 1638/2006, the European Neighbourhood and Partnership instrument (ENPI) allocates funds with recognition of the "specific

characteristics and needs of the country or region concerned, the level of ambition of the European Union's partnership with a given country, progress towards implementing agreed objectives, including on governance and on reform, and the capacity of managing and absorbing Community assistance". With regard to both conditionality and "joint ownership", the ENPI can be used as a supporting, complementary tool in the differentiation strategy – especially after the introduction of the "more-for-more"-principle in 2011. The "positive financial conditionality" was made explicit with a new "governance facility", which reserves a specific budget on top of normal country allocations for rewarding partner countries that report the best progress in meeting their reform objectives. The ENP Action Plans operate as a reference point for the programming of assistance to the partner countries. Moreover, the positive financial conditionality also includes the possibility to reduce funding for countries where reform has not taken place ("less-for-less").

The European Neighbourhood and Partnership Instrument (ENPI) 2007-2013 provided nearly 12 billion in grants. For the period 2014-2020, the new European Neighbourhood Instrument (ENI) has a budget of around 15.4 billion. It is remarkable that the ENI has been financially and institutionally upgraded, while the overall expenditure limit has been reduced for the first time compared to the previous Multiannual Financial Framework (MFF).

The ENI builds on and strengthens some of the key features of the ENPI, enables for greater differentiation between countries based on progress with reforms and introduces two new mechanisms to support an incentive-based approach:

(1) It streamlines financial support, concentrating on agreed policy objectives based on the ENP bilateral Action Plans; and (2) it reduces the complexity and length of the process. The aim is to make the instrument increasingly policy-driven and effective in order to take greater account of policy performance in the fields of human rights, democracy and good governance – especially when it comes to allocating EU assistance.

Policy Options for the EU

The Eastern Partnership was introduced as an instrument for cooperation in areas where the EU and its partners are looking for joint problem solving and where they establish cooperation in the economic sphere accompanied by horizontal ties between the public administrations. The EU currently has two policy options, which can be understood within the context of the main strategies towards the Eastern neighbourhood: The enlargement track and the external association track.

On the one hand, the enlargement track in principle upholds high levels of integration based on mutual accountability. So far, every EU member has to fulfil the Copenhagen Criteria including the translation of the *acquis communautaire* into national law. Taking into account various opt-ins and opt-outs within the EU, different spheres of integration already do exist (Eurozone, Schengen, etc.). However, at least with regard to the treaties, there is no “second class” EU membership. The external association track, on the other hand, focuses on partnership, joint ownership and multilateralism. This approach has often been labelled “sharing everything but institutions” by EU officials – it leaves aspiring countries outside of the club and could undermine the EU’s influence in the region.

The EaP is conceptually shifting between enlargement and

(external) association: The enlargement track is based on the *acquis*, with asymmetric hierarchy, conditionality and bilateralism. The EU could increase its leverage on EaP target countries due to the primary incentive of enlargement. Policies could be derived from a differentiated, functional approach towards each EaP target country. In the long run, those countries could join the EU in a similar way as the new CEE member states did in 2004/07. Alternatively, the external association track would lead to partnerships, without deep institutional integration. The EU could still expand within different pan-European sectors (such as the Energy Community). In the long run, however, the latter approach leads to a weak political basis for Europeanization beyond EU borders.

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Given recent developments in Ukraine, the main threshold for further Europeanization in a target country is the implementation of the DCFTA. Once a country

has decided to go down that path, further approximation to the inner EU integration circles, even full EU accession, seems to be possible. Of course, this process is not confined to the EU and the target countries but includes third actors which have interests in the region. However, it is crucial to bear in mind that the EaP target countries are sovereign states. Hence, one of the EU guidelines must be to support the right of those states to democratic self-determination and to freely choose between their options of associating or integrating themselves into entities such as the EU or other regional and international organizations. Under these preconditions, the EU should not refrain from offering a membership perspective to aspiring target countries that actually do wish to join the EU. The membership

perspective is the strongest incentive the EU has to offer – if it is used in a proactive way. A credible, conditional enlargement policy is the EU’s most successful foreign policy tool. A European perspective for the best-performing EaP countries should enhance (top-down) conditionality together with bottom-up socialization in the target region. Instead of being a mere agent of transformation, the EU could be in the driver’s seat and contribute to stabilization, democratization and reconciliation in Eastern Europe in times of economic and political turmoil.

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