

# The EU Enlargement Policy

## Possibilities and Frontiers



Edited by Jarolím Antal

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The European continent has been evolving under the concept of developing unity after WW2. Through the enlargement processes the EU has become an entity with global ambitions. In accordance with this notion it currently comprises 28 member states, it accounts for over a quarter of global trade, generates about half of the world's GDP (in terms of the purchasing power) and plays an essential role in bilateral and multilateral negotiations in various areas.

As an entity with more than 500 million inhabitants, it is a relatively integrated single market, the EU offers massive opportunities for investment, business and employment. Building on the pillars of freedom, democracy and the rule of law, the EU has been attracting countries which are seeking the opportunities which the EU offers through its membership. The enlargement process of the EU has historically been a very complex process. The previously outlined economic impacts together with the values that the EU promotes are crucial to its functioning and are required to be fulfilled by any prospective candidate country that wants to join the EU. In the context of current developments, increased uncertainty about the role of Europe, its future structure and its enlargement policy are of even greater importance than ever before.

Following these developments, the Centre of European Studies, Faculty of International Relations University of Economics, Prague organized an academic conference, where selected scholars introduced their approaches and views regarding the various aspects of the current state of the enlargement process of the EU. This publication is a collection of 6 papers, each of which has undergone an independent peer review process.

When discussing the EU enlargement process, several historical events and key issues need to be mentioned. Boris Navrátil and Eva Minarčíková discuss the limits and boundaries of EU enlargement. In their view there is still an attempt to promote expansion of the EU, however the political will among EU members to boost the process is still more important than decisions based on economic rationale.

Jaroslav Janczak in his paper investigates geopolitics and geostrategies of the further EU enlargement towards the East. Can or should the EU enlarge further towards the East? This is a key question which also uncovers aspects which enable understanding of the debate about the EU enlargement process. He argues that the changing geopolitical environment is an incentive for a revision of the previously implemented models for further enlargement of the EU.

In the third contribution, Martin Hrabálek examines the concept of EU enlargement as a part of EU foreign policy. The EU acts as a strong global soft power, this can be also observed in the enlargement processes. The author tries to identify the main factors that are playing a crucial role in the case of Turkey and its accession negotiations.

The paper of Svitlana Musiyenko analyzes the benefits and issues of the DCFTA agreements that are a part of the Eastern Partnership which is an attempt by the EU to engage selected neighboring countries in further cooperation. She claims that there are

foreseeable benefits, however, there are also other aspects such as broader differentiation among countries, regulatory issues and other issues which need to be taken into account.

The final two papers in this text examine the regulations and implementation of EU legislation in selected countries. The paper by Šimon Buryan focuses on trade and the effects of adopting one of the most complex pieces of legislation – the REACH regulation into domestic legislation.

The contribution by Ondřej Filipec analyzes the incentives for implementation of the REACH regulation in the Western Balkan countries. He considers two crucial dimensions – the economic and political motives for adoption of the EU legislation on chemicals.

EU enlargement needs to be analyzed as a complex and continually evolving process, which has its roots in history. I believe that this academic work with its unique perspectives presented in a single contribution can help in uncovering and understanding the current issues. The contributions in this book will hopefully provide sources for improving awareness and comprehension, when debating the further enlargement process of the EU.

Jarolím Antal  
Editor

# The EU Enlargement in the Terms of Past and Future Perspectives

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## Abstract

The EU enlargement process has been seen as an opportunity to promote political stability and economic prosperity in Europe. After historic expansion of the EU by Central and Eastern European countries in the year 2004 and two further rounds of enlargement in the years 2007 and 2013, the historic pledge to further the integration of the European continent by peaceful means has been fulfilled. However, Europe is today hit by a wave of intolerance, nationalism and xenophobia. The current generation of politicians across Europe lack the experience of their predecessors from the postwar period and anxiously care only about re-election without offering a vision of a better, more socially equitable life. Moreover, the EU recently did not prevent the collapse of several neighboring states, and thereby contributed to the escalation of the situation. In this context, the EU faces many challenges and the potential expansion of the EU has been an important topic of the European debate on future European integration development. The aim of the paper is to describe the process of EU enlargement in the context of historical events and outline the limits of enlargement and its future challenges.

## Keywords

European integration, limits, Richard Nikolaus Coudenhove-Kalergi

## Introduction

The paper considers the problems of the European countries integration and the process of expanding the European Union (EU). The aim of the paper is to describe the process of EU enlargement in the context of historical events and outline the limits of enlargement and its future challenges. In the introduction the paper firstly highlights the role of the original ideas for unification of the European countries. The second section of the paper describes the influence of European political ideas after the Second World War regarding the establishment of a new framework for Europe. The third section is devoted to the process of EU enlargement that helped to transform many European countries into functioning democracies and more prosperous countries. The conclusion of the paper outlines the limits and risks of the expansion of European integration.

In the paper, the research methods of description and historical methods were utilized. The historical method enables one to characterize and examine the EU enlargement process in the historical context that influences the current development of the EU enlargement. The literature concerning the problems of the EU integration, enlargement and its limits was used as one of the main sources of information.



## 1. The missed opportunity of the first half of last century

In reflecting the borders of Europe, it is appropriate, in the introduction, to recall the contributions of the politician and writer Richard Nikolaus Coudenhove-Kalergi<sup>1</sup>, who recommended the creation of a political and economic alliance of European countries, which should have prevented recurring military conflicts on the European continent.

His core work *Pan-Europe* was issued in 1923<sup>2</sup>, three years after the Paris Peace Conference (in the years 1919–1920), during which peace Agreements between the victorious countries and their allies (represented by the “Big Five” i.e. the United Kingdom, France, Italy, the United States of America and Japan) and the defeated Central Powers, had been negotiated. It was the peace treaties which created the Versailles peace settlement<sup>3</sup>, which ended the military conflict that as the first in history dramatically crossed the boundaries of the old continent and involved other states lying outside (Dejmek 2011). However, many countries were not satisfied with the outcome of these negotiations and their frustration led to a permanent effort to revise them.

Coudenhove-Kalergi saw a united Europe from not only an economic aspect (but also culturally and politically) as a counterweight to the USA, Russia and Asia. Therefore, his thoughts were adopted by many world leaders in the areas of science, arts and politics<sup>4</sup>, and simultaneously it was rejected by the autocratic regimes – German and Soviet (although otherwise contradictory, in this respect they behaved in agreement). In fact, both regimes were essentially anti-European, they aimed to dominate the world. For them, dominating Europe was only the first, necessary step.

As Rudolf Kučera mentions in his preface to *Pan Europe* (Czech edition from year 1993): “Coudenhove-Kalergi was an implacable opponent of national chauvinism and all manifestations of ethnic intolerance, at the same time, however, the idea was based on a national one and on it, among other things he built his concept of a united Europe: to be created based on the free decision of free and equal nations.”

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1 Richard Nikolaus Coudenhove-Kalergi (1894–1972) has been at the age of 28 the initiator of the Pan European union establishment (in German Paneuropa-Union), the oldest movement for the unification of European countries based on democratic and friendly bases, which were an immediate response to the results of 1st world war.

2 In Czech with a preface of President Edvard Beneš in 1926.

3 This were named after the place of its signing: Versailles Treaty with Germany, Treaty of Saint-Germain-en-Laye with Austria, the Treaty of Neuilly-sur-Seine with Bulgaria, the Treaty of Trianon with Hungary and the Treaty of Sèvres (1923 replaced by the Treaty of Lausanne), with the Ottoman Empire. The Versailles Treaty (1919) determined the full responsibility of Germany for starting world conflict and based on this determined devastating conditions which caused a deep crisis in the German Economy. It was not just the loss of German territory and the colonies of Africa and Oceania, but also the bill in the form of war reparations amounting to 132 billion Marks. Correspondingly, the Trianon Treaty (1920) set the boundaries of the new Hungarian state, which lost almost three-quarters of its former territory and one quarter of its original inhabitants, additionally there was related economic disruption, and the obligatory imposition on Hungary to pay war reparations. Both, Germany and Hungary had limited opportunities to develop their military forces – the German army was not allowed to have more than 100,000 men, the Hungarian army only 35 thousands.

4 Apart from others also Albert Einstein, Thomas Mann, Charles de Gaulle, Konrad Adenauer.

At the time of its creation, these thoughts did not find the necessary response, since the Nobel Peace Prize winners the French Prime minister Aristide Briand and German Chancellor Gustav Stresemann, as leaders of feuding powers were, on the verge of the 30s, replaced by a new political class. In Germany started the aggressive politics of Nazism represented by the Chancellor and *leader of the German nation* Adolf Hitler; in France and the United Kingdom the pacifist policy of appeasement represented by the Prime ministers Édouarde Daladier and Neville Chamberlain was preferred. Their policy of appeasement, concession to the aggressor, was motivated by the effort to avoid the horrors that had happened during the First World War, with a hope that European nations in their new arrangements will not allow another war. The resulting Berchtesgaden meeting in 1938 from which the Munich Agreement<sup>5</sup> was derived caused the breakdown of the First Republic of Czechoslovakia, which had been the only Central European country which had retained parliamentary democracy, between both World Wars.

Some, albeit accidental, advantage of further development in the 20th century became a brief interlude between the two world conflicts. Twenty years between the culmination of the First World War and the beginning of the Second World War was a very short time, which related to the same generation. Political representatives of the victorious powers and the defeated countries were aware of the links that had led to the first world conflict, and the consequences with which they had to deal with.

It should not be forgotten that Coudenhove-Kalergi analyzed the situation almost a hundred years ago, and as a visionary he predicted the future complicated development that Europe would undergo, if states were not willing to cooperate and find a mutually acceptable solutions. The visions which he embodied had not lost their validity and accuracy until present times.

The European idea after the 2<sup>nd</sup> World War – lessons learned and a new framework for relations in Europe

The ideas of Coudenhove-Kalergi were subsequently adopted by the new generation of European politicians – particularly British Prime Minister Winston Churchill, and based on this he started to form a qualitatively different arrangement of Europe (Drace-Francis 2013). Churchill, who was without a doubt an extraordinary personality not only in European but also in world politics, led the United Kingdom to victory in World War II<sup>6</sup>. He, was the first leader who clearly formulated a vision of postwar collaboration between European countries, at a time, when most countries in Europe were economically disrupted and their long-term cooperation had become essential condition for their futures.

In a memorable Zurich speech (on 19. 9. 1946) Churchill paid tribute to the legacy of Richard Coudenhove-Kalergi and his Pan-Europe idea for the future of the European continent. He particularly appreciated his efforts to unite Europe, which needed to be established quickly: *“A solution exists, which would, in case of widespread and immediate acceptance by a large majority of nations and in many regions, miraculously change*

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5 Signed on 30. 9. 1938 by the representatives of Germany, Italy, France and Great Britain, however without the representatives from Czechoslovakia whose fate was to be decided.

6 It was the paradox of that time that a month after Germany surrendered, Churchill as the representative of Conservative Party in June 1946 lost the national elections and he returned to the Prime Ministerial post five years later, in October 1951.

*the whole scene and would, in a few years, make Europe or its bigger part as free and as happy as Switzerland is today. We have to establish something like a United States of Europe.* “

For the future of the continent Churchill clearly pointed to the vital role of France and Germany, which would participate equally on the future framework for Europe with the mostly smaller nations of Europe<sup>7</sup>: *“The first step towards restoring the European family must be equal relationship between France and Germany. Only this way France can regain its leading moral and cultural role in Europe. Europe cannot revive without a spiritually great France and a spiritually great Germany. The structure of the United States of Europe, if well and firmly established, will not put a major emphasis on physical strength of individual countries. Small nations will be as important as large and will earn respect to the common cause.”*<sup>8</sup> The two former adversaries, actually seventeen years later in Reims (1962) took their roles attributed by Churchill, the role of the Mass celebrated for a mutual reconciliation. The completion of this relationship became the Elysée Treaty, signed on 22. 1. 1963 by German Chancellor Konrad Adenauer and French President Charles de Gaulle. Enlightened leaders of ancient feuding rivals in this Treaty committed to *“searching for a common position, if possible,”* on all of the significant economic, political and cultural issues<sup>9</sup>. This historically confirmed role of the two countries sufficiently legitimizes their somewhat exclusive position in the current environment of the European Union, which enforces swift and effective solutions to current challenges.

Coudenhove-Kalergi and Churchill’s ideas were realized at the early 50s by the generation of European politicians, who stood at the birth of the European Communities. Pivotal roles were played not only by politicians from France and Germany, in particular, Robert Schuman, Jean Monnet and Walter Hallstein, but also from other countries. The main architects of European integration were politicians from both socialist and conservatively minded backgrounds along with Italian Communist Altiero Spinelli, his compatriot Christian Democrat Alcide de Gasperi and the Belgian socialist Paul Henri Spaak. These politicians were able to overcome their differences of opinions, and actively participated in the creation of the European Communities. An ideological clash of the predominant character of the integration process (represented by the federalist Spinelli and functionalist personified by David Mitrany<sup>10</sup>) became a permanent feature of European integration development throughout the second half of the last century and remains until today.

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7 However, his mistake was that he saw the role of Britain as a world power only within the Commonwealth, not in the new arrangement of Europe.

8 The speech of W. Churchill at the University in Zurich on 19<sup>th</sup> September 1945 with a motto *Let Europe Arise!*

9 The Élysée Treaty created the «axis Paris – Bonn», which has become a decisive force cooperation within the newly formed European Communities in international relations.

10 British theorist of international relations of Romanian origin David Mitrany developed the concept of functionalism linked to liberal approaches in order to promote satisfying the needs of citizens and he was driven by a motto *“The form should correspond to function.”* Functionalists see the solution in the emergence of supranational institutions that acquire competence only in areas where national states fail. By this they differ from the federalists who want to integrate Europe on a federal basis with all the relevant attributes, especially by a common constitution.

The determined movement towards deeper integration of the European Union on a federal basis is gaining momentum especially in the context of the recent economic crisis, the debt crisis of the euro area, the migration crises and from it deriving various forms of intolerance – from nationalism to extremism and xenophobia.

## **2. The dissemination of the European integration idea into all corners of Europe**

The process of gradual enlargement of the EU today makes it possible to integrate new European countries which are committed to the same objectives that have been relevant since the beginning of integration efforts in the fifties – the maintenance of peace, achieving economic prosperity and sharing European values. Since the establishment of the six-membered European Community, the prospect of membership has become attractive not only for the other 22 countries whose efforts have been already successfully completed, but also for another 5 candidates and two potential candidate countries.

The process of integration has helped many of them to quickly eradicate the regimes more or less associated with various forms of autocracy and totalitarianism, to strengthen democratic principles, to establish the rule of law, respect democratic principles, human rights and achieve economic prosperity in an environment of a common market. The political and geopolitical reasons have always played an increasingly larger role than the associated economic effects, this certainly applies especially in the eighties for the southern states and later at the turn of the millenium for the eastern enlargement of the EC / EU.

Autocratic regimes ruling for decades in Spain and Portugal and seven years in Greece<sup>11</sup> were replaced by standard democracies. Thesouthwest and southeast of the continent had finally broken free from the influence of authoritarian governments and democratization and completed their integration into the European Union. This process went very quickly, even with regard to the division of the continent by the Iron Curtain and the fear of a possible victory for the Communists in these countries and with this the possible corresponding strengthening of the influence of the Soviet bloc.

Similarly, after the collapse of communist regimes in 1989 ten countries from Central and Eastern Europe became members of the European Union, in two waves in 2004 and 2007. The threat here was that slowing down this process could put these countries into chaos. Providing the technical assistance in the form of institutional and legal know-how allowed them to pass the unexpectedly rapid process of modernization. Part of Eastern Europe (Ukraine, Moldova, Belarus), which did not go through this scenario after the collapse of the Soviet Union, is now in a situation which is the consequence of inconsistent democratization of society as well as the unsuccessful or insufficient transformation of their economies. Similarly, can be described the situation in the Transcaucasia area.

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11 In Spain, it was the period during the rule of Francisco Franco in 1939–1975. In Portugal, the government of prime minister President António Salazar in 1932–1968, and his successor Marcelo Caetano in the short period from 1968 to 1974, before it came to a coup, which became the foundation of the Carnation Revolution. In Greece, it was the reign of the military dictatorship (junta) in the years 1967–1974, which resulted in a violent attempt to appropriate Cyprus.

The disintegration of Yugoslavia due to the nationalism of various ethnic groups in the nineties became an example of how a country which played a positive role in a post-war Europe and the world for decades could descend into uncontrolled chaos although an integrated Europe could not prevent or avoid this development. It is a late success that in 2013 it was possible to complete the accession negotiations and Croatia become the 28th European Union country. A similar process must be speeded up in other Western Balkan countries, namely Serbia, Montenegro, Albania, Macedonia (FYROM) and subsequently in Bosnia and Herzegovina and Kosovo. Only then will the Western Balkans also become an area of freedom, prosperity and above all peaceful coexistence.

## **Conclusion – are there any limits to extending European integration?**

The answer to the question about who can join the EU, is found in the Treaty on European Union<sup>12</sup>, acceptance is about strengthening the democratic and efficient Union and creating conditions that would allow the members to jointly address global issues such as coping with refugee crises and climate change. It indicates that any European state which respects the EU democratic values and is committed to support them may apply to become a member of the Union. Strictly speaking, the country can join the EU only if it meets all the conditions of membership (Nello 2013):

- political – must have stable institutions guaranteeing democracy, the rule of law and human rights;
- economic – must have a functioning market economy and capacity to cope with competitive pressure and market forces within the EU;
- legal – must accept the valid law and practice of the courts of the EU – especially the main objectives of political, economic and monetary union, so-called *acquis communautaire*.

The EU accession course, is not an automatic process, but it is a process based on rigorous conditionality. The entire process has three phases (Navratil et al. 2012), all of which must be approved by all existing members of the Union):

1. firstly, the prospect of membership is offered to the country;
2. the country receives the status of candidate country for EU membership;
3. formal membership negotiations begin with the candidate country, which is a process that usually requires reforms leading to the adoption of valid EU law.

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12 The Treaty on European Union (called Lisbon) was signed on 13. 12. 2007 and came into force on 1. 12. 2009. The treaty granted more extensive powers to the European Parliament, changed the voting system in the Council, introduced the so called Citizens' initiative, a permanent President of the European Council and a Representative for Foreign and Security Policy and EU diplomatic corps. It also newly adjusted the allocation of powers between the Member States and the Union's institutions.

The point is that candidate countries are fully prepared for membership before they join the European Union. This can happen only if the negotiations and related reforms are completed to the satisfaction of both parties, which again must be agreed by all existing members of the Union. But the reality is that the largest expansion in 2004 when it the Union was joined by ten countries, was rather in the form of the big bang, when only the acceptance of Romania and Bulgaria was postponed for three years. Behind this massive extension could have been the economies of scale in the adaptation of integration bodies and the large influx of new members and easier ratification process for existing member states.

With respect to the other candidates for accession to the European Union, it must be emphasized that one of the major requirements imposed upon them is their ability to effectively fight crime and corruption. Western Balkan countries and Turkey also have to prove through their foreign policies, a clear demonstration of the willingness, and ability for regional cooperation and good neighborly relations. In Turkey's case, however, in addition to the ability to meet the political criteria for entry (including good relations with neighboring Armenia and a peaceful solution to the Kurdish question regarding its territory) it will be essential (whether and to what extent it will be possible) to stabilize the disrupted region of the Middle East, of which Turkey is an integral part.

Limits on the expansion of European integration are given only by the geographical boundaries of Europe. From this it is evident that in the relatively distant future the convergence of the European Union with other ex-Soviet republic nations may occur, being either in Eastern Europe or the Caucasus, under the condition that that is what the citizens of these countries will wish for. In this respect, the most active is Ukraine and possibly Moldova or Georgia. However, in all of these countries, there has to be such a solution that will not start a conflict with the Russian federation, which has its own ambitions about integration in the Eurasian region.

The future prospect of European Union enlargement with new and often economically weak countries will certainly lead to an increase in marginal costs and a decrease in marginal benefits with each newly adopted country. This also brings the threat that the nationalist-oriented part of the European public will refuse further expansion and through domestic political parties and movements they will strive to dismantle the European integration structures. So what are the main risks? In many countries there are already beginning to emerge elements of authoritarianism, separatism caused by unfulfilled political ambitions of local leaders, as well as a retreat from solidarity as a core value of Europeanism. The globalized world of concentrated consumerism generates billions of excluded individuals, to whom it does not bring any perspectives and this fact also contributes to this situation. Therefore, it is necessary that the integration process has a much stronger humanitarian dimension than before, especially the immediate vicinity of Europe. Since the European Union failed in the nineties to prevent the Balkan wars after the breakup of Yugoslavia and recently it did not prevent the collapse of states against which it had applied the ineffective Neighbor Policy, on the contrary it has contributed to a dramatic escalation of the current situation.

The current stagnation or crisis of the European integration process is a threat to Europe's future, since the hitherto achieved *acquis* can be gradually dismantled. This period should be overcome by a joint effort of EU member states, since no country in the continent should be deprived of the possibility of equal participation on the degree

of progress and peaceful coexistence. Just as with previous enlargements also the future ones will be mainly determined by political decisions of EU member states. Economic decisions will play a secondary role, even though the entire European integration process will become slower in terms of the full economic union.

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## Between the frontier and the boundary: Geopolitics and geostrategies of the EU's further enlargement to the East

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### Abstract

Further enlargement of the European Union is no longer determined only by the internal debate fueled by the argument of absorption capacities. The changing international environment introduced a new factor – actors trying to prevent the EU from further territorial expansion. To investigate this issue, the concepts of geostrategies and geopolitics of the EU are introduced, revealing various patterns of both the internal organization of the Union, and also structuring its relations with the surrounding environment. Recognizing the normative power of the EU and its expansion to the East, the concept of counter-Europeanization allows one to understand the system Russia is offering, or imposing as an alternative to the states in the EU's eastern neighborhood.

### Keywords

borders of Europe, EU geostrategies, Russia

### Introduction

Can and should the EU enlarge further to the East? This question is neither only a problem of internal debate on absorption capacities, nor of the border(s) of Europe, but also, especially recently, there has been the matter of a geopolitical contest with Russia (re) constructing its imperial position in the central and eastern part of the continent. The aim of this paper is, consequently, to propose a new approach to understanding the enlargement debate. It will attempt to explain European-Russian border dynamism employing classical approaches in studying borders. The author claims that the changing political and geopolitical circumstances in this part of Europe have undermined the already dominating paradigms in studying enlargement and are consequently forcing scholars to look for new instruments. As these new relations are based on competition, confrontation and even conflict, instead of collaboration, they recall the border situation which dominated Europe before the end of the Cold War. Consequently, the analytical approaches prevailing at that time, especially the concepts of boundary, empire, expansion, and so on, applied to the European Union can be useful in understanding the current situation and predicting further enlargement.

Consequently, the author firstly presents the *old* paradigms of enlarging the Union, based on neo-functional linearity. The criticism of these paradigms results in a new model, debating the concept of geopolitics and geostrategies of the European Union, and revealing the polycentric nature of various integration initiatives in contemporary Europe and its surrounding area. Finally, the concept of counter-Europeanization allows one to



understand who is preventing potential new candidates from deepening their integration with the EU and how, and what categories of neighbors there are and how they are affected by the new circumstances.

## 1. The logics of European Union enlargement

The European Union's territorial dynamism has recently been considered (similarly to the internal developments) through the perspective of linearity. Fueled by the nonfunctional perception (Haas 1964), it has been marked by a *spill over* mechanism (Lindberg 1963). The longer the period of integration, the more states decided to join the Communities/Union. *Spill around* was marked by rare events when there was a temporary lack of progress in accession negotiations (as in the case of the division into the Helsinki and Luxembourg group). *Spill back* situations (as proved by the two negative Norwegian accession referenda or Greenland's exit) were rare and considered as absolute exceptions in the landscape of the spatially expanding Union. Additionally, regress (or lack of progress) in the enlargement process was, in all cases, internally caused and resulted (almost) exclusively from domestic debate.

The post-big bang developments made further enlargement less probable. On the one hand, it was caused by the old members being tired with the two decades of "pumping up" the European project. The argument about absorption capacities was to justify (temporary) hesitance towards further enlargement. On the other hand, the factors started to determine slow progress in accession negotiations with further candidates: many of them failed to successfully implement the required reforms, revealing at the same time deficiencies in the process of Europeanization. But more importantly, some were prevented from fast and effective integration by other, external actors that began to shape the new geopolitical environment in Europe.

This has resulted in the fact that the old logics of enlarging the Union no longer explain the dynamism of the process, due to the changing nature of the political environment in Europe. This situation requires a search for a new paradigm, allowing us to understand the current state of affairs, but also to construct convincing predictive means in this field.

## 2. Towards a new enlargement paradigm – geopolitics and geostrategies of the European project

The argument about the changing nature of the geopolitical environment in Europe as a new context for the enlargement process results in the necessity of categorizing it. The externally imposed limits for further enlargement are determined by the way the EU's external borders are organized, which has significant consequences for the nature of the EU, as well as the policies addressed to its neighbors. Both are defined by the geopolitics and geostrategies of the EU.

### 2.1 Geopolitics of the EU

The approach to further enlargement says a lot about the nature of the European project itself by defining the character of the interior and its relations to the external environment. Conceptually, Christopher Browning and Pertti Joenniemi (2008) offer a model describing

the geopolitics of the Union. They propose three ways of describing it: Westphalian, imperial and neomedieval (Figure 1).

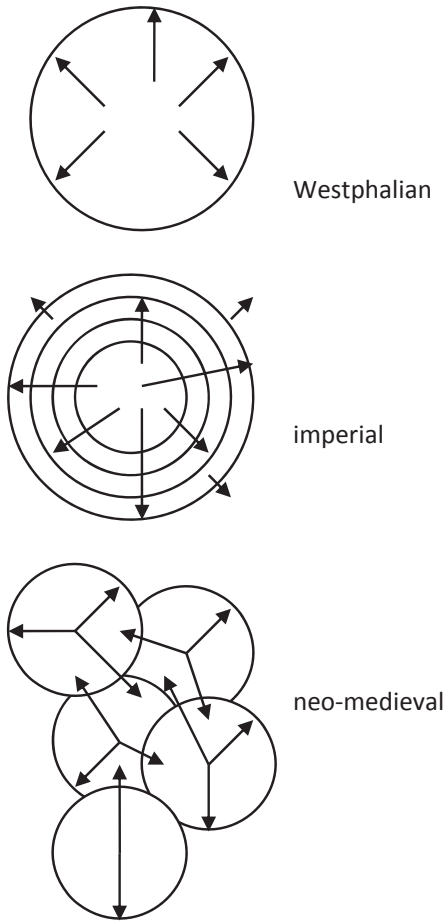
The model described as Westphalian is characterized by precisely defined territory, and – at the same time – by clear boundaries enclosing it. Its appearance was linked to the process of creating the modern nation-state. Everything that is outside the boundaries does not belong to the entity. Everything that is inside is similarly influenced by the norms, values and power of the center. Internal standardization is contradicted by the otherness outside the borders. If considering the European Union as being built according to this model, one should assume that it is a semi-state (Caporaso 1996). Its territory is limited to that of the formal member states where the *acquis communautaire* is in force in a uniform manner everywhere. This can be illustrated by the same rules of the single market regulating economic life and determining the circumstances under which economic processes take place, as well as the normative catalogue of Western values, including human rights, liberal democracy and so on. The political center of the EU at the same time concentrates power, which results from the transfer of competences from member states (Browning and Joenniemi 2008: 522–526).

The imperial model is built on different principles. Norms and values differ, as well as their understanding and interpretation, depending on the distance from the center of the political-territorial structure. The center and peripheries can be identified. The former radiates to the latter. For any location, the distance from the center determines how strong the center's influence is. Consequently, the model can be presented as a set of concentric circles with a center, and inner circles followed by the further peripheries. The power of the center diminishes as the distance from it increases. Consequently, the outer circles are less influenced by the center than the inner circles are. This model assumes, however, a specific level of dynamism, with new circles appearing on the edge and inner circles being absorbed to the core. Applying this model to the European Union, one needs to pay attention to the complex nature of the relations between the various actors involved in the project. On the one hand, the member states do not display integration homogeneity. A hard core of the EU can be identified, containing those member states that at the same time are in the euro zone and the Schengen zone. Then there are those who are less integrated because they do not participate in the last two areas (or one of the two). The space outside the EU is also marked by various types of dependence on the center. The circle of candidate states is followed by potential candidates (Zielonka 2007), then partner states associated with the EU (and exposed to external Europeanization efforts) as well as those falling under the European Neighbourhood Policy (Browning and Joenniemi 2008: 522–526).

The neo-medieval model assumes that a center can hardly be identified. The polycentric environment of mutual influences dominates the political landscape, being additionally marked by a dense network of mutual interdependences (Wind 2003). Instead of one-dimensional flows of ideas from the center to the peripheries, here their multidimensional exchange is dominating (Browning and Joenniemi 2008: 522–526). Understood from this perspective, the European Union is characterized by the absence of a single center, being a polycentric entity with several local centers interacting with each another.

The models presented not only try to describe the European Union, but also reveal a lot about the nature of previous and future enlargements.

**Figure 1: Geopolitical models of the European Union**



Source: Browning and Joenniemi 2008: 523.

## 2.2 Geostrategies of the EU

One of the elements revealing the nature of the relations of the European Union with its neighbors is the way in which its external borders are organized. In their analysis, Christopher Browning and Pertti Joenniemi (2008) present a categorization of the geostrategies of a territorial political entity, enumerating the *networked (non)border*, *march*, *colonial frontier* and *limes* (Figure 2).

A *networked (non)border* describes a situation where the diminishing role of a state boundary results in increasing flows, including individuals, goods, capital, and so on. At the same time, cross-border interactions are structured by the involvement of numerous actors, creating a dense network of relations and contacts. A *march* constitutes more

a space than a line, being a zone between two territorial-political structures. Being no-one's space, it contains influences of both neighbors, at the same time separating them (Browning and Joenniemi 2008: 527; Walters 2004). A *colonial frontier* can be illustrated as a line demarcating belonging to one of the entities. Their relations are marked by asymmetry, and consequently the dominating party exports ideas, goods, solutions, and so on, through this border to the weaker one. The stronger partner is expanding and this type of border is undergoing a constant process of being pushed further away, absorbing the territories under its influence. Finally, there are *limes*, which are also represented by a line, also separating asymmetric structures. In this case they are, however, a final border which is static and marks the territorial ends of a given territorial unit. Often they are a defensive line, where the structure on the other side is a source of threat (Browning and Joenniemi 2008: 529; Walters 2004).

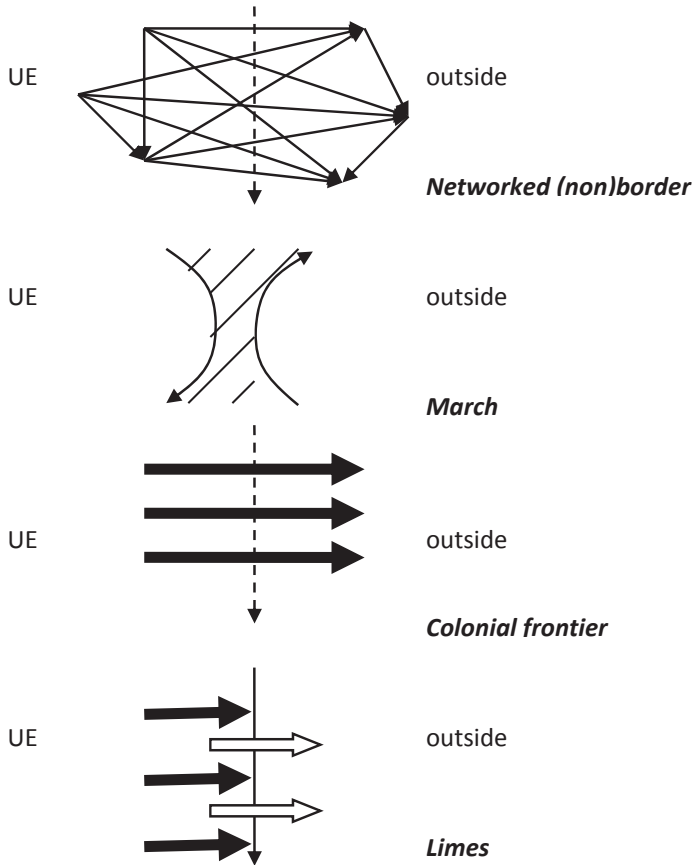
Classically understood enlargement, as has been implemented by the European Communities and the European Union, tends to follow the model of the *colonial frontier*. Most of the EU enlargements, especially those from 1981, 1986, 2004, 2007 and 2013 were marked by significant asymmetries, where the candidates represented poorer standards than the EU both economically and politically. Accession was marked by a typically long-lasting Europeanization process, determined by implementing conditionality mechanisms. Norms, values, solutions and so on, originating from the Communities penetrate the systems of candidates, saturating them with the *acquis communautaire*. This also demonstrated the unidimensional character of the flow leading to accession, which meant a further shift of the EU border. But behind this border existed yet another state, being treated according to the same paradigm.

This scheme led to the self-perpetuating and never-ending plan of expansion, where the end points of the European project were not set. To the west and north they were determined by geography. On reaching the coastline of the Atlantic Ocean and the Barents Sea, no more candidates can be found. To the south, the rejected Moroccan application in 1987 politically determined the limit of Europe there. The east, however, has represented an open space with no clear concept of a boundary.

When reflecting on enlargement, one should not forget, however, about the non-EU western European states, Norway, Switzerland and Iceland. Being highly integrated with the Communities, but remaining outside the formal structures of the EU, they represent the case of a *networked (non)border*. Their integration with the EU is opposed by their citizens and most of the political parties. Attempts to join the club have been either rejected by public opinion (as in the case of Norway), or implemented as a strategy of overcoming current economic difficulties, which resulted in a u turn when the problems were gone (as happened with the Icelandic application).

The European Neighbourhood Policy offers another field where the geostrategies of the EU can be observed. After its creation in the north-east, the *networked (non)border* was the dominant form of relations. In the east, it was the *colonial frontier*, aiming, in the view of some of the member states, to eventually let the neighbors in, in others, to keep them out by offering a new form of interaction which in practice is an equivalent to membership, visible in attempts to stabilize and Europeanize some of the neighbors (and possibly accept them in the more distant future). In the south, due to the final character of the border, *limes* seems to best describe the implemented geostrategy (Browning and Joenniemi 2008: 544–545).

**Figure 2: Geostrategies of the European Union**



Source: Browning and Joenniemi 2008: 528.

### 2.3 Towards a polycentric perspective

Most of the presented approaches, regardless of the specific model under investigation, reveal, however, at least one structural weakness. They assume that the EU is surrounded by a sort of vacuum, a no-man's land allowing unlimited expansion. So in practice, all three geopolitical models imply the geostrategy of a colonial frontier as the one characterizing the EU's relations with its neighbors. They can be allowed in as soon as they fulfill specific conditions. Successful (external) Europeanization makes it possible to enlarge the Union and accept new members. Of course, the position of the current members has to be unanimously positive on enlargement. This approach does not recognize, however, other competing centers of attraction that could offer an alternative to the candidates, or force them to resign from integration into the European Union. Overcoming this ignorance about developments in the EU's surroundings has led to replacing the monocentric

perspective with a polycentric approach. It recognizes the environment where the Union is no longer the exclusive center of attraction, but is one of many existing on the continent.

The model applied by the European Union in structuring the enlargement policy addressed to its neighbors is based on the concept of normative power. The Union’s superiority is a superiority of norms and values that are considered to be influential enough to change the environment of the candidates, making them more similar to member states, and consequently more acceptable.

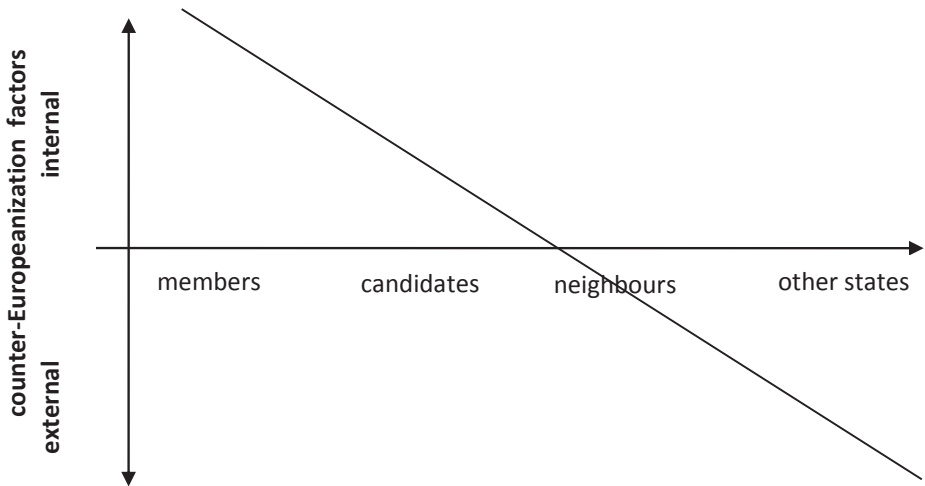
In recognizing another center’s existence, the question of the nature of their influence has to be posed. Is it also a matter of civilian tools implemented to create another offer to the EU’s candidates? Or is it also framed by tools of classical international relations, including military means?

### 3. External limits to further enlargement: de-Europeanization and counter-Europeanization

Assuming that the new situation results from the external limitations on Europeanization, a short reflection on its understanding seems necessary.

Eduard Soler i Lecha (2008, 2) stresses in his paper, that “little attention has been paid to the process of <<de-Europeanization>>”. This has happened despite the fact that the “Europeanization process can be followed by de-Europeanization phases” (Amiya-Nakada 2008: 3–10) which means it does not develop linearly. This situation can result from the fact that Europeanization developments continue to prevail over de-Europeanization, which is only accidental. But also from the academic involvement in promoting integration at the expense of a neutral and scientifically objective view.

Figure 3: Shift in counter-Europeanization



Source: The author

Unfortunately, due to the character of this paper, a wider debate on the concept of Europeanization is not possible. I decided consequently to signalize only two dimensions of its understanding. First of all, using top down logic, following Roberta Ladrech (1994: 69–88), it can be defined “as a process where EC political and economic dynamics [become a] part of the organizational logic of national politics and policy-making”. Johan Olsen (2002: 3) sees it as a bottom-up process, where “Europeanization (...) implies adapting national and subnational systems of governance to a European political center and European-wide norms”.

De-Europeanization can be defined as “a process in which previous impetus to converge with EU norms and the willingness to get involved in EU policies slows down and can even take an opposite direction. The most radical form of de-Europeanization would imply that (...) country, not only decides to stop complying the EU *acquis* and stops any reform in that direction but e.g. even uses its assets in order to hamper the elections” (Soler i Lecha 2008: 2–3). Here, two reasons can be determined. First of all, the rational calculation of the balance of costs and benefits, when the latter do not match the former. The second is a set of alternative norms that are preferred.

It is important here to determine the difference between de-Europeanization and counter-Europeanization.

We shall start with the semantic role of the two prefixes, *de-* and *counter-*. The former “indicate[s] privation, removal, and separation” (The Random 1987: 551), stressing that something is opposite or reduced in comparison to the previous state. The latter emphasizes that something is “contrary to the right course; in the reverse or opposite direction” in the meaning of “in opposition or response to” (The Random 1987: 4611). This concentrates on the fact that a given element is “done or given as a reaction to something, especially to oppose it” (Longman 2009). It focuses on reducing the effect of something by causing an opposite effect.

Consequently the *de-* prefix suggests that an already achieved state of art is under erosion (for example de-Russification (Bychkov Green 1997) or de-Sovietization (Rindzeviciute 2009)). The prefix *counter-* stresses a reaction and its direction. It at the same time includes opposition to a specific action (for example, counter-revolution (Morrow 1974)).

Consequently, “the semantic meaning of de-Europeanization (...) stresses the reduction of Europeanization (often to a previously existing state, sometimes to a new one) as a process and expresses transformation from an already existing European level towards a non- or less European one” (Jańczak 2010a). The author has decided in this text not to continue exploring the field of de-Europeanization and to concentrate on counter-Europeanization. The set of arguments presented above, related to the changing nature of European geopolitics that led to the reappearance of alternative gravity centers, has resulted in the necessity of concentrating on how they react to the enlargement plans of the EU and accession plans of the areas of their interest. Counter-Europeanization will be consequently the operationalized reaction of the opponents to further EU enlargement. It determines further enlargement possibilities.

The key question in the case of counter-Europeanization is who the actors initiating and executing the counteraction are. Two categories of them can be identified: inter-system and external (Jańczak 2010b: 104–105).

Inter-system actors dominate in member states and candidate states (being less visible in the case of neighbors and other states). In the first two, one can detect Euro-sceptical (Beichelt 2004) institutional and non-institutional actors, including political parties (Schmidt 2006: 216), religious organizations, lobby groups or individuals. Normatively and identity driven arguments tend to be visible here (often related to the threat of losing sovereignty), although sometimes it is opposition towards a specific solution that originates from the EU, which is implemented locally but does not fit the local conditions and is based consequently on mindless imitation (Dimitrova 2002). Candidates can additionally experience dissatisfaction with the pace of negotiations. The case of Turkey shows how the long knocking at the European door has resulted in deep disappointment and a renaissance of their own regional normative system. In neighboring states, counter-Europeanization results from anti-western and anti-European legacies. Russia represents the case here.

External actors are the second category, being the most present among the EU neighboring states. They tend to oppose the Europeanization process in areas considered to be “their” ones, as zones of influence or cultural zones, which can be both normatively or interest driven. The territorial and conceptual framework for this is provided by Samuel Huntington and his concept of civilizations clashing at the edges (Huntington 1997). Consequently, Orthodox and Muslim civilizations can be considered as the ones offering alternative normative systems and opposing further expansion with the West, embodied by the European Union.

Since the end of *smuta* in Russia, the EU has been competing there, especially with Moscow, which has been trying either to strengthen counter-Europeanization movements (supporting pro-Russian political parties, religious movements, and also promoting a specific language policy, etc.), or to stop the process of Europeanization by force, using military intervention, support for separatist movements or outright war (Larsen 2014). Moreover, Russian elites see the Europeanization of bordering states as a part of Western imperialism and a way of oppressing weaker neighbors that do not (*originally*) belong to the West or the Western sphere of influence.

This categorization allows us to establish a wider perspective on the negative reactions to Europeanization. If the external or internal character is considered, as well as the four categories of states, a model can be drawn (Figure 3).

Counter-Europeanization that was internally driven tends to dominate among the member states and candidates. In the case of neighboring states, both internal and external opposition has been visible. Other states have usually been externally driven in their positions. However, together with the changing geopolitical environment in Europe, where strongly EU centric policies (assuming – as already discussed – the EU was surrounded by an empty zone for potential territorial and political expansion) clashed with the other integration initiatives that reappeared in the immediate neighborhood (namely Russia), this model also changed. The line of counter-Europeanization shifted downwards, which is reflected in the more visible and active external involvement in stopping progress in making the EU’s surroundings more European. This opposition is aimed at preventing further states from entering the EU or becoming involved in deep and intensive interrelations.

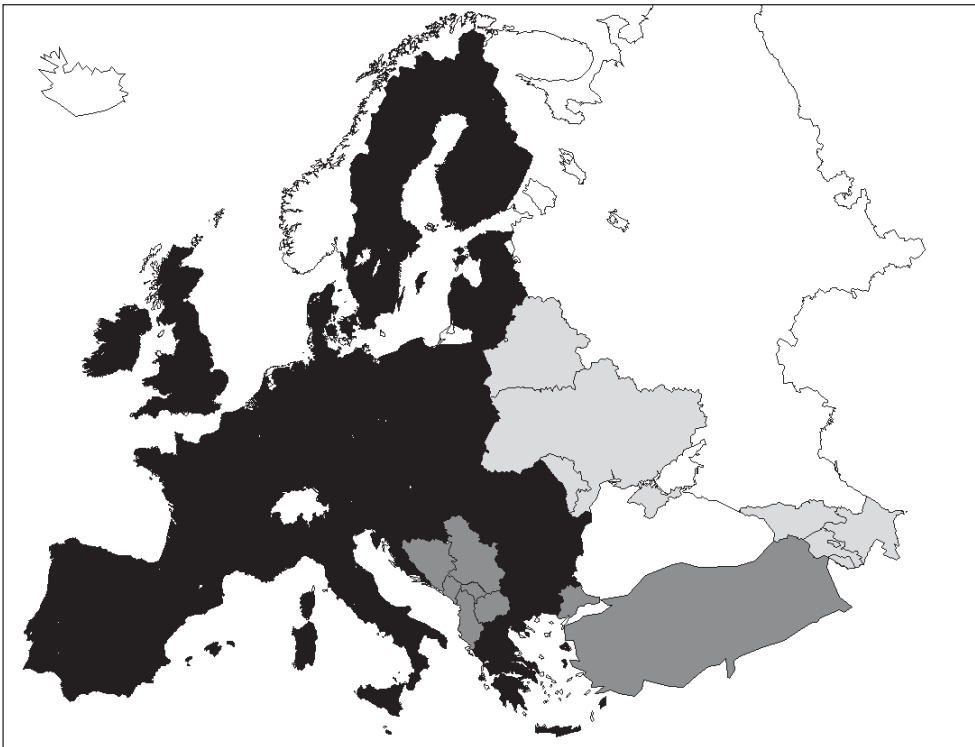


#### 4. What about further enlargement? – a new model of integration is needed

The hitherto dominating linearity in territorial expansion has been undermined by both the internal debate within the EU and the external developments, marked by Russia reentering the global game and trying to reconstruct its own zone of influence. Assuming the confrontational character of mutual relations will continue, one of its consequences is the disappearance of the geostrategy of the colonial frontier as the normal and unlimited way of regulating the EU's relations with its immediate neighbors.

Consequently, the question of further enlargement is simultaneously a question about the universalism of the European project. Europeans have tended to believe that the model they have developed is globally applicable. Both with regard to its normative dimension (containing liberal democracy, human rights, minority protection, etc.) as well as its institutional-organizational part (containing multi level governance, a free market with its four freedoms, supranationality, etc.).

**Map 1: Territorial dynamism of the EU's enlargement**



Source: The author

Testing the spatial dynamism of the European Communities and of the European Union, the model of absorbing further territories around the territorial “hard core”, built around

the Franco-German tandem, can easily be noticed. The subsequent enlargements added peripheral regions to this group in 1973, 1981, 1986, 1995, 2004, 2007 and 2013, creating the north-western, southern, north-eastern and eastern flanks of the European Union.

The current spatial situation can be characterized by three categories of states in the immediate neighborhood of the Union. These can be identified on Map 1 in different colors. The black space marks the 27 member states of the European Union. The dark gray is the candidates and potential candidates. The light gray is the Eastern Partnership states. Finally, other states are left white as are the western non-candidate neighbors.

Firstly, there are the western neighbors (Iceland, Norway and Switzerland). Due to their policies, stability and economic prosperity, their membership in the European Union would be warmly welcomed there. However, sovereignty considerations prevent them from formal membership, despite previous accession attempts. The current form of de facto involvement in the integration is reflected in formal connections (European Economic Area, Schengen zone, etc.) as well as functional interrelations (highly mutually dependent economies, social and cultural contacts). Their absence from the EU, however, results from internal actors, with no factors resulting from the geopolitical situation.

The group of candidates and potential candidates contains seven states today. Turkey, Montenegro and Serbia are in the phase of accession negotiations. Macedonia and Albania have official candidacy status. Bosnia and Herzegovina, as well as Kosovo, are considered potential candidates that in the future can become official candidates. Two cases are especially interesting here. First, Turkey, which applied back in 1987 and, after decades of being a *never-ending candidate*, has been gradually reorienting its policy. Together with its growing economic and political position, the Turkish elites and society replaced the status of a poorer relative that is only tolerated in the family, with a concept that can be reduced to a form of neo-Ottomanism. Based on their own historical and normative legacies, Turkey is not only opposing the one-dimensional adaptation of the European model, but is becoming a center for states in its own sub-region. Serbia, on the other hand, is torn between a pragmatically based Western orientation and historically and normatively pro-Russian attitudes. A stronger and more active Russia is providing assistance to this orientation, playing the anti-Western card.

The eastern neighbors belonging to the Eastern Partnership contain six states. The idea of the Eastern Partnership is based on not offering prospects for accession to the eastern neighbors, but still keeping them within the direct influence of the European project. That sort of construction arose from the dilemma of whether the policy offered to them should allow “to keep them in [the European project] or to keep them out [of the European Union]”. It should be stressed, however, that the word “or” could be replaced with “and”, especially under the changing nature of the geopolitical order in Europe. If the old member states clearly neglected the idea of inviting partners to the club through formal membership, many of the new members have strongly insisted on leaving this possibility, or at least believing that the special relations confirmed by association agreements have to bring in the more distant future the possibility of membership.

However, those plans have clashed with the Russian recovery from its difficulties and the formulation of its new doctrine of a *near abroad*, assuming an exclusive zone of influence in the post-Soviet territory. The 2008 war in Georgia represented the first signal of Moscow not allowing the West to absorb the spaces that used to belong to the Soviet empire. The next one was marked by the Vilnius Summit and preparations for Ukraine

signing the Association Agreement. Russian pressure prevented president Yanukovich from doing so (Larsen 2014). Bloody protests in Kiev resulted in a power change and also led to the Russian intervention in the East aimed at changing the pro-western orientation of the central government.

## Conclusion

The changing geopolitical environment in Europe is forcing the previously implemented models of enlarging the Union to be revised. It additionally undermines the way in which relations with the neighboring space can be organized, as well as the nature of the Union itself.

First of all, the European Union no longer exists as a dominant actor surrounded by a no-man's land, with unlimited possibilities for expansion. Recognition of the fact that there are alternative integration projects has to lead to a more traditional approach to the understanding of territoriality and the political nature of the EU. Its universalism is not as obvious as it used to be, and can be limited by other centers' influence, manifested in the form of normative power, as well as through military power. Consequently, the problem is that there is a limit on enlarging the Union, and this limit is not only a matter of internal debate, but primarily results from where other actors (for example Russia) set this limit. The EU can expand as long as this expansion is not stopped by counter-action.

Secondly, the geostrategy of the colonial frontier cannot be implemented in the way it has been in recent decades. The other side is trying to do the same, which results in clashes. This means that the other two geostrategies will tend to dominate. On the one hand, the *march*, where both sides agree to create a zone separating them, belonging to neither of the projects, on the other, by giving up the concept of normative power and using the regulatory role, the EU can be forced to establish limes in the Eastern part of the continent. This will be a final line, marking the territorial end the Union, and also the final limit on the exercising of European norms, values, solutions and laws. The space behind this line would be assumed to *eternally* belong to the other project. Another question resulting from this set of assumptions is where this line should be located, namely, where the EU would like to set this line, and where it will be allowed to establish it. Will the whole of Ukraine, Moldova and Georgia be inside, or will they have to remain in the gray zone?

Finally, the very nature of the European Union can be determined by the above described dilemmas. The hitherto forms of enlarging the Union have been based on formal membership and all the steps leading to it. Maybe, however, due to these new limitations, another formula has to be found. The imperial model has to be replaced, consequently, with the Westphalian model. Various forms of participation in the European project are becoming more and more difficult, so possibly a final borderline has to be drawn. It can consequently be claimed, that "the European Union's role in international politics cannot be seen primarily as an exporter of norms and values, but as a collective actor whose primary concern is to secure its survival under the conditions of international anarchy" (Meimeth and Jańczak 2015: 4–5).

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# Enlargement as a Tool of Foreign Policy of the European Union: The Case of Turkey

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## Abstract

In this text, the author will examine the concept of enlargement as a part of the foreign policy of the European Union (EU), as the enlargement process is often perceived as an important soft power tool of EU foreign policy towards its close neighborhood. Through it, the EU can exert transformational pressure on the candidate countries, or countries willing to achieve candidate member status of the EU, as we possibly have witnessed while the EU was expanding into Central and Eastern Europe. Yet, this transformational power of the Union has its limits, especially in the case of the credibility of the intention of the EU to accept a candidate country within a certain period of time. The author will try to apply the theory to the case of Turkey in the form of a case study. The Turkish accession process has so far not brought satisfactory outcomes and it seems that the capacity of the EU to influence Turkish internal policies has steadily decreased. The author will thus focus on the timeline of the Turkish enlargement and the key factors affecting the accession process with regards to credibility.

## Keywords

European Union, Turkey, enlargement, external Europeanization, credibility

## Introduction

The process of enlarging the European Union is often connected to the concept of soft power created by the American political scientist Joseph Nye (Nye 1990; Nye 2002). Much literature relates to this connection (Vachudova 2005; Nielsen 2010) or additionally the “power of attraction” (Moravcsik 2010). Also the leading EU politicians like Herman Van Rompuy, Catherine Ashton, and Olli Rehn have previously addressed this issue.

The basic idea is that by enlarging itself, the European Union is able to spread its core values, and to stabilize its neighborhood long before the actual enlargement takes place. The countries that aim to join the EU have to undergo a process of political transformation to meet the criteria which the EU has established for the new members.

The EU’s ability to transform the countries in its neighborhood has one limit, though. To be willing to go through internal changes, the countries have to believe that there will be a European future for them within a reasonable time frame. In other words, these countries have to believe that once they have fulfilled the criteria that have been set for them, they will become members of the Union. We might refer to this as the “credibility” of the EU’s intention to accept a prospective new member.

Much has been written in the past about Turkey’s enlargement process, as the country’s intention to enter the EU has been long-lasting. Since the opening of talks in

2005, however, we have witnessed a significant cooldown on both the EU and Turkish sides. This article will focus on the development of mutual relations since 1999 when Turkey obtained the candidate status, the current situation and the prospects for Turkey entering the EU. The credibility of the EU's intention to accept Turkey as a member in connection with the goodwill of the Turkish government to transform the country will remain the focus of attention.

The key question is to what extent did Turkey undergo the process of “external Europeanization”, what requirements were necessary to facilitate the process of domestic change required to adapt the internal conditions towards the EU ones. Europeanization in this paper is thus understood basically as the approximation of a domestic legal framework through changing the existing norms or creating new ones, although it has many other implications.

The scope of the analysis is limited to the internal changes in Turkish politics in relation to the EU accession with a major focus on legal and normative changes in Turkey. The author is aware that the mutual relations of Turkey and the European Union are much more complex and cover for example Turkey as a partner in the Middle East region, but due to the limited space he decided to concentrate on this particular area where the “soft power” concept could be more easily applied.

The article will be based mainly on the analysis of internal legal changes and further political adjustments in Turkey. To illustrate the key changes in EU-Turkey relations public statements of European and Turkish politicians will also be analyzed. Data from public opinion polls will also be used to show how the attitude of the Turkish public towards the accession process has changed. Turkey Progress Reports as official EU documents describing the development in Turkey will be examined.

## **1. The Nature of the Soft Power and where it meets the EU enlargement policy**

The almost classic definition provided by the author of the concept Joseph Nye is that “soft power is the ability to get what you want through attraction rather than coercion or payments” (Nye 2004). To put it even more simply, soft power is “the ability to get others to want the same as you want” and it is based on the attractiveness of an actor (Nielsen 2010).

Towards the countries that lie in the close vicinity of the EU, the main goal of EU foreign policy is to maintain high levels of both political and economic stability in neighboring countries. In the political thinking of the EU stable regimes mean democratic regimes. Achieving democracy in neighboring countries is thus one of the main goals of the EU foreign policy towards them.

Democracy as such is one of the core norms Ian Manners (2001) considers to be one of the basic building blocks of the European Union. Apart from democracy, these norms would be peace, liberty, rule of law and respect for human rights. These norms affect not only the internal functioning of the European Union where they present certain “club rules”, but also its external actions, especially in the close neighborhood and towards countries that would like to enter the Union.

Membership of the Union is mainly of economic importance for the new member states and brings a certain level of prestige. But to be able to join this European club,



the countries have to show that they adhere to these core norms, what means they have got a functioning democracy and a high level of human rights protection. Some of them do not have these characteristics at the start of their efforts to join the EU and they have to undergo large internal reforms. The Eastern enlargement of the European Union, covering mostly post-communist countries of the former Soviet bloc, is often cited as a successful example of the EU's transformational power (Mungiu-Pippidi 2008).

Countries that joined during the Eastern enlargement were given guidance – the so called Copenhagen criteria created by the European Council in 1993. These criteria could be divided into three parts. The political criteria cover democracy, rule of law, human rights and protection of minorities. In the economic part, the country should have a functioning market economy that would be able to compete on the internal market. And in the legal part, the country is obliged to bring its laws into line with the EU law, the so called *acquis communautaire* (European Council 1993).

All the countries of the Eastern enlargement made huge progress in all areas as they mostly applied quite soon after the fall of communism when they were still experiencing the transitional period. It could be said that through the long-term vision of Europe the EU contributed significantly to shaping the post-Cold War European order (Smith 2011: 300). The structure of the enlargement process and its conditionality played a very important role in this shaping.

While most of the authors speak about the soft power of the EU in the context of democratizing the future member states during the process of accession, some would argue that the central issue for discussion would be the conditionality. Rather than mere attraction to the EU values, the conditionality would have a certain coercive character with possibility of threatening to “withhold the carrot of future memberships” (Aggestam 2012: 473) to countries that would not do their “homework”. Be it one or the other, a prospect of membership is the strongest leverage the EU possesses towards the countries in its vicinity.

For the abovementioned to be true, the intention of the EU to enlarge itself has to be credible. By credibility the author means that the prospect of membership has to be sufficiently realistic for the country involved to put enough effort to the reforms. If the EU wants to repeat its “success story” from Central and Eastern Europe this credibility must be clearly displayed during the accession process (Jano 2013: 155). On the other hand, if the candidate country feels that the EU is not honest about its intention, the result could be that it could consider all efforts useless, the pace of reforms could significantly slow down and the process might even lead to frustration and alienation.

There are also different approaches to domestic actors and their motivation for change. Börzel (2010) analyzes the concept of “external Europeanization” through which she describes the process of domestic change. Börzel points out there are two different approaches to the external Europeanization process. The rational choice institutionalism approach would build on the role of strategic actors within a given country seeking their own goals and the possibilities the need for domestic changes makes available for them. The sociological institutionalism approach is then concentrated on the normative part of the Europeanization process with actors trying to meet the social expectations.

How would the impact of the EU on Turkey be measured in this paper? The author will mostly consider the legalistic approach, what means changes of internal legislation



and the approximation to the “European norms”. At the same time he will try to seek the motivation of the actors that is hidden behind this process.

## **2. EU and Turkey’s enlargement bid – A Brief history**

The attempts of Turkey to play a specific role within the European integration process have actually got quite a long history. Turkey has observed the European integration since its very beginning, and the country applied for associate agreement with the EEC in 1959 (signed in 1963). Article 28 of the agreement said that “as soon as the operation of the agreement had advanced far enough to justify full acceptance by Turkey of the obligations arising out of the Treaty establishing the Community, the Contracting Parties shall examine the possibility of the accession of Turkey to the Community” (Official Journal 1973).

The Turkish application for membership came only in 1987 from the hands of prime minister Turgut Özal and it was denied for several reasons. The EU only had recently accepted two new countries – Spain and Portugal – and needed to accommodate them. The European Parliament had previously criticized the Turkish regime several times as being oppressive and not guaranteeing human rights. And the Commission expressed its concern about the ability of Turkey to compete on the internal market that was being finished at that time (Paul 2015).

It was mainly in the 90s when Turkey made the crucial steps to become an EU candidate country. The first step was the signing of a customs union agreement with the EC in 1995. The road into the EU then suffered a large setback in 1997 when Turkey was not included into the group of countries with which the EU decided to open negotiations at the Luxembourg European Council. But the mood changed and Turkey was recognized as a candidate country for the EU at the Helsinki Summit in 1999. This was a significant achievement for Turkey, although the European Council did state that the country would have to make a lot of effort to comply with the political and economic criteria (European Council 1999).

The message from Helsinki – a more concrete commitment to Turkey – started a significant transformational process in Turkey. While the reforms were virtually non-existent before 1999, the pace of the necessary changes did increase after Helsinki, and even more after 2001 when the first constitutional changes were proposed. The EU’s soft power through the prospect of the EU membership started what was to be seen as the largest political and societal changes in Turkey in several decades. In the words of Diba Göksel (2009), the EU soft power “started a virtuous cycle” in Turkey. There were also other factors in play, though, the financial crisis of 2000 was one of the important catalysts for change.

Under the government of Prime Minister Bülent Ecevit the Turkish constitution and the legal order in general underwent significant changes towards a more open society. This included greater recognition for increasing the rights of the Kurdish minority, freedom of expression, and the abolition of the death penalty in peacetime. The new civil code was approved in 2001 empowering heavily the position of the women, for example in the case of divorce. All these changes could be perceived as the part of “westernization” which in the Turkish case means the approximation of the legal framework towards the European one.

The parties forming the government had an uneasy task, though. They were criticized for the slow pace of reforms by the pro-European part of the electorate that was quite numerous and was one of the drivers of change at that time. The pace was slow mainly due to the coalition character of the government and also because of the economic crisis that was receiving a large part of the government's attention. The anti-European voters then disagreed with the reforms and would point to them as being "political concessions to foreigners" (Bac 2005: 24).

The result of the 2002 elections was a heavy defeat for the governing parties which could be mainly connected to the poor economic performance. The winner of the elections was Recep Tayyip Erdogan and his Justice and Development Party (AKP), a conservative political subject that has religious features. The important fact is that the AKP single-party government continued in the "Europeanization" efforts started by Ecevit. The AKP government introduced a few other constitutional packages that contained for example freedom of the press. In 2004 a new penal code was approved that significantly strengthened the position of women.

Apart from these processes the government also limited the role of the army, traditionally a very powerful player in Turkish politics and an obstacle on the way to democracy. The AKP used the EU accession legitimization to limit the role of the military, getting rid of a strong opponent while pursuing its own goals (Börzel-Soyaltin 2012: 14).

The public support for EU membership in Turkey was never higher, topping 75 per cent in 2004 (Morelli 2013: 4). The government could use the mindset of a large part of the society as leverage towards further domestic changes. After some delays the European Council decided to open accession talks with Turkey. The negotiations were officially started on 3<sup>rd</sup> October 2005.

### **3. The EU and Turkey post-2005**

The opening of the negotiations could be perceived as a significant turning point in the EU-Turkey relations. There could be a certain "psychological" explanation. When the talks had started, the probability of Turkey as an EU member seemed more realistic than ever before to the countries that already were members of the European Union. However, in a number of EU countries the debate about possible Turkish membership culminated just after the opening of talks.

Austria was a country that was not very supportive to the opening of talks and even had threatened to block the decision of the European Council. The position of the Prime Minister Wolfgang Schüssel was backed by all major political parties as well as by 70–80 per cent of the Austrian population (EUCE 2008: 7). In the end, Austria agreed to open the talks but was still heavily against Turkish membership.

France was one of the countries where Turkish accession was largely debated. French president Jacques Chirac commented the same day that "Turkey would have to undergo a major cultural revolution in order to realize its dream of joining the EU" (Paul 2015). Nicolas Sarkozy, a minister of the interior and future president of France, used Turkish membership in his presidential campaign and was vocally against Turkey as a part of the EU.

In Germany the change came two months before the opening of talks when Angela Merkel took the office of Chancellor in September 2005. Merkel, coming from the CDU party, could be considered to be a hardliner in the Turkish question compared to her

predecessor Gerhard Schröder (Göksel 2009: 34). On several occasions Merkel offered a “strategic” or “privileged” partnership as an alternative to full membership which was something Turkey was not happy at all with.

The mutual relations between the EU and Turkey were also poisoned by the Cypriot question. After rejection of the “Annan Plan” for reunification of the island in 2004 the Greek southern part became an EU member while the Turkish northern part remained outside. Turkey had a very hostile attitude towards this particular EU member, forbidding entrance to Greek Cypriot vessels and planes to its ports and airports inside the customs union. Cyprus, on the other hand, requested that the European Council blocked 8 negotiation chapters in December 2006, giving a severe blow to the negotiations.

Public support for Turkish membership was also quite low in most EU states and topped 50 per cent in just four in the Eurobarometer survey in 2005 – Poland, Slovenia, Hungary and Sweden (Hatipoglu et col. 2014: 9). This stance also seemed to be a major obstacle as for example France warned it would put Turkish accession to a public referendum, an idea backed even by the current French president Francois Hollande.

Not all the countries had a negative stance towards Turkey as a member of the EU. The strongest supporter in 2005–2007 was the United Kingdom. Both Tony Blair and Gordon Brown were advocates of Turkish membership as Prime Ministers. Yet, public support in the UK was below 50 per cent.

All the aforementioned controversies on Turkish EU membership had a significant impact on the Turkish public with support to join the EU decreasing to 54 per cent of the voters in 2006 (Morelli 2013: 4). Some of the surveys even indicated support as low as 40 per cent of the population in 2006 (Alpay 2006: 166). For the Turkish pro-European population, the talks going nowhere from the very beginning were a bitter pill to swallow. Some groups of supporters of EU membership had the feeling that the rules of the play had been changed during the “match”. And also, with the Turkish media mentioning the poor public support in the EU states, they stopped believing that all member states would agree on Turkish accession. As a result of this, the pressure for further reforms from the public eased. At the same time the fading public support has undermined the potential for AKP to use EU accession as a “legitimization device” for further political changes (Börzel-Soyaltin 2012: 14).

The pace of the reforms did slow down gradually during the first AKP government, and they even stopped and went into a reverse gear during the second and third terms of the AKP. The way the AKP government ruled the country became “increasingly authoritarian with a systematic erosion of the rule of law, civil liberties and freedoms, separation of powers and checks and balances.” (Paul 2015). One of the clear examples would be Erdogan’s efforts to change the nature of the political system from parliamentary to presidential democracy. During the presidential elections in 2014, he made it clear that he would like to become a strong president with large executive powers. A change of constitution can be expected should the AKP win the elections in November 2015, the ones AKP induced with is evident lack of will to form a coalition government after the elections in June 2015 in which it lost the majority in the parliament.

Some authors argue that the AKP regime would use the EU-accession and the commitments to reforms rather instrumentally since it came to power. These reforms would help the AKP to eliminate domestic opponents like the military and to delegitimize the secularist constituency under the pro-democracy discourse (Alaranta 2015: 19–20). This interpretation matches very well the rational choice attitude of external Europeanization. Once the power of the opponents was undermined, the AKP would then concentrate on the consolidation of its own power.

As regards the current assessment from the side of the Union, the Turkey Progress Reports, official documents on the progress of Turkey's efforts to join the Union, are quite critical in many aspects. Be it how the government reacted to the Gezi Park protests (Turkey Progress Report 2013) or the freedom of expression, mainly on the internet where some webpages were shut down from the side of the government or how the judiciary reacted to the large corruption scandals of the AKP (Turkey Progress Report 2014). If one reads between the lines, the evaluation is far from positive, though the Commission tried to issue rather balanced texts.

There is a lively debate about whether membership in the EU is still really the intention of the AKP. At the official level, Turkey in the EU is a „strategic goal“ of the Turkish government, that was confirmed in Turkey's European Union Strategy issued in September 2014 (European Union Strategy 2014: 3). However, both president Erdogan and the former minister for European affairs Egemen Bagis admitted that Turkey would not be part of the EU in 2013 (Kayaoglu 2013).

In 2014 public opinion on the EU was at its highest compared with the last few years, according to the poll held by the German Marshall Fund. A total of 45 per cent of respondents saw the EU as positive, a major increase compared to previous years (German Marshall Fund 2014: 21). One of the explanations could be that a large part of the population do not agree with the current direction of Turkish politics and sees the EU as a safe anchor to democracy in Turkey. The elections in November 2015 will thus be a strong test of how the AKP stands in Turkey.

## Conclusion

There is no doubt about European soft power in the world and this soft power is even more identifiable in the neighborhood of the Union with the strongest EU influence in the countries that are knocking on the EU door for membership. EU enlargement policy certainly serves as a form of guiding light for the countries that want to enter.

What the Turkish experience shows us is that to truly get the country on the right track, the EU's intention to adopt a new state must be credible and predictable. 2005 as a year where the relations between EU and Turkey as well as the Turkish prospect of becoming an EU member deteriorated, presents a clear dividing line in the Turkish attitude towards EU membership. The AKP government continued to liberalize Turkish politics up until 2005, it has with no European future concentrated more on consolidating of its own power in Turkey, although we could witness the use of the EU accession as a legitimization for pursuing its own goals even pre-2005. The way to democracy and a more open society has taken a long detour which is expected to continue as further obstacles may undermine the chances that Turkey will ever become an EU country.

The “Europeanization” of Turkey had its positive impact both on Turkish politics and society. The legal framework changed significantly between 1999–2005 and even though lately the reform process has been reversed, both Turkish society and politics are more open than when the real efforts to join the EU began. This would also be true for the rights of minorities in the country, although the position of the AKP towards the Kurds is rather negative. Many of these changes can be attributed to the efforts to bring domestic legal order closer to the European one.

Currently it is very speculative to guess which direction Turkey is heading, as the country is expecting general elections in November 2015. The result of the AKP is the main concern as the party is obviously trying to build enough support for its single-party government. If the AKP is to reach this goal, given the experience from the last few years we might expect rather further consolidation of AKP power in Turkey, mainly through constitutional changes of the position of president within the Turkish political system.

To conclude, Turkey as a member of the EU currently sounds totally fictitious. There is very low public support for the enlargement both within the EU member states and not enough support in Turkey itself. Even Turkish society itself does not currently put enough pressure on to government to go further in the accession process which could be perceived as one of the most important features of the process at the moment.

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## New horizons for Regional Trade Cooperation between the EU and The EaP countries

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### Abstract

Eastern Partnership offers six post-Soviet republics an upgrade of relations within three major dimensions, namely (a) the Association Agreement (AA), (b) Agreement on a Deep and Comprehensive Free Trade Area (DCFTA), and (c) Visa Facilitation and Readmission agreements. The paper investigates the main advantages and shortcomings of the Eastern Partnership itself and assesses the possible gains and losses that could occur from DCFTAs between the EU and EaP partner countries. Special attention is paid to the non-tariff (regulatory) component of the EU DCFTA and potential implications of regulatory approximation. Also, current level of harmonization of EaP countries' regulatory framework with the EU *acquis* in the areas related to the DCFTA is presented.

### Keywords

economic integration, *European Neighborhood Policy*, Eastern Partnership, Free trade agreement, Association agreement, good governance, political stability, democracy, economic cooperation

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## Introduction

In the post–World War II period, countries came to realize that a major component of achieving any level of global stability was global cooperation — politically, economically, and socially. In 2004 after the first enlargement the EU launched the *European Neighborhood policy* (ENP), aimed at strengthening relations, bringing tangible benefits to both the EU and its neighborhood partners, including the introduction of regional initiatives and support for democratization.

The ENP framework is proposed to 16 of the EU's closest neighbors – Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, Palestine, Syria, Tunisia, Ukraine and is complemented by regional and multilateral co-operation initiatives: the Eastern Partnership<sup>1</sup> (EaP, launched in Prague

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1 The Eastern Partnership (EaP, May 2009) is an initiative within the framework of the ENP, enhancing the EU's relationship with the region of six eastern neighbors – Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Ukraine, launched for strengthening relations, bringing tangible benefits to both the EU and its EaP partners, including the introduction of regional initiatives and support to democratization.



in May 2009), the Euro-Mediterranean Partnership (EUROMED), formerly known as the Barcelona Process, re-launched in Paris in July 2008, and the Black Sea Synergy<sup>2</sup> (launched in Kiev in February 2008).

Six years after its launch, the *Eastern Partnership* has seen both achievements and serious *challenges, mostly connected with* the conflict between Russia, Ukraine and other countries of Russia's "near abroad", the energy crisis, democratization, migration, the fight against the corruption etc.

The EU has been one of the largest trade partners for the EaP countries. The EaP's commodity turnover with the EU varies between 30% and 50% of the total, but their access to the EU market is less preferential (MFN regime) than for many other neighboring countries with exemption of Belarus, which uses privileges provided by the Generalized System of Preferences (GSP) or the GSP+ or autonomous trade preferences (Moldova).

With the launch of the EaP initiative in 2009, relations between the EU and the six post-Soviet republics have received new stimuli for development. The EaP offers an upgrade of relations within three major dimensions, namely (a) the Association Agreement (AA), (b) Agreement on a Deep and Comprehensive Free Trade Area (DCFTA), and (c) Visa Facilitation and Readmission agreements.

Only three out of six EaP partner countries — Ukraine, Moldova, Georgia — kept their course for deeper integration with the EU and signed AAs and have been actively working on DCFTAs implementation.

In this context, it is very important both for the EU and EaP partner countries to clarify the exact areas of their cooperation.

In view of the constantly increasing trade turnover between the EU and its ENP member countries, special attention is paid their trade liberalization relations. In recent times the EU has made considerable efforts for the establishment of regional free trade agreements (FTAs) with ENP partner countries. These agreements promote deeper cooperation and closer partnership between the EU and its partner countries at different levels of intensity, ranging from loose cooperation to integration attempts (Figure 1).

The EU DCFTAs are part of the EU neighborhood policy; with more distant countries, the EU upholds closer types of agreements. The EU DCFTAs are mutual, that presumes mutual trade liberalization – both from the EU and partner countries. It is important to stress, that the objective, followed by the DCFTA is to reach closer economic integration with the EU, but not its membership. To integrate with the EU within the DCFTAs partner countries should maximally approximate their requirements relevant for production and trade, which are set in the so called "acquis communautaire" (at about 80 – 90%) (Dreyer, 2012). It is possible to highlight the following key objectives of DCFTAs assignment:

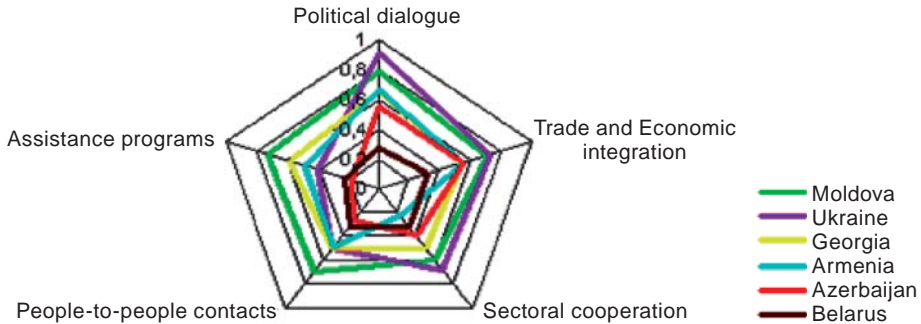
- market access facilitation: tariff liberalization and trade flows intensification;
- "fair" rules for hidden trade restrictions: non-tariff measures elimination;
- trade standards harmonization, technical and legislative support to partner countries;
- closer economic integration and new opportunities for closer cooperation between the countries, more opportunities for medium sized and small enterprises development;

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2 Black Sea Synergy was put forward by the European Commission in April 2007 to increase cooperation with and between the countries surrounding the Black Sea. It comprises six EaP members and two countries as observers — Bulgaria and Turkey.

- higher standards would eliminate low-quality goods from the markets and would finally lead to an improvement of quality, and as a result, the competitiveness of products from partner countries not only in the EU, but as a whole the world trade market would benefit.

**Figure 1: Deeper bilateral cooperation between the EU and EaP countries, 2011–2014**



**Source:** European Integration Index 2011–2014, <http://www.eap-index.eu>, own elaboration

**Note:** Transition indicators range from 0 to 1 with 0 representing little or no reforms implemented within the EaP initiative. Indicators range from 0 to 1, the closer indicator to 1 shows the higher level of implemented reforms

The EU DCFTAs go much further than tariff liberalization, specifically targeting “behind the border” measures, commonly referred to as non-tariff measures (NTMs). For example, EU DCFTAs address sanitary and phyto sanitary (SPS) requirements and technical barriers to trade (TBT) but also market conditions for capital investment and services. While offering benefits, the contents and implementation of the DCFTAs has been controversially discussed. In fact, the EU DCFTAs have been regarded as forcing European norms and standards on partner countries by aligning legislation to that of the EU. The EU has made considerable efforts in the establishment of DCFTAs.

In view of the stated problem, the following key questions will be discussed in the paper:

- 1) Whether the EU DCFTAs will actually help partner countries to sell their products on the EU market?
- 2) Does the EU DCFTA allow partner countries to conquer the EU market and will their market access be improved and will they be able to tap the full potential of the trade liberalization?
- 3) What are the trade effects in terms of trade creation and diversion between the EU and EaP DCFTA partner countries?

The focus of the paper is especially on the tariff and non-tariff (regulatory) components of the EU DCFTA and it considers the potential implications of regulatory approximation; estimation of potential benefits risks, occurring from signing DCFTAs both for the EU and EaP countries.

## 1. General overview of the DCFTAs between the EU and partner countries

Recently, the EU has launched DCFTAs with Mediterranean (MED) countries (Egypt, Morocco and Tunisia), countries in the Southern Caucasus region (CAU) (Armenia, Georgia) and Eastern Europe (EAST) countries.

Table 1. provides an overview of the current trade relations as well as the current state of the DCFTAs.

**Table 1: Cross countries' negotiations on AA/DCFTA (July 2015)**

Region	Country	AAs signed	of DCFTAs negotiation process
EUROMED Mediterranean (MED)	Algeria	Euro-Med AA (2005)	No—as not a WTO member
	Egypt	Euro-Med AA (2004): Free trade for industrial products, concession for agro-food products (since June 2010), dispute settlement (November 2010)	EC authorized opening of negotiations in December 2011, not commenced yet
	Jordan	Euro-Med AA (2002): free trade for industrial products, concession up to free trade for agro-food products (since June 2005), dispute settlement (January 2011), conformity assessment agreement (2013)	EC authorized opening of negotiations in December 2011, not commenced yet
	Lebanon	Euro-Med AA (2006): free access for industrial and agro-food products, dispute settlement (November 2010)	No—as not a WTO member
	Morocco	Euro-Med AA (2000), free market access for agro-food products (October 2012), dispute settlement	Negotiations commenced in March 2013
	Tunisia	Euro-Med AA (1998), free trade with the EU	EC authorized opening of negotiations in December 2011, not commenced yet
Eastern Partnership South Caucasus (CAU)	Armenia	PCA (1999), negotiation towards an update towards AA commenced in July 2010	Negotiations are in progress, the date of signing is not specified; the terms of DCFTA should be compatible with future obligations under the Eurasian Economic Union
	Georgia	PCA (1999), negotiation on an update towards AA commenced in November 2006	Signed on 27.06.2014, ratified on 18.07.2014
	Azerbaijan	PCA (1999), negotiation an update towards AA commenced	Negotiations are in progress, the date of signing is unspecified
	Moldova	PCA (1994), AA initialized in November 2013	Signed on 27.06.2014, ratified on 02.07.2014
	Eastern Europe (EAST)	Belarus	PCA (1995), not ratified, suspended since 2007
Ukraine		PCA (1998), AA agreed upon in December 2011	Negotiation process is restricted due to the military conflict with Russia and the unstable political situation, expected date of signing is on 01.01.2016

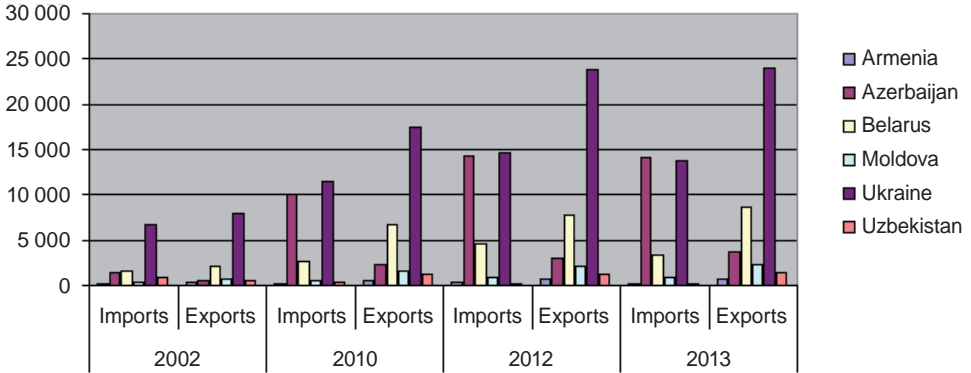
**Source:** own elaboration, DG Trade data (<http://ec.europa.eu/trade/>), Eastern Partnership Implementation Report 2014 (<http://www.eeas.europa.eu>)

**Note:** Missing countries Syria, Libya —trade relations have been interrupted due to military conflict; Turkey is not included as the EU established a Customs Union with Turkey in 1995.

The results of cross countries’ negotiations on AA/DCFTA, presented in Table 1, show that while the MED region remained unclear, the EAST region, except for Belarus and Azerbaijan, showed its clear course for closer cooperation with the EU.

The EU has been one of the largest trade partners for EaP countries. Within the last 5 years the trade turnover between the countries rose significantly in comparison with the early 2000s (Chart 1)

**Chart 1: Trade dynamics between the EU and EaP countries**



**Source:** own elaboration, Eurostat, <http://www.ec.europa.eu/eurostat>

In general, the commodity turnover of these countries with the EU varies between 30% and 50% of total, but their access to the EU market is less preferential than for many other neighboring countries. They trade with the EU on the basis of the MFN regime, and five EaP countries, with the exception of Belarus, use privileges provided by the Generalized System of Preferences (GSP) or the GSP+ or autonomous trade preferences (Moldova).

## 2. Trade liberalization within the DCFTA: tariff liberalization and non-tariff measures

As was mentioned before, DCFTAs promote deeper cooperation and closer partnerships between the EU and its partner countries at different levels of intensity, ranging from loose cooperation to integration attempts through eliminating trade barriers – both tariffs and non-tariff measures.

If the elimination of the tariff limitations is obvious, elimination of non-tariff measures still remains unclear. The tendency within the last ten years shows that level of NTMs usage remains high, especially for technical barriers. For the EU the tendency remains the same – with the high value of Technical barriers to trade and usage of Sanitary and Phytosanitary norms. Concerning the number of cases NTMs initiated, the EU is the leader (1044 cases applied in the sphere of Technical Barriers to Trade) (Table 2).

**Table 2: NTMs, applied by the EU and DCFTA partner countries (July 2015)**

		ADP		CV		QR	SG		SPS		SSG	TBT	
Commonwealth of Independent States (CIS)	Georgia					15			22	1		53	36
	Moldova						1	1	2	1		22	3
	Ukraine	1	23			3	7	4	23	80		78	21
<b>Commonwealth of Independent States (CIS) Total</b>		<b>1</b>	<b>23</b>			<b>18</b>	<b>8</b>	<b>5</b>	<b>47</b>	<b>82</b>		<b>153</b>	<b>60</b>
Europe	EU	21	108	7	10	22			431	109	27	739	141
<b>Europe Total</b>		<b>21</b>	<b>108</b>	<b>7</b>	<b>10</b>	<b>22</b>			<b>431</b>	<b>109</b>	<b>27</b>	<b>739</b>	<b>141</b>
<b>Grand Total</b>		<b>22</b>	<b>131</b>	<b>7</b>	<b>10</b>	<b>40</b>	<b>8</b>	<b>5</b>	<b>478</b>	<b>191</b>	<b>27</b>	<b>892</b>	<b>201</b>

**Source:** own elaboration, World Trade Organization data (<http://i-tip.wto.org>)

**Note:** **I:** Initiated, **F:** In force, **W:** Withdrawn

**ADP:** Anti dumping; **CV:** Countervailing; **QR:** Quantitative Restrictions; **SG:** Special Safeguards; **SPS:** Sanitary and Phytosanitary; **SSG:** Special Safeguards; **TBT:** Technical Barriers to Trade.

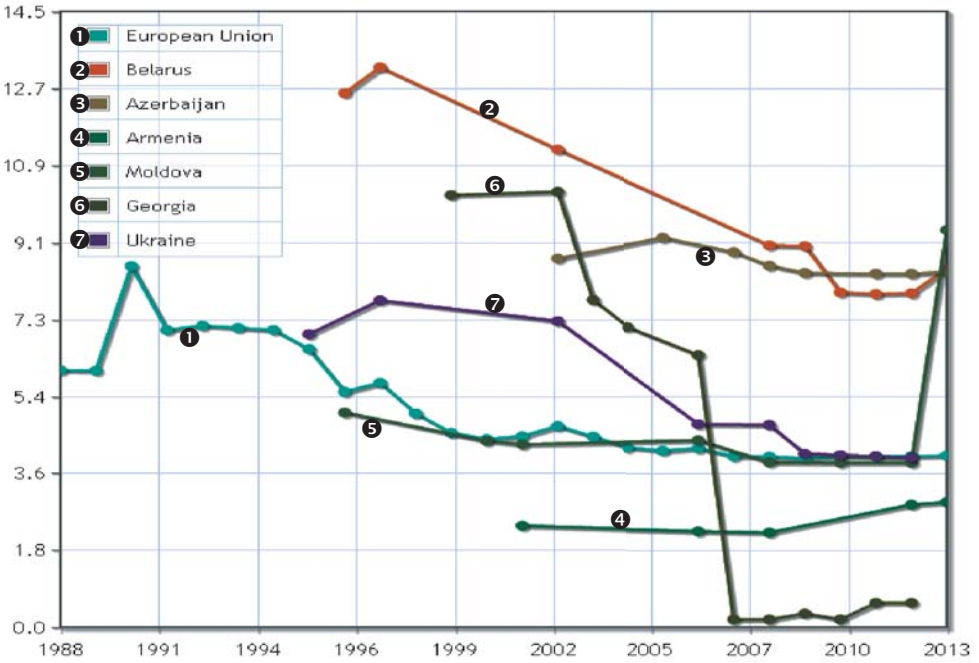
In general, during the last 15 years (from 1998 to 2013) the constant tendency for lowering tariff rates for manufactured goods for EU and its DCFTA partner countries was observed. The highest ns in fluctuations in lowering/raising trade tariffs were made by MED countries — Tunisia, Morocco and Egypt. Comparing to the MED EaP countries (Eastern and Caucasian region), MED countries have much lower tariffs though the tendency for reducing tariff rates remains stable (Chart 2).

The analysis of potential EU-EaP partner DCFTAs perspectives is presented by the MAGNET (Modular Applied General Equilibrium Tool) model (Rau Marie-Lusie 2014: 1–14). The model is built on the basis of the GTAP (Global Trade Analysis Project) model. In the MAGNET model demand and supply are for certain goods/services depicted in perfectly competitive markets and include the influence of such market factors as consumption structure that reflects changes in taste over time (e.g.. Preferences for certain type of goods), segmented factor markets (non-agro and agro factors), the purchasing power of consumers.

For modeling the 129 countries/or regions and the 57 sectors in the case of complete implementation of the DCFTAs in 2030 is used. The model provides analysis of three possible scenarios of trade facilitation.

Each of them will be presented in the following paragraphs (Table 2). In practice, this means that the simulation first generates the scenario 2007–2014(using the information on the expected growth path of the economy – GDP) and projects it to 2030 (in the case of no policy shocks). The year 2030 was chosen as the date for final establishment of the DCFTAs.

**Chart 2: Tariff rate, most favored nation, simple mean, manufactured products (%)**



**Source:** own elaboration, World Trade Organization data (<http://i-tip.wto.org>)

**Note:** Simple mean most favored nation tariff rate is the unweighted average of most favored nation rates for all products subject to tariffs calculated for all traded goods. Data are classified using the Harmonized System of trade at the six- or eight-digit level. Tariff line data were matched to Standard International Trade Classification (SITC) revision 3 codes to define commodity groups. Manufactured products are commodities classified in SITC revision 3 sections 5–8 excluding division 68.<sup>3</sup>

**Table 3: The assumption is made for three possible scenarios of DCFTAs effects**

Scenarios	Description	Possible risks and benefits for partner countries
Scenario1(S1)	Tariff liberalization between the EU and DCFTA EaP countries	could be more significant for larger DCFTA partner countries
Scenario2(S2)	NTM elimination between the EU and DCFTA EaP countries	the need to harmonize domestic legislation with EU standards; tighten control over the quality of domestic manufacturers; special requirements for non WTO members
Scenario3(S2)	Tariff and NTM liberalization the EU and DCFTA EaP countries	the need to harmonize domestic legislation with EU standards; larger DCFTA partner countries would benefit more than smaller DCFTA partner countries. For all DCFTA partner countries import to the EU of primary agricultural products and manufactured goods will would raise, but significant effect would be observed in larger partner countries.

3 World Bank, <http://data.worldbank.org>

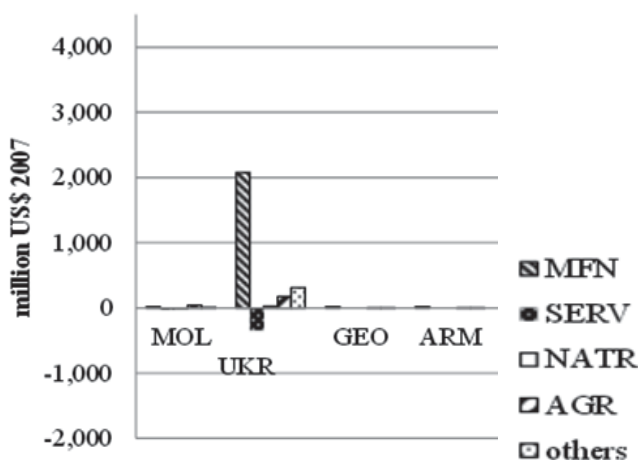
### 3.1 Scenario 1: tariff liberalization between the EU and DCFTA partner countries

The EU imposes import tariffs on agricultural and animal products, and also on beverages, especially from Ukraine and Moldavia (Eastern partners). The highest EU import tariffs are being levied on vegetable oil (for which Ukraine is among the world's leading exporters) and fats as well as sugar, both product categories are part of processed plant products (abbreviated by PlantProc) (Rau Marie-Lusie 2014:2–4).

Tariff elimination (on imports to DCFTA partner countries) for agricultural products could make their markets more fragile and would stimulate more imports from the EU, and, due to lower quality competitiveness of these countries, could lead to aggressive capture of these markets with more “cheaper” and “more qualitative” EU products.

In the case of agricultural tariffs are the key instruments employed in domestic market protection for some of the less developed partner countries (Rau Marie-Lusie 2014:2–4). DCFTA partner countries do not apply measures, except for an insignificant subsidy on exports of manufactured and natural resources by Ukraine and Moldova (Rau Marie-Lusie 2014:9) (Figure 2).

**Figure 2: Tariff liberalization: absolute changes in EU imports from the respective DCFTA partners, values at world prices (Difference between Baseline 2007 and S1 in 2030).**



**Source:** MAGNET simulation results

**Note:** MFN manufacturing, SERV services, NATR natural resources, AGR agricultural products

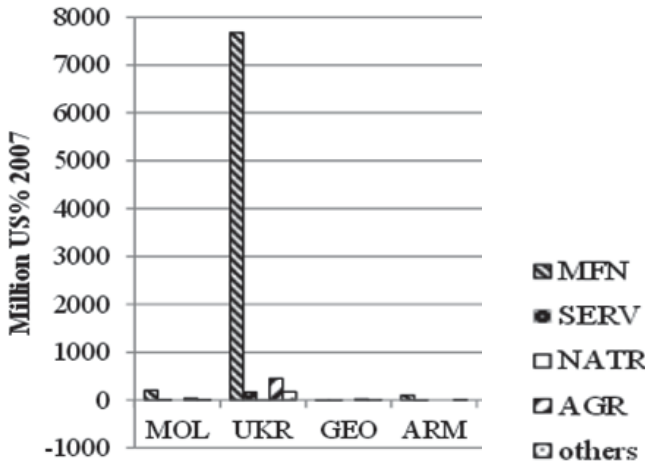
According to the results of the model the imports to the EU increase only for some DCFTA partner countries. The EU’s imports from Georgia, Armenia and Moldavia will remain almost the same (this can be also explained by the fact that these countries are only small exporters to the EU market and would remain small exporters with the DCFTA implementation).

Even getting better access to their markets will not significantly influence their exports to the EU.

Contrarily Ukraine’s imports to the EU would increase, not only manufactured products but also agricultural products (basic plant products (wheat and other crops) to a certain degree. But the country should be prepared for the sharp decrease in exports of processed plant products to the EU.

Nevertheless, the general percentage change seems to be more than substantial: the increase in imports to the EU could reach up to 60% for some agricultural products. In the meantime tariff liberalization promotes a much more significant increase in EU exports to the DCFTA partners, especially for manufacturing (Rau Marie-Lusie 2014:10) (Figure 3).

**Figure 3: Tariff liberalization: absolute change in the DCFTA imports from the EU, values at world prices (Difference between Baseline 2007 and S1 in 2030).**



Source: MAGNET simulation results

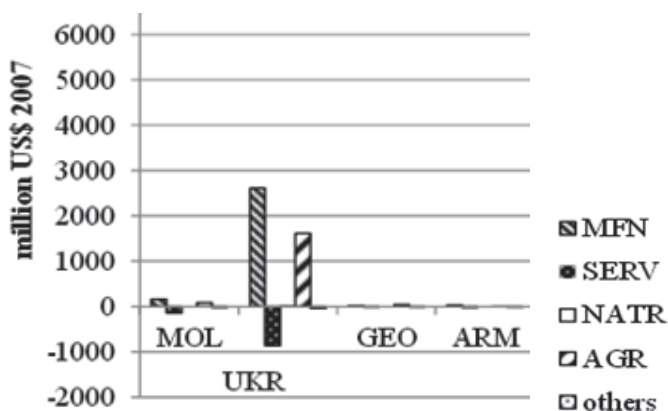
Note: MFN manufacturing, SERV services, NATR natural resources, AGR agricultural products

### 3.2 Scenario 2: NTM elimination between the EU and DCFTA partner countries

Tariff rate quotas (TRQs) are a relevant category and NTMs are related to traditional trade policy measures, which have been widely used historically by the developed countries. In comparison to the tariff liberalization, the changes in EU imports from the DCFTA partners are much more pronounced and thus the NTM elimination should be particularly important for the DCFTA partner countries (Rau Marie-Lusie 2014:11) (Figure 4).



**Figure 4: NTM elimination: absolute change in EU imports from the DCFTA partners, values at world prices (Difference between Baseline 2007 and S2 in 2030).**



**Source:** MAGNET simulation results

**Note:** MFN manufacturing, SERV services, NATR natural resources, AGR agricultural products

According to the results of this model analysis, the elimination of NTM barriers by the EU on exports from the DCFTA partner countries to the EU would more than double in value when compared with the increase of the tariff liberalization only (Figure 4).

NTM elimination promotes the EU’s imports of agricultural products from Ukraine.

In case of NTM elimination for the “smaller” EaP countries, the situation remains the same as it was in Scenario1 (tariff liberalization): the trade effect for Moldavia, Georgia and Armenia due to their “small size” would be marginal.

### 3.3 Scenario 3: The synergetic effect of tariff and NTM elimination between the EU and DCFTA partner countries

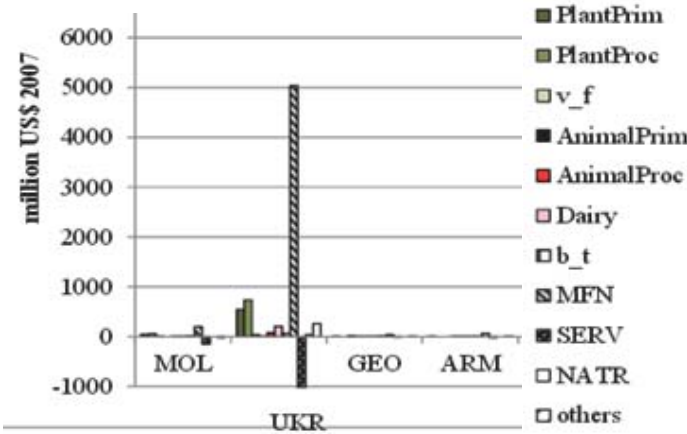
The effect of tariff and NTM elimination is presented in Figure 6. As in the previous scenarios, the increase in EU imports prevails for the “larger” countries – Ukraine, Egypt and Morocco.

For Tunisia, exports of processed plant products to the EU increase would most in S3 (Rau Marie-Lusie 2014:11) (Figure 5).

As in Scenario 1 and Scenario 2, the trade effect for Moldavia, Georgia and Armenia would not be significant due to the “small size” markets.

Consequently, it is possible to presume that from all the three scenarios, the highest possible effect is reached in the cases of tariff and non-tariff barrier elimination.

**Figure 5: The total effect of tariff liberalization and NTM elimination: absolute change in EU imports from respective DCFTA partners, values at world prices (Difference between Baseline 2007 and S3 in 2030).**



**Source:** MAGNET simulation results

**Note:** MFN manufacturing, SERV services, NATR natural resources, AGR agricultural products

### Conclusions and recommendations

The EaP was launched as a tool for cooperation in areas, where the EU and its partners are looking for solutions to shared problems and where they cooperate in various spheres of mutual interests (good governance, economy, energy, people-to-people contacts etc).

The EU currently possesses two policy options: the enlargement track and the external association track. While it is too early for the EaP partner countries to discuss the enlargement track it should not be totally excluded from consideration.

Nevertheless, even the implementation of the external association track turned out to be more complicated than had been expected.

DCFTAs implementation is to increase the percentage share of the total trade with the EU. However, not all the countries would benefit equally from the DCFTAs.

The most significant effect would be experienced in countries with larger markets (Ukraine, Moldova). Georgia and Armenia seem to benefit comparatively little from the tariff and NTM liberalization within the DCFTA: the EU exporters export much more to Georgia and Armenia. Moldavia is to achieve a higher share in the total trade benefit from the DCFTA, thus special attention should be paid to the agricultural sphere. In the case of Ukraine tariff and NTM elimination could present great opportunities for it to increase its exports (especially agricultural products) to the EU considerably with the implementation of DCFTAs.

To some extent the EU overestimated the economic and political readiness of the EaP States for AAs and DCFTAs. Taking this into consideration it is possible to make

the following recommendations for future improvement of regional trade cooperation between the EU and EaP countries.

### **Firstly, keeping the differential approach.**

One key factor is the “institutional gap” that characterizes the EaP states. Within the last 5 years the intense dialogue between the EU and EaP countries has highlighted deep differences of orientation among the EaP countries. The EaP countries can be divided into two groups:

- the top-three countries, prepared to go towards much deeper integration with the EU and ready for signing Association Agreements and DCFTAs (Georgia, Moldova, Ukraine)
- countries with more “limited ambitions”(Belarus, Armenia, Azerbaijan).

The EU DCFTAs are mutual, that presumes mutual trade liberalization – both from the EU’s part and partner countries.

### **Secondly, to improve the mechanism of tariff harmonization and standardization.**

Within the last 15 years DCFTA partner countries have upheld the tendency towards the constant lowering of tariff rates, however, the most difficult problem lies with NTM elimination and the harmonization of domestic law to international standards.

Historically, in the post-Soviet countries, a system of state control operated (GOST) and all the licenses for production were controlled by state bodies. At the same time, the system operating in the European Union suggest that the manufacturer is solely responsible for the implementation of the rules of product safety and compliance of such product directives and other regulatory documents adopted in the EU.

That is why it is important for all post-Soviet countries to harmonize their certification and standardization procedures in accordance with EU standards (for example, case of Champagne, Ukraine-France WTO dispute about trade mark rights).

### **Devising a strategy which would ensure the correct balance between the interests and values for countries with more “limited ambitions”.**

After joining the Eurasian Economic Union, Armenia became a challenge to the EU’s ability to hold influence in those Eastern Partnership countries that have chosen a different path of economic integration. Armenia can potentially become an “apple of discord» between the EU and Russia (Grigoryan A., 2015).

It is important to find the appropriate path towards further cooperation, it will be essential to take into account the new circumstances which may inhibit the establishment of a new partnership both for Armenia and EU.

In the case of Azerbaijan and Belarus (two countries which have shown little interest in deeper cooperation with the EU and almost no interest in signing DCFTAs), the EU should review its strategy towards these countries in favor of joint interest areas (visa regime facilitation, research, education cooperation; energy and technical cooperation for and, with Azerbaijan).

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# Impact of the eastern enlargement on new member states

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## Abstract

The aim of this paper is to analyse the impact of EU enlargement in 2004 on the economic development of the new member states (EU10) using time series analysis. The later part is dedicated to sectoral analysis of chemical industry dynamics of EU10 after the enlargement. This sector is analysed in two observations, the first being the effect of increased trade after the enlargement, the second being the adoption of the EU's *acquis* with special attention to REACH regulation, which is flagship EU legislation dedicated to chemicals risk management.

## Keywords

REACH, international trade, EU, enlargement

## Introduction

In 2004 ten eastern and central European countries joined the European Union (EU). This enlargement round was hitherto the biggest in the history of the EU. The direct effects of enlargement for the new member states (EU10) were thought to be increased economic growth fueled by increased exports and a gradual economic convergence with the old member states. This article studies the theoretical background of this process in chapter 1 and the historic time series on economic growth and international trade in chapter 3.

The second part of this paper considers the chemical industry of the new member states. In chapter 3 the industry dynamics and the wider importance of this industry to the economy is discussed. One of the main issues the chemical industry must cope with is the EU's regulatory requirements. The EU *acquis* was originally developed for rich western democracies and is binding to all EU members. The EU10 on the other hand is composed of young democracies with economies not developed to the level of the old member states. Currently the most demanding regulation aimed at the chemical sector is the REACH regulation (Registration, Evaluation, Authorisation and Restriction of Chemicals). Chapter 4 discusses a case regarding REACH regulation and its impact on new member states.

## 1. The Eastern EU enlargement

In 2004 ten European countries from Central and Eastern Europe joined the EU. This single enlargement was the biggest in the whole history of the EU. Apart from the small island states of Malta and Cyprus all the remaining states of the EU10 group were former countries, which underwent economic and social transformation in the 1990s. Due to the characteristics of these countries, the Copenhagen criteria were introduced in order to

verify that the accessing countries would be worthy members of the EU and that their economic and governmental system would comply with the standards of the old member states (EU15). This was necessary from several standpoints. For instance local EU10 producers could have difficulties in competing with EU15 companies, if EU10 markets were still used to protective measures during the communist era. (Baldwin 1997: 128)

The motivation for enlargement could be seen from the political and economic points of view. For the EU15 enlargement symbolises a political win, since the accessing countries transformed their economic and political systems so they could reach the same levels of EU15 economic and social development. Central and especially Eastern Europe was a region in between the developed European economies and the Russian Federation. Just the fact that eight former communist countries joined the EU is a clear sign, that the EU is a strong player in the region. This belief is still held both in EU10 and EU15 countries. (Baldwin 1997: 128)

From the economic point of view, EU enlargement is beneficial to EU10 and EU15 as well. The economic integration of two regions is considered to produce many economic effects. The basic effect speaks of ‘trade creation’. A mutual reduction of tariffs between two regions causes an increase in exports to one another leading to greater welfare improvements in both blocks. On the other hand local producers in both regions, who suddenly have to face increased competition due to new imports, can face some difficulties, but at least this increased competition can lead to improvements in the efficiency of local producers. Not all new trade between the two regions is newly created. The effect of ‘trade diversion’, describes a situation, where trade is diverted from all trade partners to new trade partners just on the basis of decreased tariffs. This situation is better for the new trade partners, but the old trade partner from whom the trade was diverted is left “empty handed” (Krugman 2012: 247).

The enlargement can be viewed from the point of view of theory of preferential trade liberalization. This theory divides all economic effects into allocation and accumulation effects (alternatively this can be more or less understood as static and dynamic effects). Allocation effects describe, how the integration induces changes in economic efficiency by resource and expenditure reallocation. If we ignore imperfect competition and scale economies (as in the earlier trade creation and diversion literature), there are three types of allocation effect. (Baldwin 1997: 133–134)

The first of these effects of perfect-competition comes from changes in trade volume. As a good’s domestic price is higher than its border price (i.e., the price paid to foreign suppliers), rising imports lower the cost of consuming goods and thus increases the national welfare. This is the traditional trade creation effect. Clearly, contracting imports in these cases leads to an opposite result. (Baldwin 1997: 134)

The second effect is caused by changes in trade prices. In a case, when a country is a net importer of a given good, a decrease in the border price is benign (losses of domestic producers are smaller than losses of domestic consumers), while the opposite holds when the country is a net exporter. This corresponds approximately to the effect of trade diversion. However it is actually a combination of two effects: supply switching (typically from a supplier outside the preferential trade area (PTA) to a PTA-based supplier) and the induced changes in the applicable border prices. If imports were brought from the lowest-cost supplier prior to preferential liberalization, any switching from non-PTA suppliers to PTA suppliers tends to increase the border price that PTA members pay after the arrangement is implemented. Depending on a given PTA the lower welfare goes to poorer PTA members when supply switching is accompanied by an increase in applicable border prices. (Baldwin 1997: 134)



The third effect shows that ‘trade diversion’ (at least the supply-switching case) may eventually lead to an improvement in welfare. The third effect focuses on trade rents, which is a revenue that may come from selling across the gap between low border prices and high domestic prices. Usually import barriers give the trade rents to domestic government (in the case of tariffs) or to foreigners (in the case of price-fixing arrangements or voluntary export restraints). However usual trade barriers were to a large extent eliminated in western Europe: approximately 80 % of western European imports are duty-free and the trade-weighted tariff of the EU is just 3 %. (Baldwin 1997: 135)

Still there are quite a few ‘frictional’ barriers, which drive wedges between domestic and border prices by raising the real cost of trade. The classic example is an unharmonised product standard. Such barriers don’t create rents, they just consume resources. Eliminating these barriers unambiguously decreases the border prices. Thus there could be observed a trade diversion (in the sense of supply switching) that raises national welfare by lowering the cost of imports. Consideration of frictional barriers is main issue in the evaluation of eastern EU enlargement, since the Europe Agreements eliminate most of the textbook import barriers. (Baldwin 1997: 135)

Krugman (1979) highlighted the importance of imperfect competition and scale economies in trade. Economists have formulated three ‘new’ allocation effects: producer profit effects, scale effects and variety effects. (Krugman 1980: 950)

The first describes a case, when the local price in given sectors exceeds the average cost of production, an expansion of output increases welfare, since the marginal value of extra output (the price) exceeds the extra cost. A fall in production leads to an opposite result. This effect is the pure profit effect. Scale effects describes a situation, when the average cost falls with the scale of production in most industries, where scale may refer to the size of firms or the size of sectors. Due to lower average costs more output with the same inputs, positive scale effects tend to improve national welfare. The variety effect increases the range of products available to consumers in both regions due to the liberalisation of trade. More choice makes consumers happier, and, on the production side, a broader variety of input choices can boost industrial productivity. (Baldwin 1997: 135)

Accumulation effects are quite distinct. They describe channels through which trade arrangements can alter the level of national resources – namely the capital stocks – rather than merely reallocate the existing stock of resources. Accumulation effects have such a nature that they tend to have a much larger impact on GDP than allocation effects. Allocation effects involve taking resources out of one activity and putting them to a different one. The benefit of doing so is bordered by the level to which resource efficiencies initially differ among the given sectors. In the absence of trade barriers (or other distortions), market forces even out initial sectoral resource efficiencies. Therefore we can find that allocation effects typically yield very small gains in countries that start with well-functioning market economies. As accumulation effects lead to changes in the stock of resources, they could lead to much greater changes in the volume of goods that can be manufactured by the same labour force. (Baldwin 1997: 135)

Baldwin et al proposed a calibrated general equilibrium model, that allowed for all the allocation and accumulation effects mentioned above. The model covers all world trade and production, and it allows for scale economies, imperfect competition and endogenous capital stocks. The model was constructed long before the enlargement in 1997. The model results are summarised in table 1. There were 4 regions studied: 7 countries from Central and Eastern Europe, 3 non-EU EFTA members, former USSR countries. According to the



estimates all regions would benefit from the enlargement. Most of the gains, 1,5% real income growth, would go to new member states, the resulting benefits in terms of real income growth are quite the same for all three remaining regions. Clearly the enlargement leads to mutual benefits of the old and new member states (Baldwin 1997: 135)

**Tab. 1: Real income effects of the enlargement**

Group	Real income change (1992 ECU bn change from base case)	Real income change (% change from base case)
CEEC7	2,5	1,5
EU15	9,8	0,2
EFTA3	0,2	0,1
Ex-USSR	1,1	0,3

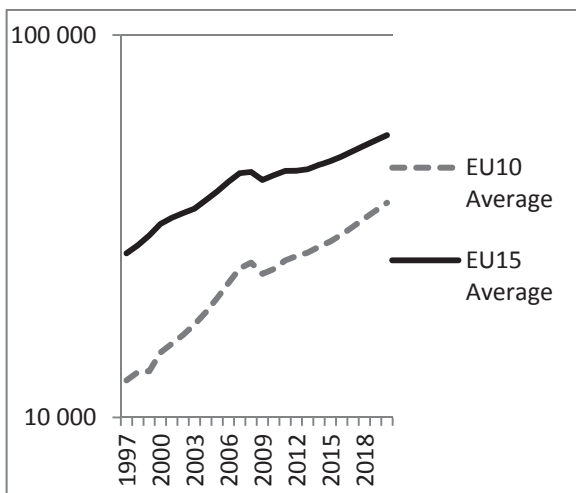
Source: Baldwin 1997: 138

The evaluation of these results in the light of the actual historic data is being discussed in the chapter 2.

## 2. Analysis of the dynamics after enlargement

Before the accession to the EU, the EU10 group was growing in the period 1998–2004 on average by 5,82% annually, as we can see from picture 1. The growth rate after the accession remained the same in the 2005–2009 period 5,37%. The financial crisis of 2008–2009 caused a short term economic decline in both the EU15 as well as EU10. Shortly after the crisis, both blocks continued to grow.

**Picture 1: GDP based on PPP per capita**



Source: IMF 2015

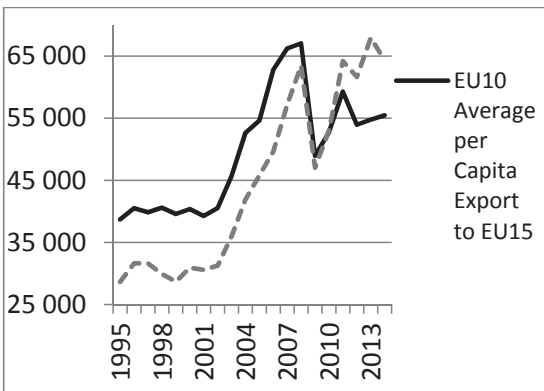
In 2010 the EU10 reached its precrisis GDP levels, for the EU15 this happened the year later. In time period 2010–2015 the EU10 group grew on average by 3,3% annually. The IMF (2015) projects that EU10 would accelerate its average growth to 4,7% in the time period 2016–2020.

The trend of the catching up of EU10 to the economic level of EU15 is expected to continue in the future. According to the IMF (2015), the EU15 is expected to grow by 3,2% annually in 2016–2020. This difference will increase the rate of convergence of EU10.

According to the UNCTAD (2015) data the exports of EU10 due to the integration process experienced a strong growth from 2001 to 2008. The export value from EU10 to EU15 in 2008 was on average 67 000 USD per capita. Before 2001 this volume remained at about 40 000 USD. The average export value of EU10 to non-EU15 states grew from 30 600 USD per capita to 63 500 USD. Both export flows to EU15 and non-EU15 countries fell after the financial crisis in 2008–2009. Exports to non-EU15 managed to recover fairly quickly, however the exports to EU15 did not managed to cross the 60 000 USD boundary in the years after the crisis. Currently exports to non-EU15 countries are the leading export destinations of EU10 due to the ongoing weak growth of EU15 and the ongoing debt crisis of old member states. Most European economies engaged in frontloaded austerity measures trying to combat significant budget deficits, which lead to the lowering of their exports (Steinbock 2012: 35).

Clearly EU10’s exports to EU15 before 2008 led to increased economic convergence of the EU10 and Baldwin’s results can be considered as valid. However the decrease in exports after 2008 did not cause significant long term economic downturn of the EU10 group. EU10 succesfully diversified it’s target export markets. This finding doesn’t decrease the importance of EU15 towards, but it rather highlights the flexibility of EU10 economies.

**Figure 2: Export per Capita of EU10**



Source: Unctad 2015

The current debt challenges revealed fundamental problems of the old member states. European economies won’t be able to maintain their level of development without sustained growth. Before the 2008 crisis most Eurozone states experienced the erosion of their productivity growth. To maintain their competitive strengths, these countreis have to

engage in pro-growth policies, strengthen their competitiveness, and increase their ability to innovate (Steinbock 2012: 35).

### 3. Current issues of the chemical industry

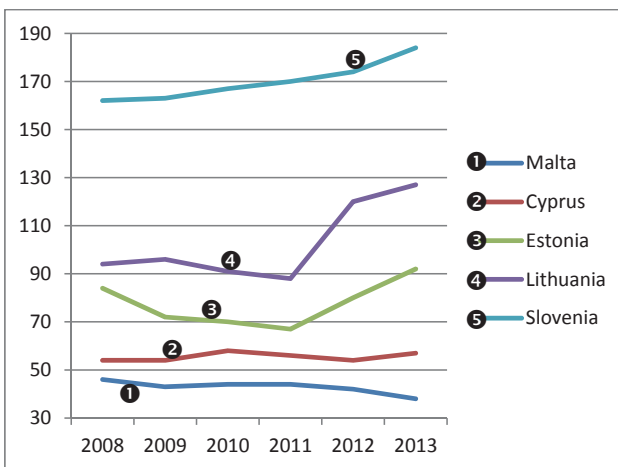
The chemicals industry is one of Europe's largest manufacturing sectors. As an 'enabling industry', it plays a key role in providing innovative substances and technologies for other manufacturing sectors ranging from machine manufacturing to food processing. There the chemical industry is a highly valuable support of Europe's industrial competitiveness. (European Commission 2015)

The Chemical industry of EU10 creates about 4,5% of EU10 industrial production. In 2012 its chemicals production value was 35 billion Euro. In the same year the industry made 1,6 billion investments in tangible goods, which was 4,9% of overall manufacturing investment of EU10. The chemicals industry employs only 2,83% of EU10 manufacturing workforce, but usually the industry is characterised by low levels of employment and a great reliance on large production facilities. (Eurostat 2015)

The chemicals industry is providing a range of products. The main categories are petrochemicals, polymers, basic inorganics, specialities, agrochemicals and consumer chemicals. The sector is currently facing rapid structural change as it has to overcome major challenges, including increased competition from other countries, dependence on resource imports and rising costs. (European Commission 2015)

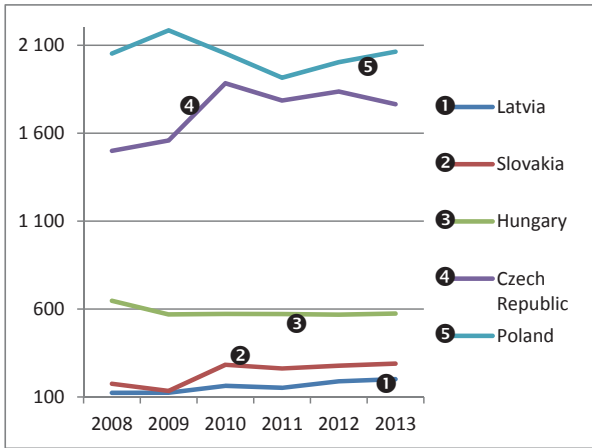
The chemicals sector was hit hard by the financial crisis of 2008–2009. Figures 3 and 4 are showing the development of chemicals production values of EU10. Due to oncoming low prospects and weak growth, the industry levels remain low. The period of 2008–2013 can be described in Hungary, Czech Republic, Malta, Cyprus as stagnation. The chemicals industry was growing slightly in Latvia, Slovakia, Poland. The best prospects of chemicals industry are in Estonia, Lithuania, Slovenia, where chemicals industry growth remained strong after 2008.

Figure 3: Production Value of Chemicals [Mil. Euro]



Source: Eurostat 2015

**Figure 4: Production Value of Chemicals [Mil. Euro]**



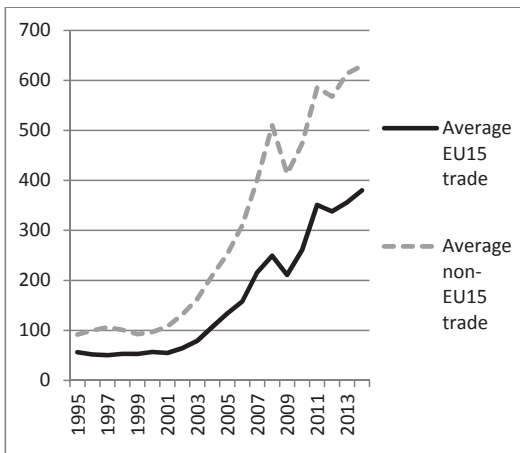
Source: Eurostat 2015

Exports of chemicals and related products from EU10 countries were growing strongly after the accession to the EU. Figure 5 shows that the crisis of 2008 and 2009 had again a negative effect on trade flow, but after 2010 the exports kept on growing steadily.

The export pattern of chemicals revealed in figure 5 is significantly different compared to total EU10 exports in figure 2. The main share of chemicals was exported to non-EU15 countries both before and after the 2008 crisis. The rate of growth of exports to non-EU countries after 2008 grew by 8,5%. The growth of exports to EU15 was only 4,5%.

This was not only the average trend among the EU10 block. The vast majority of countries export more chemicals to non-EU15 countries than to EU15 countries. The mid-term exceptions, which exported primarily to EU15, were in Lithuania in 1998–2003, Malta in 1995–1999 and 2004–2014, and lastly Poland in 2010–2014.

**Figure 5: Exports of Chemicals and Related Products [Mil. Euro per capita]**



Source: UNCTAD 2015

## 4. The impact of European *acquis* on EU10

Adopting the EU legislation and case law (*acquis*) is a necessary membership requirement for joining the EU. The pre-2004 law was designed predominantly for rich social democracies with extensive social security systems. But EU10 countries are to a certain extent different. The EU10 need market economy rules, and there is some merit to adopting a set of rules like the *acquis*, but the *acquis* is surely a sub-optimal body of law for economies in the midst of their ‘take-off’ stage of growth. (Baldwin 1997: 128)

The concerns about the ability of EU10 to cope with the EU *acquis* were well stated in the Report done by CEFIC in March 2014. Industry representatives from Bulgaria, Croatia, Czech Republic, Estonia and Romania especially stated that complex and burdensome EU legislation was a hindrance for further development of the chemical industry (CEFIC 2014: 23–109)

The amount of EU legislation regulating industrial conduct is vast. Currently the regulation of highest concern for the chemicals industry is the REACH. On 1st June 2007 it entered into force. It streamlines and improves the former legislative framework on chemicals in the EU. The regulation’s main objective is to ensure a high level of protection of the environment and human health from the possible risks of chemicals. Other regulation’s targets include the promotion of alternative test methods, free circulation of substances on the internal market as well as enhancing competitiveness and innovation. REACH puts responsibility for assessing and managing the risks posed by chemicals on the industry itself. Companies are therefore responsible for their products and they provide appropriate safety information to their users (Bergkamp 2013: x).

The regulations main requirement for the companies is to provide information to the European Chemicals Agency (ECHA). Its’ responsibility is to receive registration dossiers, manage the chemicals information database, issue guidance to assist the industry and etc. (Bergkamp 2013) Companies submit information about their products to ECHA. The number of required tests, as can be seen in table 2, can reach up to 59. These include tests on physical, toxicological and eco-toxicity characteristics of substances. The number of required tests depends on the sold volume of a given substance. The necessary cost of a single registration can be substantial, up to almost 900 000 Euros per chemical. These substantial costs are incurred by the companies and then they are usually passed to the end user of the given substance. (Scott 2007)

**Tab. 2: Reach laboratory costs**

Chemical production [tonnes per year]	Number of tests	Testing cost per each product [Euros]
1 – 10	25	38 000
10 – 100	37	190 000
100 – 1000	54	780 000
1000+	59	880 000

Source: Scott 2007

The impact of REACH is expected to be different in old and new member states. As the more advanced laboratories, research and safety management centres are located in old member states, it is highly likely, that companies from new member states will have to purchase services and information on chemical safety from old member states. Stuchlík (2013) argues that quite often only the economically strongest member states of the EU will be providing the necessary service and information. As these countries have significantly higher price levels, the companies from new member states would have to be ready to cover these significant costs.

REACH requires companies to communicate the risk of chemicals throughout the supply chain. But companies manufacturing chemicals tend to provide “one size fits all” safety data sheets. For companies handling these data it is sometimes quite difficult for them to orientate themselves in highly technical and detailed materials. (CEPS 2013)

The regulation requires companies to exchange information on specialised forums dedicated to REACH registrations. In large companies, specialized departments dealing with chemical regulation were created in order to comply with increased administration and communication. Smaller companies can't afford the additional personnel and the administrative costs required to work on the issues of the regulation. Therefore small and medium sized enterprises (SME) buy services and advice from specialist companies that arose after the introduction of REACH. (Stuchlík 2013)

In Commission consultation the REACH regulation was identified as the number one burdensome EU legislation for SMEs. According to the 2013 REACH review, the benefits of REACH ought to be large, but their materialisation would be clearly visible only in ten to twenty years. (Gubbels et al. 2013)

The EU10 countries participated in the regulation negotiations. (Braun 2014: 157) Industry associations of this region became members or associate members of the European Federation for Chemical Industries (BFI) prior to their entrance to the EU. The EU10's companies in BFI initially agreed with the REACH adaptation, however these companies were large corporations, which had large interest in the accession process itself, which gave them greater market access to EU15 countries. However the big corporations presented in the BFI did not take into account the impact on SMEs. The lack of representation of SMEs in the REACH negotiations was probably the greatest error of the whole negotiation process.

European Commission (2013: 4) expects to observe the impact of REACH implementation 20 years after its full adoption, which is in 2018. According to the studies cited by the Commission, the overall conclusion was that the benefits of REACH were expected to far outweigh the costs. Total health benefits of the regulation could be in the magnitude of EUR 50 billion over the 30 year period (after discounting).

The potential impact of the regulation on SMEs raised concerns even at the EU institutions. The directorate general for internal policies of the European Commission published in October 2013 a report aiming at the consequences of REACH for SMEs. Several doubts about the possibility of SMEs to cope with REACH have been confirmed. There were three key findings. (Directorate general for Internal Policies 2013)

Firstly, the overall (direct) cost estimates of REACH specified in the 2003 Impact Assessment turned out to be an underestimation by nearly one half. By 2012 the difference added up to about EUR 1 billion. By 2018 this sum might increase up to 1,5 billion Euro or possibly even more. (Directorate general for Internal Policies 2013)

Secondly, REACH could lead to future changes in market structure. Substances might be withdrawn from the markets, increased costs might cause a loss of market share to non-EU competitors, etc. (Directorate general for Internal Policies 2013).

Thirdly, the perceived added value of REACH for SMEs, was very limited in the time of the report assessment. Many SMEs can see no benefit. Some stated that knowledge is increasing and that this might be used later on. On the other hand non-governmental organisations and governmental organisations dedicated to chemicals safety approved the increased knowledge on hazards of chemicals (Directorate general for Internal Policies 2013).

A detailed study on the influence of REACH regulation on new member states was conducted by the Institute for Prospective Technological Studies (IPTS) for the European Commission in 2005. According to the study REACH may affect the competitiveness and market share in the non-EU market for EU10 countries, if they have to increase prices to absorb the costs incurred by REACH (IPTS 2005).

One of the key obstacles to the development of the chemical industry is the availability of feed stock and raw materials. Many substances originating from petrochemicals are to a large extent imported from EU-15, Russia and Ukraine. As REACH applies only in the EU, many companies importing from the non-EU region will be required to register their chemicals as importers, and therefore price increases can be caused by the necessary requirements. As they have to provide the agencies information on chemical properties and only EU providers have this knowledge, they might be pressed to change to suppliers within the EU (IPTS 2005).

According to the European Commission (2013: 5) the cost of REACH registration has discouraged certain companies from certain markets, which caused increased market concentration and prices in those cases. REACH causes companies to specialise on chemical suppliers and new business models. The need to restructure some supply chains opens opportunities which, due to financial and organizational constraints, SMEs are less expected to exploit.

The results of most of the impact studies confirm the earlier findings on the impact of REACH on EU-15 enterprises. Large chemical corporations in particular will be able to cope relatively well with REACH. However most of the SMEs may face financial and or organisational challenges. On the other hand, the methodologies and assumptions differ widely between countries or are not disclosed at all. So results have to be interpreted with care (IPTS 2005).

## **Conclusion**

The EU10 after the accession to the EU increased its growth rates, which can be attributed to increased exports and EU membership. As was suggested by economists the EU10 block continues to converge with the EU15. These convergence dynamics continued even after the financial crisis of 2008–2009. However after the financial crisis, the exports of EU10 to EU15 countries ceased to be the main export destination. Since 2010 the majority of EU10 exports have been destined to non-EU15 countries. The EU15 is still an important partner to the EU10, however EU10 economies can temporarily switched to alternative markets.

The chemical industry plays a vital role in the EU10 economies as a key industry providing necessary substances and materials for the rest of the economy. The majority of exports from this industry were since 1995 destined to the non-EU15 countries and its share of total chemicals export is even increasing after 2008.

REACH regulation is currently the most demanding regulation aimed at the safety of chemicals sold on the single market. This regulation was during the Commission consultation identified as the most burdensome EU legislation for SMEs. It is expected that especially SMEs from EU10 would have greater difficulties to comply with REACH than their counterparts in EU15. However the regulation might open new market niches, that SMEs have the abilities to exploit. The regulation might reduce the competitiveness and market share in the non-EU market for EU10 countries as companies would be forced to increase their prices due to REACH costs. The regulation could lead to switching of importers of substances from non-EU members to enterprises operating in the single market, as companies are required to provide information about the substances they sell and non-EU15 might not be ready to provide the necessary data.

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## REACH implementation in the Western Balkans

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### Abstract

Since it came into force in 2007 REACH has been the most ambitious regulation relating to chemicals in the World. REACH has quickly become a source of inspiration for other countries beyond the European continent which amended its legislation by shifting key provisions closer to REACH. Parallel to this process EU candidate countries are implementing *acquis communautaire* including REACH. Is the REACH implementation a result of the enlargement procedures and necessary Europeanization or a rather voluntary decision of countries which are simply inspired by higher regulatory standards? How far are those countries progressing in adopting REACH and what factors are influencing progress? The main aim of this contribution is to reveal the driving forces behind the adoption of REACH among EU candidates and potential candidates and to make known the extent to which REACH has been implemented.

### Keywords

REACH, EU enlargement, chemical regulation, Europeanization

## Introduction

There are many definitions of Europeanization varying according to the context and purpose in which Europeanization is used (see for example Ladrech 1994, Börzel 1999, Radaeli 2003). Many definitions share the view that the EU impacts on domestic policies when EU member states adopt EU norms, procedures and values. However, Europeanization is not only linked to EU member states but in addition it influences actors outside the EU (Schimmelfenning 2012). This is especially the case of EU candidates that adopt *acquis communautaire* as a significant part of the enlargement procedure. In this sense it is a legitimate question to ask what is Europeanized and in what way? This article focuses mainly on the management of chemicals, which is part of chapter 27 (Environment).<sup>1</sup> The main emphasis is placed on the adoption of REACH among EU candidates and potential candidates. Regarding the answer to the second question, Ian Bache, based on works presented by David Dolowitz and David Marsh (1996), distinguishes between two basic types of Europeanization: voluntary and coercive. While voluntary Europeanization is welcomed and supported by domestic actors, coercive Europeanization is opposed by domestic actors (Bache 2003: 11). Bache continues with a further distinction between direct Europeanization and indirect Europeanization, resulting in four modes of Europeanization (voluntary direct, voluntary indirect, coercive direct and coercive indirect). The directivity of Europeanization refers to his concept of inter-sectoral interaction at a national level

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1 The chapters of the *acquis* form the basis of the accession negotiations for each candidate country.

(Bache 2003: 11). In his approach *voluntary-direct* Europeanization means the willing adoption of EU policy in a given area. In the case of *voluntary indirect* Europeanization a state will adopt policies in another area. Coercive direct Europeanization refers to forced implementation of EU policies and coercive indirect refers to spillover consequences of coercive direct Europeanization from one area to another (Bache 2003: 11). This concept is very useful also in the case of the management of chemicals.

However, in this contribution direct Europeanization refers to the legal obligation under enlargement procedures to adopt chemical *acquis* as a condition *sine qua non* of EU membership. Regarding future membership it is unlikely that states will not fully implement REACH or create REACH-like regulation which is only partly reflecting REACH. In other words, direct Europeanization will lead to the full implementation of REACH. Partial implementation is more probable as the result of indirect influence because the most problematic and burdensome provisions of REACH will be avoided. It could be expected that coercive Europeanization will appear in states with a strong domestic industry which will oppose strict regulation. On the other hand, voluntary adaptation may be observable in states where the costs of adopting REACH would be low.

The aim of this article is to explore the status of the adaptation of the EU candidate and potential candidate states on REACH and to answer three research questions. First, is the adoption of EU chemical legislation direct or indirect process among EU candidates and potential candidates? Second, could the process of Europeanization be perceived as voluntary or coercive adaptation? And third, to what extent has the management of chemicals<sup>2</sup> been Europeanized in some selected countries?

This paper is divided into three parts. The first part discusses possible variables and educated suppositions which are divided into two dimensions: political and economic. The second part deals with the political dimension and explores the nature of direct/indirect Europeanization. The third part examines the economic dimension and assesses the voluntary/coercive adaptation. The fourth part discusses the current status quo in the field of chemical management adaptation of REACH among EU candidates and potential candidates and reveals the scope of Europeanization of chemical management policies in relation to REACH.

## 1. Variables and educated guesses

In order to reveal the driving forces behind the adoption of REACH among EU candidates and prospective candidates we must initially identify potential variables and make several educated suppositions (or premises) that verification will bring us closer to the answer of the question of voluntary or forced adaption of REACH. The border between forced Europeanization and voluntary adoption is unclear because voluntary adaptation may include Europeanization as well. It is thus rather the will of the state influenced by internal and external factors which is focused on. The situation is even more complicated because EU candidates have a legal obligation to adopt *acquis communautaire* including chemical regulation. Moreover prospective candidates may start to adopt *acquis* earlier in the light of possible future EU membership. In their situation, however, the obligation is not legally

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2 This article focuses primarily on REACH regulation. The regulation on CLP (Classification, Labelling and Packaging) and biocide regulation is not considered.

binding but rather informal. It could be then expected that voluntary adaptation is more probable among potential candidates without a real promise of EU membership and probably will not result in the complete adoption of REACH, but rather as an enhancement to existing legislation.

There is also another variable other than candidate status and the prospect of EU membership. The europeanization of domestic chemical legislation is more likely in states that have a huge chemical industry sector orientated towards exporting to the EU countries. It is important to note that non-EU persons exporting to the EU have an obligation to comply with REACH as well and thus must adopt higher standards even when national law has less strict provisions than REACH. In this sense Europeanization is more likely because companies already comply with the EU REACH and the government may simply adopt legislation in line with REACH without any significant consequences for its domestic industry. This also has another significant implication. As REACH like regulations are spreading beyond the borders of the EU, the price for enacting higher standards is getting lower, depending on state capacities. Based on the above logic we can formulate two hypotheses.

- (1) Deeper Europeanization is more likely among countries with advanced candidate status and an early prospect of EU membership.
- (2) Deeper Europeanization is more likely among countries with a significant chemical industry and export orientation towards EU countries.

The exploration of these two suppositions will help to reveal the nature of the adaptation of REACH. However, countries vary in all independent variables (candidate status, prospect of membership, significance of the chemical industry and export orientation). In the following text all four variables are explored in greater detail in the case of the following countries (Turkey, Serbia, Macedonia, Montenegro, Albania, Ukraine, Moldova and Bosnia and Herzegovina). Kosovo is not included due to a lack of data and the problematic international status of the country.

The legal obligation to adopt REACH, sufficient administrative capacities and resources, networking or support from the side of chemical industry and civic society may positively contribute to the environment favourable for REACH implementation (Lee 2015: 409). On the other hand a lack of previous experience may impede the implementation process or lead to apathy. In the case of controversial environmental issues the process may be hampered by the institutional rivalry at both domestic and the EU levels (Ellison 2010: 86). This study is limited as there are a large number of variables which need to be entered into analyses of multi-layered system of domestic and international policy making processes. For this reason the main focus of the article is based on the two premises.

## **2. The Political dimension**

Timelines and certain dates may affect how the above selected countries comply with REACH. There are five candidate countries including Turkey (1999), Macedonia (2005), Montenegro (2010), Serbia (2012) and Albania (2014). Out of the five candidates negotiations have already started with Montenegro (2012), Serbia (2014) and Turkey in 2014 (European

Commission 2015a). In the case of the environment, Serbia and Montenegro have finished screening and Turkey has even opened negotiations within chapter 27 (European Commission 2015b). In this sense it could be expected, that Turkey with the longest candidate status and history of open negotiations would be much more advanced in REACH approximation than Montenegro or Serbia. However, all five candidates could be expected to adopt REACH faster than potential candidates including Bosnia and Herzegovina, Moldova or Ukraine. On the other hand, the most likely country for EU membership out of the five seems to be Montenegro. Negotiations with Turkey since its application was submitted in 1999 are not satisfactory and there are significant problems including Cyprus which dates back to 1970s. Similarly Macedonia is in a dispute with Greece over its name and in the case of Serbia the status of Kosovo is one of the key issues without a foreseeable solution. It seems to be that Montenegro will join the EU earlier than the remaining four countries and thus it could be expected, that REACH approximation will be dynamic. Regarding the political dimension it may be anticipated that Turkey and Montenegro may be front runners in REACH adaptation. Moreover, there are more countries with specific problems. Ukraine, Bosnia and Herzegovina and Moldova are not yet granted candidate status and face serious political problems. In the case of Bosnia and Herzegovina adoption of chemical legislation may be difficult due to the problematic administrative structure of the federation. The situation in Ukraine is even more challenging after its territorial integrity was compromised and there is the ongoing conflict with Russia.

**Table 1: Political dimension of REACH**

Political dimension					
Country	Association Agreement	Candidate status since	Chapter 27 status	Joining EU perspective	Political importance of REACH
Albania	2009	2014	Not open	Problematic	Medium
BiH	2015	Not awarded	Not open	Problematic	Low
Macedonia	2004	2005	Not open	Problematic	Medium
Montenegro	2010	2010	Screening completed	Good	High
Serbia	2013	2012	Screening completed	Problematic	High
Turkey	1964	1999	Chapter open	Problematic	Very high
Moldova	Ratifying	Not awarded	Not open	Problematic	Low
Ukraine	Ratifying	Not awarded	Not open	Problematic	Low

Source: Author, based on European Commission 2015b.

To summarize, REACH is most important politically for Turkey, which has already opened chapter 27. However, due to Turkey's problematic membership perspective, it seems that Montenegro is much closer to EU membership and thus REACH adoption is of equal importance. Slightly less likely for EU enlargement is Serbia, which has also finished

screening. As for the economic dimension, those three countries are anticipated subjects for early and full REACH adoption. On the opposite side there are Moldova, Ukraine and Bosnia and Herzegovina without candidate status. REACH is thus not very important in political terms. Candidate status has a lot to say about the nature of Europeanization. As EU candidates are obliged to adopt *acquis* the character of Europeanization is in direct contrast to the position of potential EU candidates who still have no legal obligation to adopt EU norms and may choose a voluntary way of doing it. In this sense there is a direct Europeanization of chemical policy in Turkey, Macedonia, Montenegro, Serbia and Albania. Indirect Europeanization may occur in Bosnia and Herzegovina, Moldova and Ukraine.

### 3. The Economic dimension

While the previous variables could be considered as political, there are also economic variables which should also be considered. Here we can talk about two groups of factors which work in an opposite way, making analysis more complicated. Firstly, there are arguments supporting the faster adaptation of REACH among states with significant chemical industries. Firstly, states with important chemical industries have bigger administrations (Turkey, Ukraine) and better access to human resources and expert knowledge, if we assume that there are more agents to be consulted and possibly recruited. Secondly, it is worthwhile for the state or government to invest resources into the approximation of REACH in a state where regulation serves a huge chemical sector rather than in small states where demanding REACH approximation will serve only a few companies.

However, the size of the chemical industry may work in the opposite way as a strong chemical industry may have a stronger voice and be able to defend its position against burdensome regulation. According to this logic, coercive Europeanization may be expected within states with significant chemical industries rather than in states where the chemical industry plays a marginal role. Another effect might be the export orientation and foreign capital or know how. If the states export of chemicals is orientated mainly towards the EU, REACH adoption is a necessity for the companies due to the principle of “no data, no market”. Thus “coercive logic” will be undermined in states where companies are orientated towards EU export which will reduce the price for the state to adopt REACH. Foreign capital and know how may be another factor which decreases the price for implementing REACH in EU membership candidates and potential candidates. Mother companies based in the EU may simply transfer the knowledge to their daughter companies which may easily comply with REACH. As a result of knowledge transfer or export orientation many companies within the state may comply with REACH without REACH being enacted at a national level. As a result the costs for adopting REACH at a central level decrease. However, due to a lack of political incentives in the form of early EU membership, states may simply prefer the legislative status quo and not waste resources on unnecessary law approximation.

The size of the chemical industry and export orientation seems to have important value. And because of the reasons presented above, they will be further explored. If we look closely at the size of the chemical industry among selected countries, we can clearly distinguish between two “giants” and two “dwarfs”. Among the giants belongs Turkey

with an EU export value in 2013 of 4 916 million USD. Turkey exports around 25 % of its chemicals to the EU-28. In this sense it is the EU's biggest trading partner, exceeding Iraq (10 %), Iran (8 %) or Russia (4,5 %). It is important to note that the Turkish export is very diverse in its destinations and its relative share (World Bank 2013). It seems that the EU-Turkey customs Union plays an important role in REACH implementation because REACH may be considered as a trade obstacle as Turkish companies do not have the same rights as their EU counterparts. They are not for example allowed to submit registration dossiers to the European Chemicals Agency (ECHA) instead they have to disclose sensitive information by using "only representative" or registration (World Bank 2014: 152). The second Giant is Ukraine with 4 306 million USD. The data regarding chemical exports from Ukraine seems to be relevant because they were collected in 2013 and this paper reflects the situation in 2013/2014. In 2013 the main export partner of Ukraine was Russia (30,5 %) followed by Turkey (10 %) and the USA (5,5 %), while the EU28 counts for around 15 % of chemical sales (World Bank 2013).

Albania and Montenegro are "dwarfs" with EU export value at 12 million USD and 11 million USD respectively. Both are strongly pro import economies in the chemical sector and it seems that all imported chemicals are used for domestic consumption as there are almost no chemical exports from these countries. Montenegro exports 67 % of its chemicals to Serbia and around 14 % to Bosnia and Herzegovina. EU countries only share around 15 % of Montenegrin chemical exports (World Bank 2013). In Albania the export of chemicals in 2013 was orientated mainly towards Serbia (43 %), Montenegro (16 %) and Macedonia (7 %), while EU countries covered by REACH account for around 22 % of Albanian exports of chemicals. Moreover, the Albanian chemical trade is not diversified as there are less than 20 export countries for chemical products (World Bank 2013). While Turkey and Ukraine might be expected to be frontrunners in REACH adaptation, Albania and Montenegro might have a reluctant attitude as chemical exports are not significant.

In between the dwarfs and the giants is Serbia (768 million USD), Macedonia (764 million USD), Bosnia and Herzegovina (353 million USD) and Moldova (163 million USD). Serbia is exporting mainly to EU-28 countries (48 % share) while exports to Russia comprise only 10 %. Exports to Balkan countries are also considerable some of which will soon adopt REACH including Bosnia and Herzegovina (15 %), Montenegro (10 %) and Macedonia (8 %). Macedonia is the only country, where sales from the export of chemicals exceed imports and is a very important source of state income, the chemical industry provides 17,9 % of its total exports, which is far more than any other country. Moreover, the Macedonian chemical industry is strongly dependent on exports to the EU as 88 % goes to EU-28 countries. Macedonian industry is not diversified in terms of destination as 83 % of its chemical production goes to Germany (World Bank 2013). These four combined factors make the adaptation of REACH for Macedonia extremely economically important.

In the case of Bosnia and Herzegovina around 22 % of the exports have an unspecified origin so data may not be relevant. However, exports to EU countries represent 42 %, to the Russian Federation 9 % and to Montenegro 10 % and Serbia 10 % (World Bank 2013). In this sense REACH adaptation is also important in the economic sense. Moldova is mainly orientated towards its exports to the Russian Federation (76 %), while exports to EU countries are marginal (less than 10 %). This makes Moldova the least economically



**Table 2: The economic dimensions of REACH**

Country	Economic dimension							Europeanization
	Total size of the Chemical Industry export to the EU28 (thousands USD)	Total size of the Chemical Industry imports from the EU (thousands USD)	Export/Import of chemicals ratio (chemicals; rounded)	EU28 export share of total exports (chem.)	EU28 import share of total imports (chem.)	Share of chemicals of total exports (all products)	Economic importance of REACH	
<b>Albania</b>	12 690	447 075	1:35	22%	61%	0,5%	Low	Direct-voluntary
<b>BIH</b>	355 039	999 930	1:3	42%	76%	6,2%	Medium	Indirect-coercive
<b>Macedonia</b>	763 521	659 514	1:1	88%	78%	17,9%	Very high	Direct-voluntary
<b>Montenegro</b>	11 537	239 541	1:21	15%	40%	2,3%	Medium	Direct-voluntary
<b>Serbia</b>	767 943	2 308 131	1:3	48%	71%	5,2%	High	Direct-voluntary
<b>Turkey</b>	4 916 439	18 932439	1:4	25%	54%	3,2%	High	Direct-voluntary
<b>Moldova</b>	167 860	626 726	1:4	10%	57%	6,9%	Low	Indirect-coercive
<b>Ukraine</b>	4 306 246	8 421 274	1:2	15%	58%	13,3%	Medium	Indirect-coercive

Source: Author, based on World Bank 2013 Data.



important country in the terms of REACH adoption. The following table 1 shows all considered variables in the adoption of REACH.

If we look at the size of the chemical industry as the subject of chemical regulation, the most coercive attitude towards REACH should be present in Turkey and Ukraine. However, it is hard to find a clear line between coercive and voluntary adaptation to REACH and due to various influencing factors the attitude to REACH may vary. On the other hand the chemical industry is weak in Albania and Montenegro and thus a coercive attitude will be limited. Similarly EU export orientation indicates that a coercive attitude will be limited in the cases of Macedonia and Serbia.

Taking into account all the presented variables Turkey may be expected to have national legislation closest to REACH. Following Turkey are Serbia and Macedonia. On the opposite side the worst performance in REACH adaptation may be expected in Moldova, Bosnia and Herzegovina, Ukraine and Albania. Montenegro is between these groups. In the next chapter we explore the extent to which selected countries comply with REACH and check the hypotheses mentioned above.

#### **4. REACH and the current situation**

This article reflects the situation in 2013 when the first Instrument for Pre-Accession Assistance (IPA) had almost finished. Except for Moldova and Ukraine, all selected countries participated in this programme which also helped partnership countries to improve their capacities and help them with the adaptation to the chemical legislation. For example the European Chemical Agency received 300 000 Euro funding to prepare Balkan authorities for EU enlargement regarding chemical regulation. In total 107 officials from candidate and prospective candidate states took part in numerous seminars in order to strengthen their knowledge about REACH and CLP<sup>3</sup> (ECHA 2012). Due to the IPA programme chemical legislation of those countries may be closer than the differences in political and economic variables may suggest. However, as we will see there are still significant differences between Bosnia and Herzegovina, Serbia or Turkey.

Preparations to adopt REACH in Turkey started under the IPA I programme (2007–2013) and following Technical Assistance Projects. Turkey assessed institutional and procedural structures which clarified the roles of institutions involved in chemical management. Existing registration and inventory systems were enhanced by establishing a catalogue of chemical substances, substances in preparations and substances in articles. The most important outcome of this period is a legislature incorporating REACH (DEUT 2015). The Regulation of the Inventory and Control of Chemicals (CICR) entered into force on 26<sup>th</sup> December 2008, after negotiations with the European Commission had taken place. The core of the regulation is considered to be the notification of new and existing substances which are produced in or imported into Turkey in quantities above one tonne (Bergeson et al. 2010: 1). The deadline had been set for 31 March 2011. However, as Turkey's experience with the EU regulatory system remained limited, Turkey decided to modify this regulation with stronger regulation reflecting a higher amount of conformity with EU REACH. Areas for improvements were clearly visible in the information

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3 Regulation on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006.

requirements and in the extent of regulation. For example under CICR only two tonnage categories are applicable. Producers or importers must provide only basic information on substances produced in a tonnage of up to 1000 tonnes per annum. Physicochemical, toxicological, ecotoxicological and other risk related data are required in a higher category over 1000 tonnes per annum. This system is very limited in new data gathering and data gaps may remain (Bergeson et al. 2010: 1). Moreover, it is not yet fully operational.

Registration, however, is only part of the EU REACH spheres of influence. In this sense CICR reflects EU REACH registration requirements only to a limited extent and other spheres of influence (evaluation, restriction, authorization) are almost untouched by this regulation. In this way CICR shows a greater similarity to pre-REACH Existing Substances Regulation (EEC) 793/93. In 2011 Turkey started the process of implementing EU REACH (REACH Centre 2015). In 2013 the draft of the amended regulation called “KKDIK” (which means REACH written in Turkish) was published proposing new deadlines for its registration. The new deadline is set for December 2018.

Although this CICR regulation is often considered as the “Turkish REACH” it is accompanied by the Regulation on the Restrictions Relating to Production, Supply to the Market and Use of Certain Hazardous Materials, Products and Goods which entered into force together with CICR. This regulation greatly reflects the EU REACH restriction list; however it takes a much narrower approach with a limited impact. For this reason early revision is being considered in order to include more chemicals on the list (Chem Safety Pro 2015). Much of the information requirements is covered by the Regulation on Preparation and Distribution of Safety Data Sheets regarding Dangerous Substances and Preparations which will enter into force on 1 June 2016. This Turkish regulation fully reflects EU regulation 453/2010/EC. The new Turkish classification and labelling legislation (known as the SEA) is less stringent than CLP. For example by higher protection of confidential business information or longer periods for notifications which even allows the product to be placed for one month on the market without notification. On the other hand periods for classification are much shorter than under CLP (Chemical Watch 2014).

Montenegro has implemented REACH regulation to a large extent. It has designated the competent authorities and established the required infrastructure to ensure access by competent authorities to the databases of the ECHA. Montenegro established a system of inspections and enacted penalties in the case of non-compliance (European Commission 2013b: 14). However, as of 2013 Montenegro launched a national helpdesk to assist manufacturers, importers and distributors about their responsibilities and obligations. It also identified the need to further enlarge the capacity to participate in the work of ECHA and its technical forum and expert groups. Montenegro also lacked the ability to evaluate substances on the Community rolling action plan and is not able to submit dossiers for the identification of substances of very high concern. According to Montenegro Screening Report form 2013 (European Commission 2013b: 14), full implementation was expected in 2015. As Montenegro has successfully met this deadline, chemical regulation is not an obstacle under the terms of enlargement.

In May 2009 the Serbian parliament adopted a new law regarding chemicals and biocidal products. In this piece of legislation Serbia adopted those provisions which allow Serbia to participate in the system without centralised EU procedures (ECHA 2011a). These include the incorporation of provisions regarding bans, restrictions, Safety Data Sheets, information flows in the supply chain and the full transposition of the list of

substances of very high concern. Serbia established its Chemical Agency in 2010 and a helpdesk assisting companies to meet their obligations. The Serbian Chemical Agency started with capacity building and transposing secondary regulation (ECHA 2011a). Serbia established its own electronic database which will help to identify products marketed in Serbia and products eligible for the registration under REACH. The idea is that once Serbia becomes an EU member, it would have no obstacles to joining the work of ECHA and fulfil its obligation (ECHA 2011a). Currently Serbia is very advanced in the alignment of their legislation on chemicals to the EU regulations and its law on chemicals covers the relevant parts of REACH.

In Moldova, there has been a political commitment to align chemical legislation with REACH since 2008 (MENR 2008: 352). The key objectives of sound chemical management to 2020 were identified in the National Program on Sound Management of Chemicals, including the approximation with the EU chemical legislation. As Moldova is overwhelmingly an importer of chemicals, the Moldovan Ministry of Environment did not expect any difficulties in the adoption of REACH (Jegelevicius 2014). However, the progress in drafting national legislation implementing EU law is considerably slow.

The adaptation of REACH in Ukraine is strongly influenced by the ongoing conflict with Russia. Only in 2013 did the trade in chemicals with Russia fall by 19% (Jegelevicius 2013). Subsequently, companies are even more interested in the EU market and thus many of them are voluntarily adopting the REACH standard. As noted by Vladimir Grishechkin, executive director of the Ukrainian Chemists Union (UCU), of the 30 companies belonging to the UCU, more than half comply with REACH (Jegelevicius 2013). As estimated, Ukraine has already implemented 70% of REACH provisions. Despite the early promise to adopt the remaining REACH provisions efforts have been frozen after Yanukovich halted the EU Association Agreement (Jegelevicius 2013). The example of Ukraine presents the situation where companies comply with REACH without REACH being implemented at a national level. In this respect the price of REACH implementation at a national level is decreasing as the coercive logic of domestic companies is undermined by the early adoption on the side of companies and export reorientation towards the EU market. This creates a favourable environment for future REACH implementation.

In the case of Macedonia (FYROM) the progress report of the European Commission is very general stating only that regarding the implementation of REACH “some progress was made” (European Commission 2013a: 53). However in one of the later reports the diplomatic language added that administrative capacity remains insufficient (European Commission 2014: 55).

Chemical regulations in 2013 were so diverse, that some countries did not even have an inventory (register) of chemicals. For example in Albania, in 2013 there was still no register for chemicals despite the Law on chemicals coming into force in 2003. However, there is a plan to develop a register for chemicals with the assistance of the Technical Assistance and Information Exchange instrument (TAIEX). In Bosnia and Herzegovina, there is a register for chemicals including data from Safety Data Sheets. Kosovo has no inventory on chemicals and similarly Albania also does not, it is a subject of planning. In Macedonia there is an inventory for licensed chemical companies. In Montenegro, there is currently no register for chemicals, however as well as in Albania or Kosovo there is a plan to introduce it. In 2013 Serbia had an integrated register for chemicals, including biocides and plant protection products (see ECRAN 2014).

Albanian law on chemicals (Law No. 9108 of 17. 7. 2003) is only partially in line with REACH and because the control of hazardous substances is covered mainly by international conventions, further approximation is needed (IPHA 2012: 219). New legislation should be prepared and an office of chemical management should be established. Albanian progress is very limited due to the lack of personal capacities, the non-existent inventory of chemicals and the lacking methodology for the assessment of chemical properties (IPHA 2012: 219). Albanian law on chemical substances and preparations contains only 20 pages. This short document sets out the obligation of registration; however submitted data is only basic. The current system is not aimed at data gathering; moreover it requires a proactive role from the Ministry of the Environment and the Council of Ministers which holds the burden of proof (see Article 13). On the other hand, Albania may stipulate the obligation to register marketed substances (Article 9 and 10), Evaluation of chemicals (Articles 7, 8 and 13) and classification (Article 5). The new Law reflecting REACH is expected to pass in 2015.

A very complicated situation exists in Bosnia and Herzegovina where chemical regulation suffers from a very complicated administrative structure. The problem paradoxically rests in subsidiarity. Chemical regulation in Bosnia and Herzegovina is dealt with at the level of entities, not at the entire state level (ECHA 2011b). While the Republic of Serbia made considerable progress towards REACH adoption, in the Federation of Bosnia and Herzegovina old legislature from the Yugoslav era is still in use.

Kosovo is very interesting. Due to its problematic status Kosovo is not part of the UN and thus is not a signatory of the Rotterdam, Stockholm or Basel conventions which is causing difficulties in the general extent of the issue. However, the Ministry of the Environment and Spatial Planning which is responsible for drafting chemical legislation received support from the European Commission through different programmes (TAIEX, IPA) and since 2014 has received support from ECHA. As the result of participation in various projects and networks Kosovo was able to partially harmonize its law with the EU regulations such as REACH, CLP, PIC<sup>4</sup>, BPR<sup>5</sup> or the regulation on detergents (Tahiri 2015). The example of Kosovo shows the importance of networking and external support for law approximation, making external support a considerable variable.

## Conclusion

The main aim of this article was to discover the driving forces among EU candidates and prospective candidates in implementing the chemical regulation REACH. Two dimensions have been analyzed in the terms of the influence of REACH implementation. While REACH seems to be of political importance to Turkey, Montenegro and Serbia regarding their candidate status, within the economic dimension Macedonia is in first place, its chemical export is strongly dependent on the EU. However, further assessment of the adaptation of chemical regulation showed that there is still inadequate progress. The explanation may found in the specialization of the chemical industry as it may adopt

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4 Regulation (EU) No 649/2012 of the European Parliament and of the Council of 4 July 2012 concerning the export and import of hazardous chemicals.

5 Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products.

EU standards without legislation being transposed into the national legal system. As all candidates are direct targets of Europeanization, the importance of REACH in a political sense will increase. In those countries, which have exports orientated towards the EU or chemical industry sector plays a minor role; the resistance of domestic actors will be limited. This is the case of Macedonia with 88% orientation towards the EU in the sales of chemicals. Coercive Europeanization is more probable in countries with a high level of exporting outside the EU. Taking in to account the economic and political factors, slow and coercive Europeanization of the chemical legislation may be expected only in Moldova, Ukraine and Bosnia and Herzegovina. It is not surprising, that those three countries have made very little progress in reflecting REACH. On the other hand, there are countries which have shown remarkable progress without political or economic assumptions. In this sense advanced chemical regulation in Kosovo can be explained by its involvement in epistemic networks and internal motivation.

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