“The European Neighbourhood Policy at the test bench of effectiveness”

(The case of Azerbaijan)

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## List of abbreviations

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<th>Abbreviation</th>
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<tr>
<td>AP</td>
<td>Action Plan</td>
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<td>ASEAN</td>
<td>Association of Southeast Asian Nations</td>
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<td>BP</td>
<td>British Petrol</td>
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<td>BSEC</td>
<td>Black Sea Economic Cooperation</td>
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<td>BTC</td>
<td>Baku- Tbilisi- Ceyhan Pipeline</td>
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<td>CEE</td>
<td>Countries of Eastern Europe</td>
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<td>CFSP</td>
<td>Common Foreign and Security Policy</td>
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<td>CIS</td>
<td>Commonwealth of Independent States</td>
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<td>CoE</td>
<td>Council of Europe</td>
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<td>DCFTA</td>
<td>Deep and Comprehensive Free-Trade Agreement</td>
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<td>EBRD</td>
<td>European Bank for Reconstruction and Development</td>
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<td>EaP</td>
<td>Eastern Partnership</td>
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<td>EEA</td>
<td>Agreement on the European Economic Area</td>
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<td>EIB</td>
<td>European Investment Bank</td>
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<td>EU</td>
<td>European Union</td>
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<td>ENP</td>
<td>European Neighbourhood Policy</td>
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<td>ENPI</td>
<td>European Neighbourhood and Partnership Instrument</td>
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<td>EC</td>
<td>European Commission</td>
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<td>EP</td>
<td>European Parliament</td>
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<td>FMS</td>
<td>Federal Migration Service</td>
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<td>FSP</td>
<td>Food Security Program</td>
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<td>G8</td>
<td>Group of Eight</td>
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<td>G20</td>
<td>Group of Twenty</td>
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<td>IDPs</td>
<td>Internal Displaced Persons</td>
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<td>IMF</td>
<td>International Monetary Fund</td>
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<td>INOGATE</td>
<td>Interstate Oil and Gas to Europe pipelines</td>
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<td>Abbreviation</td>
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<td>ISAF</td>
<td>International Security Assistance Force</td>
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<td>ITGI</td>
<td>Inter-connector Turkey-Greece-Italy</td>
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<td>MEDA</td>
<td>Euro-Mediterranean Partnership</td>
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<td>NAM</td>
<td>Non-Aligned Movement</td>
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<td>NATO</td>
<td>North Atlantic Treaty Organization</td>
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<td>OIC</td>
<td>Organisation of the Islamic Conference</td>
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<td>OSCE</td>
<td>Organisation for Security and Cooperation in Europe</td>
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<td>PCA</td>
<td>Partnership and Cooperation Agreement</td>
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<td>PfP</td>
<td>Partnership for Peace</td>
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<td>PSA</td>
<td>Production Sharing Agreements</td>
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<td>SADC</td>
<td>Southern African Development Community</td>
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<td>SME</td>
<td>Small and Medium-Sized Enterprises</td>
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<td>TACIS</td>
<td>Technical Aid to the Commonwealth of Independent States</td>
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<td>TAIEX</td>
<td>Technical Assistance and Information Exchange</td>
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<td>TAP</td>
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<td>TRACECA</td>
<td>Transport Corridor Europe Caucasus Central Asia</td>
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<td>TFEU</td>
<td>Treaty on the Functioning of the European Union</td>
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<td>Treaty establishing the European Community</td>
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<td>TEU</td>
<td>Treaty on the European Union</td>
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<td>UfM</td>
<td>Union for the Mediterranean</td>
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<td>UNHCR</td>
<td>UN High Commissioner for Refugees</td>
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<td>UNSC</td>
<td>United Nations Security Council</td>
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<td>USA</td>
<td>United States of America</td>
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<td>USSR</td>
<td>Union of the Soviet Socialist Republics</td>
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<td>WTO</td>
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Abstract

After the wave of accession of new member states into the EU in 2004 and 2007, the EU faced new riparian countries that automatically posed both challenges as well as opportunities upon the EU in terms of their proximity, prosperity and poverty. In order to meet these challenges, particularly to consolidate the inner coherence within the Union and to provide the security on its newly emerged borders, the European Neighbourhood Policy (hereinafter ENP) was launched. As the former Commission President Romano Prodi stated, the ENP was designed to offer the bordering states “more than partnership and less than membership.”¹ By doing so, the European Commission (hereinafter EC) offered a new framework to develop the political and foremost the economic relations between the Eastern-European and the Mediterranean countries that would go beyond the mere partnership. Instead, “the development of a comprehensive policy of close association, reflected in the negotiation of Association Agreements with each country and avoiding drawing new dividing lines in Europe and to promote stability and prosperity within and beyond the new borders of the Union”² was the aim of the EC to increase the value or even the importance it attached towards its policy. While “sharing anything but institutions” the ENP was and still remains an alternative to the EU-accession and goes in line with the pattern of argumentation in the Strategy Paper of the EP, in which the non-applicability of the Article 49 of the Treaty on European Union³ to the ENP is emphasized and underlines its distinct character.

Within the framework of the ENP, the Eastern Partnership alongside with the Union for the Mediterranean (hereinafter UfM) was introduced in 2009 as a joint initiative between the EU. With its respective member states and the eastern European partner countries such as Armenia, Azerbaijan and Georgia in the Southern Caucasus, as well as Belarus, Moldova and Ukraine in the Eastern Europe, the Eastern Partnership was launched to strengthen the existing political association, as well as to foster the economic integration and facilitate the mobility, including the assistance of the transition of the former Communist countries by promoting the rule of law in its eastern neighbourhood.

¹ Romano Prodi, A Wider Europe: A Proximity Policy as the Key to Stability, speech to the 6th ECSA World Conference, Speech/02/619, Brussels, 5-6 Dec. 2002, p.5
³ Art. 49 of the Lisbon Treaty states that any European State which respects the values referred to in Article 2 and is committed to promoting them may apply to become a member of the Union.
In the following thesis EU’s role as a normative power within the framework of the ENP, as well as the effectiveness of the ENP itself will but on test and analysed on the example of the three South Caucasian countries, with a particular focus on Azerbaijan.

Given the dichotomy of EU’s dual drive policy with regard to its value promotion (such as democracy, human rights and rule of law) on the one hand versus its interests (such as energy security, fight against terrorism, and expansion of its sphere of influence) the relationship between the values and interests will be put under scrutiny, while distinguishing between pragmatic, ethical-political and moral grounds pursued in its foreign policy. In this regard, the academic debate on the EU’s behaviour in its foreign policy will be elucidated.

Particularly the augmented emphasis will be put on the South Caucasian members of the EaP with a special focus on Azerbaijan. Though being one of the major sponsors of the development in the region, the EU was perceived rather hesitant in its approximation towards the three countries, such as Armenia, Azerbaijan and Georgia, whereas Russia, Turkey and the USA crystallized as major players in the geo-politics of these states after the demise of the Soviet Union. Going through economic crisis, political instability and ethno-territorial conflicts throughout the 1990s, the countries were considered as part of the “New Great Game” and gradually found their ways into the “mental mapping” of Europe. These states started playing an important role in the security of the energy supply of the EU, which goes in line with the statement of the incumbent president of the EU-Commission, Jose Manuel Barroso at the G8-Summit in St. Petersburg in July 2006. There, he appealed for more diversification of energy supply, in order to reduce EU’s dependency on few suppliers, who on their turn may exploit the energy trade for the purposes of their respective foreign- and security policies.

1. The concept of the ENP and guiding research questions

Unlike the neighbourhood policy of the EU towards the South, the relations with the Eastern countries was to be built from the scratch as it was rather rudimentary in nature and unlike the countries in the Southern dimension within the framework of the Barcelona Process, the countries in the East are European or to be considered European. Within the scope of such geographic definition the expectations of the Eastern countries differ from the ones of the

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Southern countries and the question of “ultimate borders of the EU” led to heated debates—not only in the Council and the Commission, but also in the entire edifice of the Union. Thus, the Commission saw itself literally assigned to shed the light to uncertainties and presented a definition allowing a room for interpretation and which goes as follows:

“The term ‘European’ combines geographical, historical and cultural elements which all contribute to European Identity. The shared experience of ideas, values, and historical interaction cannot be condensed into a simple timeless formula and is subject to review by each succeeding generation”6

The very fact that the Article 49 of the Lisbon Treaty allows “any European State which respects the principles set out in Article 6 (1)” to apply for the membership in the EU does not necessarily mean that, as stated by the Commission, “all European countries must apply or that the EU must accept all applications.”7 Hence, not every European state can make recourse to that particular Article.

Consequently and in line with Article 4 of the Council of Europe (hereinafter CoE) all the member states of the EaP are also members of the CoE8. However, the EU’s relations with its neighbours existed before the creation of the ENP. The change in size, scope and geographic outreach made the creation of such policy logical or even inevitable, given the fact that it aimed at playing a crucial role in shaping the New World Order after the collapse of the USSR.9 The ENP did not instantaneously replace the existing bilateral relations with its neighbours, but rather used the primacy of its diplomatic cooperation and its economic power to establish a comprehensive value-driven and interest based policy framework. The incremental replacement of the bilateral relations was to be carried out after the successful

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7 Ibid. p.18
8 Art. 4 of the Statute Council of Europe reserves the right to membership to “European” states. Once the geographic separation of that definition is applied, then it is highly debatable that the countries of the Southern Caucasus are at least in terms of their geographic location to be considered European. The term “European” rather implies that the applicant states should respect minimum democratic standards, including the principle of Rule of Law and the separation of powers. Thus, being geographically European, the special guest status of Belarus has been suspended by the Parliamentary Assembly of the CoE for lacking to meet the minimum required democratic standards.
setting of the priorities of the Action Plan paving the way for longer term goals and further development of relations in the years ahead.\textsuperscript{10}

Being the “first authors”, the former President of the European Commission Romano Prodi and his cabinet focused on the South and advocated a “proximity policy” with all the neighbours surrounding the EU, whereas Xavier Solana, the former High Representative for the Common Foreign and Security Policy (hereinafter CFSP) and the Secretary General of the Council of the European Union, including the External Relations Commissioner Patten stressed the Eastern Dimension of the ENP, while elaborating the draft proposals.\textsuperscript{11} Despite its distinct character, the ENP could benefit from the experience of the enlargement process. In his speech in December 2002, Prodi emphasized the need of establishing the new regional approach to promote peace, stability and security in the EU’s neighbourhood in order to achieve better global governance.\textsuperscript{12} In that regard, the Union would rely on the elements of the enlargement process, while generating the idea of the Wider Europe, as the enlargement (in spite of the discrepancies) proved to be a “success story.”\textsuperscript{13}

1.1 ENP as an alternative to the EU’s enlargement

Due to the non-applicability of the Article 49 of the Lisbon Treaty to the members of the ENP, they are, for the time being, excluded from the accession process. Despite the successful integration of ten Member States in May 2004, as well as Bulgaria and Romania in 2007 and most recently Croatia in 2013, into EU institutions and policies contributing to the work of these institutions generating increased levels of economic activity, trade and investment, the Commission remains sceptical towards further admission of countries. Moreover, the referendums held in France and the Netherlands in 2005 heralded the growing discontent and the “enlargement fatigue” of their respective population. Similar picture could have been drawn also in Germany, if such a referendum had taken place in this country. The societal acceptance of further enlargement has gradually lost. The fear of sharpening the differences within the EU, with an increased level of blockades in the European Parliament (hereinafter

\textsuperscript{10} Communication from the Commission, Strategy Paper, European Neighborhood Policy, COM (2004) 373 final, Brussels, 12.05.2004
\textsuperscript{11} Ibid.7, p.139-140
\textsuperscript{13} Prodi ‘A Wider Europe-A Proximity Policy as the Key to Stability’, Speech to the Sixth ECSA World Conference, 2002, Brussels 5-6 December, Speech/02/619.
EP), would eventually lead to the weakening of the position of single member states, which on their turn are concerned about the loss of their influence in the EU institutions. Hence, in light of recent developments it appears logical why the Commission refused to apply the Article 49 of the Lisbon Treaty to the Member States of the ENP.\textsuperscript{14} So the further applications are subject to hardened and high level of integration capability going beyond the classical basic principles such as consolidation, conditionality and communication. Despite the increased scepticism on part of the EU population towards the enlargement, the study conducted by the Commission on the economic dimension of enlargement after the 1. May 2004 reveals the positive development after the Eastward enlargement boosting growth and creating new jobs.\textsuperscript{15} However, the Commission admits the existence of anxieties and misapprehensions on side of the public towards the enlargement. In that context the Commission speaks of a “carefully managed enlargement” enabling the extension and deepening of the European integration.\textsuperscript{16} Accordingly, the Commission concludes that “the EU’s capacity to integrate new members is determined by two factors:

- Maintaining the momentum to reinforce and deepen European integration by ensuring the EU’s capacity to function. This is in the interest of both present and future EU citizens;
- Ensuring that candidate countries are ready to take on the obligations of membership when they join by fulfilling the rigorous conditions set. This is assessed by the Commission on the basis of strict conditionality.”\textsuperscript{17}

It perceives the benchmarks as a functional concept and defines the integration capacity as the ability “to take in new members at a given moment or in a given period, without jeopardizing the political and policy objectives established by the Treaties”, while relating to “the development of the EU’s policies and institutions” and “the transformation of applicants into well-prepared Member States.”\textsuperscript{18} In order to ensure an effective decision-making process with accountable institutions, the Union had to come up with new institutional arrangements. In that regard, the statement of Prodi “everything but institutions” serves primarily the purpose of deepening the European integration and preserving the inner coherence of the

\textsuperscript{14} Communication from the Commission, Strategy Paper, European Neighborhood Policy, COM (2004) 373 final, Brussels, 12.05.2004
\textsuperscript{16} Ibid.p.3
\textsuperscript{17} Ibid. p.15
\textsuperscript{18} Ibid. p.17
Union, while excluding the member states of the ENP from engagement in the institutions of the EU and most importantly from the decision making process.

The inclusion of the Southern Caucasus countries Armenia, Azerbaijan and Georgia was not intended at the inception of the ENP. However, after the “Rose Revolution” in Georgia on November 2003 the region gained interest of the EU and in February 2004 the EP recommended in its report to include these countries into the program. Moreover, the maritime border of Georgia with Bulgaria and Romania and the huge oil- and gas resources of the Caspian Basin attracted the attention of the region in the eyes of the EU, particularly as noted above, in light of the policy of ‘diversification of the energy resources’. Only in November 2006 it was possible to ratify the Action Plan with the three South Caucasus Republics. The reason for such hesitation was the fact that official Baku allowed a flight to the Northern Cyprus. (The region of the South Caucasus will be analysed in depth in further chapters)

1.2 Importance of the ENP in the legal structure of the EU and the key research questions

The legal basis of the enlargement is, as already outlined, the Article 49 of the Treaty on the European Union (hereinafter TEU) allowing any European state, at least the theoretical right to membership if they respect the principles set out in Article 6 (1) of the same Treaty. However, the Commission unanimously stressed that the Article 49 does not apply to the member states of the ENP, even though the mechanisms used by the enlargement process may be used as they proved to be feasible and constituted a “success story”. The Article 8 of the TEU on the other hand provides the legal basis for the development of relations of the EU with the neighbouring states and “codifies the conditionality approach of the ENP.” In accordance with the new Article 8 of the TEU:

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“1. The Union shall develop a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union and characterised by close and peaceful relations based on co-operation.

2. For the purposes of paragraph 1, the Union may conclude specific agreements with the countries concerned. These agreements may contain reciprocal rights and obligations as well as the possibility of undertaking activities jointly. Their implementation shall be the subject of periodic consultation”.

If one pays attention to the wording of Article 8 (2), one can notice that it contains the elements of the Article 217 of the Treaty on the Functioning of the European Union (hereinafter TFEU) and which reads as follows:

“The Union may conclude with one or more third countries or international organisations agreements establishing an association involving reciprocal rights and obligations, common action and special procedure.”

Similar analogy with Article 8 TEU is also given in the prospect of new Neighbourhood Agreements when the Commission announced that “the EU should aim to develop a zone of prosperity and a friendly neighbourhood with whom the EU enjoys close, peaceful and cooperative relations.” Such approach fits into the discussion about the formulation of the ENP having an impact on the decision to incorporate a well-aimed Treaty provision on the EU’s relations with its direct surrounding in the Draft Constitutional Treaty. According to Dominik Hanf, the Article 8 TEU inflicts two conditions to be taken into consideration by the Union when developing its ties with neighbouring countries, namely the special relationship should be “based on cooperation” as well as to be “founded on the values of the Union.” At the same time, he poses the question, whether very advanced integration, in contrast to mere cooperation should fall within the scope of the Article 8 TEU. Hereupon he provides a careful

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22 See also: Van Elsuwege Peter and Petrov Roman, “Towards a New Generation of Agreements with the Neighboring Countries of the European Union? Scope, Objectives and Potential Application of Article 8 TEU”


24 Hanf, Dominik: “The ENP in the light of the new ’neighbourhood clause’ (Article 8 TEU), Research Paper in Law, No2/2011, College of Europe
interpretation of the term cooperation and states it as a form of exclusion of “internal associations”- merely meaning the exclusion of the third countries from the participation or the decision- making process of the Union institutions.\(^{25}\) And this once again emphasizes the statement of Prodi- “everything but institutions”. Given the scope of the interpretation, the Article 8 TEU still remains uncertain at least, in terms of its character and content. For instance, it is difficult to derive any explicit and precise forms of relationship and conditions for partnership between the Union and its neighbouring countries- though the “special relationship” implies that the ties are to be considered close and going beyond the mere cooperation. In line with the Agreement on the European Economic Area (hereinafter EEA) the ENP could build a viable alternative to the Union membership.

Hence, the special neighbourhood relations should, according to Half “aim at achieving a degree of substantive economic and political integration comparable to the one established by the EEA (or the set of bilateral treaties concluded between the Union and Switzerland)”\(^{26}\)

Indeed, such approach would allow the third states being members of the ENP to get access to the European market within the framework of the EEA, while extending the geographical scope of the Article 8 TEU beyond the members of the ENP. The Declaration on Article 8 TEU would provide the basis for such reflection. The Final Act of the Intergovernmental Conference states that “the Union will take into account the particular situation of small- sized countries which maintain specific relations of proximity with it”.\(^{27}\)

The question arising from that stance is how effective the ENP can be to base its relations on reciprocal rights and obligations promoting the fundamental values of the EU such as human rights and democracy coupled with incentives for political reforms in a political environment overshadowed by inconsistencies, indecisiveness, uncertainties and last but not least the key question is; how credible is the EU as a transformative power encouraging political and economic transformation with the tools of the ENP without offering the prospect of membership in the short- and middle term? And eventually the pressing research question: how effective the Union remains while reconciling the dichotomy between its values and interests?

\(^{25}\) Ibid. p.6
\(^{26}\) Ibid. p.9
\(^{27}\) Declaration No. 3 on Article 8 of the Treaty on European Union, OJ (2010) C 83/337.
1.3 European Integration as a backbone of the ENP

Unlike the third countries with whom the EU maintains its relations solely within the framework of the International Law and bilateral economic agreements, the countries finding themselves in the periphery of the Union have always been attracted by the economic power the Union has gained in recent decades and developing from a free trade zone to a political organization with its institutional structures, rules and regulations. Such positive development contributed to peace and prosperity of the entire continent. Particularly, after the demise of the USSR the countries of the Central- and Eastern Europe looked upon these structures, and after several decades of the communist doctrine the westward orientation of each of the countries emerged as a natural and inevitable alternative. And as Russia failed to fill the vacuum, but instead crystallized as a hegemonic power- literally a tiger without claws- with a failed economy and undemocratic structure suffering from corruption, autocracy and violations of human rights, it failed its mission as a role model for newly independent states of the former USSR and the Warsaw Pact. Even the desperate attempt to unite those states under the banner of the Commonwealth of Independent States (hereinafter CIS) had a flavour of Russian supremacy which the countries tried to avoid. The more Russia lost its influence- economically and politically- more aggressive it got in its rhetoric towards its neighbouring countries, while incrementally developing to a giant of oil- and gas supplier, while at the same time forfeiting its former role as a Super Power alongside the USA. The more the countries of the CIS and the CEE saw their territorial integrity and sovereignty endangered, (see the Crimean secession crisis) the more they sought protection in the Western World, either by joining the North Atlantic Treaty Organization (hereinafter NATO) or the EU. By doing so, the process of “Europeanization” “travelled beyond EU boundaries (…) and culminated in the ‘Big Bang´ round expansion in May 2004.”

The compliance and implementation of over 80.000 pages of the *acquis communautaire* by the countries of CEE increased the importance of the EU institutions and the process of ‘External Europeanization’. And already in the pre- accession process the CEEs were incorporated into the EU’s governance system, including the EU programs and agencies and received technical and financial assistance allowing them to carry out reforms merely at light speed. Throughout the entire process of European integration, the EU’s approach can be

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29 The term: Acqui Communautaire , often referred to as aqui signifies the body of law by the European Union
30 Ibid. 27
described as evolutionary. Thus, according to Sadurski and Maresceau with each enlargement the EU has reflected, elaborated and developed its mechanisms of influence, whereupon the new Member States closely integrated into the internal market of the EU or facilitate the access to the internal market as a stimulus for further reforms in human rights, democracy or rule of law without acquiring membership status. The so called **Copenhagen Criteria** defined the rules to be met by the states to join the EU. These are:

- **political**: stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;
- **economic**: existence of a functioning market economy and the capacity to cope with competitive pressure and 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 union.  

Though the political criterion was mostly satisfied by the CEEs, the economic conditions were not corresponding to the level prevailing within the old EU Member States. The most striking example of Greece showed us the weakness of the Eurozone. Due to the lack of suitable mechanisms in case of financial problems of the Member States and due to the lack of the ordinary procedures dealing with bankrupt states, the self-fulfilling prophecy of the chain reactions in case of further financial crisis, it places the economic criterion to number one priority, while starting the negotiation about the possible accession of candidate countries. Providing the important groundwork on the pre-accession strategy, underlining the outmost importance of the economic criteria can *ceteris paribus* allow the Union to avoid unpleasant surprises. And much needs to be done in order to make the EU’s economy resilient to domestic and external shocks. The following chapter outlines the process of Europeanization as a precursor for the transformation in CEE as well as the ENP countries.

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2. Europeanization as a trailblazer for the ENP and the CEECs

One of the main phenomena behind the process of enlargement of the CEECs as well as the ENP countries is the concept of Europeanization. Usually European analysts are troubled to provide a generally applicable definition as it has many facets and describes broad aspects of the term. However, the descriptions provided by Johan Olsen and Bennet Strang appear more concise and systematic while covering five different fields. These fields complement each other. These are:

- "transformation in external territorial boundaries (related to enlargement)
- Developing institutions of governance at the European level
- Central penetration of domestic systems of governance
- Exporting forms of political organization
- Political unification project"\(^{34}\) (Olsen)

The definition of Bennet Strang reads as follows:

- adjustment of local policies to EU exigencies and policies, the so called national adaptation (downloading)
- domestic projection of Member States’ interests
- the effort of Member States to promote their interests into the agenda and policies of the EU (uploading)
- elite socialization
- bureaucratic reorganization\(^{35}\)

The debates over the effectiveness of EU’s influence cannot be run without pondering about the “external incentives” model endorsed by Schimmelfennig and Sedelmeier, including the definitions presented above. In that model they argue that in the CEECs the governments make strategic calculations considering the adoption of rules for which the benefits of complying with EU demands are put into contrast with costs of losing EU funding and institutional ties. With regard to the external governance by exporting EU systems of governance into the national legislation, the question Schimmelfenning poses is: “how exactly rule transfer


happens, i.e. which forms in takes?"  

By doing so, they identify the main characteristics of the mode of EU rule transfer to the CEECs. The policy of conditionality, as they describe the policy of the EU towards the CEECs, per se does not necessarily lead to effective rule transfer in certain issue areas. It was rather coupled with the will of their respective governments to reform their economy, political and legal system. In that regard, they might make use of the EU mechanisms of external incentives in order modernize and transform their domestic policies, while incorporating these rules into their national legislation regardless of the EU conditionality. Given approach would eventually be considered twofold. On the one hand, the governments would use the bargaining strategy and would be rewarded by positive performance, say, by compliance to EU conditionality. On the other hand, a cost- benefit calculation would independently serve the purpose of the transformation of the CEECs in the given fields by means of persuasion and learning instead of coercion and negative sanctions.

Schimmelfenning argues that the reinforcement by reward only occurs, when “a state adopts EU rules if the benefits of EU rewards exceed the domestic adoption costs.” Thus, the likelihood of the implementation of EU rules depends on the conditionality criteria set by the EU. However, the external incentive policy implies that the credibility promises increases over time as the credibility of threats decreases and to lesser extent stagnates if the candidate state lives up to its promise and advances the process of adoption to EU rules. The credibility goes hand in hand with the consistency of rewards. In order the target state to fulfil the conditions, the reward must be consistent; otherwise a danger of losing the credibility would eventually affect the conditionality. The EU integration of the CEECs being target states remains without viable alternative. Factors such as dependency on the EU market, and strong incentives of possible transfers from the EU budget and last but not least, participation in EU decision-making, contribute to such development.

At that point it makes sense to reflect on the transformative power of the ENP, if the causal link between the conditionality and reward is not followed consistently. Consequently, the effectiveness of applied policies towards the ENP countries depends highly on the benefit-cost calculation of a target state, the more the economic power of a state, lesser is the transformative power of the EU or vice versa: lesser economic performance of a state, the more effectively can the EU be on the conditionality. Whether the hypothesis: “the likelihood of

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37 Ibid. p.670
rule adoption increases with the credibility of conditional threats and promises”\(^{38}\) applies to each single member of the ENP, is rather relatively applicable. The coerce conditional threats are more effective with those countries, which lack the political, but foremost the economic power to transform. Strang argues that one has to distinguish between low- and high politics, meaning that the candidate states are more likely to transfer competences and a part of their national sovereignty to Brussels in ‘less sensitive’ policy areas such as environment policy rather than in prestigious domain such as the foreign policy.\(^{39}\) But, “Brusselisation” of the foreign policy, as Manners and Whitman state, does not automatically lead to the “wholesale communitarization of the foreign policy making and implementation”.\(^{40}\) Notwithstanding, it remains a difficult task to measure the level of “Europeanization”, though countries like Austria, Sweden, Finland and Ireland are mostly cited as examples of those countries which have incorporated their foreign policies in response and adaptations to joining the EU.\(^{41}\)

Also Spain followed similar path by reclaiming democracy after Franco’s dictatorship. The top-down adaptation process in Spain’s foreign policy transformation secured the democratic structure and led to EU membership.\(^{42}\) Eventually the question, whether Europeanization is a reaction towards the globalization or does it constitute to a globalization on the European continent must be posed and replied continuously, as the Member States of the EU incrementally continue to transfer the competences of their foreign policy regimes to Brussels. As stated above, the level of disposition to “give up” certain parts of national sovereignty depends on the political and economic achievement of the respective states. The case of Azerbaijan as an exemplified member state of the ENP reveals advantages and limits of the external incentives model, which will be analysed in Chapter 5.

\(^{38}\) Ibid.

\(^{39}\) Strang, Bennet) “Winds of Change: the Europeanization of National Foreign Policy”, Maastricht European Studies Papers, January 2007, p. 8

\(^{40}\) Manners, Ian and Whitman, Richard (Eds.) “The Foreign Policies of European Union Member States, Manchester, 2000: Manchester University Press., p.264

\(^{41}\) Ibid. p. 12

2.1 The ENP within the framework of the normative- and civilian power debate

Unlike the perception of the EU on emerging countries being dominated by poor communication and sometimes referred as a “neo-colonial” power, the image of the EU on ENP countries diametrically differs from the former and can be classified as positive. While EU’s relations with the emerging powers such as China, India and Brazil and also Mexico and South Africa are perceived in light of international trade, such as trade agreements with local institutions within the framework of ASEAN, Mercosur and SADC as well as the WTO, thus being mainly economically driven. And EU’s dominance especially on G8 level appears to be sidelined by the G20 and while EU’s international status as a Global Player seems to suffer from a setback due to the financial crisis (e.g. in Ireland, Greece and Portugal) the relations with the ENP countries being direct neighbours of the EU are shaped by positive image.43 Accordingly, the expectations on both sides are much higher than the ones with the emerging powers. And EU’s so called moral standards are set higher with regard to the ENP countries, despite their exclusion from the participation on the decision-making process.

In his speech at the EP, the former President of the European Commission, Romano Prodi stressed the role of the EU as a civilian power while stating: “We must aim to become a global civil power at the service of sustainable global development. After all, only by ensuring sustainable global development can Europe guarantee its own strategic security.”44 The term civilian power is well-defined by Kenneth Twitchett and Hans Maull comprising three main elements:

1. “the primacy of diplomatic cooperation to solve international problems
2. the centrality of economic power to achieve national goals
3. the willingness to use legally-binding supranational institutions to achieve international progress”45

This notion of Twitchett was criticized by scholars such as Bull, who on his turn attributed “ineffectiveness and lack of self-sufficiency in military power” to that approach and proposed his seven-step approach in order to gain self-sufficiency in military power. These were:

1. The provision of nuclear deterrent forces

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44 Romano Prodi, Shaping the New Europe, speech to the European Parliament, Speech/00/41, Strasbourg, 15 Feb. 2000
2. The improvement of conventional forces
3. A greater role played by West Germany
4. More involvement on the part of France
5. A change of policy in Britain
6. Careful coexistence with the Soviet Union
7. Careful coexistence with the United States

At least after the collapse of the USSR the seven-step approach of Bull was put under scrutiny has been re-evaluated ever since. The bipolar paradigm was replaced by multipolar paradigm. It was at that time, when scholars and political scientists such as Samuel P. Huntington and Francis Fukuyama either predicted the end of history or the clash of civilization. In the Article from 1993 published in Foreign Affairs he pronounces his hypothesis as follows:

“It is my hypothesis that the fundamental source of conflict in this new world will not be primarily ideological or primarily economic. The great divisions among humankind and the dominating source of conflict will be cultural. Nation states will remain the most powerful actors in world affairs, but the principal conflicts of global politics will occur between nations and groups of different civilizations. The clash of civilizations will dominate global politics. The fault lines between civilizations will be the battle lines of the future”46

Such predictions seemed to be prophetic when the world was shocked by the terrorist attacks of 9/11. The imbalance between the relatively high economic power and the relatively low military power led to rethinking of the Common Security Policy. Its emergence was necessary and even inevitable, given the fact that the wars broke out inter alia on the European continent shocked the entire European Community and Europeans were paralyzed and their passivity found its end only with the intervention of the USA. By this means further bloodshed could be stopped. Throughout that period debates on the urgency of a common defence system led to the birth of the Common Foreign and Security Policy. A shift from civilian to military power would be considered as a logical consequence and a lesson to be learned out of the paralysis it faced in the 1990s. The fact of the matter is that these two sides were revealing two extreme, which the EU could not afford solely to rely on. Manners on his turn suggests the term normative power by classifying it as “the ability to shape or change what passes for normal in international relations, and which will undoubtedly have utilitarian, social, moral and narra-

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The normative power, as Manners perceives EU’s role in its international relations, is, according to him, heavily rooted in several treaties, declarations, policies etc. of the Union, which has been developed in the last five decades. He distinguishes among five so called core norms, which are included into the acquis communautaire and acquis politique. These are first of all the concept of peace from 1950 grounded in the Schuman Declaration, but also in the preambles to the European Coal and Steel Treaty in 1951 as well as the Treaty founding the European Communities from 1957, which is followed by the second concept of liberty established in the preambles of the TEC and the Treaty on European Union (TEU) of 1991, as well as in Article 6 of the TEU. The following three norms are democracy, the rule of law and respect for human rights, also rooted in the founding principles of the TEU, Article 11 and 177 of the TEU and also in the membership criteria from the Copenhagen European Council in 1993. The normative power of the EU mostly consisting of the five mentioned ideas and concepts are undoubtedly by and large effective when the prospect of full membership is at stake. The enlargement as such crystallized to a projector of normative power.

As Hiski Haukkala argues, “the EU’s expectations of normative convergence and harmonization in Europe are seen as legitimate and warranted mainly only when the golden carrot of accession is on the cards. Once it is not, the situation is radically altered, and the EU’s possibility to act as an anchor for reforms has proven to be severely limited.” In the Eastern Europe it applies to Russia and partly to Ukraine, in the South Caucasus to Armenia and Azerbaijan, whereas Georgia’s commitment to live up to EU’s expectations still remains unprecedented in the entire region, which could only be possible after former President of Georgia, Mikhail Saakashvili took power after the Rose Revolution in November 2003, whereupon the country has undergone radical reforms.

As Vachudova correctly notes, the Union’s normative power is mainly coupled to material incentives, e.g. financial assistance and the concrete prospect of a full membership and European identity. Through such conduit the EU can have impact on the economic and societal change with the countries of the ENP. Alternative forms of leverage, according to Vachudova,
have proven almost ineffective.\textsuperscript{50} Such statement leads to dilemma and the hypothesis elaborated in the introductory part of the thesis seems, namely to the incremental decrease of EU’s influence on the countries of the ENP, which are economically strong and do not expect to join the EU in the near future. Thus, the application of the normative power encapsulated by the five core principles such as peace, liberty, democracy, the rule of law and respect for human rights on those ENP Member States, which economically and politically lack the resources to transform into a modern, free and competitive-market economy are more prone to seek financial and political assistance. Ultimate subscription to the above mentioned values is a precondition by the EU in order to offer the partner states assistance to transform their respective economies and society into modern and “functioning” as well as sustainable democracies.

Doing this, the EU sets the rules of the game and acts as a hegemon, who according to Haukkala likes the monopoly it has over the type of the norms to transpose through the conduit of the ENP. It further defines the term ‘Europeanness’ while creating the frontiers of normality.\textsuperscript{51} Unlike the hegemons in the past three centuries within the framework of the Great Game, EU’s hegemony is defined more by its economic power and strong democratic institutions rather than by its military power. And despite the creation of the CFSP, almost all countries in the EU are members of the NATO, which includes countries beyond the European continent. Thus, the confinement of the European hegemony to its economic and political strength should not be confused with the classical term of the hegemony one can find throughout the literature of the international relations, as you cannot observe any threat or invasion. As Gill and Law correctly state: “a successful hegemony actually results in a situation where the relationship is largely void of the naked exercise of power with ideas, values and institutions of the hegemon being seen as both natural and legitimate instead”\textsuperscript{52}

\subsection*{2.2 Public surveys and their implication for the ENP}

The best way to project EU’s normative power on third states can be achieved by giving the third countries finding themselves within the boundaries of the European continent a sense of belonging to the ‘European family’. A type of family, which is ready to accept its members by


\textsuperscript{51} Cf. Haukkala, Hiski: supra note 48, p.7

including them into its institutions and strengthening the identification of the family members with the family. Notwithstanding, the statements such as “everything but institutions” achieve the opposite and run the risk of developing the EU to a garrison, which is heavily guided by rules and regulations in order to keep the candidates knocking on the gates of the European edifice (meaning the aspiring the application for the EU membership) outside of the gates of the garrison. Despite similar articulated critics towards the EU’s treatment of the applicants, the justified questions about the final frontiers of the EU arise. In his speech, Prodi addresses the challenges lying ahead after the wave of enlargement, while arguing:

“We cannot water down the European political project and turn the European Union into just a free trade area on a continental scale. We need a debate in Europe to decide where the limits of Europe lie and prevent these limits being determined by others. We also have to admit that currently we could not convince our citizens of the need to extend the EU’s borders still further east.”

It was this discontent Prodi expressed on behalf of the EU citizens towards further enlargement of the Union. Due to the survey conducted by Gallup from January-1 February 2009 the EU citizens from the entire Union expressed their opinions about the enlargement and as a result more than 50% of the EU respondents consider that the enlargement has:

- “Made the enlarged EU more difficult to manage (66%)
- Contributed to job losses in their country (56%)
- Caused problems because of the divergent cultural traditions of the new Member States (54%)
- Led to an increased feeling of insecurity (50%) in the EU as a whole”

Particularly the respondents from the EU15 are rather sceptical about the management of the enlarged EU and expressed their concern about the insecurity the enlargement brought with. Though the respondents agreed upon the fact that the end of the Cold War had a positive impact on the security in Europe in general, however, with regard to the enlargement of the EU they replied differently, despite the fact that the contribution of the enlargement to fight against illegal migration or organized crime was perceived positively, the general feeling of insecurity was due to results felt increased by the respondents.

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Against the backdrop of such opinions towards the enlargement, the EU was compelled to react towards future enlargements. The non-application of the Article 49 of the TEU to the ENP countries follows the similar pattern of logic. On the other part, the frustration of the ENP countries, especially in Ukraine being confronted with the legal barriers of entry to the EU lets them become indirect victims of such practice. Russia’s heavy pressure on the Ukrainian government brought the country to the verge of civil war. EU’s indecisiveness towards the quick political and financial assistance was skilfully taken advantage by Russia. Russia’s incumbent President Vladimir Putin’s bid by buying $15 billion worth of Ukrainian bonds and Gazprom’s lowering the price of natural gas supplies to Ukraine from $406 to $268.5 per thousand cubic meters without any requirement for Ukraine to become a member of the Russia’s customs union with Belarus and Kazakhstan foreshadow beneath the surface secret political concessions on part of the (currently overthrown) Ukrainian President Viktor Yanukovych with his Russian counterpart.55

Thus, in case of the Ukraine the EU seems to lose its normative power or at least acts reluctant upon its effective implementation. After the failure of signing the Association Agreement together with a Deep and Comprehensive Free-Trade Agreement (DCFTA) with Ukraine at the EaP summit on 29 November in Vilnius, a historic chance of the country to approach the EU has been missed. Under the apparent pressure from Moscow as already noted, Yanukovych, being a pro-Russian President of Ukraine, renounced his government’s intentions to sign the agreement in favour of the EU. Despite the ongoing protests between the pro-EU opposition demonstrating on Euro-Maidan in Kiev since November 2013, the Ukrainian government remained resilient in its plans, until eventually being overthrown in March 2014.

But the EU accession of the country still remains as a major reform engine and undoubtedly plays an important role in the country’s transformation into a fully-fledged democracy.56 Though Ukraine is also affected by the non-application of Article 49 of the EU Treaty, it does not necessarily lead to conclusion that a future prospect of the EU membership is excluded. In the long run it may make recourse to the same Article while indeed being a European country and fulfilling the Copenhagen Criteria. It would go in line with the speech of the


56 Mahncke, Dieter & Gstöhl, Sieglinde (eds.) “Europe’s Near Abroad- Promises and Prospects of the EU’s Neighbourhood Policy”, Brussels, 2008, p.171
current Commission President Barosso during the EU-Ukraine Summit in Helsinki on October 2006, where he stated that “Ukraine is not ready and we are not ready”\textsuperscript{57}. It would firstly signify that the last word in terms of the country’s EU accession has not yet been spoken and secondly that the country should preserve the started reforms regardless of future membership perspective being offered. That such status quo led to frustration on part of the reform- and EU oriented citizens of Ukraine on the one hand and was implicitly used as an excuse to work out such a generous energy deal with Russia. Given this scenario it is of outmost importance to consider those voices that see a chance and opportunities, politically and economically, in the enlargement process. The following table draws rather positive picture of the notion about the enlarged EU.

Table 1. Bearing in mind the changes following the fall of the Iron Curtain in 1989, would you agree or disagree with the following statements?

<table>
<thead>
<tr>
<th></th>
<th>EU15</th>
<th>CEE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>% Agree</td>
<td>% Disagree</td>
</tr>
<tr>
<td>Q1_A. These changes have brought more freedom to everyone in Europe</td>
<td>79</td>
<td>14</td>
</tr>
<tr>
<td>Q1_B. These changes resulted in better living standards in Central and Eastern Europe</td>
<td>67</td>
<td>22</td>
</tr>
<tr>
<td>Q1_C. These changes created new opportunities only for the younger generation</td>
<td>44</td>
<td>46</td>
</tr>
<tr>
<td>Q1_D. These changes contributed to the disappearance of borders and allowed the free movement of people within Europe</td>
<td>85</td>
<td>10</td>
</tr>
<tr>
<td>Q1_E. These changes were only important for the Central and Eastern European countries</td>
<td>38</td>
<td>53</td>
</tr>
<tr>
<td>Q1_F. These changes have offered good business opportunities for Western European companies in CEE countries</td>
<td>80</td>
<td>10</td>
</tr>
</tbody>
</table>

Source: Analytical Report, Flash EB No 257- Views on European Union Enlargement, European Commission, February 2009

With regard to gaining more freedom, 79% in the EU15 and 81% in the CEE confirmed that the changes after the fall of the Iron Curtain led to more freedom in Europe and in terms of the improvement of living standards in Central and Eastern Europe 67% in the EU and to lesser extent 62% perceived a positive change. Furthermore, only 44% in the EU15 and 47% were more likely to say that these changes contributed to new opportunities only for the younger generations. All in all, the majority of the respondents were reacting positively towards the disappearance of borders and free movement, which contributed to economic development, particularly of the CEE. However, the issue of insecurity remains a task to be dealt with on the EU level. Recent incidents with regard to closing the borders in Denmark highlighted the current relevance of the issue and a unilateral and rather populist closing of borders or intense border controls may initially serve the purpose of securing the votes in the national elections, while addressing more conservative voters, being sceptical or even afraid of being over flooded by illegal migrants.\(^5\) However, such national unilateral actions would basically run against the principle of free movement being anchored in the EU legislation.

The following survey conducted by Gallup gives some implications towards the future EU enlargement. The respondents were namely asked about their views on which topics should be considered prior to future EU enlargements, classifying it on EU-level point of view, than on a national level and finally on the personal level. The following questions were asked:

**“Q4. In case the European Union would consider accepting new member countries in the future, according to you, what should be the two issues from the following list to be taken into account by Europe as a whole/by [OUR COUNTRY]/for you personally when making a decision?**

a) Freedom and democratic values  
b) Ageing of European population  
c) European Union's role in the world  
d) Economic issues  
e) Stability at European Union's borders  
f) Cultural and religious issues

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g) *Immigration issues*"  

Surprisingly and despite the concerns expressed about the sense of insecurity, the majority of the respondents ranked freedom and democratic values on the first place, whereas the assumed concern of stability at European Union´s borders took the fifth place on the ranking list. The economic issues on the other hand were ranked second of the seven factors and were followed by immigration issues as the third most important issue on the ranking list. European Union´s role in the world was given the sixth rank and with regard to the demographic issue, namely the issue of ageing of European population was the least important issue on the charts. According to the ranking, one can observe the importance of the core principles of the European Union, among which freedom and democratic values were attached huge importance while considering future enlargements. However, the economic issues coupled by the immigration issues also play important role, while deciding whether or not a country should join the EU or not.

Despite the relative validity of the conducted survey, the politicians may, nonetheless derive certain implications on national and EU level with regard to further enlargements. Particularly in view of the referendums in France and the Netherlands concerning the proposed Constitutional Treaty in 2005 and the negative result of the referendums highlighted the significance of the public verdict and the ´enlargement fatigue´.\(^6^0\) Especially against the backdrop of the overwhelming support of the Treaty by the Dutch parliament the outcome of the referendum is striking, as it reveals the discrepancies and the gap between the parliament and the public, while the latter expressed its discontent foremost on its parliament and vote with NO without dealing with the details of the eventually failed constitution.

### 3. Russia as the biggest headache in the EU´s neighbourhood?

The Russian Federation as remnant of the Soviet “Empire” still claims its role in the political arena of the Eurasian Continent, in the UN- Security Council and in the direct neighbourhood of the EU and as a nuclear power poses a threat to its neighbours. Its huge energy resources are used as a mean of political pressure while satisfying EU´s energy hunger. Moreover, the importance of Russia in the peaceful settlement of regional conflicts such as in Syria, Nagorno-Karabakh, South-Ossetia or Transnistria to name a few, is also accepted by the EU. Un-

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like the countries of the ENP, Russia does not follow any ambition to join the EU, nor does it strive for any Association with the EU. It rather reclaims its role as a regional hegemon, particularly within the Commonwealth of Independent States (henceforth CIS). The legal basis for EU-Russian relations provided therefore the Partnership and Cooperation Agreement from June 1994, which came into force only on 1 December 1997, due to the conflict in Chechnya. Aims and objectives of the PCA are set out in Article 1 of the same document and reads as follows:

- “to provide an appropriate framework for the political dialogue between the Parties allowing the development of close relations between them in this field,
- to promote trade and investment and harmonious economic relations between the Parties based on the principles of market economy and so to foster sustainable development in the Parties,
- to strengthen political and economic freedoms,
- to support Russian efforts to consolidate its democracy and to develop its economy and to complete the transition into a market economy,
- to provide a basis for economic, social, financial and cultural cooperation founded on the principles of mutual advantage, mutual responsibility and mutual support,
- to promote activities of joint interest,
- to provide an appropriate framework for the gradual integration between Russia and a wider area of cooperation in Europe,
- to create the necessary conditions for the future establishment of a free trade area between the Community and Russia covering substantially all trade in goods between them, as well as conditions for bringing about freedom of establishment of companies, of cross-border trade in services and of capital movements”\(^{61}\)

Based on the objectives outlined in Article 1 of the PCA the relations between the EU and the Russian Federation were put into a new framework after the collapse of the Soviet Union. However, the partnership between Russia has been from its inception coupled with hardships. In order to overcome the inferiority complex Russia was suffering from after the collapse of the SU, the country tried to secure its interests in its periphery and was directly or indirectly

involved in regional conflicts. The war in Chechnya was brutally suppressed by Russia and demonstrated its power to the world and sent a message to separatist movements throughout the country. Such treatment was in contrast to the agreed principles, which both the EU and Russia declared to share, namely the “paramount importance of the rule of law and respect for human rights, particularly those of minorities, the establishment of a multi-party system with free and democratic elections and economic liberalization aimed at setting up a market economy.”

Several international organisations condemned the massive violations of human rights committed during the Chechnya war and such incidents eventually led to delay of the ratification of the PCA. The sustainable form of exchange between the EU and Russia which was established in the PCA, are the meetings taking place twice a year between the President of the Council of the European Union and the President of the Commission of the European Communities on one side and the President of the Russian Federation on the other and goes in line with the objective of political dialogue between them.

Such summits allow both sides to launch new projects and the intensification of their relations on diverse political fields. However, the partnership between Russia and the EU is undoubtedly one of the difficult ones though being classified as “strategic partnership”. The wording of the strategic partnership derives from the Common Strategy agreed between the EU and Russia and is explained as EU’s “strategic interest” on Russia. The strategic interests indeed derive from the geographical proximity of Russia and EU’s energy dependency on Russia’s gigantic oil- and gas resources pose a challenge on the entire Union. The gas dispute with Ukraine and the conflict with Georgia pose a challenge on the EU to deal with its difficult neighbour. The demand for the diversification of energy supply coupled with search for alternative pipeline routes are to be seen in this context as Russia apparently exploits the energy trade as political pressure and tries to discipline the energy dependent countries by that mean. EU’s limited sanction mechanisms are expressed by the reduction of financial assistance or suspension of certain agreed points of the PCA, which proved to be ineffective. The hegemonic power, as Russia acts in its direct post-soviet neighbourhood did not agree to be included into the ENP either, though it was initially mentioned in the Communication from the Commission to the Council and the European Parliament.

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63 Cf. Article 1 of the PCA between Russia and the EU
In the St. Petersburg Summit in May 2003 both sides agreed to enhance the cooperation and to create Common Space of Freedom, Security and Justice, including border management and migration issues, which would serve the purpose of avoiding new dividing lines after the upcoming Eastern enlargement of the Union. The Common Four Spaces are understood as an extended agreement building upon the PCA. Though it is not a legally binding document, it is considered to be the main document in the EU- Russia relations. The following section is submitted to closer analysis of these four spaces.

3.1. Freedom

The aspect of freedom is closely related to the facilitation of travelling between the EU and Russia, while providing easier and legal border crossings and legal stays on each other’s ‘territories and negotiating on visa facilitation as well as the agreement on readmission and emphasizes the relevance of the notion “Europe without dividing lines” allowing people-to-people contacts. The elaboration of a Road Map was one step to serve this objective. Russia’s aim of visa-free movement of its citizens and the citizens of the EU could not be met short-term. Though Russia expressed its will to negotiate a Readmission Agreement, which is the prerequisite for visa facilitation, EU reacted reluctantly on the abolishment of the visa regime.65

In contrast to the EaP countries upon which the EU exercises the unilateral Visa Liberalisation (e.g. Ukraine, Moldova) the Common Spaces with Russia are based on the principle of reciprocity committing both sides to mutually fulfil the obligations laid upon them. Once all the obligations are met from the Common Spaces, the parties (EU and Russia) will sign an international Visa Waiver Agreement.66 According to the Permanent Representative of the Russian Federation to the EU, Vladimir Chizov, the visa-free dialogue is “a touchstone determining the faithfulness of the partners’ intention to develop a strategic partnership for modernisation” while affecting 2.5 million Russians visiting the Schengen Area annually and on the other hand 1.5 million citizens from the Schengen Area going to Russia.67

The Readmission Agreement which is an integral part of the Road Map allows Russia’s nationals irregularly staying in the EU countries to be readmitted to Russia. EU’s urge to include

66 Ibid. p.4

a clause which obliges Russia to take the responsibility for those migrants and stateless persons, who enter the EU by using the Russian territory as a transit land goes beyond the classical principle of readmission anchored in the international public law. Russia’s acceptance of the regulation could only be achieved after Brussels offered a prospect of a visa-free regime. For that reason the Readmission Agreement applying to migrants and stateless persons could only be effective in 2010, though the Agreement entered into force in June 2007. The following chart reveals the effectiveness of the Readmission Agreement between Russia and the EU since its adoption. Due to the delay of inclusion of the third country migrants and stateless persons clause into the Agreement, the number of applicants from third-country nationals has been zero between 2007 and 2009. Only from 2010 on they were included into the statistics. However, as one can notice, the initial fear of being burdened by taking responsibility to the third-country nationals is not justified since their number is very low in comparison to the number of applications for Russian nationals. An increase in the total number of positive replies speaks clearly for the success and effectiveness of the Readmission Agreement.

Table 2. Statistics regarding implementation of the Readmission Agreement

<table>
<thead>
<tr>
<th>Year</th>
<th>2007/since October</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012/up to November</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total number of Applications</td>
<td>127</td>
<td>946</td>
<td>1362</td>
<td>1436</td>
<td>2038</td>
<td>1932</td>
</tr>
<tr>
<td>Number of applications for Russian nationals</td>
<td>127</td>
<td>946</td>
<td>1362</td>
<td>1436</td>
<td>2003</td>
<td>1910</td>
</tr>
<tr>
<td>Number of applications for third-country nationals</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>30</td>
<td>10</td>
</tr>
<tr>
<td>Total number of positive replies</td>
<td>76</td>
<td>386</td>
<td>664</td>
<td>769</td>
<td>938</td>
<td>1208</td>
</tr>
<tr>
<td>Number of positive replies for third-country Nationals</td>
<td>_</td>
<td>_</td>
<td>_</td>
<td>0</td>
<td>14</td>
<td>4</td>
</tr>
</tbody>
</table>


The field of freedom is based on the respect of human rights and the rule of law and includes the asylum policy, which on its turn implies the development of following objectives:

- The implementation of the 1951 UN Convention relating to the status of refugees and inter alia its 1967 Protocol, particularly the right to apply for asylum in connection with the principle of non-refoulement
- The implementation of the principles and procedures laid out in the UNHCR documents
- Non-expulsion of permanent residents in EU Member States and also Russia in accordance with the principle of non-refoulement

As a matter of fact both sides have a vested interest in fighting against illegal migration and against organised- and cross-border crime, which requires trans-boundary cooperation on each side. Challenges such as the international terrorism, as well as human- and drug trafficking can only be tackled in cooperation instead of confrontation. However, there is a disagreement in finding a definition of terrorism, particularly in terms of dealing with the conflict in Chechnya. Intensification of border management is one of the issues which require a lot of effort as borders between them are not demarcated yet. It goes hand in hand with border protection, including improvement of border crossing points and is closely related to the issue of security which will be outlined in the following section. According to the UN High Commissioner for Refugees (henceforth UNHCR) Russia’s challenge with irregular migration control by far exceeds the control over asylum. The Federal Migration Service (henceforth FMS) registered more than 13,000 applicants, out of which annually only 10% could satisfy the definition of asylum seekers. The number of refugees being classically very low has increased in 2008 after the armed conflict broke out in Abkhazia and South Ossetia.

3.2. Security

EU’s aim of having a ring of friends and well-governed neighbours and to ensure its security cannot be achieved on a national solo run. The challenges of international terrorism and all forms of organised crime, including the border security and illegal migration cannot be solved.

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69 Cf. Road Map For the Common Economic Space, Building Blocks for Sustained Economic Growth, 15th EU-Russia Summit, Moscow, 10 May 2005, Council of the European Union, Brussels, 11 May 2005, 8799/05 ADD1 (Press 110)
70 Stratenschulte, ibid. p.42
71 UN High Commissioner for Refugees (2012), UNHCR Global Report 2011, UNHCR, Geneva
without effective cooperation with Russia. Therefore, the Common Spaces provide following priority fields:

- Intensification of cooperation in the field of counter terrorism
- Identification of methods to work together in order to combat terrorism, however in line with international law, particularly international human rights, refugee and humanitarian law with reference to the EU-Russia summit in November 2002
- Implementation of all 12 UN counter-terrorism conventions and protocols, including all the relevant UN Security Council resolutions such as UNSCR 1373, 1540, 1267 and 1566
- Continuing the cooperation within the Council of Europe and finalizing and implementing the draft European Convention on the Prevention of Terrorism
- Enhanced fight against the financing of terrorism, e.g. freezing of funds and all the terrorist assets
- Enhanced cooperation between Europol and the Russian Federation
- Improvement of the security of documents while preventing the use of multiple identities, as well as falsified or stolen documents authorizing the crossing of borders with different identities
- Introduction of biometric features in travel documents in order to prevent the misuse of travel documents
- Coordination and effective exchange of data between the relevant authorities of the EU and Russia while allowing a remote access to information of the Interpol network

As one can see from the above mentioned areas of priorities, both sides attach huge importance to the cooperation on the area of security. It is also one of few fields, where both sides have less frictions and tensions. For that matter, the shortened list mentioned above is the longest in comparison to other Common Spaces, whereas the issue of Justice which will be discussed in the following subsection is kept short as possible. Undoubtedly, the area of Justice is one of the areas where tensions between the EU and Russia arise.

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3.3. Justice

The aim of this priority field is to ensure the efficiency of the judicial system in EU Member States and Russia by providing the independence of judiciary and developing judicial cooperation between both sides. It will include:

- Exchange of experience on judicial reform according to the rule of law
- Organizing professional training for judges, prosecutors as well as the law enforcement officials
- Participation on workshops on field of justice
- Mutual legal assistance and judicial cooperation
- Development of cooperation on civil matters

Below one can see once again the chronology of the EU-Russia cooperation within the framework of the Common Space on Freedom, Security and Justice.

**Table 3. Chronology EU-Russia JLS cooperation under the Common Space on Freedom, Security and Justice**

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 December 1997</td>
<td>Entry into force of the EU-Russia Partnership and Cooperation Agreement</td>
</tr>
<tr>
<td>19 December 2005</td>
<td>Russia ratified the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data</td>
</tr>
<tr>
<td>31 May 2003</td>
<td>Agreement on a Common Space for Freedom, Security and Justice at the EU-Russia Saint Petersburg Summit</td>
</tr>
<tr>
<td>10 May 2005</td>
<td>Adoption of Road Map on Freedom, Security and Justice at the EU-Russia Moscow Summit</td>
</tr>
<tr>
<td>1 March 2005</td>
<td>The first round of Human Rights consultations was held in Brussels</td>
</tr>
<tr>
<td></td>
<td>Signature of Working Arrangement between FRONTEX and the Russian Federal Border Guard Service</td>
</tr>
<tr>
<td>1 June 2007</td>
<td>Entry into force of the EU-Russia Readmission Agreement</td>
</tr>
<tr>
<td>1 June 2007</td>
<td>Entry into force of the EU-Russia Visa Facilitation Agreement</td>
</tr>
<tr>
<td>September 2007</td>
<td>Launch of visa-free dialogue</td>
</tr>
<tr>
<td>26 October 2007</td>
<td>Signature of Memorandum of Understanding between the Federal Service of the Russian Federation for Narcotics Traffic Control and the European Monitoring Centre for Drugs and Drug Addiction</td>
</tr>
<tr>
<td>Date</td>
<td>Event Description</td>
</tr>
<tr>
<td>-----------------------</td>
<td>--------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>1 December 2009</td>
<td>Entry into force of the Treaty of Lisbon</td>
</tr>
<tr>
<td>December</td>
<td>Adoption of Stockholm Programme setting out EU priorities for action in the JLS sphere for 2010-2014</td>
</tr>
<tr>
<td>21 October 2010</td>
<td>Launch of Europol-Russia negotiations on Operational Working Arrangement</td>
</tr>
<tr>
<td>April</td>
<td>Launch of negotiations on amending the Agreement on the facilitation of the issuance of visas to the citizens of the Russian Federation and the European Union</td>
</tr>
<tr>
<td>19 May 2011</td>
<td>Launch of the dialogue on migration and asylum</td>
</tr>
<tr>
<td>17 February 2011</td>
<td>The European Parliament adopted the Resolution on the Rule of Law in Russia</td>
</tr>
<tr>
<td>14 December 2011</td>
<td>Russia and Poland signed the bilateral agreement on Local Border Traffic, which entered in force on 27 July 2012</td>
</tr>
<tr>
<td>15 December 2011</td>
<td>Adoption of the Common Steps towards visa-free short-term travel</td>
</tr>
<tr>
<td>28 December 2011</td>
<td>The Russian Ministry for Foreign Affairs published a report <em>On the situation with Human Rights in Certain States</em></td>
</tr>
<tr>
<td>11 September 2012</td>
<td>The European Parliament adopted the Resolution on the Political Use of Justice in Russia</td>
</tr>
<tr>
<td>27 July</td>
<td>The bilateral agreement Russian-Polish agreement on Local Border Traffic entered into force</td>
</tr>
<tr>
<td>1 December 2012</td>
<td>The Russian Ministry for Foreign Affairs published a report <em>On the situation with Human Rights in Certain States</em></td>
</tr>
</tbody>
</table>

Source: Russia and the Common Space on Freedom, Security and Justice

Despite some setbacks the chronology on EU-Russia JLS cooperation shows a slow but steady progress since the adoption of the PCA in 1997. The slowness of progress can be observed on visa liberalisation, though the Readmission Agreement, as analysed, proved to be effective and was a prerequisite for the visa facilitation in short term and visa free regime in the long run. The imbalance in judicial as well as human rights sector still poses a challenge and due to the poor human rights record of Russia and the resilience on side of the Russian government to implement the regulations and the legal standards of the European Convention on Human Rights and due to the huge number of the cases brought before the European Court of Human Rights, the country still has a long way to go in order to fulfil all the areas of priority laid down in the Road Map. The development of Russia towards an authoritarian state puts the EU on a dilemma. One the one hand it is dependent on Russia in terms of its energy dependency and in terms of the peaceful settlement of regional conflicts. One the other hand, the EU has subscribed in its foreign policy to its core values, such as the rule of law, democracy.
and human rights. Russia´s leadership is to lesser extent ready to be patronized by the EU, with whom it operates on an equal footing.

According to the Russian political analyst, Sergej Karaganov, the EU should be warned of acting as a teacher and pushing Russia into the role of a student. He also warns Russia of a premature conclusion of formal agreements on the Common Spaces, particularly if they do not affect strategic areas of cooperation but rather particular concessions.\textsuperscript{73} By that he implicitly refers to the Readmission Agreement, which can be seen as concessional in return to the visa free regime. While Moscow sees political reasons for Brussels indecision to apply the visa free regime, the EU on the other hand considers the technical obstacles as a reason for abolishing the visa regime.

It is also remarkable that in the Russian rhetoric the talks are about “visa- free dialogue”, whereas the EU speaks of the “visa dialogue”.\textsuperscript{74} Whether or not such ambiguous rhetoric of the elite of both sides live up to the claim of “strategic partnership”, remains unanswered at present. However, the strategic partnership with Russia does not prevent the EU to act as a rival in the post- Soviet countries in the new markets of those states. The post- Soviet countries are considered Russia´s natural sphere of influence after the collapse of the USSR. Russia´s lack of interest of solving the regional conflicts in the post- Soviet region reveals the country´s fear of losing its outpost in the region. The Nagorno- Karabakh Conflict which will be analysed in Section 5.5, will show Russia´s political and economic intentions in the region of the South Caucasus. Furthermore, the eastern enlargement of the EU increased the number of Russia´s critics. Countries such as Poland and Sweden, the latter being a non CEECs country, were the main advocates of the ENP and launched the EaP at the Prague Summit in May 2009. The EaP on its turn considers only six countries in Eastern Europe including the South Caucasus, after the Rose Revolution in Georgia in November 2003. The EaP can be understood as an attempt of the EU to revive the ENP, after the criticism of being vague, inconsistent and less effective. The EaP is considered as the counterpart of the Union for the Mediterranean launched by the initiative of the former French President Nicolas Sarkozy. The role of the EU in the South Caucasus with the particular focus on Azerbaijan will be analysed in Chapter 5.


\textsuperscript{74} Hernandez, Raül Sagrera and Potemkina, Olga:”Russia and the Common Spaces on Freedom, Security and Justice”, CEPS Paper in Liberty and Security in Europe, No.54/Feb.2013, p.4
4. European Union in the Southern Caucasus

The Southern Caucasus consists of three states, Armenia, Azerbaijan and Georgia, all of which gained their independence after the collapse of the USSR. Ever since the region being neglected by the EU, was overshadowed by ethno-territorial conflicts, economic and political turmoil. Alongside with separatism (see separatist regimes in South Ossetia, Abkhazia and Nagorno-Karabakh), rich natural resources- mostly oil and gas- political and economic instability make the entire region to powder keg that can explode any time.

The war between Georgia and Russia that broke out in 2008 or the war between Armenia and Azerbaijan over Nagorno-Karabakh are a few examples to illustrate the fragility of the region and constitute to a greatest barrier to peaceful coexistence among the nations of these three countries. Moreover, the region of South Caucasus is torn among the geo-political and geo-strategic interests of the rival powers such as Russia, USA and Turkey out of which the first one ruled the region for almost 200 years and still considers this geographical area its natural sphere of influence, inner space and backyard. The cities such as Vladikavkaz (meaning rule and govern the Caucasus) give clear evidence of the historical imperial intentions of Russia over the region.

The interests of the USA can be summed up as geo-strategic and geo-political. Without the active engagement and influence of the USA the project of the century, namely Baku-Tbilisi-Ceyhan pipeline could not be carried out at all. While securing the energy supply, the USA including Turkey played a paramount role by enabling the transport of the Caspian oil and gas to be transported to the EU and via Israel also to eastern Asia. Two-third of the construction costs were covered by the European Bank for Reconstruction and Development, World Bank, International Finance Corporation as well as many small commercial banks. Given the fact that Azerbaijan only owns one quarter of the shares, the internationality of the project leads to an increase of importance of the region in the energy security of the EU and goes in line with the appeal of EC President, Jose Manuel Barosso to more diversification of the energy supply and lesser dependence on the Russian and Middle Eastern natural resources. Thus, including the South Caucasus into the ENP and later on into the EaP is aimed at securing its access to the rich oil- and gas resources of the region, alongside with promoting democracy, rule of law and human rights. The following section is aimed at analysing the role of the EU in the South Caucasus with the particular focus on Azerbaijan. The effectiveness of the ENP will be tested with the yardstick of the interests and values of the EU and its transformative power within the framework of its foreign policy.
4.1 EU’s Caucasus Policy

After the demise of the USSR the world map gained a number of newly independent states. The Baltic states of Estonia, Latvia and Lithuania, who were forcefully incorporated into the USSR, regained their independence and followed their path of European integration until joining the EU in May 2004, alongside with seven other countries of the CEEC. Whereas the South Caucasus was torn by a number of political and economic instability coupled with weak democratic structures and overstrained by ethno-territorial conflicts throughout the first decade of their independence. The classical hegemon Russia exhausted all the political, military and economic remedies to bond the region even more closely to itself. Western research centres on the other hand perceived the region in the context of a broader Caspian region, where alongside the three South Caucasian countries also the countries of Central Asia were included. Only after the inclusion of the South Caucasian countries into the ENP, the region was perceived separately in the “mental mapping” of the EU.\(^75\) Before that the relations were marked by indecision and hesitation even though the EU’s investments in the development of this geography were over one billion euro. However, in comparison to Russia, USA and most recently Turkey EU’s political presence in the region was very scant. After the publication of the Communication on *Wider Europe-Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours*, the status quo started to change, however, the South Caucasus was mentioned as a footnote in the initiative, while temporarily being excluded from the programme for the reason of not falling within the scope of the geographic Europe. But only after the appointment of the Finnish diplomat, Heikki Talvitie, with a clear assignment of elaborating a new strategy to direct the EU policy into the region, the South Caucasus found its way into the ENP.\(^76\) According to Lynch a number of factors had an impact on EU thinking:

1. The geography of the South Caucasus put the region into a proximity/distance paradox towards the EU. While being close enough the EU was compelled to deem for necessary to consider its interests in promoting stability and avoiding regional conflicts that would overrun the EU in the longer turn. On the other hand, the region is distant enough that occurring threats and conflicts from the South Caucasus are not regarded as immediate. The distance even enhances, while considering the fact that

\(^{75}\)Halbach Uwe, “The European Union in the South Caucasus: Story of a hesitant approximation” in “South Caucasus- 20 years of Independence”, Friedrich Ebert Stiftung, 2011, pp. 300-302

the three South Caucasian states do not follow the aim of joining the EU. (particularly Azerbaijan does not intend to join the EU and due to the economic growth of the country in the last decade, it can afford to stay outside of the Union, while relying on the Association Agreement)

2. The South Caucasus had almost no lobbyist supporters in Brussels. Only some CEEC, such as the Baltic States and Poland supported the inclusion of the region into the initiative. Apart from that, different international organisations as well as states have special and bilateral relations with Georgia, Armenia and Azerbaijan which is more efficient and transparent.

3. The South Caucasus was not considered as a separate region for the EU. In the PCA that were concluded all the former Soviet Republics, the region was called ‘former Soviet Union’.  

The above mentioned aspects revealed the dilemma of proximity/distance dichotomy of the EU policy towards the South Caucasus. The following section will look closer at the EU’s engagement of the before the inclusion of the three countries into the ENP.

4.1.1 EU’s Caucasus policy before the ENP

EU’s engagement in the region before the ENP and EaP dates back to the early 1990s. The most common form of activities was predominantly of the financial and humanitarian nature. By offering financial assistance with the TACIS and INOGATE programs, EU’s economic presence started to emerge. Being adopted in 1992 the TACIS program has been operated on the government level in order to offer assistance for the newly independent post-Soviet countries based on the common economic and political values upon which the countries on the CIS subscribed. Launched in 1993 the EU’s most important project in the first decade of the cooperation in the region was TRACECA aiming at creating a unitary transport infrastructure and in doing so connecting the Caspian Sea with the Black Sea. The very same project was only one piece of the much bigger project, namely the “Silk Road Revival Project” which would connect China and Central Asia with Europe. The importance of the project is emphasized by

77 Ibid.p.41
the financial support it received by the World Bank which provided 40US$ million credit and joined the international effort to revive the historical Silk Route.\textsuperscript{78}

The above mentioned programs further allowed the EU to support economic and to lesser extent political reforms in the period of transition. However, it played relatively marginal political role in the region which was dominated by the interests of Russia and the USA. Despite the hesitant approach on EU side, the European energy companies were involved in the region - companies such as BP, Eni, Total and Statoil are among the owners of the Baku Tbilisi pipeline today. The Partnership and Cooperation Agreement (PCA) signed with Azerbaijan in 1996 and entered in force in July 1999 can be seen as a leverage of the bilateral level of cooperation.\textsuperscript{79} The objectives of the PCA not only with Azerbaijan, but also with Russia, the states of Eastern Europe, South Caucasus and Central Asia are summarized as follows:

- Providing a framework for political dialogue
- Supporting the efforts made by the countries to strengthen their democracies and develop their economies
- Accompanying their transition to a market economy
- Encouraging trade and investment\textsuperscript{80}

With regard to Azerbaijan the initiative was in line with the emergence of a clearer EU external energy policy upon which the Caspian development started to become a priority target for Brussels and in which Azerbaijan was considered a strategic actor due to its twofold role of oil and gas producer as well as a transit country for Central Asian hydrocarbon resources. Ever since, Azerbaijan is the key partner of Brussels for the development of energy policy.\textsuperscript{81}


\textsuperscript{79} The fact that the PCA entered into force on the same day is due to the fact that the EU implicitly intended to treat the South Caucasus as one region. Thus, the content of the PCAs between Georgia, Armenia and Azerbaijan does not differ much. Only after the Rose Revolution in Georgia in 2003 the relations between the EU and each of the three countries were developed at a different pace.

\textsuperscript{80} Partnership and Cooperation Agreements (PCAs) with Russia, Eastern Europe, the Southern Caucasus and Central Asia, Summaries of EU legislation, available at: \url{http://europa.eu/legislation_summaries/external_relations/relations_with_third_countries/eastern_europe_and_central_asia/17002_en.htm}, accessed on: 19.02.2014

\textsuperscript{81} Frappi, Carlo, “The EU Eastern Partnership: Common Framework or Wider Opportunity?- Caspian Region’s and Azerbaijan’s Place in EU Energy Security Policies from the PCA to the EaP”, Center for Strategic Studies (SAM), Baku 2013, pp.55-56. See also: Council and Commission decision of 31 May 1999 on the conclusion of the Partnership and Cooperation Agreement between European Communities and their Member States, of the one part, and the Republic of Azerbaijan, of the other part, «Official Journal of the European Union», L246, 17 September 1999, pp. 1-51; See also: Resolution on the economic and commercial aspects of the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part,
The PCA between the EU and Azerbaijan included the TACIS program and set the legal framework for bilateral relations in the field of trade, investment, economic, legislative and cultural cooperation as well as the political dialogue. The agreement enabled the introduction of the following joint institutions:

- A cooperation council
- A cooperation committee
- A subcommittee on trade, economic and related legal affairs
- A subcommittee on energy, transport & environment
- A subcommittee on justice, freedom and security, human rights, and democracy
- A subcommittee on employment and social affairs, public health, training, education and youth, culture, information society and audio-visual policy, and science and technology, commonly referred to as the “people to people” committee
- A parliamentary cooperation committee

The PCA between the EU and Azerbaijan was the first legally binding document ever existed in the history of the EU- Azerbaijani relations. The historical document accordingly set the framework for economic and political cooperation and paved the way for further development of the relations within the framework of the EaP.

4.1.2 EU’s Caucasus policy since the introduction of the ENP

While the EU’s approach towards the Transcaucasia was initially marked by hesitance, indecision or inconsistence, the situation has gradually changed after the ratification of the PCAs with Georgia, Armenia and Azerbaijan. The region was perceived as one region. However, the political developments particularly in Georgia turned EU’s interest to the region, which was classically dominated by Russia, USA and Turkey. After the Georgian President Eduard Schewardnadse has resigned in a peaceful revolution, the charismatic and professed western oriented President Mikhail Saakashvili came to power. Hence, the EU positively reacted to such a historical event. Despite being heavily criticized for being authoritarian, the pro-West leader Saakashvili changed the fate of his country and carried out a number of political and scientific changes.


economic reforms and paved the way for the negotiation of the Association Agreement alongside with Moldova at the Eastern Partnership Vilnius Summit in November 2013.\textsuperscript{83} Georgia’s Euro-Atlantic orientation was expressed by its desire to gain admission into NATO as well as the EU. On 29 October 2004 the Individual Partnership Action Plan (IPiP) of the country was approved by NATO. The neighbouring Azerbaijan is a Partnership for Peace (henceforth PfP) member since 1994 and in 1997 it put forward a Government Commission for Cooperation with NATO and works onto an Individual Partnership Action Plan without seeking NATO membership in the near future. Like Georgia and Azerbaijan also Armenia took part in the PfP activities while sending mixed messages. On the one hand it seeks NATO affiliation (not to be confused with the aspiration for membership) in order to gain leverage in the unresolved Nagorno- Karabakh conflict, which will be analysed in further sections.

At the same time Armenia is Russia’s only military ally in the South Caucasus. In his statement Armenia’s former Defence Minister Serzh Sarkisian stressed that “While increasing contacts with NATO, Armenia will reinforce Russia’s presence in the country by developing favourable conditions for Russian military bases on the republic’s territory.”\textsuperscript{84} And Russian military bases located near the Armenian city of Gyumri with an estimated 5000 troops in the country, including 3000 officially based alone at the 102\textsuperscript{nd} Military Base in Gyumri pose a threat to Azerbaijan. By signing a 25- year long agreement with Russia in 1997 it secured Russia’s presence in the South Caucasus and in case of a new military confrontation with Azerbaijan over the internationally recognized Azerbaijani territories of Nagorno-Karabakh Russia’s involvement in the conflict would appear probable, even though the Armenian side denies it and explains displays the Russian military presence in the country as a key element of its national security, particularly with regard to securing the borders with Turkey. Sarkisian argued in that regard that:

\begin{quote}
“\textit{Russian troops are stationed in Armenia at the request of the Armenian state and in accordance with a bilateral agreement, and make up an integral part of our national security (…) If You want me to specify in relation to which countries the Russian troops could be useful for us, then I’ll tell you: countries outside the CIS. More specifically, Turkey (…) Until }
\end{quote}


now Turkey has pursued a hostile policy towards us. As for what its policy will be in the future, let us wait and see.”  

The ambivalent positioning of Armenia between NATO and the military alliance with Russia with the diminishing role of the former was one of the possible reasons why the country has not been mentioned in the NATO Communiqué alongside with neighbouring Georgia and Azerbaijan. Russia’s direct support of separatist movements in Abkhazia and South Ossetia and indirect support of separatism in Nagorno-Karabakh Conflict as well as the economic pressure of these small and fragile states speak once more for Russia’s hegemonic ambitions towards the region. The hegemonic features of Russian policy towards Georgia are emphasized by Moscow’s refusal of international peacekeeping forces in South Ossetia and Abkhazia. At the same time the uncontrolled infiltration of Russian mercenaries to the conflict zone and preserving its peacekeeping forces stationed in the conflict zone and due to the statement of the Russian Foreign Ministry Russia’s possible involvement in order to restore security, rights and interests of its own citizens living in South Ossetia led to the escalation of the conflict and ended with a five day intensive war in 2008. By disregarding the territorial integrity of Georgia and recognizing the breakaway regions of the country, Russia accordingly violates one of the fundamental principles of the international law set out in the UN-Charta.

Such developments pushed Georgia even further towards the Euro-Atlantic Alliance with a declared foreign policy goal of NATO membership. Alongside the military alliance Georgia also seeks strong political partnership with the EU. After his election the Georgian President Saakashvili has promptly visited European capitals and appointed a French citizen of Georgian origin, Salome Zurabishvili as the Foreign Minister of his country and by doing so he expressed his political orientation towards the EU. The positive reactions from the EU were the elaboration of the Action plans (AP) which the Commission bilaterally agreed between the EU and the respective partner country of the ENP. The already existing PCAs were accordingly completed or even overlapped. The main differences between the PCAs and the APs were the fact that the latter were “tailor-made”, so that they can be concise and easily evaluat-

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Note: Armenia’s close alliance with Russia is due to its isolation brought upon during the course of the Nagorno-Karabakh Conflict. Turkey, as partner of Azerbaijan also sealed its borders with Armenia in April 1993 and cut its diplomatic relations with the country in order to move Armenia to the withdrawal of troops from the occupied Azerbaijani territories. Moreover, Armenia still has territorial claims towards the Eastern part of Turkey.
87 Ibid. pp.93-94
ing in the context of “benchmarking” and would be evaluated annually, the so called “monitoring” and last but not least and similar to the enlargement process, the element of “conditionality” is also included into the APs. In contrast to the enlargement process, the ENP mainly rests on the idea of “sticks and carrots”, whereas the carrot symbolizes the membership perspective, urging the countries to implement political, economic and legal reforms. Another difference between the ENP and the enlargement process is the fact that unlike the APs between the candidate countries of the CEEC which eventually joined the EU, the candidate countries had to accept the benchmarks set out by the EU. The APs between the ENP and the EU are in turn mutually developed by the EU and the partner countries while having a choice of deciding about certain areas cooperation. Accordingly, the APs of each country differ from one another.\footnote{Kopecek, Vincenc, “European Neighbourhood Policy: Does the tool work? Area Study of the South Caucasian countries”, Contemporary European Studies, 1/2011, pp.6-7} The European Neighbourhood and Partnership Instrument (henceforth ENPI) was introduced in 2007 as a tool to finance the ENP. The following section deals with the ENPI and its application on Armenia, Azerbaijan and Georgia.

### 4.2 The European Neighbourhood and Partnership Instrument

For the period of 2007-2013 the ENPI’s budget was € 11.2 constituting an increase of 32% in comparison to TACIS and MEDA programs during the period of 2000-2006. Depending on the needs and absorption capacity as well as the level of the realization of the agreed reforms, the funds calculated for the ENP partner countries rise or decrease accordingly. The financing of the ENP carried out with the ENPI has following aims:

- “Supporting democratic transition and promoting human rights
- The transition towards the market economy
- The promotion of sustainable development; and policies of common interests (antiterrorism, the proliferation of weapons of mass destruction, conflict resolution, the rule of international law, etc.”\footnote{European Commission, Development and Cooperation- EuropeAid, European Neighbourhood and Partnership Instrument, available at: \url{http://ec.europa.eu/europeaid/how/finance/enpi_en.htm}, accessed on: 21.02.2014.}

By including the non-governmental actors and decentralised institutions into the eligibility criteria, the European Commission implicitly showed its will to support non-state actors, who in the predecessor programs were the exclusive beneficiaries of foreign aid. It can also be interpreted as a sign for more pluralism in form of the involvement of mixed organisations and civil society.
The ENPI incorporates the TACIS and MEDA, whereas the latter was allocated for the Mediterranean countries within the Barcelona Process of the ENP and includes innovative features such as:

- **Cross-border cooperation** (financing joint programs, bringing together regions of partner countries having a common border)

- **A government facility** (offering resources to creative partners willing to carry forward necessary reforms with regard to improvement of good governance)

- **The Twinning instrument** (joint initiative between the public sector experts from the EU Member States with the partner countries with the purpose of increasing cooperative activities)

- **TAIEX** (Technical Assistance and Information Exchange- a joint initiative between the Europe Aid and the European Commission’s Enlargement Directorate General with the aim of enhancing political and economic cooperation with regard to approximation, application and enforcement of EU legislation)\(^{90}\)

The following table shows the financing of the ENP through the ENPI

**Table 4. ENPI indicative multi-annual allocations for the period 2007–10**

<table>
<thead>
<tr>
<th>Country</th>
<th>Million €</th>
<th>€ per Person</th>
</tr>
</thead>
<tbody>
<tr>
<td>Algeria</td>
<td>220</td>
<td>6.3</td>
</tr>
<tr>
<td>Armenia</td>
<td>98.4</td>
<td>32.8</td>
</tr>
<tr>
<td>Azerbaijan</td>
<td>92</td>
<td>11.1</td>
</tr>
<tr>
<td>Belarus</td>
<td>20</td>
<td>2.1</td>
</tr>
<tr>
<td>Egypt</td>
<td>558</td>
<td>6.8</td>
</tr>
<tr>
<td>Georgia</td>
<td>120.4</td>
<td>26.2</td>
</tr>
<tr>
<td>Israel</td>
<td>8</td>
<td>1.1</td>
</tr>
<tr>
<td>Jordan</td>
<td>265</td>
<td>40.8</td>
</tr>
<tr>
<td>Lebanon</td>
<td>187</td>
<td>45.6</td>
</tr>
<tr>
<td>Libya</td>
<td>8</td>
<td>1.2</td>
</tr>
<tr>
<td>Moldova</td>
<td>209.7</td>
<td>48.8</td>
</tr>
</tbody>
</table>

\(^{90}\) Ibid.
<table>
<thead>
<tr>
<th>Country</th>
<th>Code</th>
<th>Amount (€ million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Morocco</td>
<td>654</td>
<td>20.4</td>
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<tr>
<td>Palestinian Authority</td>
<td>632</td>
<td>166.3</td>
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<tr>
<td>Syria</td>
<td>130</td>
<td>5.8</td>
</tr>
<tr>
<td>Tunisia</td>
<td>300</td>
<td>28.3</td>
</tr>
<tr>
<td>Ukraine</td>
<td>494</td>
<td>11.0</td>
</tr>
<tr>
<td>Total for country programs</td>
<td>3996.5</td>
<td>–</td>
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</tbody>
</table>

Source: European Commission 2007

As one can see in the table presented above that the money provided for Armenia, Azerbaijan and Georgia differ in amount, while Georgia receiving the highest amount (120.4 € million), followed by Armenia (98.4 € million) and Azerbaijan with (92 € million). However, once broken down to each individual of the respective countries Armenia receives the most (32.8 €) followed by Georgia (26.2 € million) and Azerbaijan (11.1 € million). Given this scenario one can easily conclude that Georgia is on the top priority list of the EU. Though Georgia’s aspirations to join the EU are for the time being not possible due to the non-applicability of Article 49 TEU to the ENP countries, the recently negotiated Associated Agreement including the deep and Comprehensive Free Trade Area (DCFTA) in Vilnius allows a deepened integration between the EU and Georgia. The following objectives constituted in the preliminary Association Agreement reveal the deep level of cooperation between them:

The aims of this Association are:

“(a) to promote political association and economic integration between the Parties based on common values and close links, including by increasing Georgia's participation in EU policies, programs and agencies;

(b) to provide a strengthened framework for enhanced political dialogue on all areas of mutual interest, allowing the development of close political relations between the Parties;

(c) to contribute to the strengthening of democracy and to political, economic and institutional stability in Georgia;

(d) to promote, preserve and strengthen peace and stability in the regional and international dimensions, based on the principles of the UN Charter and the Helsinki Final Act of 1975 of the Conference on Security and Cooperation in Europe, including through joining efforts to eliminate sources of tension, enhance border security, and to promote cross-border cooperation and good neighbourly relations;
(e) to promote cooperation aimed at the peaceful conflict resolution;

(f) to enhance cooperation in the area of freedom, security and justice with the aim of reinforcing the rule of law and the respect for human rights and fundamental freedoms;

(g) to support the efforts of Georgia to develop its economic potential via international cooperation, also through the approximation of its legislation to that of the European Union;

(h) to achieve Georgia's gradual economic integration into the EU Internal Market, as stipulated in this Agreement, notably through establishing a Deep and Comprehensive Free Trade Area which will provide for far-reaching market access on the basis of sustained and comprehensive regulatory approximation in compliance with the rights and obligations arising from the WTO membership;

(i) to establish conditions for an increasingly close cooperation in other areas of mutual interest."^91

Given the fact that the desired Association Agreement with Ukraine failed to be negotiated by the pro-Russian president Yanukovych, although the country is clearly situated in Europe and within the framework of the geographic definition of the term “European state”, Georgia merely outperformed Ukraine at the Eastern Partnership Summit in Vilnius in November 2013 with the level of economic and political reforms and a declared will to belong to the European family based on the core principles of human rights, democracy and the rule of law. Thus, the inclusion of the South Caucasus into the ENP due to the developments in Georgia, has so far proved to be successful. However, the level of integration with Armenia and Azerbaijan with the EU within the framework of EaP are by far not as developed as the one with Georgia. Eventually, Georgia’s efforts to urge the EU to boost its presence in the South Caucasus gradually bear fruit.

4.2.1 Priorities in the Action Plans

The APs are the central instruments of the ENP that have been negotiated with all three South Caucasian States. Their ratification however took three years, until 2006. The delay was grounded by the very fact that Azerbaijan allowed a commercial flight to Northern Cyprus. That was interpreted in Brussels as a failure to comply with the Northern Cyprus policy of the EU. Moreover, the Azerbaijani Republic demanded the reference of the Nagorno-Karabakh

Conflict and the territorial integrity in the AP. The EU on the other hand, suggested including the principle of territorial integrity as well as the right to self-determination, both fundamental principles of the Helsinki the Final Act from August 1975. The suggestion was rejected by the Azerbaijani government. Under the heading “New Perspectives of Partnership” following objectives are summarized:

- High level of integration into the European market
- Gradual Inclusion into important parts of the EU-politics and programs
- Improvement of the political cooperation through political dialogue
- Deeping of trade- and economic relations
- Economic legislative convergence (lowering of tariff barriers)
- Assistance for regional integration
- Enhanced financial support by the EU with the above mentioned ENPI and sources of the European Investment Bank (EIB)
- Support of the partner country by technical support.
- Perspective on enhanced dialogue on issues relating to the movement of people (in line with the notion of “people-to-people”).

In that regard the aims and objectives of the APs are identical for Armenia, Azerbaijan and Georgia. In the following subsection the priorities in all three countries will be taken a closer look.

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92 The Helsinki Final Act was signed on 1st of August 1975 and is widely accepted by all OSCE Member States. It covers inter alia the Sovereign equality, respect for the rights inherent in sovereignty, refraining from the threat or use of force, inviolability of frontiers as well as the territorial integrity and equal rights and self-determination of people. However, it is highly disputable whether or not Armenians living in the territories of the Nagorno-Karabakh are to be considered as people or as minority. Classical subject of the International Law are the state people in German “Staatsvolk” and include all the citizens of the country concerned, whereas the ethnic people are characterized by Aurelia Cristescu, the Special Repportheur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities as follows: „a) The Term „people” denotes a social entity possessing a clear identity and its own characteristics; b) It implies a relationship with a territory, even if the people in question has been wrongfully expelled from it and artificially replaced by another population; c) A people should not be confused with ethnic, religious or linguistic minorities, whose existence and rights are recognized in Art. 27 of the International Covenant on Civil and Political Rights. See: Cristescu, Aurelia: Study “The Right to Self-Determination. Historical and Current Development on the Basis of United Nations Instruments”, in UN Doc. E/CN.4/Sub.2/404/Rev.1, 1981, para. 279, p. 40-41.

4.2.2 The Action Plan with Armenia

The AP of Armenia consists of eight fields of priorities among which you can find fostering democracy, promoting the rule of law, reform of the judiciary, and combat of fraud, fight against corruption and the respect for human rights. Further priorities include the improvement of investment climate, convergence of economic legislation, development of an energy strategy and most importantly the contribution to a peaceful solution of the Nagorno-Karabakh Conflict and efforts for regional cooperation. The last two aspects are of outmost importance for the country, as Armenia’s violation of the internationally recognized territories of the Azerbaijani state through its support of the internationally not recognized Nagorno-Karabakh Republic, brought the country to the verge of isolation. Having closed borders with Azerbaijan on its East and Turkey on its West, the country is highly dependent on trade with Russia, with whom it does not have a direct border. Thus, the conflict between Russia and Georgia over the South Ossetia threatened also this path. The sufficiency of the remaining border with Iran for country’s economic progress is highly questionable for the time being. Surprisingly, the Progress Reports for Armenia for the period 2008-2011 are held positive and according to Di Puppo the country is assessed as “better pupil among the three South Caucasian states” despite the political crisis in February and March 2008 when the demonstrations in support of the presidential candidate and former President of Armenia Levon Ter-Petrosian were brutally crushed by the security forces, whereupon many activists of the opposition were imprisoned or detained.94 The appreciation of the Progress Reports is due to the amendments to the Criminal Code, modernizing the anticorruption, - customs and taxation legislation, whereas a slow-down in the progress is noted leading to the endorsement of the negotiations on the DCFTA as well as the approximation with Turkey. The report expressed some hope with regard to the peace talks over Nagorno-Karabakh.95

4.2.3 The Action Plan with Azerbaijan

The Progress Reports for Azerbaijan mainly concentrate on the economic cooperation, social governance and energy cooperation (for energy cooperation see Chapter 4). Furthermore, fighting corruption and money laundering constitute the pillar stone of the success in the Azerbaijani- EU Cooperation. However, with regard to democracy, elections, media freedom

and human rights the situation is classified as “setback”. Main challenges Azerbaijan faces are in the field of electoral process, constitutional reform and media freedom. Good progress is achieved in the negotiations in regard to the Association Agreement. Unlike Georgia Azerbaijan and Armenia could not negotiate the DCFTA.\textsuperscript{96} Azerbaijan’s main priority and efforts involve the contribution of the EU and the entire international community to the peaceful settlement of the Nagorno-Karabakh conflict on the basis of the four relevant UNSC resolutions. Alongside with this foreign policy goal, the EU is interested in strengthening democracy by fair and transparent electoral process in compliance with OSCE commitments, including institutional reforms to ensure the system of checks and balances and in line with CoE’s commitments of which Azerbaijan is a member. Further reforms which are included in the priority list are legislative and administrative reforms contributing to more decentralisation and municipal self-government. The protection of human rights and fundamental freedoms are to be met by improvement of judiciary, the ratification of the protocol to UN convention on torture (while being a member of the CoE, Azerbaijan is bound by Article 3 concerning the Prohibition of Torture, the so called \textit{ius cogens} norm of the international legal order with the effect that no other rule of international law may derogate it (Art.53 Vienna Convention 1969)). Further sphere of priorities affect the development of independent public broadcasting as well as the improvement of the business and investment climate by fighting corruption. Other priorities concern the economic development and the diversification of the economy.\textsuperscript{97}

Diversification of the economy is of paramount importance, as it is still dependent on the revenues from crude oil and natural gas. Development of the non-oil sector and investment in rural areas go in line with the goal of diversification (for economic development see section 5.3). Specific actions include the program with regard to the privatisation of the state owned property in line with international practices such as the development and the providing credits for Small and Medium-Sized Enterprises (henceforth SME). Last but not least, the EU Azerbaijani energy cooperation as well as the regional cooperation in connection with the strategic energy partnership including the visa and readmission issues play an important role in the EU-Azerbaijan AP. It is noteworthy to mention that EU’s main interest on Azerbaijan lies on the energy cooperation alongside with economic and political transformation.

\textsuperscript{96} Ibid. p.12-13
4.2.4 The Action Plan with Georgia

The eight priority fields Georgia’s AP encompass, are in their content compared to Armenia and Azerbaijan much longer. The fact that EU “welcomes Georgia’s readiness to enhance cooperation in all domains covered by the Action Plan”98 shows the ambitious aim of the EU-Georgia cooperation implying the higher level of opportunity the Union sees in Georgia in its path towards the EU. Undoubtedly, the increasingly close relationship with the EU based on shared values and norms would not have been possible without the peaceful revolution in Georgia in November 2003. Ever since, it is Georgia’s government’s declared aim and objective unwaveringly to follow the European path while also seeking a NATO membership. And indubitably, it is the merit of Saakashvili, who paved the path for democratic reforms, despite having been heavily criticized of being authoritarian.

Georgia’s AP contains the rule of law, rebuilding state institutions, enhancing democratic institutions as well as the protection of human rights, fight against corruption, improvement of business climate, poverty reduction, environment protection, border management, strengthening regional cooperation, promoting peaceful resolution of internal conflicts (e.g. South Ossetia, Abkhazia etc.), cooperation of the CFSP and transport energy99 (Georgia is a transit country through which the BTC pipeline leads to the Turkish harbour city of Ceyhan).

The Progress Report for Georgia refers to the progress achieved particularly in the field of justice system, rule of law, fight against corruption, trade facilitation, regional development and improvement of business climate. Yet the country is urged to continue with democratic reforms, strengthening political and economic pluralism and ensuring the freedom of media. Criticism is also expressed in regard to the election irregularities. Furthermore, the introduction of the new constitution is carefully followed by the EU.100 The major challenge however lies in the stagnation of reforms in the area of civil service. Further challenges lie in the situation of the “Occupied Territories”, poverty reduction and the situation of the Meskhetian Turks in line with the situation of the minorities.101 (The issue of the occupied territories plagues also neighbouring Azerbaijan and hinders the countries in the region from cooperation) In fighting the corruption Georgia achieved better results than its neighbouring countries, namely by climbing up from the 130th place in 2005 to the 68th in 2010 in the list of the

100 Ibid. p.8
101 Ibid.p.8
4.2.5 Critical assessment of the Action Plans

The Aps are the primary steps in the ENP of the three South Caucasian States of Armenia, Azerbaijan and Georgia in their process of approximation towards the EU. The intentions of the EU in the region of the South Caucasus go beyond mere cooperation. The goals and objectives foresee a deep integration into EU structures with the tools of the ENP and by doing so enabling economic and political transition. The priorities of the Armenian and Georgian APs are rather strengthening democratic structures, fostering reforms, enhancing human rights protection and removing obstacles and ensuring transparency in the electoral process, whereas the priorities concerning Azerbaijan mainly cover economic cooperation and energy security issues. Though Armenia is classified as “good pupil”, much remains to be done with regard to democratic reforms and the proceeding the negotiations with Azerbaijan over the occupied Azerbaijani territories of Nagorno-Karabakh region.

Georgia on the other hand seems successfully implementing democratic and economic reforms, despite the fact that the initiator of the reforms personified in the former President of Georgia, Saakashvili has been ascribed authoritarian elements of governance and leadership. Notwithstanding, he should be given credit for fighting corruption after the Rose Revolution. Though the AP of Azerbaijan does not cover all domains of cooperation being the case with Georgia, the Progress Reports mainly focused on economic success of the country and the EU- Azerbaijan strategic energy partnership while the restoration of its territorial integrity and the solution of the Nagorno-Karabakh conflict remain the priority number one of the Azerbaijani government. Such positioning in the foreign policy can only be understood in view of the fact that the country harbours almost one million refugees and Internal Displaced Persons (henceforth IDPs) from Armenia and Nagorno-Karabakh who lived in refugee camps, tents.

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and wagons for more than a decade. Given the fact that only 5% of the ENPI’s budget is allocated for cross-border cooperation programs, the efforts on side of the governments for cross-border cooperation would fall short. It is noteworthy to mention that once peace agreement between Armenia and Azerbaijan is achieved Baku will invest $60- billion for mine cleaning and the return of ethnic Azeri inhabitants to Nagorno-Karabakh as well as for building a sustainable economy with so called “The Great Return” program.\(^\text{104}\) And also on side of the EU the ENPI money allocations show significant increase. Between 2007 and 2010 the money allocated for Armenia constituted 98.4 € million, for Azerbaijan 92 € million and for Georgia 120.4 € million. These numbers increased in the period of 2011-2013 for Armenia by 157 € million, for Azerbaijan by 122.5 € million and for Georgia by 180.29 € million. The reason for such increase lays according to Kopeček on geopolitical and geostrategic considerations on part of the EU and serves the objective of creating a “European semi-periphery or geopolitical arc”.\(^\text{105}\) With reference to the “stick and carrot” metaphor, the ENP seems to be less effective and can be seen as a political compromise due to the region’s importance for EU’s energy security as a transit land as well as a production hub. Hence, the EU relies on the good relations with local political elites and by doing so increases its presence in the region as a regional player alongside with Russia, USA and Turkey; otherwise it would have stopped incentives, negotiations of the Association Agreement including the funding from ENPI. The Action Plans also reflect the geopolitical positioning, economic and political expectations of the ENP countries as well.

Armenia uses the ENP as a tool to free itself from the blockade from Azerbaijan and Turkey due to the occupation of the 20% of the Azerbaijani territories. The economic and military reliance on Russia has been shaken due to the brief Russo-Georgian war in 2008 as Georgia, apart from Iran, stands for a vital corridor through which Armenia can make trade. Georgia’s expectations towards the EU are the highest in the region. Due to the dramatic reforms in areas such as state administration, police, tax law, decisive fight against corruption etc. carried out by the western-educated political and economic elite, the country expects more political support for the governmental support, for the restoration of its territorial integrity and future prospect of EU membership, whereas the latter is less realistic, at least in near future, due to


\(^{105}\) Kopeček, Vincenc, “European Neighbourhood Policy: Does the tool work? Area Study of the South Caucasian countries”, Contemporary European Studies, 1/2011, p.15
the non-applicability of the Article 49 as already analysed in detail. The Association Agreement as laid out in section 3.2 allows a deep level of integration of Georgia into the EU structure. Accordingly, EU’s expectations towards Georgia can also be placed at a higher level. Hence, Georgia at this stage can be called “best pupil”. Azerbaijan’s ambitions towards the EU can be seen twofold. On the one hand, it seeks a balance in its foreign policy due its geopolitical situation. Being surrounded by its biggest neighbor Russia in the North and Iran in the South, the country cannot afford to follow a one-sided and narrow-minded foreign policy. Any shift from that path would endanger country’s position in the region. The political and ruling elite of the country is well aware of the fact. On the other hand it needs a reliable demand for its oil and gas. The EU is by far and large the most reliable partner and customer to that very end. And the EU on its part is dependent on alternative energy supply.

The perfect match of each other’s economic needs leads, carefully spoken, to the fact that the EU’s stick in form of the conditionality sidesteps at the expense of its values and in favour of a political compromise and Azerbaijan uses the platform to raise awareness of the international community towards the violation of its territorial integrity due to the Armenian occupation of its territories over the Nagorno-Karabakh region for more than two decades. The following and the last chapter is devoted to EU’s relations towards Azerbaijan within the framework of the EaP. The effectiveness of the ENP will be tested on the case of Azerbaijan.

5. Azerbaijan within the framework of the ENP

The legal framework for the EU-Azerbaijani relations was set through the PCA entering in force by July 1999 on the core principles of democracy, international law, human rights and market economy. Since then, the bilateral relations between the EU and Azerbaijan in the area of political dialogue, trade and investment, economic, legislative and cultural cooperation paved the way for country’s inclusion into the ENP and EaP. Azerbaijan’s geopolitical fate is shaped by the fact that the country finds itself at the cross roads between Central Asia and Europe, between Russia in the North and Iran in the South as well as its crude oil and natural gas resources makes the country a well-coming strategic partner for the EU, USA and Turkey. Due to its economic strength it is a regional leader and also a reliable partner for many international organizations such as the UN, Organisation for Security and Cooperation in Europe (OSCE), Council of Europe (CoE), the Black Sea Economic Cooperation (BSEC), the CIS, the Non-Aligned Movement (NAM) the Organisation of the Islamic Conference.

The European Bank for Reconstruction and Development (EBRD), the World Bank, The International Monetary Fund (IMF) and many other small and regional organisations. In its foreign policy the country pursues a balanced and multi-vector strategy, namely enhancing its independence and sovereignty, restoring its territorial integrity and cooperating with regional and global actors. Any other shift from the paradigm of a balanced foreign policy would immediately affect the geopolitics of the region and destabilize it for an unforeseeable time. The constant pressure from its northern neighbour Russia through its military alliance with Armenia, which on its turn occupied 20% of the Azerbaijani territories including Nagorno-Karabakh and seven adjacent regions as well as the fundamentalist pressure from its southern neighbor Iran, poses a threat to the security of the country. Georgia’s audacious goal of joining the NATO is not shared with the same passion in Baku.

Thus, country’s membership in the Non-Aligned Movement (NAM) emphasizes main lines of such a political stance. Notwithstanding, Azerbaijan pursues a close cooperation with the NATO on democratic, institutional and defence reforms and provides its support for NATO-led operations e.g. by contributing troops to the International Security Assistance Force (ISAF) in Afghanistan.

Despite the EU’s hesitant approach towards the region, EU’s presence has steadily increased in Azerbaijan even though the cooperation was initially limited to trade and economic partnership and development assistance and to lesser extent to intense political cooperation. Between 1992 and 2004 Azerbaijan received 400€ million by the European Commission through TACIS, the Food Security Program (FSP) as well as the Humanitarian Assistance, Food Aid and most importantly the Rehabilitation of war damaged areas. The financial and technical support mainly covered the institutional, legal and administrative reforms as well as the private sector. The Transport Corridor Europe Caucasus Central Asia (TRACECA) and the Interstate Oil and Gas to Europe pipelines (INOGATE) completed the area of support on part of the EU and facilitated the upcoming BTC project. Such financial and technical assistance eventually paid off, if one considers the deep integration of the region into the EU in terms of the energy partnership and playing a strategic role in the energy security of the EU.

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110 Ibid. p. 110
As the former European Commissioner for External Relations and European Neighbourhood Policy, Benita Ferrero-Waldner stated: “In offering intensive expert support to governments in Eastern Europe and the Caucasus, we are not only investing in the economic and political stability of these countries, but also in our own well-being.”\textsuperscript{111} This statement expresses the political stance of the ENP and the EaP and is in line with the European Security Strategy of promoting “a ring of well governed countries to the East of the European Union and on the borders of the Mediterranean with whom we can enjoy close and cooperative relations”.\textsuperscript{112} The energy cooperation between the EU and Azerbaijan is certainly one of the less controversial areas of cooperation and the Memorandum of Understanding on a Strategic Partnership between the EU and the Republic of Azerbaijan in the field of energy established the cornerstone of future energy cooperation allowing closer integration of Azerbaijan with the EU energy market.\textsuperscript{113} The following section will look at factors which led to inefficiency of the ENP and will cast light on the development of the more specific policy of EaP.

5.1 Deficiencies of the ENP

The inclusion of sixteen different countries with different political, economic and cultural background into one harmonious whole with the desire of their transformation into democratic systems imparts the impression of an empty shell. While the countries of the Barcelona process felt attracted by the EU’s economic success, competitive and functioning markets and to lesser extent by its political union, howbeit the Eastern European countries’ expectations went beyond the economic strength of the EU. And the EU on its turn emanated that the Eastern European countries would follow similar path of democratization and reforms as the CEEs but as Penkova correctly observes: “due to the absence of identical starting conditions or aspirations of ENP countries with CEE ones and among single ENP countries and undermines EU leverage on those governments”\textsuperscript{114} the assumptions of Brussels proved to be ineffective.

The disputability of the political attractiveness of the EU as a transformative power in its neighbourhood relies on the level of economic strength of the countries and the volunteer de-


\textsuperscript{114} Penkova, Tomislava, “EU Eastern Partnership: a Second Chance for the EU Transformative Power?” in EU Eastern Partnership- Common Framework or Wider Opportunities?, Center for Strategic Studies, Jan. 2013, Baku, Azerbaijan, p.21
sire of the political elite of the countries to cooperate with Brussels and accept the acquis of the EU as a fundamental document and precursor of political and economic reforms. The case of Georgia as analyzed in previous sections reveal the volunteer desire of the Georgian elite, mainly shaped by the former Georgian President Saakashvili, to fully accept the rules and regulations of the EU. The pro-European attitude of Georgia’s former President is clearly expressed by his inaugural address in January 2004, when he declared:

“The European flag is Georgia’s flag as well, as far as it embodies our civilization, our culture, the essence of our history and perspective, and our vision for the future of Georgia. (...) Georgia is not just a European country, but one of the most ancient European countries. (...) Our steady course is toward European integration.”

Undoubtedly, the ENP established the framework upon which Georgia voluntarily subscribed. However, Georgia’s desire to follow the European path would have preserved without the adoption of the ENP. Hence, the Georgian path of democracy is not a direct outcome of the ENP. In contrast, the inclusion of the three South Caucasian States of Armenia, Azerbaijan and Georgia into the ENP is closely tied with Rose Revolution in Georgia. The “carrot and stick” policy in connection with conditionality is the most effective tool of the EU to have an impact on transition countries of Eastern Europe. Accordingly, the prospect of membership remains the most effective incentive of the EU to push the countries of Eastern Europe towards political and economic reforms. Penkova sees the weak influence of the ENP on the transition countries according to the following factors:

- The failure of the ENP as a transformative policy especially for the Eastern European countries was mainly due to the false assumption of Brussels that the ENP countries would automatically and independently absorb the exported democratic values and standards of the EU and easily implement them. Thus, change towards democracy would have occurred as in the CEE countries, which also shared common Soviet fate. Unlike the CEEs the ENP countries did not adhere to the metaphor of “return to Europe”.

- The Eastern European ENP countries are situated in the “contact zone” between the EU and Russia, which hardens an independent foreign policy (particularly in light of Russia’s hegemonic ambitions). So their geographical proximity requires permanent strategy of manoeuvring between Brussels and Moscow. It goes in line with Lynch’s proximity/distance paradox. The closeness of the region implies EU’s active engage-

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ment, whereas its distance lessens the urgency of the region’s conflicts as an immediate threat.

- EU’s insufficient knowledge of the local idiosyncrasy led to naive expectations. Since neo-patrimonial regimes took power after the demise of the USSR, they simultaneously took control over countries’ resources and institutions. Thus, the political elites representing these regimes try to preserve the status quo. They receive European financial assistance while promising the implementation of the reforms in an eloquent “European integration rhetoric”. The civil society on the other hand remains weak.

- The EU’s application of the “one-size-fits-all” policy to the countries of the ENP is doomed to failure due to the heterogeneous and diverse pace of integration of the ENP countries.

- The EU-centric approach of the ENP appeared to be biased, paying more attention towards EU needs and by doing so establishing an asymmetric relationship leaving the target countries with little to say in future plans and national priorities.

- The transposition of EU’s democratic principles and intrinsic values to the countries of the EaP did not lead to a breakthrough, but rather to different configuration of political power and decision-making.

- Due to the economic crisis that started in 2008 EU’s attention and resources were drawn towards its own needs rather than the ones of the ENP countries.

- The effects of enlargement fatigue have not been overcome yet.

- Lack of consensus among EU Member States and the eastern neighbors of future enlargements.

- Russian factor remains a strong determinant and weakens EU’s influence in the Eastern European countries. Thus, ignoring Russia’s interests in the region would destabilize Eastern European countries.\(^\text{116}\)

The above mentioned factors led to weakening of the ENP and its aim of being a transformative and Democracy Promoting Power. The very fact that the ENP included sixteen countries with different political, economic and legal developments or traditions and also different expectations towards the EU, posed a challenge for the Union to elaborate a unified, consistent and tailor-made policy applying to all of them. Bosse argues that the EU “struggled to find a suitable policy to address countries in its vicinity”, since the eastward enlargement in 2004...

and 2007 and that “the smaller the EU’s ‘power to attract’ becomes, the less leverage will it have to convince neighbouring countries to embark on costly reform and democratization processes.”

In light of this challenge and ineffective and broad policy, the EU responded with tightened, regional and more specific policy of the EaP. The following section will shed light into the peculiarity of the EaP and its implication for future cooperation with the particular accentuation on Azerbaijan.

5.2 Eastern Partnership as a local approach of the supra-regional policy?

The Eastern Partnership had been proposed by Poland and Sweden at the EU foreign ministers’ meeting in Brussels on 26 May 2008 and was launched in Prague in 2009 as a joint initiative between the EU, EU countries and the Eastern European partner countries. The EU’s aim is to pay increased attention to the region after the years of negligence. Urged by the reality of losing its “power to attract” and the ineffective application of conditionality, particularly towards the economically strong partners such as Azerbaijan or the general non-applicability of the Article 49 to eastern neighbours coupled with double standards towards the region, the EU was compelled to forfeit its role as effective democracy promoter. Hence, the EaP was seen as an upgrade of the ENP and intended to meet the expectations of both parties, instead of being perceived as a top-down imposition of Brussels dictate upon the governments of the partner countries without an active engagement of civil society. Consequently, the EaP was also a further chance for the EU to improve its image in the region. However, it was proposed and promoted by Poland, traditionally being an opponent of Russia’s hegemony in the region. And Russia still disapproves the EaP as it reduces its influence in the region and as all of the six EaP Member States were part of the Soviet Union. Thus, Russia’s aim of integrating these countries into its sphere of influence is in contrast to EU’s ambitions, which follows its own integration policy.

Unlike Russia, which is ready to impose its interests in the regions by using force and being perceived as threat factor for most neighbouring countries, the EU is considered as a civil regional power. For instance, current political turmoil in Ukraine reveals Russia’s disapproval towards the project of EaP. In the Joint Declaration of the Prague Eastern Partnership Summit it is stated that the Eastern Partnership is established:

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“on mutual interests and commitments as well as on shared ownership and responsibility. The Eastern Partnership builds on and is complementary to existing bilateral contractual relations. It will be developed without prejudice to individual partner countries ‘aspirations for their future relationship with the European Union. It will be governed by the principles of differentiation and conditionality. (…) The Eastern Partnership will seek to support political and socio-economic reforms of the partner countries, facilitating approximation towards the European Union”\textsuperscript{118}

The wording of the declaration implies the evolutionary character of the EaP. “Building on and is complementary to existing bilateral contractual relations” implies the complementary rather than replaceable nature of the policy. And “shared ownership and responsibility” may stand for the policy of “more for more”, merely meaning that the more the countries implement the agreed reforms, the more incentive and assistance they will receive through the mechanisms of the EaP. The subsequent summit in September 2011 in Warsaw did not bring upon grave changes such as the application of Article 49 of the Lisbon Treaty with the corresponding membership perspective. Particularly Ukraine, Georgia and Moldova were disappointed with the phrasing such as “neighbor” or “partner”, due to their neutral character and lack of integration perspective. Notwithstanding, they accepted the EaP as a basis for their relations with Brussels. Armenia, Azerbaijan and Belarus on the other hand prefer a non-interference of Brussels into their domestic affairs and rather emphasize the economic cooperation as a backbone of fruitful relations. Some EU officials have indicated that as a bargaining chip to achieve also political aims Brussels should exploit economic cooperation such as energy, visa issues and while doing so, they would respect political peculiarities.\textsuperscript{119} Once applied in that manner, this approach could be interpreted as response towards the critics on Brussels, namely of dictating its policy on the eastern European countries regardless of their political and societal peculiarities.

Implicit pragmatism, functionality and different pace of integration of each and single country of the EaP instead of blind idealism seem to prevail in the relations between Brussels and the EaP countries. Thus, the EaP in contrast to the ENP is not to be considered solely a democracy promotion tool. Inclusion of certain technical sectors on the grassroots level without preconditioning the promotion of democratic institutions and processes makes the policy a functional/pragmatic policy tool. Consequently, Bosse argues that:


\textsuperscript{119} Penkova, Tomislava, supra note, p. 26
“The short-term aim of functional cooperation is to solve collective action problems of states in uncontroversial economic or technical areas. The negotiations tend to be led by experts or economic elites rather than governments as the sole decision-making body... Yet the functional cooperation also envisages a long-term aim: regional integration for the gradual introduction of free trade. The key tools to achieve these aims can broadly be summarised as elite socialising and spillover”\(^{120}\)

By doing so, the EU would give up its image of a “teacher” and viewing the EaP countries as a student. It is also pursuant to the statement of Karaganov, who warns the EU of acting as a teacher and pushing Russia into the role of a student.\(^{121}\) Notwithstanding, it does not automatically mean that the EU should give up its claim of promoting democracy in line with its core values such as human rights or the rule of law. The pragmatism of the EaP underlines the importance of the EU’s core principles the entire institutional framework of the Union is built upon. The paradigm shift solely implies a new set of priorities without trading off core values. The aim is rather to overcome the burden of being vague and sounding like an empty shell. Particularly in case of Azerbaijan the EU seems to focus on economic cooperation. Pragmatic negotiations on Association Agreements, allows the country deep integration into the EU economic in connection with DCFTAs. Particular focus on economic cooperation reduces the polarisation and politicisation of the debate.

As Yahorau argues: “democratisation of the partner countries can be not so much a condition for rapprochement with the EU, but the result of such rapprochement. The EaP in this sense can (and should) be considered by civil society as a tool to complete the processes of de-Sovietisation, nation-building in the partner countries, and, finally, their Europeanisation and democratisation. Only such a sequence can provide stability of democratic transformations in the long-term period.”\(^{122}\)

On this notion one can see once again the evolutionary approach of the EaP as unlike the ENP it does not make the democratisation of the partner countries as a prerequisite for rapprochement. It is rather the main task of the civil society to complete the process of de-Sovietisation


\(^{121}\) Karaganow, Sergej, “The future of Russia and the EU, CEPS Neighbourhood Watch Nr.25, Brussels March 2007, p.11.

and transition in order to achieve a Europeanization and democratisation. Such approach resembles to the principle of the ‘lowest common denominator’- similar to the understanding of cooperation among states and international organisation in the creation of international law. The states are creators of the international law upon which they voluntarily bound themselves and govern their relations under the fundamental principles and the rule of law. In that regard, the states are represented by their respective governments. Governments howbeit, disapprove political paternalism. As Penkova states: “The acceptance of the EaP policy, however, does not amount to an automatic commitment to (political) reforms as they are required by Brussels.” Some countries reject such developments, which they view as a threat or interference in their domestic affairs.”

The unwillingness of the national governments to cooperate with the EU on political reforms goes in line with the threat of the ruling elite to lose power in the end. According to Yahorau, the civil society is more “pro- EU as the basic agent of democratic changes. Civil society’s role is in advancement of the European vector of development in the partner countries, pressure upon their own national governments, prevention of mere imitation of reforms by the governments, and a wide dissemination of European values in society.” He further carries on criticizing: “Today, civil society in the partner countries has no forces to influence significantly democratic changes, but nevertheless, it is the only actor able to guarantee movement in this direction. Civil society’s performance of such a role is possible only if it is supported by the EU and if the latter recognises civil society as an independent and legitimate subject of relations along with the national governments.”

The latter criticism entails an implicit policy recommendation as well, namely recognizing the civil society as an independent political factor and as the only factor, which is willing to push through necessary reforms in the countries of the EaP. It is, paying the internal dynamics in these countries more attention, as Solonenko and Shapovalova argue: “In most cases the political elites are interested in preserving the status quo rather than undertaking costly reforms, while civil society is too weak either to keep the elites accountable or push for reform. Therefore, the lack of both political interest and domestic pressure largely explain the poor reform results.”

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123 Penkova, Tomislava, supra note, p. 26
124 Yahorau, Andrei, supra note, p.18
Throughout the existence of the ENP the civil society has not been paid enough attention on part of the EU, though the members of the civil society are the backbone of the reforms. The political elites are traditionally passive in undertaking costly reforms. The intensity increases or decreases accordingly upon the level of democratisation. Solonenko and Shapovalova also identify one factor that seems to guide the EU’s general attitude once bargaining with the EaP countries: “The EU’s cooperation with its EaP partners allows approximation in different sectors without necessarily translating this into meaningful political reform. Due to the EU’s strong interest in specific areas such as energy supplies, sector-based cooperation is possible even without common values”\textsuperscript{126}

Once applied to the case of Azerbaijan, one can assume that the EU follows a pragmatic policy within the framework of the EaP with Azerbaijan and puts the main focus on specific areas such as the energy cooperation. Given the rise of the oil and gas consumption in the EU for the upcoming decades and subsequent dependence on the classical suppliers such as Russia and Saudi Arabia, whereas the former uses its natural resources as a mean of political pressure, the search for alternative suppliers was inevitable. In that regard, Azerbaijan’s role as a reliable crude oil and natural gas supplier as well as a transit route for the fossil energy resources from Central Asia remains undisputed. The following section analyses the EU’s energy dependency and Azerbaijan’s role in the energy security of the EU.

### 5.3 Azerbaijan’s role in the energy security of the EU

The energy dependency of the EU is well reflected in the Green Paper “Towards a European strategy for the security of energy supply”\textsuperscript{127} published the Commission. For the first time the Commission stressed the Union’s weaknesses, revealing the need to adopt an active energy policy enabling the reduction of its energy dependency. The elaboration of a new energy policy based on diversification of energy supplies was urgent and necessary if one looks at the list of the energy suppliers below.

\textsuperscript{126} Ibid. p.5
With 34% in oil supply and 35% in gas supply the Russian Federation plays a paramount importance in the energy suppliers ‘mix of the EU. Such concentration of oil and gas reserves on Russia emphasizes the dominant position of the country and at the same time increases the vulnerability of the Union inter alia on Russia. And Russia on its turn is well aware of the political use of energy leverage of which it took advantage on diverse occasions. The apparent dependency on few suppliers poses a threat to energy security of the EU if one includes the region of the Middle East which holds 61.9 % of the world proved oil reserves.\textsuperscript{128} Given the fact that the Middle East is plagued by political instability, despotism and Russia on its turn pursues an aggressive energy policy and uses its oil and gas reserves as a political pressure and in order to discipline its neighbours, such as Ukraine and Belarus, thus the question of

vulnerability of the EU energy security raises in light of these developments. The so called gas-crisis revealed the risks deriving from excessive dependence on a single supplier.\(^{129}\) And if one adds up to the increasing demand of the EU on crude oil and natural gas to the energy mix of the Union in the upcoming decades, then the negative developments inevitably intensify the already gloomy picture of the energy security. Against this backdrop, prioritising the diversification of energy supply appears to be a logical consequence.

By publishing the Green Paper “Towards a European strategy for the security of energy supply” the Commission reacted to the rising energy dependency and identified the need to elaborate a new energy policy by putting a new focus of geopolitical approach in order to encounter the challenge. Also the Caspian Sea Basin with its oil and gas resources is included into the document presented by the Commission. In order to improve the energy infrastructure the Commission emphasises the importance of the TACIS and MEDA programs and argues that “we should keep a watchful eye on the development of oil and gas resources in the Caspian sea basin and in particular on transport routes to open up oil and gas production”\(^{130}\). The guidelines for the debate are concentrated on the following main points:

- “The European Union will become increasingly dependent on external energy sources; enlargement will not change the situation; based on current forecasts, dependence will reach 70% in 2030.
- The European Union has very limited scope to influence energy supply conditions; it is essentially on the demand side that the EU can intervene, mainly by promoting energy saving in buildings and the transport sector.
- At present, the European Union is not in a position to respond to the challenge of climate change and to meet its commitments, notably under the Kyoto Protocol.”\(^{131}\)

The Green Paper published by the Commission in 2000 paved the way for the Green Paper “A European Strategy for Sustainable, Competitive and Secure Energy” published in March 2006. Here, the Commission explicitly puts an emphasis on the security of supply by stating: “tackling the EU’s rising dependence on imported energy through (i) an integrated approach – reducing demand, diversifying the EU’s energy mix with greater use of competitive


\(^{131}\) Ibid.
indigenous and renewable energy, and *diversifying sources and routes of supply of imported energy*, (ii) creating the framework which will stimulate adequate investments to meet growing energy demand, (iii) better equipping the EU to cope with emergencies, (iv) improving the conditions for European companies seeking access to global resources, and (v) making sure that all citizens and business have access to energy.”

Alongside with Competitiveness and the internal energy market, solidarity, sustainable development, innovation and technology and external policy, the diversification of the energy mix constitute to one of the main priorities in the Green Paper and lays the foundation for a new comprehensive European energy policy. In terms of the diversification of energy supplies, the Commission mentions “*upgrading and construction of new infrastructure*” and in that regard it also refers to the Caspian region and recommends the facilitation of the Caspian oil supplies to the EU. In order to meet that objective, the EU recognizes the necessity of energy partnerships with producers, transit countries and other international actors. The interdependency is pictured through specific energy dialogues at bilateral and regional level with major international energy suppliers. The necessity to diversify the energy supplies and ensuring the energy security has been declared a top priority in several documents published by the Commission. Consistently with the previous developments the Article 194 of the Lisbon Treaty also refers to the establishment and functioning of the internal market and provides the “*need to preserve and improve the environment, Union policy on energy shall aim, in a spirit of solidarity between Member States, to:*

\[\begin{align*}
\text{a)} & \quad \text{ensure the functioning of the energy market;} \\
\text{b)} & \quad \text{ensure security of energy supply in the Union} \\
\text{c)} & \quad \text{promote energy efficiency and energy saving and the development of new and} \\
& \quad \text{renewable forms of energy; and} \\
\text{d)} & \quad \text{Promote the interconnection of energy networks.} \n\end{align*}\]

With regard to the aims and objective of the Green Paper, also the Article 171 (1) states that “*the Union shall establish a series of guidelines covering the objectives, priorities and broad*
lines of measures envisaged in the sphere of trans-European networks; these guidelines shall identify projects of common interest,”

Thus, in The EU Energy Policy the Commission stressed the importance of the diversification of the energy supply and urged the Union to increase its efforts to support the Caspian and the Middle East regions, whereas the emphasis was put on both political and economic cooperation. While assisting supplier countries such as Azerbaijan, Turkmenistan or Iraq including the Central Asian countries in developing their respective energy sectors, the EU would engage in trade and investment in the region. The fact that the Commission included the political cooperation into the document has twofold reasons. On the one hand it encountered the critics of being hesitant in its approach towards the region and playing rather marginal political role in comparison to Russia, USA and Turkey (see section 3.1.1) and on the other hand it implicitly readdressed the importance of the ENP in general and the EaP in particular as both programs build upon intense political cooperation with the region. The document also addresses the agreement on Trans-Caspian Gas Transmission and Infrastructure between the EU, Azerbaijan and Turkmenistan, whereas Azerbaijan plays a role of a transit country while providing its territory for the secure transport of Turkmen natural gas across the Caspian Sea.

By doing so, Azerbaijan goes for dual drive of being a supplier of natural gas and crude oil and a transit country for Central Asian fossil fuels and contributes its small part to safeguard the EU’s energy security. Though Azerbaijan only possesses 18.3% of the proved oil and 4.4% of the natural gas reserves of the Caspian area and the Caspian littoral states altogether possess 14% of the world proved oil and 2.3% of the natural gas reserves, the country’s role in the energy security of the EU with reference to the Union’s diversification of the energy supply policy is of paramount importance. Azerbaijan’s geo-strategic importance is well reflected in Brzezinski’s sharp-witted and analytical book The Grand Chessboard: American Primacy and its Geostrategic Imperatives, where he claims that:

“Despite its limited size and small population, Azerbaijan with its vast energy resources, is also geopolitically critical. It is the cork in the bottle containing the riches of the Caspian Sea basin and Central Asia. The independence of the Central Asia states can be rendered nearly

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meaningless if Azerbaijan becomes fully subordinated to Moscow’s control. Azerbaijan‘s own and very significant oil resources can also be subjected to Russian control, once Azerbaijan’s independence has been nullified. An independent Azerbaijan, linked to Western markets by pipelines that do not pass through Russian-controlled territory, also becomes a major avenue of access from the advanced and energy-consuming economies to the energy rich Central Asian republics. Almost as much as in the case of Ukraine, the future of Azerbaijan and Central Asia is also crucial in defining what Russia might or might not become”\(^{139}\)

The realization of the Baku- Tbilisi- Ceyhan oil pipeline and Baku- Tbilisi- Erzurum gas pipeline can be considered as a step of Azerbaijan to tear itself away from Russian domination of the country and not surprisingly the Production Sharing Agreements (henceforth PSA contracts) signed in 1994 between the international consortium of oil- and gas exploiting companies and the Azerbaijani government for the exploitation of three offshore oil fields, is mostly referred to as the “contract of the century”.\(^{140}\)

Thus, bypassing Russia allowed Azerbaijan to pursue an independent policy while preserving the balance in its foreign policy among its neighbours, particularly in regard to its northern neighbor of Russia and southern neighbor of Iran. And in that particular regard such policy was in line with the aims and objectives of the EU, namely reducing the energy dependence on Russia. In accordance with the new “top-down strategy” co-initiated by the European Parliament and the European Council the southern gas corridor between the Caspian Sea riparian countries and the Middle East to the EU was among the priority projects (NG3) and Azerbaijan’s role in the development of trans-European energy networks, with regard to Nabucco, Inter-connector Turkey- Greece- Italy (ITGI) as well as the Trans- Adriatic Pipeline (TAP) was reemphasized in the mentioned document.\(^{141}\)

As already mentioned the Memorandum of Understanding on a Strategic Partnership between the EU and the Republic of Azerbaijan in the field of energy laid the foundation for future energy cooperation allowing closer integration of Azerbaijan with the EU energy market. Given the country’s key role as a producer and transit route for Central Asian fossil fuels the


\(^{141}\) Frappi, Carlo, “The EU Eastern Partnership: Common Framework or Wider Opportunity? - Caspian Region’s and Azerbaijan’s Place in EU Energy Security Policies from the PCA to the EaP”, Center for Strategic Studies (SAM), Baku 2013, p.56
document foresees the adoption of a comprehensive and balanced approach with regard to the commitments and incentives and focuses on the cooperation in four specific areas:

1. Establishment of a strategy and a program for the **gradual harmonization of the Azerbaijani legislation in the energy field** leading to the convergence of the electricity and gas markets.

2. Enhancing the **safety and security of energy supplies and transit systems** from Azerbaijan and Caspian Basin to the EU.

3. **Development of a comprehensive energy demand management policy** in Azerbaijan, including concrete energy saving measures, and measures to tackle climate change, making use also of the relevant mechanisms under the Kyoto protocol. In this context, the development of renewable energies should also be a priority.

4. **Technical Cooperation and the exchange of expertise.**

The Memorandum of Understanding was reemphasized by the joint declaration on energy cooperation with the visit of Commission’s President José Manuel Barroso and the Energy Commissioner Günther Oettinger to Baku. There, Barroso and the Azerbaijani President Ilham Aliyev agreed upon the rapid establishment of the Southern Gas Corridor while considering it as a “stepping stone in increasing European Energy security and a guarantee that the resources upon the territory of Azerbaijan can be developed in the expectation that sufficient infrastructure and markets as well as commercial conditions exist to absorb these gas quantities, with a reliable and growing market being to the long term benefit of all, and the Caspian region gas suppliers being able to build on that confidence.”

Welcomed by the Azerbaijani side and the Commission, the idea of a Trans-Caspian pipeline however was not shared by the gas rich Turkmenistan and to lesser extent by Iran or Russia all of them being the littoral states of the Caspian Sea. Such rejection on part of the Ashkhabad is closely linked to the unresolved dispute over the legal status of the Caspian Sea. Though since the collapse of the USSR several summits have been held on that very issue, neither riparian state of the Caspian Sea agreed upon and signed a legally binding Convention on the legal status of the Caspian Sea. For the time being, neither Baku nor Ashkhabad found

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a consensus on the demarcation of their sea borders. In line with the given dilemma on the matter, five heads of states issued joint declaration “reaffirming intention to sign a Convention on the Legal Status of the Caspian Sea.”¹⁴⁴ Unlike Azerbaijan, neither Turkmenistan nor Iran is a member of the ENP or the EaP. And unlike Azerbaijan, neither Turkmenistan nor Iran pursues the policy of European integration. As a matter of this fact the Commission’s efforts to tackle the issue among the Caspian littoral states is very limited and cannot be solved within the framework of the ENP or the EaP. Due to the current status quo the EU rather relies on regional conferences such as the ‘Baku Initiative’ or the ‘Ministerial Declaration on Enhanced energy co-operation between the EU, the Littoral States of the Black and Caspian Seas and their neighbouring countries’,¹⁴⁵ whereas the latter introduced a Road Map having been jointly developed by the ‘Baku Initiative’ participating countries and the EC in the framework of the enhanced energy co-operation. Similar to the Memorandum of Understanding between Azerbaijan and the EC, the Road Map focused on four aspects, namely:

1. Converging of energy markets on the basis of the EU internal energy market principles taking into account the particularities of the Partner Countries
2. Enhancing energy security by addressing the issues of energy exports/imports, supply diversification, energy transit and energy demand
3. Supporting sustainable energy development, including the development of energy efficiency, renewable energy sources and demand side management
4. Attracting investment towards energy projects of common and regional interest¹⁴⁶

Undoubtedly, the exploitation of the Shah Deniz II gas running through the Southern Gas Corridor can be booked as success in the energy security of the EU; however without exploiting full potential of the gas pipeline due to the disagreement with Central Asian suppliers, particularly with Turkmenistan, Azerbaijan could not fully exercise its role as a transit country. Whether or not the above mentioned Ministerial Declaration bears fruit and the Caspian littoral states indeed settle their dispute over the legal status of the Caspian Sea with signing a legally binding convention according to the international standards is for the

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¹⁴⁶ Ibid.p.1
time being highly questionable- as Azerbaijan is not the only stakeholder claiming its rights on the status of the Caspian Sea and in contrast to Azerbaijan, which directed its pipelines towards Europe and follows its energy policy in line with the energy network regulations laid upon by the EC, the Eastern states of the Caspian Basin are well aware of choosing alternative routes towards the “energy hungry” China. The People’s Republic of China on its turn foregoes the debate over regulatory hurdles and appears less demanding in terms of the security- and environmental issues arising by the pipeline construction and does not sufficiently subject the project to critical examination as the EU does. It is noteworthy to mention that China is not governed by the same values and principles in its foreign policy as the EU and therefore benefits from easier access not only to energy markets of the world.

Despite Azerbaijan’s involvement into the EU’s energy diversification policies, the EU missed the opportunity to engage the country in its rules, norms or institutions beyond its borders with regard to establishing a pan-European energy space. Due to the fact that Azerbaijan could not yet join the 2005 Energy Community Treaty, the EU failed to pave the way from energy cooperation to integration allowing the country to be included into the system of non-discriminatory and market-driven conditions for trade, transit and investment in energy products- being considered by the EU as the main tools for application of the normative power in its neighbourhood. By doing so, the country remains outside of the gates of the common European legal space in view of the energy sector. And such deficiencies finally limit the effectiveness of the EaP, the aim of which is to go beyond mere cooperation but rather enabling deeper integration into the system of the EU by gradual adoption of the acquis communautaire. 147

5.4 Readmission Agreement between the EU and Azerbaijan and its implications for further cooperation

Through the EaP the relationship of the EU towards its six Eastern neighborhood countries was brought to a new level. The Joint Declaration signed by the Heads of State or Government and representatives of these republics touched the issue of visa facilitation and readmission agreement while stating: “Supporting mobility of citizens and visa liberalization in a secure environment is another important aspect of the Eastern Partnership. It will promote mobility of citizens of the partner countries through visa facilitation and readmission agreements; the EU, in line with its Global Approach to Migration, will also

147 Frappi, Carlo, supra note: pp.64-65
take gradual steps towards full visa liberalization as a long term goal for individual partner countries on a case-by-case basis provided that conditions for well-managed and secure mobility are in place.” 148

After couple of years of negotiations between the EU and Azerbaijan on 28 February 2014, both sides eventually signed the agreement on the readmission of persons residing without legal authorization. The readmission itself is considered the prerequisite for visa facilitation and allows easier travel including people-to-people contacts on both sides. The agreement will enter into force in the second half of 2014 and as the Head of the EU Delegation to Azerbaijan, Malena Mard stated: "The signature of the readmission agreement is a very concrete step forward in strengthening and deepening EU-Azerbaijani relations. Together with the visa facilitation agreement this agreement is of great importance for both sides and will strengthen our cooperation in the field of mobility and the fight against irregular migration." 149

The advantages of the visa facilitation agreement are clear, namely allowing easier, cheaper and quicker gaining short stay visas- a 10- day deadline for the processing of visa applications will be determined coupled by the visa fee reduction from €60 to €35. And for specific categories of applicants the visa will be issued free of charge, e.g. members of official delegations, journalists, students, children, disabled persons, pensioners including the participants of scientific, cultural as well as artistic events. Moreover, close relatives or persons travelling for medical reasons, representatives of civil society organisations, business people etc. will benefit from easier access to issuing the visas. 150

The Readmission Agreement on the other part, which is the precondition for visa facilitation, lays upon strict obligations and regulations for both sides to be applied while receiving back people who are illegally residing on each other’s territories. Similar to the readmission agreement with the Russian Federation, it obliges Azerbaijan to take the responsibility not only for the country’s own nationals, but also for those migrants from third countries and stateless persons, who enter the EU by using the Azerbaijani territory as a transit land. (See section 2.3.1) However, the latter two categories have to provide a clear link with the state

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150 Ibid.
concerned. Additionally, while applying the Readmission Agreement both sides are obliged to fully respect Human Rights according to the obligations set out by the European Convention on Human Rights- meaning that once readmitted to their state of residence or nationality, the irregular migrants would not face any legal consequences in their respective states (excepted from this practice are persons being convicted of a crime).

In view to the achievements of the EaP, the signing of the Readmission Agreement in connection with the visa facilitation agreement can be considered a success in the fight against irregular migration and a stepping stone on the way to more mobility of the citizens of both sides. Easier and quicker movement of the above mentioned categories into the EU and vice versa will contribute to deeper integration of the EaP member states into the EU and meet the aim of people-to-people contacts not only on the governmental level, but foremost among institutions and civil society and eventually lead to understanding of the partnership of equals between the EU and the EaP countries. If taken a step further, the agreements on readmission and visa facilitation can contribute to the establishment of enhanced border management allowing the training of border personnel or customs officials particularly on part of the EaP countries by which they could be equipped with best-practice experiences of the relevant EU authorities in their fight against drug and human trafficking.

With regard to people-to-people contacts, the students of the EaP countries, especially from Azerbaijan could benefit from ERASMUS programs and variety of scholarship possibilities of the respective EU countries. The idea of enhanced border management as well as cross-border cooperation between the EaP countries and the EU is unlikely to be implemented, particularly between Azerbaijan and Armenia due to the ongoing conflict over Nagorno- Krabakh- being classified as a frozen conflict. In the following section the focus will be put on this very conflict being waged between these two countries of the South Caucasus and mechanisms and possible solutions on part of the EU and the OSCE will be described accordingly.

According to the latest data of the Azerbaijan Migration Center (the relevant non-governmental organization in Azerbaijan currently dealing with the issue and the outcomes of the Readmission Agreement) the agreement once entered into force would affect the cases of approx. 200-250 persons being readmitted to Azerbaijan, whereas 300-350 persons from Azerbaijan would be sent back to their countries of citizenship or legal residence. For more details on this see: The President of the Azerbaijan Migration Center, Alovsat Aliyev, “Readmissiya na deməkdir və ya bu sazişdən irəli gələn hallar- (engl.)What does Readmission mean and implications arising from that agreement”, available at: http://faktxeber.com/readmissiya-n-demkdir-v-ya-bu-sazidnirlinhaulr_h443721.html?fb_action_id=740451045973863&fb_action_types=og.likes&fb_source=feed_opengraph&Action_object_map=%7B%27%22740451045973863%22%3A%225083027698151%7D&Action_type_map=%7B%22740451045973863%22%3A%22og.likes%22%7D&Action_ref_map=%58%5D, accessed on: 15.03.2014.

151 Ibid.
5.5 The Nagorno-Karabakh conflict

The demise of the USSR went hand in hand with flourishing of separatist movements in Abkhazia, Chechnya, South Ossetia and Nagorno-Karabakh. The war over South Ossetia between Russia and Georgia in August 2008 revealed once more the fragility of the region and the explosive potential of frozen conflicts. The same is true for the conflict over the Nagorno-Karabakh between Armenia and Azerbaijan having claimed the greatest number of victims, including IDPs and refugees. A conflict which initially began with mass demonstrations of the Karabakh Armenians belonging to the Azerbaijani SSR to be incorporated to the neighboring Armenian SSR ended up in an international armed conflict. Despite the official cease-fire on the armistice line since 1994 regular shooting across the border line display the fragility of the truce.\textsuperscript{152} “No peace – no war” situation appears to cement the status quo affecting the political and economic cooperation of both countries. Since 1992 the Minsk Group of the OSCE, co-chaired by France, the Russian Federation and the United States, has been assigned with the heavy task of helping the conflicting parties to find a peaceful solution to the conflict. For the time being, a real breakthrough could not have been achieved.

5.5.1 Analysis of the conflict in light of the territorial integrity of states and the right to self-determination of people

Azerbaijan’s argumentation lies on the fundamental principle of the international law, namely respect for the territorial integrity in line with the principle of state sovereignty. The Article 2 (1) of the UN-Charta states that: \textit{“The Organization is based on the principle of the sovereign equality of all its Members.”} Moreover, the Article 2 (4) of the UN-Charta states that: \textit{“All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations”}\textsuperscript{153}

Further legal argumentation of the Azerbaijani side rely on the principle of \textit{uti possidetis iuris} - a core pillar of the customary international law, signifying that in case of a transformation and division of the states or any alterations of statehood, previously existing borders of the state are to be considered valid and continue to exist and former administrative


borders of the state gain the status of international borders. The Armenian side on the other part makes recourse to the principle of self-determination of people and justifies the occupation of the Azerbaijani territories in line with this right and refers to Article 1 (2) of the UN-Charta, which states:

“The purposes of the United Nations are:...to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace.” Further reference to the principle of self-determination is given in Article 55 of the UN-Charta, which reads as follows:

“With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote: ...”

The revaluation of originally political demand towards a legal principle allowed primarily colonial people to benefit from the right to self-determination. The respected resolutions adopted by the UN-General Assembly from the year 1960 obliged the colonial powers to allow the colonial people their longed independence. The subsequent question arising from such development is whether outside of the colonial context the right to self-determination applies to the case of the Nagorno-Karabakh as there is no unanimous consensus; neither about the subject, nor the content of this right in the entire international law. And due to the lack of consensus the question about the bearer of the right to self-determination arises in that regard. The customary international law grants the mentioned right to “people”. As Krüger argues: “there is a considerable lack of clarity with regard to the definition of the term “people” (...) The term “people” thus remains an indeterminate legal term whose meaning is to be regarded in the context of the particular normative question at issue.

The classical bearers of the right to self-determination are the people of a state known as “Staatsvolk” in German, namely the entire citizens of the state, including ethnic groups and minorities (e.g. Kurds in Turkey, Iran, Iraq, Syria or the Bretons, Basques, Alsatian and Corsicans in France) while being subject to the legal system of their respective state. Krüger further argues that once applied to the case of Nagorno-Karabakh “the whole people of a state relevant under international law were the entire population of the USSR before the

establishment of the Republic of Azerbaijan in 1991. Neither the people of the Azerbaijan SSR nor the population of Nagorno-Karabakh satisfied this requirement. With the establishment of the Azerbaijani state the population of Azerbaijan attained the quality of a people of a state, strictly speaking the people of the Republic of Azerbaijan. The inhabitants of Nagorno-Karabakh thereby formed an integrative component of this Azerbaijani people. What is clear is that neither during the Soviet period nor during the time of the new Republic of Azerbaijan did they constitute a separate people of a state, since there was no Karabakh state effectively created. Consequently they were not entitled to the external right to self-determination (in the form of a right to secession) which a people of a state could have claimed.\textsuperscript{157}

Even if the external right to self-determination would have been granted to the Karabakh Armenians, they would have to exhaust all the inner state remedies, meaning that all citizens of Azerbaijan should have participated in a referendum in order to decide whether or not the former Nagorno-Karabakh autonomous region should remain within the boundaries of the Azerbaijani state or rather break away from the state structures of Azerbaijan and obtain their independence.\textsuperscript{158} As a minority group within the internationally recognized and undisputed boundaries of the Republic of Azerbaijan Armenians are to be granted with the autonomy status, which they traditionally used to have during the entire history of the USSR. Whether or not the internal right to self-determination with a local self-government and autonomous status could turn into the external right to self-determination (right to secession) depends on the degree of oppression which must be proven and be clearly attributed to the state the minorities inhabit. Only in case of systematic discrimination and massive human rights violations under international law-with intolerable and tyrannical state structures, the internal right to self-determination may as a last resort translate into the right to secession.\textsuperscript{159} This was not the case with Armenian minority of the Nagorno-Karabakh. Given the fact that of the 100 ethnic groups have been registered in the USSR by 1989, only 53 had been granted their own autonomous territories. Unlike Armenians, other minority groups such as Poles and Germans did not enjoy any autonomous status though being larger in size and densely

\textsuperscript{157} Ibid. p.56
\textsuperscript{158} Schweisfurth, Theodor, Abhandlungen- Vom Einheitsstaat (UdSSR) zum Staatenbund (GUS)-Juristische Stationen eines Staatszerfalls und einer Staatenbundentstehung, Max- Planck Institut für ausländisches öffentliches Recht und Völkerrecht, 1992, p.600
populating one particular territory. Further privileges the Armenians of Nagorno-Karabakh enjoyed were the use of Armenian language in public offices, schools and courts and the right to send their own representatives to the Soviet of the Nationalities of the USSR and many other local rights, which other minorities of the USSR did not have. Accordingly, the international community refused to recognize illegally installed regimes by minorities not only with regard to Nagorno-Karabakh, but also in case of South Ossetia, Abkhazia and Transnistria, whereas the former two were only recognized by Russia and Nicaragua without being representative for the entire community of states. Noteworthy to mention is the fact that even the Republic of Armenia did not recognize the independence of Nagorno-Karabakh from Azerbaijan, though it supports the internationally not recognized Nagorno-Karabakh Republic financially and militarily. Moreover, the Republic of Armenia refrains from acting or signing contracts on Nagorno-Karabakh’s behalf on international conferences. However, it is undeniable that there existed system-related conflicts and tensions in terms of distribution of competences and influence, whereupon the autonomous regions aimed at upgrading their status and by doing so attempted to gain more rights. The union republics on the other hand sought to preserve the status quo or even extend their influence over the autonomous regions.

Consequently, similar developments led to the perceived unfairness and injustice on part of the autonomous regions including the case of Nagorno-Karabakh. The perceived inferiority complex provided the breeding ground for hatred, intolerance and violence which one can observe throughout the course of the conflict. Fueled by the propagandistic rhetoric of the political elites on both sides the demonization and one-sided accusations led to hardening of political and military fronts and gradually drove out the possibility of reconciliation between these two ancient nations, which share the same geography and history.

161 Cf. Art. 110 of the Constitution of the USSR and also Gärtner, Recht in Ost und West 1990, pp. 228, 233. See also: Gärtner, Recht in Ost und West 1990, pp. 228, 233; Arnold, Die Rechtsstellung der nationalen Gebietseinheiten der Sowjetunion, 1993, pp. 104 et seq.
163 Cf. Dehdashti, Internationale Organisationen als Vermittler in innerstaatlichen Konflikten, 2000, p. 34.
5.5.2 Effectiveness of the EU’s foreign policy tools towards the peaceful settlement of the conflict

The conflicts occurring after the dissolution of the former Yugoslavia revealed the powerlessness, indecisiveness and the lack of preparedness of the EU. Only by the external intervention—mainly NATO and under the direct leadership of the USA—and the establishment of international supervising institutions such as the International Criminal Tribunal for the former Yugoslavia (henceforth ICTY) the conflicts could have been appeased and effectively managed.\(^{164}\) Finding themselves in the direct vicinity of the EU they have been influenced by the EU’s foreign policy. EU’s power to attract was coupled by the membership perspective as being the most effective and successful foreign policy tool. The ‘conditionality’—being both positive and negative at the same time. The economic integration into the EU’s internal market with its 500 million consumers having high purchasing power as well as the closer collaboration in a number of areas, such as judiciary, security, administrative and development programs can be counted to the positive incentives.\(^{165}\) In case of not complying to the agreed obligations, the countries may be sanctioned, e.g. by stopping the access to the internal market or limiting the political and economic cooperation, which would affect the economy of the respective countries or by withdrawing the status of the candidate country. By doing so, the EU managed to play a major role in the conflict resolution in the Western Balkans.

In 2003 a Special Representative for the South Caucasus – Heikki Talvitie was assigned by the EU in order to address the conflicts in the region. While being replaced by Peter Semneby in March 2006, the latter was equipped with much broader mandate, namely from merely “assisting in conflict resolution” to “contribution to the settlement of conflicts, including the facilitating the implementation of the dispute settlement in close collaboration with the UN and the OSCE”.\(^{166}\) Due to the fact that the EU does not sit at the table as co-chair within the Minsk Group of the OSCE limits its impact on the conflict resolution, whereas the Minsk Group’s attempts to settle the conflict has not yet produced any results. The EU on its part tries to address the conflict within the framework of the ENP and recently through the EaP by


its attempt to translate its norms and values into local vernaculars of Armenia and Azerbaijan. On the level of high politics the applicability of these given norms is rather questionable, as the political elite of both Armenia and Azerbaijan insist on their respective positions—whereas Armenia’s position is more assertive as both presidents of the country Robert Kocharyan and Serzh Sarkisian come from Nagorno-Karabakh and any proposal from Azerbaijan of granting the highest autonomous status so far has been rejected by Armenia. Baku proposed a “staged plan”—firstly withdrawal of the Armenian troops from the occupied territories of Azerbaijan and the return of refugees and secondly deciding the ultimate status of Nagorno-Karabakh. However, that proposal has been rejected by Armenia as well, as Armenia demands the clarification of the status in the first place. As Armenia remains firm in its position and Azerbaijan on its turn rejects any negotiations with the internationally not recognized Nagorno-Karabakh Republic, the bilateral negotiations end up in deadlock.

Against this backdrop—first and foremost due to the limited transformative power of the Union—the EU attempts to approach the conflict on the level of low politics, while identifying regional and local projects and finding the lowest common denominator as a small glimmer of hope in a very tedious process.\textsuperscript{167} Despite the relatively weak position of the EU on the conflict resolution as not being engaged within the realms of the Minsk Group of the OSCE, the Council of Europe formulated rather determined resolution on the conflict and rejected any claims of secession of the Nagorno-Karabakh by stating:

“The Assembly expresses is concern that the military action, and the widespread ethnic hostilities which preceded it, led to large-scale ethnic expulsion and the creation of mono-ethnic areas which resemble the terrible concept of ethnic cleansing. The Assembly reaffirms that independence and secession of a regional territory from a state may only be achieved through a lawful and peaceful process based on democratic support by the inhabitants of such territory and not in the wake of an armed conflict leading to ethnic expulsion and the de facto annexation of such territory to another state.”\textsuperscript{168}

Moreover, the UN-Security Council adopted four resolutions with regard to the conflict, while demanding the withdrawal of Armenian troops from the occupied territories of Azerbaijan and the return of the Azerbaijani refugees and IDP’s into their home land.\textsuperscript{169} EU’s

\begin{footnotes}
\item Janssen, David, supra note: p.162
\item Council of Europe Parliamentary Assembly resolution 1416 (2005).
\item Cf. UN Security Council resolutions 822 (1993), 853 (1993), 874 (1993) and 884 (1993) as well as Council of Europe Parliamentary Assembly resolution 1416 (2005) and Council of Europe Committee of Ministers recom-
\end{footnotes}
influence in the conflict resolution is also limited by the fact that Armenia is highly dependent on Russia - in terms of its energy supply and military cooperation, the latter being extended for several decades. Russia’s aims and objectives in the region of the South Caucasus are however marked by hegemonic interests. Recent developments in the case of Crimean secession crisis reveal Russia’s megalomania and stress the country’s disrespect towards the territorial integrity not only of Ukraine, but also Georgia, Moldova and Azerbaijan. Due to the military alliance and huge dependence on Russia, Armenian government supports Russian military intervention on the Crimean peninsula and considers the developments as “another example of the realization of peoples ‘right to self-determination.” It remains to be seen whether or not such statements will have any consequences on the US- Armenian relations, as the US government imposed sanctions on Russia in order to stop the breach of international law.

**Conclusion & Outlook**

The dilemma about the effectiveness of the ENP is similar to the dilemma of squaring the circle. The CEECs which were strongly governed by the external incentive model and carried out the rule transfer in certain areas of politics to the EU on the basis of a cost- benefit calculation - meaning that that the adoption of the EU rules occurs, if the measurable benefits of EU rewards exceed the domestic costs. By using the conditionality tool the EU aimed at gradually transforming the economies and politics of the CEECs. The likelihood to implement the rules and to accept the EU’s acquis is also coupled with the will of the respective governments to reform their economic, political and legal systems. Possible financial transfers from the EU budget, including the participation in the EU decision- making process contributed to the success of the Union as the transformative and normative power in the CEECs. In that regard, the EU’s policy towards the CEECs proved to be effective.

The situation automatically changes, if one applies the given policy towards the countries of the ENP, particularly to the EaP. The policy of conditionality appears to be more effective, if the economic performance of the EaP country is low and if it does not possess enough resources to carry out economic and political reforms on its own. Moreover, the effectiveness of the ENP can be observed in low politics- meaning that the countries of the ENP are more likely to transfer part of their national sovereignties to Brussels in ‘less sensitive’ policy areas.

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1690 (2005) which, in particular, refer to the mentioned UN Security Council resolutions. See also: OSCE, 1996 Lisbon Summit 2-3 December 1996, statement of the OSCE-Chairman in office.

such as environment rather than on more relevant domain such as the foreign policy. Undoubtedly, the most effective incentive of the EU to transform the countries of the ENP is the prospect of full membership in the Union. Once the “golden carrot of accession” is on the cards, the EU’s ability to act as an anchor for reforms proved to be legitimate by the national governments. Thus, the EU’s normative power is mainly related to material incentives such as financial assistance, the concrete prospect of membership and European identity. Accordingly, one can observe incremental decrease of EU’s influence on the countries of the ENP, which are economically strong and do not expect to join the EU in the near future.

The EU on its part has subscribed to its five core principles such as peace, liberty, democracy, the rule of law and respect for human rights. The value- driven and interest- based foreign policy is also applied towards the EaP countries. The false assumptions of Brussels that the ENP countries would automatically and independently apply the exported democratic values and standards of the EU as this was the case with CEECs, as well as the insufficient knowledge of local peculiarities led to naive expectations. The fact that all of the EaP countries are situated in the “contact zone” between the EU and Russia, hardens an independent foreign policy, e.g. the current political crisis in Ukraine can be seen through that paradigm. (Particularly in view to Russia’s hegemonic ambitions) Due to the strong Russian factor and the geographical proximity requires permanent strategy of maneuvering between Brussels and Moscow. (See the proximity/distance paradox) Moreover, Russia considers the post- Soviet region as its classical sphere of influence and backyard, so that ignoring Russia’s interests in the region would cause more tensions not only between Russia and the EU, but also between Russia and the affected country.

The close cooperation with political elites even enhanced the EU’s naive expectations, as the ruling elites seek to preserve the status quo, while receiving European financial assistance and promising the implementation of the reforms in an eloquent “European integration rhetoric”. Such development weakens the standing of the civil society usually being the driving force of reforms. The inclusion of sixteen countries with diverse political, legal and economic developments and traditions posed a challenge for the EU to work out a unified, consistent and tailor- made policy addressing the needs and expectations of each single country. And the EU’s aim of transforming the countries of the ENP, particularly of the EaP by convincing them to embrace costly reform and democratization process, with rather EU- centric approach of the program leaving the partner countries little room to form the policy, cannot be fully
met- if the EU’s “power to attract” countries in its vicinity reduces. Thus, the “one-size-fits-all” policy was doomed to failure.

The case of Azerbaijan, as a member of the EaP revealed that the EU is rather prone to seek economic cooperation with the country on the level of a strategic energy partnership. With regard to the “stick and carrot” metaphor, the ENP can be viewed as less effective and considered as a political compromise due to the region’s importance for the EU’s energy security as a transit country as well as a production hub. In order to safeguard its energy security and the diversification of energy supply the EU heavily relies on the good relations with local political elites, while increasing its presence in the region as a strategic regional player alongside with Russia, USA and Turkey.

Despite the setbacks with respect to the political reforms, the financial assistance including the funding from the ENPI is carried out further, which once again underlines the region’s importance for the EU, whose initial approach towards the region was rather hesitant. Azerbaijan’s aims and expectations towards the EU are strongly linked to country’s geostrategic position. Being surrounded by Russia in the North and Iran in the South, forces the country to follow a balanced foreign policy. Thus, the country uses the EaP program as a platform to raise the awareness of the international community of states in general and the EU countries in particular towards the peaceful solution of the Nagorno-Karabakh conflict, as a consequence of which the country’s territorial integrity is violated for more than two decades. Furthermore, Azerbaijan finds in the EU a reliable and fair partner and customer for its crude oil and natural gas. Thus, the perfect match of each other’s economic needs reduces on the other hand the EU’s leverage. Consequently, the conditionality policy sidesteps at the expense of the Union’s core values in favour of a political compromise. And the approximation in economic sector does not necessarily translate into meaningful political reforms.

The non-application of the Article 49 of the TEU to the ENP countries, coupled with exclusions from the EU decision making, being in line with the statement “anything but institutions” lessens the effectiveness of the ENP and the pressure mechanisms upon the national governments. Given the fact that the civil society in the partner countries lacks a political influence to bring about pertinent democratic changes, while being the main actor that guarantees such developments, it is necessary that the EU provides its support to civil societies of the EaP countries as well and recognizes them as legitimate and independent political factor alongside with national governments, which are usually pro-EU than their
respective governments and willing to push through political reforms based on the European values.

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