

CAPACITY BUILDING FOR PEACE? THE EUROPEAN UNION'S IMPACT ON
SECURITY SECTOR REFORM IN MOLDOVA AND GEORGIA

by

MARKO PAJALIC

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Abstract

The recent enlargements of the European Union brought about a strategic shift in the EU's approach to conflict management and security in the eastern neighbourhood. The Partnership and Co-operation Agreements between the EU and Moldova contained no mention of the Transnistrian dispute, while the agreement between the EU and Georgia included a vague phrase regarding political dialogue which may include the issue of conflict resolution.

The addition of new members to the Union, however, expanded the EU into its neighbourhood and brought closer the unresolved territorial disputes. Concerns that were once further away are now right next door. While the former accession states might have served as buffers to these concerns, they can no longer, as members of the Union, be seen as such. Therefore, there is a greater need to address security issues, such as the 'frozen conflicts' bordering the EU.

This thesis will examine the evolution of the EU's responses to security challenges in the Eastern neighbourhood, and assess the role the EU plays in addressing these 'frozen conflicts' through the framework of the European Neighbourhood Policy. Further, this thesis will argue that the EU has thus far exerted limited direct pressure towards direct resolution of these conflicts and has instead approached regional stability through a variety of other indirect and long term means, such as the pursuit of economic growth and political stability. In particular, the research will look at the security sector reform (SSR) and will focus on the EU's impact, or Europeanization, in the rule of law and border management sectors of Moldova and Georgia.

It will be shown that these two sectors are related to promoting political stability and economic growth, which is in line with the EU's effort to support development in Moldova and Georgia, and thus indirectly address 'frozen conflict' resolution by altering the incentive structures. This thesis will conclude that the EU does have an impact on the rule of law and border management sectors and subsequently some impact on the 'frozen conflict' in Moldova but less so on the conflicts in Georgia.

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List of Abbreviations

ACP	Africa, Caribbean, and Pacific
BCT	Border Support Team
CEFTA	Central European Free Trade Agreement
CFSP	Common Foreign and Security Policy
CIS	Commonwealth of Independent States
CTA	Clandestine Transnational Actors
DDR	Democratization, Demobilization, Rehabilitation
EC	European Commission
ECHR	European Court of Human Rights
ECJ	European Court of Justice
ENP	European Neighbourhood Policy
ESDP	European Security and Defence Policy
ESS	European Security Strategy
EU	European Union
EUBAM	European Border Assistance Mission
EUJUST	European Union Rule of Law Mission
EUPM	European Union Police Mission
EUPOL	European Union Police Mission
EUROMED	The Euro-Mediterranean Partnership
EUSR	European Union Special Representative
FRONTEX	Frontières Extérieures - External Borders
GDP	Gross Domestic Product
GPG	Global Public Good
GRECO	Council of Europe's Group of States against Corruption
GUAM	Georgia, Ukraine, Azerbaijan and Moldova
HI	Historical Institutionalism
IBM	Integrated Border Management
INOGATE	Interstate Oil and Gas to Europe
IO	International Organization
IOM	International Organization for Migration
IT	Information Technology
JCC	Joint Control Commission
JHA	Justice and Home Affairs
NATO	North Atlantic Treaty Organization
NIS	Newly Independent States
OECD	Organization for Economic Co-operation and Development
OLAF	European Anti-Fraud Office
OSCE	Organization for Security and Co-operation in Europe
PHARE	Poland - Hungary Assistance in the Restructuring of Economies

RI	Rational Institutionalism
RRM	Rapid Reaction Mechanism
SAA	Stability and Association Agreement
SAP	Stability and Association Process
SCAD	Southern Caucasus Action Programme on Drugs
SECI	Southeast Europe Cooperative Initiative
SI	Sociological Institutionalism
SSR	Security System (Sector) Reform
	Technical Assistance to the Commonwealth of Independent States
TACIS	
TAIEX	Technical Assistance and Information Exchange Instrument
TEU	Treaty of the European Union
TRACECA	Transport Corridor Europe-Central Asia Initiative
UK	United Kingdom
UN	United Nations
UNDP	United Nations Development Program
USA	United States of America
WMD	Weapons of Mass Destruction

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Dedication

To Carola for her love, patience and never-ending support through the stressful moments, and for motivating me when most needed

To my parents for their love, support and encouragement

1. Introduction

The European Union (EU) has been built on the foundations of peace and prosperity. In an effort to maintain these two principles it has, since the 1990s, significantly emphasized the role of human rights, democracy and the rule of law in state function. Not only does the EU foster these ideals internally, it also strives to promote them externally as well, through the belief that these factors will produce systemic stability in the neighbourhood. The most important examples of the EU's efforts to achieve stability around its borders have been in the former Yugoslavia (namely Slovenia, Croatia, and Macedonia) and the enlargements into the Central and Eastern Europe. In co-operation with other actors it has been one of the key players in assisting struggling and transitioning states in consolidating their state systems in line with norms of 'good governance.' Over time the EU has also developed conflict resolution mechanisms, which it has used throughout the globe's conflict hotspots. Part of an explanation for the EU's external efforts is the realization that political and economic turmoil abroad is capable of producing a significant local impact, for example through migratory flows or smuggling of drugs and weapons. Consequently, the EU has embarked on promoting norms and standards abroad that have to an extent brought security and stability within its own sphere.

Hardening the external borders, while softening the internal ones is a practical example of where the EU implies that threats are external rather than internal. However, the EU is not only concerned with its own borders and stability, but also with those of its neighbours. By establishing good relationships with its neighbours, "a ring of well-

governed countries”¹, the EU is strategically pushing threats outwards, further away from the core. Borders are not the only concern, so is the domestic stability of the neighbours; this stems from the realization that internal and external security issues are inter-related.

As in the cases of Moldova and Georgia, discussed in this paper, ‘frozen conflicts’ are viewed as threats to stability and progress. The cases under investigation here are two examples of where the connection between the lack of rule of law, border and territorial disputes, criminal activity and lack of political, economic and social development are present and have led to an increased EU activity.

1.1. Frozen Conflicts

Currently there are four ‘frozen conflicts’: Transnistria (Moldova), Abkhazia and South Ossetia (Georgia), and Nagorno-Karabakh (Azerbaijan-Armenia). In all, a secessionist group managed to violently carve out territory where, following the secession of violence, it established a de-facto state. While occasional acts of violence still occur, generally there have not been renewed or serious military efforts to re-establish control by the central government. In all, some efforts at reconciliation and resolution are under way, yet, without much success. Therefore, the notion ‘frozen’ refers to the de-facto status-quo that has been maintained for over a decade. On the other hand, the term ‘frozen’ has been criticized as being inaccurate, since a number of developments have occurred over time.

The central governments and the international community have not recognized any of these as legal states, and in fact the EU has even imposed travel bans on the lead-

¹ Solana, Javier, Speech by Prof. Dr Javier Solana, EU High Representative for the Common Foreign and Security Policy on the Occasion of the Award of the Honoris Causa” Doctorate in Social Science University of Wrocław, European Union, Available: http://ue.eu.int/ueDocs/cms_Data/docs/pressdata/EN/discours/77435.pdf, April 16, 2008.

ership of some of these illegitimate states. Since the proclamation of independence by Kosovo, the frozen conflicts have again been drawn into the spotlight, with Russia suggesting Kosovo's secession "may change its policy towards breakaway regions in Georgia."

1.1.1. Moldova

The Transnistria-Moldova "frozen conflict" dates back to 1991. Following the collapse of the Soviet Union, Transnistria declared their decision to secede from Moldova, fearing the latter will seek to reunite with Romania. Transnistria, the secessionist entity, is also referred to as Trans-Dniester, Transdniestria, Pridnestrovie while the official name is Pridnestrovian Moldavian Republic. A Soviet wide referendum on the future of the USSR was boycotted by Moldova, but in Transnistria 93% of the population indicated their desire for a continued union with Russia. Under the leadership of a factory manager, Igor Smirnov, police stations were occupied in the name of protecting the Russian minority. In 1991, Smirnov declared all Soviet institutions and property as belonging to Transnistria. Following harassment of the pro-Moldovan supporters and subsequent arrival of Cossacks and other supporters of the Soviet Union, a violent break-up occurred in 1992. Consequently, Russian troops of the 14th Army assisted the Transnistrians in defeating Moldovan forces. In June of 1992, Russia signed the peace deal on behalf of Transnistria and was established as the peacekeeper, along the troops from Transnistria and Moldova. At first, Russia and Ukraine, with the help from the Organization for Security and Co-operation in Europe (OSCE) set-up a mediation forum, which later included the EU and the United States.

Since, the Smirnov regime has become entrenched and has behaved in a clan like fashion. For over twelve years, Transnistria has been governed by a handful of Russian

citizens, acquiring many attributes of statehood and developing a specific Transnistrian identity.² Freedom of the press is almost non-existent and the only online newspaper from the region has been exposed to be of dubious credibility.³ The conflict has since been called the “single largest impediment to Moldova’s political and economic development and one of the root causes of poverty.”⁴

The situation is perceived by the EU as problematic for several reasons. Firstly, Transnistria is seen as radiating ‘soft security’ threats. Some of the concerns listed include organized crime, arms smuggling (although these accusations might have been exaggerated as the UNDP Small Arms Survey finds – however, smuggling is often difficult to precisely verify)⁵ and consumable goods (i.e. cigarettes and meat) smuggling, human trafficking and drug trade. Further, Moldova has no controls over the Transnistrian section of its external borders which “has permitted weapons proliferation, smuggling, transnational crime and human trafficking.”⁶

Secondly, in addition to security concerns (and perhaps a highly related factor), are the economic concerns as well. In fact, the regime survives because the population manages to sustain itself through a grey economy. Examples include smuggling of goods, which contributed about €7 million to the regime. The failure of customs controls in this

² Vahl, Marius, “Borderland Europe: Transforming Transnistria?” (Brussels: Centre for European Policy Studies, 2001).

³ Lucas, Edward, Moldova - the Country That Europe Forgot, Economist, Available: http://www.economist.com/daily/diary/displaystory.cfm?story_id=9173421, April 10, 2008.

⁴ EU-Moldova Cooperation Council, Fifth Meeting of the Co-Operation Council between the European Union and Moldova, March 18, 2003, 7432/03 (Presse 80).

⁵ See UNDP South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons, Undp Small Arms and Light Weapons (Salw) Survey of Moldova, 2006, Available: http://www.smallarmssurvey.org/files/portal/spotlight/country/eu_pdf/europe-moldova-2006.pdf.

⁶ Bureau of European and Eurasian Affairs, U.S. Government Assistance to and Cooperative Activities with Eurasia, January 2007 2006, U.S. Department of State, Available: <http://www.state.gov/p/eur/rls/rpt/92782.htm>, December 22, 2007.

region has, over seven months, racked up around €18 million in economic costs for Moldova, while for Ukraine this figure reaches €43 million.⁷

Fundamentally, however, the conflict is problematic due to its proximity to the EU. The notion of a 'frozen conflict' (which may or may not heat up) challenges the basic foundations of the EU; the longer it lasts the more it minimizes the reputation of the EU as both a conflict solver and as a normative power. The conflict, according to a regional specialist, Nicu Popescu, is solvable particularly in light of the Romanian accession to the EU, and changes in the Ukrainian leadership following the Orange Revolution, which made Ukraine-Moldova co-operation possible;⁸ under the past leadership Ukraine did not implement Customs controls on goods exported by the Transnistrian companies contributing to the regime's survival, bargaining power and legitimacy.

The conflict further contributes to the dysfunction of Moldova as a whole. The Moldovan government needs to expend resources and time on finding a solution, and its international reputation is marred by a presence of a conflict on its territory, making it a less inviting place for financial investments and long-term economic and social development, due to potential for future destabilization. With the accession of Romania to the EU, approximately 40 percent of Moldovan citizens may be able to obtain Romanian citizenship, making it easier for them to escape the hardships of home. This makes co-

⁷ European Union Border Assistance Mission to Moldova and Ukraine, Imports Flowing Freely into Transnistrian Region of Moldova Confirms EU Border Assistance Mission September 21, 2006, European Union Border Assistance Mission to Moldova and Ukraine, Available: <http://www.eubam.org/files/0-99/83/Press-ABM-21-09-06-eng.doc>, December 20, 2007.

⁸ Popescu, Nicu, The EU in Moldova - Settling Conflicts in the Neighbourhood (European Union - Institute for Security Studies). p.15

operations with Moldova more pressing, because of the possibility of a high influx of the newly Romanian citizens into the EU.⁹

Experiencing the failure of rule of law, it consequently, faces corruption¹⁰ and organized crime, and is the main centre for human trafficking in Europe, those in the rural areas being the greatest source of victims.¹¹ This is likely related to the fact that Moldova is the poorest country in Europe, with a GDP per capita of \$2,200, compared to the EU GDP per capita of \$32,900.¹²

Furthermore, "the Ministry of Interior reports a continued growth of drug cultivation, what is determined mostly by the socio-economical situation in the country"¹³ as the illicit operation provide income for living.

While the current Moldovan leadership under President Voronin has in the recent years voiced their European orientation, the government preferences towards the West have not always been that obvious. However, in November 2003 the EU High Representative Javier Solana intervened in the peace talks, resulting in Voronin refusal to accept the so-called Kozak Memorandum put forth by Russian Prime Minister Primakov. The memorandum, aimed at settling the conflict, was problematic as it would give veto pow-

⁹ Lavenex, Sandra and Frank Schimmelfennig, "Relations with the Wider Europe," JCMS: Journal of Common Market Studies 44.s1 (2006).

¹⁰ Corruption Perception Index listed at Moldova at 111th and Georgia at 79th place, or 2.8 and 3.4 on a 10 point scale (0-10 with 10 being least corrupt) - Corruption Perceptions Index, 2006, Transparency International, Available: http://www.transparency.org/policy_research/surveys_indices/cpi, April 21, 2007.

¹¹ BBC World News – Report on Human Trafficking in Moldova – viewed either December 15/16 via Shaw Cable in Vancouver, BC, Canada, Channel 36.

¹² The World Factbook, Moldova, 2007, Central Intelligence Agency, Available: <https://www.cia.gov/library/publications/the-world-factbook/geos/md.html>, April 10, 2008. and The World Factbook, European Union, 2007, Central Intelligence Agency, Available: <https://www.cia.gov/library/publications/the-world-factbook/geos/ee.html>, April 10, 2008.

¹³ Programme for the Prevention of Drug Abuse and the Fight against Drug Trafficking in Belarus, Ukraine and Moldova (BUMAD Programme), Background Information, UNDP, Available: <http://bumad.un.kiev.ua/index.php?lang=en&slID=7>, April 10, 2008.

ers to the Transnistrian authorities in the subsequent federal arrangement.¹⁴ Thus far, Moldova's ability to influence the conflict in Transnistria is limited as in reality it has little to bargain with or to offer in order to be seen as an attractive partner to the latter entity.

Overall, the conflict is a stark and contrasting challenge to the soothing wave of democratization across the European continent. For the EU, it can be considered a thorn, the persistence of which is challenging the notion of peace and prosperity, the core ideas of Europe. Transnistria continues to not accept European values, making it incompatible with the EU project. At the same time, it indicates the limits of EU's influence, particularly in relation to Russia, which continues to play a key role in many of the secessionist states. Additionally, a "frozen conflict" limits opportunities for regional development and co-operation, particularly in an organization such as the CIS, where Russia, a key supporter of Transnistria, is involved. On the other hand, the conflict, as an anti-thesis to democracy and rule of law, did indirectly contribute to increased regional co-operation between Ukraine and Moldova via the European Border Assistance Mission (EUBAM).

The Transnistrian state survives not only by relying on illegal activities; rather, it benefits from a steady and significant trade with the EU and Russia. It exports steel and textiles to the EU and US, benefiting from a comparative advantage due to lower tariffs on gas and electricity obtained from Russia.¹⁵ Consequently, there is also a clear incompatibility between the EU's rhetoric and its practice – on one hand condemning the regime and on the other indirectly supporting it economically. This in turn supports the the-

¹⁴ Vahl, Marius The Europeanisation of the Transnistrian Conflict (CEPS Policy Briefs), May 1, 2005 2005, Centre for European Policy Studies, Available: <http://www.ceeol.com/aspx/getdocument.aspx?logid=5&id=3B2F1070-61E6-4057-BEA3-AB470A38260D>, December 20, 2007 73. p. 2

¹⁵ Popescu, The EU in Moldova - Settling Conflicts in the Neighbourhood.

sis questioning the consistency of the EU in terms of supporting human rights¹⁶ and undermines the seriousness of its effort and the aspect of conditionality, making it appear two-faced.

1.1.2. Georgia

Further east, the EU is faced with an additional set of frozen conflicts. The situation in the South Caucasus is, while geographically further away, also relatively more challenging. Two unresolved secessionist conflicts, in Abkhazia and South Ossetia, similarly supported by Russia, contribute to limited progress in Georgia.

In Abkhazia, the situation revolves more so along ethnic lines, yet at the time of the collapse a mere one-fifth of population was ethnic Abkhaz with the rest being Georgian. Historically, the region enjoyed limited autonomy but despite this “cultural and language rights were repressed.”¹⁷

Similarly to Transnistria, in the 1992 referendum it voted for preservation of the Soviet Union. Following, Georgian independence, however, violence broke out as Abkhazia sought both independence and closer ties with Russia. The Georgian National Guard attempted to take over Abkhazia, but was driven back by the Russian forces and volunteers from the north Caucasus, notably and ironically the Chechens, who Russia considers enemies. The conflict resulted in over 250,000¹⁸ displaced, small-scale violence remains a problem, and Russia continues to hold Tbilisi responsible for allowing Chechen fighters to seek refuge in the Pankisi Gorge. In 1992 a trilateral peacekeeping operation was setup with troops from Russia, Georgia and North Ossetia. In some regards,

¹⁶ See Youngs, Richard, "European Approaches to Democracy Assistance: Learning the Right Lessons?," *Third World Quarterly* 24.1 (2003).

¹⁷ BBC, *Regions and Territories: Abkhazia*, British Broadcasting Corporation, Available: <http://news.bbc.co.uk/2/hi/europe/3261059.stm>, April 10, 2008.

¹⁸ United Nations, *Annual Report of the Secretary-General on the Work of the Organization*, 1995, United Nations, Available: <http://www.un.org/docs/SG/SG-Rpt/ch4d-10.htm>, April 10, 2008.

Georgia's recent desire to join Western institutions and the US political intervention has helped maintain peace as well.

In South Ossetia, much of the turmoil followed the collapse of the Soviet Union. South Ossetia enjoyed historic ties with the Soviet Union, at times siding with it against Bolsheviks occupying Georgia in the 1920s.¹⁹ Initial violence occurred in 1989, as South Ossetian clashed with Georgians in the region's capital. While Soviet force maintained peace, the break-up of the Soviet Union and the declaration of Georgian independence in 1991 complicated matters further. Following brief yet deadly violence, Russian, South Ossetian and Georgian peacekeepers were deployed in 1992.

In 2001, the EU agreed to undertake a greater political role in the South Caucasus, nonetheless, several security incidents against the EU staff (reflecting a lack of rule of law) led to a revision of the Country Strategy paper. Priority was given to promoting good governance (rule of law, human rights, democracy, and civil society) and reducing poverty. The third goal was confidence building aimed towards conflict resolution. Despite these commitments in the first European Neighbourhood Policy (ENP) document of 2003, the South Caucasus were only a "footnote", yet since then, they have been incorporated more and more into EU's external policies,²⁰ signifying an increased importance given to the external and interdependent issues.

While not a failed state, Georgia is a fragile state.²¹ According to the European Commission Country Report, Georgia (like Moldova) is a significant source and transit

¹⁹ BBC, Regions and Territories: South Ossetia, British Broadcasting Corporation, Available: http://news.bbc.co.uk/2/hi/europe/country_profiles/3797729.stm, April 10, 2008.

²⁰ Socor, Vladimir, European Union's Energy Paper: A Muffled Call to a Slow Wakeup, March 27, 2006 2006, Jamestown Foundation, Available: http://www.jamestown.org/edm/article.php?article_id=2370918, December 22, 2007.

²¹ Helly, Damien, EUJUST THEMIS in Georgia: An Ambitious Bet on the Rule of Law in Civilian Crisis Management the EU Way (Paris: European Union Institute for Security Studies). p.90

point for human trafficking into Europe for purposes of sexual exploitation and labour and is a secondary transit route for heroin from Afghanistan.²²

Despite evidence of decreased illegal migration from Eastern parts of Europe, the numbers of those attempting to illegally cross still remains significant. While Georgia has signed two protocols of the UN Convention against Transnational Organised Crime dealing with Trafficking in Persons and Smuggling of Migrants in 2000, these have not yet been ratified. Further, while trafficking has been criminalized there are hardly any mechanisms to help the victims; the EU could and should help change this, particularly given the efforts to establish re-admission agreements, meaning that many of the victims found in the EU could end up back in Georgia.

The EU has been financing the Southern Caucasus Action Programme on Drugs (SCAD) since 2001, a program aimed at “building capacity and improving regional co-operation to stop the flow of narcotics”²³ and disrupt organized crime groups. In the field, these issues are addressed via the rule of law, the border support team, and the EU Special Representative.

Despite being “frozen”, tensions have been heating up, with Putin warning Georgia to calm its disputes with the breakaway regions or it could face a bloodbath.²⁴ Violence has continued and has become “common-place in the unrecognized region” of Ossetia.²⁵ Russia has also made continued accusations that Georgia is harbouring Chechen terrorists in the lawless parts of the country. Moreover, prospects for peace appear bleak,

²² European Commission, Commission Staff Working Paper Annex To : 'European Neighbourhood Policy' Country Report Georgia {Com(2005) 72 Final} (Brussels: European Commission, 2005). p. 14

²³ Ibid. p. 14

²⁴ Putin Warns Georgia of 'Bloodbath', October 22, 2006, Taipei Times, Available: <http://www.taipeitimes.com/News/world/archives/2006/10/22/2003332855>, December 20, 2007.

²⁵ Ostrovsky, Simon, Crisis Escalates with Rebel Georgian Region's Upcoming Referendum, News Release, Agence France Presse, Available: <http://www.lexisnexis.com/>, December 20, 2007.

with the Abkhaz leader claiming that Georgia and Abkhazia “cannot co-exist in a single state”²⁶ and overall being “cool to EU proposals.”²⁷ In regards to South Ossetia, the regions capital and Russian forces are only 100km away from the Georgian capital Tbilisi. The lack of law enforcement, particularly in the Roki Tunnel (it was used by gunmen from South Ossetia to cross and execute the Beslan attacks) part of the border with Russia, does nothing to limit the ongoing smuggling and illegal activities.²⁸ In the Abkhazian conflict 10,000 died and 300,000 fled, many into the Georgian capital Tbilisi.²⁹ In Ossetia some 250,000 are displaced since the 1992 conflict.

Since the Rose revolution, the Saakashvili leadership made significant attempts at reforming the government organs and eliminating corruption. However, the sweeping reforms and “administrative purges” made it more difficult to implement recommendations due to the “weakened absorption capacity of the administration”³⁰ indicating that rapid reforms also result in functional limitations in the short term. Georgia has ratified the Council of Europe Civil Law Convention on Corruption and signed but not ratified the Council of Europe Criminal Law Convention on Corruption. It “has been a member of the Council of Europe’s Group of States against Corruption (GRECO) which monitors compliance with undertakings contained in the above-mentioned legal instruments.”³¹ Despite having improved its ranking on the Transparency International Corruption Per-

²⁶ Abkhazia, Georgia Cannot Coexist as Single State - Abkhaz Pres., December 6, 2006, RIA Novosti, Available: <http://www.lexisnexis.com/>, December 20, 2007.

²⁷ Abkhazia Cool to EU Proposals on Settlement of Conflict with Georgia, June 12, 2007, Abkhaz News Agency Apsnypress, Available: <http://www.lexisnexis.com/>, December 20, 2007.

²⁸ Popescu, Nicu, Europe's Unrecognized Neighbours: EU in Abkhazia and South Ossetia (Brussels: Centre for European Policy Studies).

²⁹ UN Extends Peacekeeping Mission in Breakaway Georgia Republic, October 13, 2006, VOA English Service, Available: <http://www.lexisnexis.com/>, December 20, 2007.

³⁰ Helly, EUJUST THEMIS in Georgia: An Ambitious Bet on the Rule of Law in Civilian Crisis Management the EU Way. p. 90

³¹ European Commission, Commission Staff Working Paper Annex To : 'European Neighbourhood Policy' Country Report Georgia {Com(2005) 72 Final}. p.10

ception Index from 123 in 2004 to 79 in 2007, it's still experiencing significant levels of corruption. In 2006, 50% of the population lived below the official poverty line.

Overall, the 'frozen conflicts' present a moral and ethical dilemma – the populations are enduring lawlessness, corruption, human rights violations, poverty and other hardships. Some have dubbed the 1 million impoverished "the forgotten Europeans."³²

Beyond these concerns, however, lie greater strategic issues. Stability in the Caucasus is important due to the region's role in energy supply. Recently, many discussions are taking place regarding energy security for Europe, particularly due to several crises with Russia (ie. Russia-Ukraine "gas war", EU member state energy dependence* on Russia). In that regard, the Caucasus as a whole are important to the EU – the Baku-Tbilisi-Ceyhan pipeline, which runs through South Ossetia, is one example, one where security has been compromised by several bomb blasts.³³ Despite only contributing initially one percent of global oil demand, the pipeline and the region are important because of their role in creating backup supply options via diversification of sources.

While this paper will focus on more of the formal mission based instruments, the EU also plays a role on the ground in Abkhazia and South Ossetia by financing projects towards economic independence, infrastructure and social programs. The EU attracts criticism however, for not engaging in typical means towards conflict resolution such as demobilization, disarmament and rehabilitation (DDR).³⁴ These apolitical means, are ar-

³² Tensions Thaw Russia's Frozen Border Conflicts, August 13, 2004, Financial Times, Available: <http://www.ft.com/cms/s/0/75c92de8-ecc5-11d8-b35c-00000e2511c8.html>, December 20, 2007.

* See Malek, Martin, "The South Caucasus at the Cross-Roads," European Security in Transition, eds. Gunther Hauser and Franz Kernic (Hampshire: Ashgate Publishing Limited, 2006). p. 156 for breakdown of EU dependence on Russia by states – the situation is more serious for the Eastern States.

³³ Ibid. p. 158

³⁴ Popescu, Europe's Unrecognized Neighbours: EU in Abkhazia and South Ossetia. p. 14 - 16

guably the only ones possible, because, as Popescu finds out,³⁵ the EU just “does not have enough leverage or the right instruments” to use political conditionality on the secessionist states.

In South Ossetia, the EU has been financially supporting the Joint Control Commission since 2001, with funding conditionality based on regular meeting sessions. However this is the extent of EU’s direct involvement in settling the conflicts in South Ossetia and Abkhazia.

The two cases discussed here present some common and unique, challenges for the EU. Namely, the conflicts present threats such as conflict spill over, obstacles to further regional progress and integration, political and economic instability, development and human security concerns (illegal immigration and trafficking, poverty, smuggling), and more theoretically, they present threats to European norms, such as the rule of law, democracy, transparency and accountability.

2. Methodology

The analysis proceeded via a review of key EU policy documents, reports and action plans. Further, the research looked at a number of journal articles, policy publications, non-profit and inter-governmental organizations’ reports, books and newspaper/magazine articles.

Through looking at what the EU is doing in Moldova and Georgia, this thesis will show that the EU is indirectly contributing to conflict resolution. The EU is stabilizing the principal states of Moldova and Georgia, through technical assistance and norm promotion which provide foundations for economic development (and subsequently political stability). In other words, “the EU use[s] generally accepted cooperation over technical

³⁵ Ibid.

governance issues in order to promote good governance and democracy indirectly.”³⁶ I will show that the EU is capable of having an impact, yet this is not always positive.

This thesis will look at two cases: Moldova and Georgia. The two states were selected as case studies as both were experiencing secessionist conflicts and are located on the European periphery. They make good case studies as they are both on the territory of the former Soviet Union (of which they were once part of) thus sharing similar political history (‘Russification’). Further, they have signed European Neighbourhood Policy (ENP) Action Plans and have declared their desire to join and more closely co-operate with the European Union. Both are budding democratic regimes, facing problems of corruption, organized crime, poor economic performance and territorial disputes. Moreover, Moldova and Georgia are perceived as ‘soft security’ threats; the EU (as a result of its member states’ growing fears of trans-border threats and recent enlargements) has increasingly grown to be “concerned with managing societal threats and developing stability than preventing conflict and instability.”³⁷

An additional factor that led to the selection of these two cases is that the EU has deployed experts within the European Security and Defence Policy (ESDP) and Common Foreign and Security Policy (CFSP) frameworks, the only existing cases in the eastern neighbourhood.

Finally, the reason for undertaking a study of two cases instead of one is that this approach allows for a more comparative understanding and could lead to further research focusing on explaining the differences in the EU’s approach to conflict resolution in different secessionist conflicts.

³⁶ Schimmelfennig, Frank, Europeanization Beyond Europe, 2007, Available: <http://www.livingreviews.org/lreg-2007-1> 12. p. 11

³⁷ Hills, Alice, "The Rationalities of European Border Security," European Security 15.1 (2006). p. 77

2.1. Framework for Analysis

As mentioned above, the hypothesis of this thesis is that the EU is pursuing conflict prevention via development oriented policies, which are also leading to the Europeanization in Moldova and Georgia. With these policies it's attempting to disrupt the status quo and alter the incentive structures, thus aiming in the long-run to produce progress in solving the frozen conflicts. I will explore what kind of influence the EU is exerting in Moldova and Georgia, particularly one related area: rule of law. I will analyze security system reform in the area of rule of law in general and border management in particular, tying SSR and security to development, both which are considered influential factors for economic modernization and thus political stability. Stemming from the statement that "support for democracy, the rule of law and civil society is seen as part of an action on conflict prevention, using existing regional or bilateral assistance programmes," this thesis will argue that the ENP is part of this effort, supported functionally by the ESDP and partnerships with other actors.

2.1.1. The Relevance of the Rule of Law

The rule of law is important for a number of reasons, specifically for the “economic growth, political modernization, the protection of human rights, and other worthy objectives are all believed to hinge, at least in part, on ‘the rule of law.’”³⁸ This concept is an integral and building block of the European Union. Running a Google search on “European union” and the “rule of law” returns over two million results (albeit not all relevant.). Significantly, Georgia and Moldova both have a lower standard of rule of law than the EU.

Yet, an important question is what is “rule of law”? The concept seems evasive and clouds over a number of issues. Superficially, the concept appears lucid, yet in depth the term’s meaning becomes complex. As laws evolve, so will its meaning, and since laws tend to be a matter of interpretation, the term’s definition itself could be debatable depending on the context.

The rule of law has a prominent spot within the Foreign, Defence and Security Policy sector of the EU, and is a key European value outlined in Article 6 of the Treaty of the European Union (TEU), a value that the EU is committed to uphold and promote in “Wider Europe”. It is one of the essential criteria outlined in the membership requirements of the Copenhagen Criteria. Moreover, as Cremona notes, the support for democracy and the rule of law, alongside civil society “is seen as part of an ongoing action on conflict prevention”³⁹ and is synchronous with the shift from strictly hard security to soft security in foreign and defence policy. In fact, the promotion of rule of law is one of four

³⁸ World Bank, Rule of Law as a Goal of Development Policy, World Bank, Available: <http://go.worldbank.org/DZETJ85MD0>, February 2008.

³⁹ Cremona, Marise, The European Neighbourhood Policy: Legal and Institutional Issues (Stanford: Stanford University, 2004). p. 15

fundamental targets in the European Council's approach to civilian crisis management. Hence, co-operating on the rule of law demonstrates an acknowledgement of sharing a key European value.

However, finding a definition of it in the EU official documents is difficult. A snippet on rule of law in EU's relations with ACP countries, suggests that the EU considers "primacy of the law is a fundamental principle of any democratic system...This entails means of recourse enabling individual citizens to defend their rights." Further, "it implies a legislature respecting and giving full effect to human rights and fundamental freedoms, an independent judiciary and a legal system respecting equality before the law."⁴⁰ In addition to these, the rule of law implies that the instruments of punishment and law enforcement must be in service of law and respecting human rights, and an "effective executive enforcing the law and capable of establishing the social and economic conditions necessary for life in society."⁴¹ So while the EU provides limited definition of what it is, it does however, nevertheless strongly pursue it. Yet, this pursuit represents the tendency of the EU and other international organizations, to pursue goals that are presented vaguely and that are based on grand terminology that is at the same time encompassing, simplified, yet perplexing, while sounding great. This vagueness could be one of the reasons contributing to what is often seen as a slow and never-ending implementation of these goals; they are difficult to achieve because they are so grand and complex. Yet, they are presented simply thus leading the audience to believe they are straight-forward to attain.

⁴⁰ European Commission, Democratisation, the Rule of Law, Respect for Human Rights and Good Governance: The Challenges of the Partnership between the European Union and the ACP States, 1998, European Union, Available: http://ec.europa.eu/external_relations/human_rights/doc/comm98_146_en.pdf, April 10, 2008.

⁴¹ Ibid.

Despite of the concept being traceable to Plato and Aristotle, the rule of law remains difficult to define.⁴² It can be separated into “substantive”, and “formal” or “procedural” rule of law. The former relates to a “particular set of laws [which] are valued for their contents – ie. human rights” while the latter is tied to a law produced via a legislative process, even if they are “bad” laws.⁴³

Another way to look at the rule of law is through a “thick” or “thin” understanding. A thick understanding of the rule of law would suggest that “a country can be spoken of as being ruled by law only if the state's power is constrained and if basic freedoms, such as those of speech and association, are guaranteed.”⁴⁴ A thin understanding would strictly relate to more formal meanings, such as “property rights and the efficient administration of justice” and they do not necessarily need to observe human rights (ie. along the lines of a formal understanding).⁴⁵

Rule of law is considered by the EU to be a foundation for economic and social development.⁴⁶ The establishment of the rule of law is important for several reasons. Its successful adoption suggests shared values and establishes an environment that lays ground for an improved economic system by providing “a legal system which can play its part in formulating and working out the regulatory choices that are at the heart of modern economies. Without effective legal norms, economic reforms will not be able to take root”, hence the link back to development and poverty reduction. Daniel Kaufmann notes

⁴² Thomas, Melissa, Rule of Law in Western Thought, The World Bank, Available: <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTLAWJUSTINST/0,,contentMDK:20763590~isCURL:Y~menuPK:1989584~pagePK:210058~piPK:210062~theSitePK:1974062,00.html>, April 10, 2008.

⁴³ Ibid.

⁴⁴ Economist, The, Economics and the Rule of Law - Order in the Jungle, 2008, The Economist, Available: http://www.economist.com/displaystory.cfm?story_id=10849115, April 10, 2008.

⁴⁵ Ibid.

⁴⁶ Cremona, The European Neighbourhood Policy: Legal and Institutional Issues, p. 11

that, for example, in Ukraine the absence of the rule of law and problems with governance, were undermining the fairly quick transition of many of the post-Communist countries.⁴⁷

However, the relationship between the rule of law and investment is not as clear and direct as cause and effect.⁴⁸ In fact, a study has suggested that rule of law is not necessarily a determinative factor for foreign investment in post-communist countries (let alone China).⁴⁹

Rule of law may be linked to development but it is not necessarily a pre-requisite. An effective “rule of law” system sets up the foundations for development of a democratic regime, but this transition is not automatic. A state can have rule of law and be authoritarian at the same time, while a democratic state cannot exist without rule of law or transparent institutions.

The rule of law is also a key component in terms of EU’s approach to civilian crisis management. According to the Commission Communication, the EU considers that “a political, regulatory and trading framework, which enhances economic stability and institutionalises the rule of law, will increase our neighbour’ attractiveness to investors and reduce their vulnerability to external shocks.”⁵⁰ It makes government action predictable, which is inviting for investment, and it also “allows people to plan their lives meaningfully.”⁵¹ Therefore, it leads to a reduction in unexpected outcomes and reduces transac-

⁴⁷ Economist, Economics and the Rule of Law - Order in the Jungle.

⁴⁸ See criticism by Corothers, Thomas, Promoting the Rule of Law Abroad: In Search of Knowledge (Washington, D.C.: Carnegie Endowment for International Peace, 2003).

⁴⁹ Ibid.

⁵⁰ Commission of the European Communities, Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee - Governance and Development, Com(2003) 615 Final, 2003, Available: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2003:0615:FIN:EN:PDF>.

⁵¹ Thomas, Rule of Law in Western Thought.

tion costs. Moreover, the EU considers the rule of law, to be among other factors an essential pre-requisite for political stability.⁵²

The EU has had previous engagements in the security sector and rule of law reform in Bosnia (EU Police Mission in Bosnia and Herzegovina), Macedonia (EU Police Mission PROXIMA) and is planning on establishing a rule of law mission in Kosovo. An Action Plan for Civilian Aspects of ESDP from 2004 “envisages the development of closer links between civilian crisis management activities and Justice and Home Affairs.”⁵³ Hence, there is a notable shift from a focus on Justice and Home Affairs as an internal matter, to one that must also be addressed externally. Accompanying these policy instruments is a financial backing via the Rapid Reaction Mechanism, supplementing the ESDP and bilateral assistance of the member states.

In addition to these, the EU is also actively engaged via the Twinning program, which “helps countries draft laws and regulations based on EU legislation”, and TAIEX which aims to “helps countries with regard to the approximation, application and enforcement of EU legislation.”⁵⁴

The European Commission acknowledges the links between the “rule of law” and economic development (Figure 4) and security. Ultimately, however, Cremona notes, that despite connections between rule of law and economic, social and political environment, the emphasis appears to still remain on the rule of law as a means of creating political stability, and the “prevention of internal and external conflict and cross-border security

⁵² See Cremona, The European Neighbourhood Policy: Legal and Institutional Issues

⁵³ Ibid. p. 16

⁵⁴ European Commission, External Cooperation Programmes - Moldova, European Commission, Available: http://ec.europa.eu/europeaid/where/neighbourhood/country-cooperation/moldova/moldova_en.htm, April 10, 2008.

for the EU.”⁵⁵ Cremona notes that in the long term, and in addition to security concerns, the focus on the rule of law is due to the realization that “it underpins a state’s ability to function in the complex environment of the EU regulatory model.”⁵⁶

The rule of law also has great ramifications particularly in terms of citizen satisfaction and trust in state institutions (“Low trust environments reduce the rate of investment”⁵⁷), lowering of crime rates by increasing punishing and enforcing capacity of the state, development of a knowledge-based and strong economy, establishing trade with other states, enabling democratic settlement of disputes, and achieving a more efficient state.

Furthermore, in areas of recent democratization, the process “may breed corruption and crime if it is accompanied by a weakening of state controls and confusion among the population about proper behaviour in a context of increased freedom.”⁵⁸

It also plays a significant role in the law enforcement sector – both the judicial and the enforcement branches need to establish mutual trust. Further, as Piana notes “in democratic regimes law enforcement depends on the impartial and transparent administration of public affairs.” Moreover, the EU is particularly concerned with transparency, because it relies on these very institutions to handle the implementation of various programs and negotiated policies.⁵⁹

⁵⁵ Cremona, The European Neighbourhood Policy: Legal and Institutional Issues p. 23

⁵⁶ Ibid. p. 10

⁵⁷ Zak, Paul J. and Stephen Knack, "Trust and Growth," The Economic Journal 111 (2001).

⁵⁸ Rose-Ackerman, S., "Trust, Honesty and Corruption: Reflection on the State-Building Process," European Journal of Sociology 42.03 (2003).

⁵⁹ Piana, Daniela, Networking the European Rule of Law. Legal Experts and International Cooperation between Old and New Members (University Association for Contemporary European Studies, 2005). p. 12

2.1.2. What is Security System Reform (SSR)?

Security system includes elements from the legislative to the functional level. It covers the judicial sector, the police, the armed forces, customs, the penal system, and even the ombudsman and other oversight/accountability bodies.⁶⁰

Emphasis on the reform or transformation is indicative of the SSR's orientation towards the implementation of a democratic and accountable security system, capable of meeting the society's security needs.⁶¹ An efficient, democratic and accountable security system is seen as providing the necessary "framework within which political, economic and social development can occur."⁶²

For Moldova and Georgia, it a) indicates to the EU they are willing to transform their institutions towards European standards, b) means it gives them a more effective means to assert their national sovereignty by having better control of borders, and c) aligns them with the EU and thus gives them greater legitimacy in the eyes of a partner they want to get closer to in the future. For the EU, assisting them is viewed as a) addressing border management issues (migration, human trafficking, organized crime, visa regimes, re-admission agreements), b) leading to greater stability in the region, c) promoting European norms, and d) contributing to diffusion of conflict. According to the EC, SSR "must thus be linked to efforts undertaken to strengthen national and local rule of law."⁶³

⁶⁰ Organization for Economic Co-operation and Development, Introduction to Security System Reform (Paris: OECD, 2005). p. 1

⁶¹ Ibid. p. 1

⁶² Ibid. p. 2

⁶³ Commission of the European Communities, Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee - Governance and Development, Com(2003) 615 Final.

SSR is important for a number of reasons, one of which is that it sets up ground for increasing citizens' trust in the government, by reducing instances of corruption, human rights abuses and arbitrary application of the law. At the same time, SSR, and the rule of law in general, contribute to improving the conditions for economic development, by ensuring property rights, and creating inviting condition for foreign and domestic investment.

SSR rests on the foundational belief that security and development are inter-related. Therefore, it is expected for it to be included in the EU's strategy of promoting stability in the neighbourhood. The EU accepted the concept of Security Sector Reform via a Commission communication, "A concept for European Community support for security sector reform."⁶⁴ The communication accepts that SSR is "a holistic, multi-sector, and long-term process" that is an integral part of governance transformation.⁶⁵ It largely draws on the OECD definition of SSR, which considers it a "nationally/regionally owned participatory reform process designed to strengthen good governance, democratic norms, the rule of law and the respect and promotion of human rights"⁶⁶ Moreover, the OECD notes that SSR is "fundamentally important to effective conflict prevention and peace-building. It helps ensure and sustain the stability that is necessary for development."⁶⁷ Moldova inherited a "highly militarized economy, corruption, consolidated political

⁶⁴ Commission of the European Communities, Communication from the Commission to the Council and the European Parliament: A Concept for European Community Support for Security Sector Reform {Sec(2006)659}, European Commission, Available: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2006:0253:FIN:EN:PDF>, April 10, 2008.

⁶⁵ European Commission, Bulletin EU 6-2006: Common Foreign and Security Policy (16/18), Available: <http://europa.eu/bulletin/en/200606/p126016.htm>, April 10, 2008.

⁶⁶ Ibid.

⁶⁷ Organization for Economic Co-operation and Development, Introduction to Security System Reform, p.2

power combined with an almost total lack of the political culture necessary for the normal functioning of a pluralistic society.”⁶⁸

Security is, if not a precondition for development, then a necessary issue to be implemented in parallel. The two are mutually reinforcing, where development can serve to address the root causes of insecurity and conflict. However, the security sector has only in the last decade or so been incorporated into the development arena, namely by the United Kingdom and the Organization for Economic Co-operation and Development (OECD), and has since experienced its fair share of criticism. Nevertheless, what is clear is that there is convergence between provisioning of security and development.

At the same time, a trend has been detected “among politicians, to link security and development in ways that make it hard to distinguish the logics and activities of the two sectors.”⁶⁹ The risk with this connection is the continued and increased securitization of development, and understanding of development issues as security risks, thus emphasizing security-oriented means to address these problems.

This is evident already in securitization of migration. While migration has roots in development issues, namely poverty, lack of opportunities (or abundance of them elsewhere), and overall low quality of life, there is an tendency to discuss migration in terms of combating migration and “hardening borders” by using technology such as biometrics, sharing of databases and investing in infrastructure.

⁶⁸ Bonn International Centre for Conversion, Inventory of Security Sector Reform (SSR) Efforts in Partner Countries of German Development Assistance: Moldova, Bonn International Centre for Conversion, Available: http://www.bicc.de/ssr_gtz/pdf/moldova.pdf, April 10, 2008.

⁶⁹ Robinson, Clive, “Whose Security? Integration and Integrity in EU Policies for Security and Development,” New Interfaces between Security and Development: Changing Concepts and Approaches, ed. Stephan Klingebiel (Bonn: German Development Institute, 2006). p. 11

Taking into consideration the hypothesis that the EU is attempting to alter the incentive structure and disrupt the status quo situation via development assistance in Moldova and Georgia, security then is an important sector to look at. It is in these two countries and more so Moldova, where the issue of securitization of migration really hits home.

Moldova is one of the leading source countries of human trafficking into Europe. Many emigrate because of the extreme poverty. While there is overall assistance in terms of development, there is also a focus on security means to limit the so-call threat. However, the border management system in both Moldova and Georgia has operated on antiquated foundations. Thus, to achieve greater effectiveness and efficiency, technical assistance from the outside was brought in.

SSR appears to be a catch-all phrase for reforming the military, civilian security sector and even the judicial apparatus of the state. As using the label reform has been considered offensive by some,⁷⁰ others suggested that a more appropriate terminology might be Security Sector Transformation.⁷¹

Further pitfall with the usage of the term has become its broad application; as a catch-all phrase its use also obfuscates the core and central issue areas.⁷² In my case, I situate SSR as a supporting mechanism of the overall strategy to consolidate the state, strengthen the market economy, and promote human rights and good governance as means to conflict resolution. The relevance of border management to these areas will be

⁷⁰ Smith, C., "Security-Sector Reform: Development Breakthrough or Institutional Engineering?," Conflict, Security & Development 1.1 (2001). p. 16

⁷¹ Ibid.

⁷² Ibid.

shown in the section below. Much like in the Balkans, “the SSR has been donor-driven”⁷³ the EU having indirectly required reforms in the security sector both in Moldova and Georgia via requirements in the Action Plans.

According to the range of options suggested by Wulf, on a scale from impossible to major potential, SSR potential in the states undergoing transformation is good,⁷⁴ Secessionist states, unrecognized internationally, also present a direct challenge to the monopoly of force by the internationally recognized state. However, international legitimacy is sometimes at odds with local preferences, yet lack of free media also limits uncovering of the latter.

The role of the EU is thus paramount, as in post-Soviet space, SSR “has come mainly through external pressure and is triggered by bilateral or multilateral arrangements,” yet the Soviet legacy has left behind an environment of corruption and nepotism that makes SSR difficult to achieve, and civilian control remains limited. This analysis will further support the claim that “in most cases, executive branch of governments, assisted often by donors, has driven reforms in the security sector.”⁷⁵

Security sector reform in border controls and the rule of law is not a new concept for the EU. As a matter of fact, the EU “has been particularly strict in demanding that all its new members demonstrate their ability to enforce the full ‘Schengen’ system of border control and internal security co-operation.”⁷⁶ The EU is involved in security sector re-

⁷³ Wulf, Herbert, Security Sector Reform in Developing and Transitional Countries (Berghof Research Center for Constructive Conflict Management, 2004).

⁷⁴ Ibid. p. 6

⁷⁵ Ibid.

⁷⁶ Caparini, Marina, Chapter 7. Security Sector Reform and NATO and EU Enlargements, 2003, Stockholm International Peace Research Institute, Available: <http://editors.sipri.se/pubs/yb03/ch07.html>, April 10, 2008.

form support in over 70 countries, including the Central and Eastern Europe.⁷⁷ Wade Jacoby outlines this in his book on NATO and EU influenced reforms, and views these much through the lens of emulation. While he claims that the security sector is more difficult to engage in reforms because it deals with the sensitive area of national sovereignty, I will show here that in these two cases this does not hold true; however, engaging and supporting reforms is different from the outcomes, which are nevertheless limited. In reality, Moldova and Georgia both approach the EU to help them with the border management transformation, but also rule of law. I argue that this happened because in these two cases, and particularly in areas of border management, this actually strengthens their claims to national sovereignty, although it does lead to adoption of practices and norms from outside.

2.1.3. Border Management

Borders still matter. They delineate territorial boundaries of a state and thus assign a responsibility for their management to the government. Along the monopolization of force, “state monopolizes the right to determine who and what is granted legitimate territorial access.”⁷⁸ Moreover, geographic space is delineated by borders, which serve as devices of inclusion and exclusion.

In both case studies, border management was an area of collaboration (plus the additional rule-of-law co-operation in Georgia). It is reminiscent of the enlargement in Central and Eastern Europe, where, as Grabbe notes, “member states took an active interest in how the candidates were adopting Schengen border controls” and “that the candi-

⁷⁷ Commission of the European Communities, Communication from the Commission to the Council and the European Parliament: A Concept for European Community Support for Security Sector Reform {Sec(2006)659}.

⁷⁸ Andreas, P., “Redrawing the Line: Borders and Security in the 21st Century,” International Security 28.2 (2003). p. 1

date country negotiators accepted the EU's demands because the high salience of Schengen rules for award of membership was critical after 1998".⁷⁹ It is perhaps an illustration of the EU preference for engagement in the areas where it knows it can make a significant and positive contribution. Consequently, the issue of borders appears to be a crucial one in the EU relations with neighbouring states, and co-operating on this issue can have greater ramifications overall.

The government is responsible for managing border security, immigration, and trade matters. While the first two are often cited in the literature, the latter is often overlooked and simplified in relation to security. Nonetheless, trade does factor into border management, into economic development, reduction of poverty and provision of security. Border management impacts governments, by requiring expenditure on combating illegal trafficking and crime; indirectly, the costs fall into the hands of society. Moreover, it affects businesses via "costly customs procedures"⁸⁰, such as shipping delays, transportation and administrative costs.

The OECD estimates that these "hidden costs of trade" account for 15% of the additional trading cost, and that "welfare benefits from more efficient customs could be as high as those from reducing tariffs."⁸¹

Borders used to be the domain of the armed forces, particularly in the Soviet Union, where the military provided territorial defence against possible enemy attack. However, with the break up of the former Soviet Union, and the end of the Cold War, there

⁷⁹ Grabbe, Heather, "Regulating the Flow of People across Europe," The Europeanization of Central and Eastern Europe, eds. Frank Schimmelfennig and Ulrich Sedelmeier (Cornell: Cornell University Press, 2005). p. 128

⁸⁰ Organization for Economic Co-operation and Development, The Costs and Benefits of Trade Facilitation, 2005, Organization for Economic Co-operation and Development, Available: <http://www.oecd.org/dataoecd/58/25/35459690.pdf>, April 10, 2008.

⁸¹ Ibid.

has been a shift from hard to soft-security threats. Therefore, “states are retooling and re-configuring their border regulatory apparatus to prioritize policing [in order] to deny territorial access to ‘clandestine transnational actors’ (CTAs).”⁸² Some CTAs attempt to bypass or defeat border controls in order to migrate illegally for purposes of work, in order to escape persecution at home (refugees), or in a pursuit of better living conditions; others, attempt to smuggle people, goods and money, evade arrest warrants, and switch geographic locations in order to carry out acts of violence, such as terrorism or via participation in organized crime activities.

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In the EU, effective border management is one of the priorities of the Justice and Home Affairs pillar. Intensification of security environment has led to “some member states having unilaterally reinstated border controls on individuals, justified on ground of

⁸² Andreas, "Redrawing the Line: Borders and Security in the 21st Century."

⁸³ Grabbe, "Regulating the Flow of People across Europe." p. 128

“special security concerns” or a “state of emergency.”⁸⁴ Recently introduced biometric checks on visitors to the Schengen zone further reflect the “intensification of border controls.”⁸⁵ And while border controls are becoming more intensive in the sense of information gathering and technological innovation (biometrics, database sharing) and in overall law enforcement integration, risk assessment strategies also ensure greater efficiency. Overall, “the tightening of border controls against CTAs has taken place in an era of globalization and regional economic integration, defined by the loosening of controls over legitimate cross-border exchange.”⁸⁶

Peter Andreas further makes a valid observation that border controls, and policing activities in general, have been usually generally left out of the international relations studies, and remained in the domain of criminologists focused on “local crime control.”⁸⁷ The increasing international co-operation in the law enforcement area, however, calls for the inclusion of law enforcement studies at the international level. Moreover, with the increasing monitoring power and database sharing, rule of law as it pertains to protection of individual rights such as privacy, gains additional relevance.

The EU’s acknowledgement that its internal security is dependent also on external security has arguably led to “an intensification of interdependence and cross-border interactions.”⁸⁸ This, nevertheless, makes it vulnerable to bargaining, because potential partners realize that the EU also needs them.

⁸⁴ Apap, J. and S. Carrera, “Maintaining Security within Borders: Toward a Permanent State of Emergency in the EU?,” Alternatives: Global, Local, Political 29.4 (2004).

⁸⁵ Andreas, “Redrawing the Line: Borders and Security in the 21st Century.”

⁸⁶ Ibid.

⁸⁷ Ibid.

⁸⁸ Ibid.

While some globalization analysts claim that there has been a decline in the importance of borders in an economic sense (due to economic liberalization) that does not mean that borders have lost importance economically speaking. The smuggling of people and drugs has a significant economic and financial impact; first, via the support of organized crime, and second, through the lost income due to inability to tax black/grey market activities, and third by incurring a cost on the government to combat these illegal operations.

What this thesis will show to be the externalization of the EU border regime in the neighbourhood is a 'domino effect' that started with the removal of internal European borders. In Germany, border guards were moved to the eastern frontier and the neighbouring countries (ie. Poland) became buffer zones, having signed re-admission agreements with the EU making it easier to deport asylum seekers looking to enter the EU. Much like Moldova, and less so like Georgia, Poland was adamant on making an impression on the EU in terms of border and migration management, investing heavily in appropriate infrastructure, personnel and technology.

The metaphor of "fortress Europe has shifted [from trade] to migration and the free movement of people" and "while controls over internal state borders are being harmonized in the EU framework, the external borders are becoming increasingly fuzzy."⁸⁹ However, the EU of today is less so a fortress, because of increased difficulty to see the EU's definition as delineated by a sharp line between the inside and outside. Actually, the notion could be taken a step further, where Europe resembles "a post-imperial Empire as theorized by Hardt and Negri: the lack of frontiers and a movement that has no territorial

⁸⁹ Christiansen, T., *et al.*, "Fuzzy Politics around Fuzzy Borders: The European Union's 'near Abroad'," *Cooperation and Conflict* 35.4 (2000).

limits and which is not spear-headed by a state-led project.”⁹⁰ I choose not to argue the notion of Europe as empire in this case, but rather provide a conception that hints at certain underlying processes, and suggests that borders, at a systemic level, have a fluid and changing dynamic about them.

In this thesis, I will provide empirical evidence to reiterate that there is an emerging trend “to export EU policies beyond member states.”⁹¹ This trend is part of an overall effort of “negotiating” internal EU security with external actors.

Overall border and rule of law management is a case of “Europeanization beyond borders”, where Europe extends “its governance beyond member states to neighbouring regions. Such regions, while being formally excluded from legal membership, are also not excluded but part of a networked political system in which ‘fuzzy borders’ come into play.”⁹²

⁹⁰ Delanty, G., "Borders in a Changing Europe: Dynamics of Openness and Closure," Comparative European Politics 4.2-3 (2006).

⁹¹ Christiansen, *et al.*, "Fuzzy Politics around Fuzzy Borders: The European Union's 'near Abroad'."

⁹² Delanty, "Borders in a Changing Europe: Dynamics of Openness and Closure."

2.1.4. Theorizing the Impact of the EU

Wade Jacoby suggests that emulation towards integration was the case in the NATO and EU enlargements into the Central and Eastern Europe (CEE). CEE countries emulated Western European institutions, via the EU as a framework, instead of creating new institutions. This was considered to be more efficient because they considered the EU's and member states' models appropriate.⁹³ This thesis will show that Moldova and Georgia both engaged in institutional emulation based on copies or templates as both requested EU's assistance in the border management area. Technical expertise from the EU allowed Moldova and Georgia to get closer to the EU in terms of legal and security systems standards and meet the requirements of the Action Plans. EU's assistance contributes to their economic development and thus indirectly addresses the frozen conflicts in the long term by altering the incentive structure (pursuing economic development to create foundations for political stability and make Moldova more appealing for the secessionist state).

The underlying processes of emulation rest mainly on the logic of consequences and a logic of appropriateness, as well as the passive leverage of the EU. Moreover, the thesis will incorporate the work of Diez *et al.*, which suggests that the EU can have an impact on border conflicts in four ways: *compulsory, connective, enabling and constructive impact*.⁹⁴

⁹³ Jacoby, W., The Enlargement of the European Union and NATO: Ordering from the Menu in Central Europe (Cambridge University Press, 2004).

⁹⁴ Diez, T., *et al.*, "The European Union and Border Conflicts: The Transformative Power of Integration," International Organization 60.03 (2006). p. 572

Jacoby suggests that in the cases of a more voluntary emulation we can expect institutions to be based on copies or templates, shaped by the international organizations' (EU) structure, as opposed to the less voluntary approach which results in patches or thresholds. One can interpret this as suggesting that potential members or candidates see the EU as a source of expertise, particularly in regards to the deployment of border management strategies and technology. As Jacoby notes, "elite efforts to distance themselves from the communist state have often so diminished state capacities that the state cannot oversee reform. In some cases, this was a result of personnel losses to the private sector, but in other cases administrative decentralization left the Ministry of Health without authority or resources. Thus states have been too weak or governments too temporary to carry out good reform designs."⁹⁵ Emulation varies according to both the degree of external pressure and the degree of faithfulness in replication. The first, he argues, is much in the hands of the EU, while the latter is at the hands of third-country politicians.⁹⁶ Such emulation can be explained using rational, sociological and historical institutionalism.

While Vachudova suggests that in "many areas of institutional design, the EU lacks institutional templates because it has not been involved in such reforms of the state in existing EU members"⁹⁷ and that the "new members get little guidance in designing institutions that will make implementation possible"⁹⁸ in border management we see evidence of otherwise. Perhaps this is so because in border management the EU has overcome state level border institutions by establishing the EU level border regime: Schengen zone and the FRONTEX border agency.

⁹⁵ Jacoby, *The Enlargement of the European Union and NATO: Ordering from the Menu in Central Europe*.

⁹⁶ Ibid. p 7

⁹⁷ Vachudova, M. A., *Europe Undivided: Democracy, Leverage, and Integration after Communism* (Oxford University Press, USA, 2005). p. 228

⁹⁸ Ibid. p. 228

Jacoby notes that the institutions perceived to be essential to national sovereignty, such as the security sector, would be places where emulation is most difficult to pursue, for it would touch upon sectors at the heart of national sovereignty.⁹⁹ Further, the security sector tends to be the most difficult and resistant to reform, due to the entrenchment of norms and because it is not very open to external influence. However, in the case of Moldova and Georgia, where both have willingly engaged in emulation, one can argue that emulation actually serves to underpin national sovereignty by re-asserting the primacy of the central state. Therefore, the sovereignty given up by institutional adaptation to external standards is perceived to be within the acceptable costs, if not perceived as a benefit in itself. However, there must be a distinction between superficial and internalized emulation. This means that beyond mere adoption of equipment, practices and norms, there also must be consistent application of standards.

Rational Institutionalism (RI) views elites as mainly being after material resources, or rather follow re-election motives, and that “states seek integration when those who may benefit from it overcome both their own collective action problems and the opposition of those who might be hurt.”¹⁰⁰ The elites’ motives for emulation include obtaining greater voter support, thus legitimacy, and material resources from international organizations.¹⁰¹ Also, one can argue that both leaders want to be seen as capable of overcoming or at least making significant progress in solving the secessionist problems as these are perceived to be holding back national progress.

⁹⁹ Jacoby, The Enlargement of the European Union and NATO: Ordering from the Menu in Central Europe, p. 39

¹⁰⁰ Ibid.

¹⁰¹ Ibid.

RI also presents three sets of pressures on elites: “leverage wielded by the IO, the costs and benefits to key domestic interest groups, and the preferences of voters.”¹⁰² There is evident support for EU integration within Moldova and Georgia – thus pursuing that path will be beneficial to the ruling party by catering to the voters. Moreover, the institutions guarding the border may perceive assistance from the EU as helping them overcome their inability to tackle various problems, or that it may help them allocate the limited resources more efficiently and effectively. Nevertheless, corruption is a problem that can limit the success of this strategy.

For Moldova and Georgia, possible ramifications of closer partnership with the EU include easier travel for its citizens into the EU by lowering the obstacles to an improved visa regime, establishing better controls over Transnistrian exports and hence gaining an additional bargaining chip, or limiting illegal activity along the Russia-Georgia border, and overall contributing to stabilizing the rule of law.

Further, RI “emphasized external shocks as a motor of change”¹⁰³, shocks such as the Russian blockade of Moldovan products, the rise in Russian energy prices and shutting of gas supplies in Ukraine, increased assertiveness in Georgia and boycott of its mail and telephone network.

RI has links to Schimmelfennig’s logic of consequences, which also rests on the motives of conditionality and consequences. It ties in external incentives which can be summed up as “EU sanctions and rewards that change cost-benefit calculations of the target state.”¹⁰⁴ In terms of European integration, “the formal rules of the rationalist approach regulate social activities and cooperation models because, according to

¹⁰² Ibid. p.33

¹⁰³ Ibid. p. 33

¹⁰⁴ Schimmelfennig, Europeanization Beyond Europe.

Schimmelfennig and Sedelmeier, nation-states prefer the kind and degree of institutionalisation which aims at maximising their net benefits.”¹⁰⁵

Similarly, the *compulsory impact* suggested by Diez *et al.* mostly “works through carrots and sticks, compelling actors through the mechanisms of integration and association to change their policies.”¹⁰⁶ However, this path is “obviously dependent on the desire of the conflict party to become an EU member: if such a desire is lacking the conflicting party will not regard membership as an incentive to change its policies.”¹⁰⁷ Both Moldova and Georgian indicated that they wish to join the European Union, making them thus more likely to respond to the EU’s conditions; however, Georgia’s prospects are arguably less evident – it’s geographically more distant and it shares a border with Russia. Russia already opposes Georgia’s possible membership in NATO.

The role of competition, suggested by Bauer *et al.* also works through the logic of consequences. The concept is “*related to negative integration, the abolition of national barriers, distorting the common market. In this mode, the impact of the EU is less direct and works through market pressures rather than institutional sanctions. ‘Institutional change is stimulated by the need to improve the functional effectiveness of member states’ institutional arrangements in comparison to those of other participants within the common market.*”¹⁰⁸

While Bauer *et al.* argue that the impact of this pathway is minimal. I suggest that competition still plays a relevant role. Furthermore, the majority of European states are

¹⁰⁵ Kaarlejarvi, Jani, "New Institutionalism and the Study of European Institutionalisation," Second ECPR Conference (Marburg, Germany: University of Sheffield, 2003), vol.

¹⁰⁶ Diez, *et al.*, "The European Union and Border Conflicts: The Transformative Power of Integration."

¹⁰⁷ Ibid.

¹⁰⁸ Bauer, M. W., *et al.*, "Differential Europeanization in Eastern Europe: The Impact of Diverse EU Regulatory Governance Patterns," Journal of European Integration 29.4 (2007).

trying to make their domestic market more efficient and are pressed to make them compatible with the EU's common market or for the non-members, in the medium-term, with the Central European Free Trade Agreement (CEFTA). Despite past "claims of the race to the bottom", rule of law and border controls (in terms of customs procedures) play a relevant role in setting up an environment for both economic development and political stability.

Conversely, however, the influence of the EU's conditionality is limited due to several factors: lack of the ultimate incentive – membership, the EU's inconsistency in its application of conditionality abroad, internal democratic deficit and the fact that it is actually itself dependent on the neighbours to achieve its vision of political stability in the neighbourhood. Thus, the neighbours may be able to extract benefits from the EU, without actually implementing thorough changes.

Moreover, in dealing with the secessionist states, the EU is faced with authoritarian leaderships which, according to Sedelmeier are more resistant to conditionality.¹⁰⁹ Therefore, from a theoretical viewpoint, the conditionality effects should be minimal in the secessionist entities. Ultimately then, if strong conditionality is absent to what extent is reform possible in a consensual partnership¹¹⁰ or a partnership where one party considers the cost of improving relations too high? Conversely, though, a resolution based on consensual agreements could lead to a more legitimate outcome in conflict settlement.

If the effects of conditionality are limited, we would expect the logic of appropriateness to play a more significant role. Sociological institutionalism (SI) relates to the

¹⁰⁹ Sedelmeier, Ulrich, "Europeanisation in New Member and Candidate States," Living Reviews in European Governance 1.3 (2006).

¹¹⁰ Biscop, Sven, "From Reflections to Power: Implementing the European Security Strategy," European Security in Transition, eds. Gunther Hauser and Franz Kernic (Hampshire: Ashgate Publishing Limited, 2006).

logic of appropriateness, as both rely on the element of socialization. Jacoby suggests that “the dense institutional environments represented by the *acquis communautaire* of the EU” play a role in shaping decision-making¹¹¹ – while this is not exactly the case with the ENP (there is no *acquis*), there are however, Action Plans, and some countries such as Moldova, have started to align their legislation with the *acquis*. Sociological institutionalism holds that “institutions are outcomes...often the results of elite efforts to reshape domestic structures by different combinations of indigenous reform and reference to models in Western Europe” and that much of the actual work of the EU and NATO enlargements has consisted of trying to reform national institutions to fit these institutional environments.”¹¹²

SI is also valuable in the cases examined here, because it explains that “social learning is said to be more likely when groups share common professional backgrounds, are faced with clear evidence of policy failure, have a high density of interaction, and are insulated from direct political pressure [i.e. highly technical programs].”¹¹³ In both cases, the EU relied on experts and pursued a sectoral approach.

SI further explains when co-operation will not be as successful, namely in cases where institutional framework is lean or vague, and where “structures that have been emulated are incongruous with prevailing norms in the society.”¹¹⁴ This could particularly be the case where technical and institutional implementation was done quickly, without the necessary time for norms to be internalized.

¹¹¹ Jacoby, The Enlargement of the European Union and NATO: Ordering from the Menu in Central Europe, p. 31

¹¹² Ibid. p. 26

¹¹³ Ibid. p. 27

¹¹⁴ Ibid. p. 34

Underpinning SI is the logic of appropriateness, where imitation (lesson drawing) and socialization (intergovernmental social learning) figure most relevantly to the two cases presented here. Imitation is “driven by external governments, rather than the EU,” while “communication and social learning” are conceived of as directly sponsored by the EU in order to trigger processes of persuasion and learning in governments beyond the EU.¹¹⁵

The *enabling impact* on the other hand relies on “specific actors within conflict parties to link their political agendas with the EU through reference to integration.”¹¹⁶ This is most clearly exemplified by Moldova and Georgia’s leadership’s calls for EU integration, and the EU’s attempts for closer co-operation.

The principle state is legitimized due to synchronicity between the EU’s ideas and itself (enabling impact) while the other is delegitimized, at least in the views of the EU. Furthermore, in the case of Moldova, it works to enhance the relationship with the EU, but is detrimental to the relationship with the secessionist states (ie. the breakdown of the 5+2 talks). Improving border management in Moldova meant this improvement was perceived as a blockade by Transnistrian businesses.

The *constructive impact* “is the most indirect but – if successful – also most persuasive mode of transformation” by working to reconstruct identities via EU influences. This is precisely the point when Peter Semneby, the EU Special Representative for the Caucasus, calls for a higher level of identity to help overcome local identity clashes.¹¹⁷ However, the problem is that in theory this seems possible, yet in actuality may be harder

¹¹⁵ Schimmelfennig, *Europeanization Beyond Europe*. p. 7

¹¹⁶ Diez, *et al.*, “The European Union and Border Conflicts: The Transformative Power of Integration.”

¹¹⁷ Lobjakas, Ahto, *EU Envoy Calls South Caucasus a 'Broken Region'*, 2007, Radio Free Europe/Radio Liberty, Available: <http://www.rferl.org/featuresarticle/2007/10/b9a6d173-75fd-41c2-a783-671415de0c94.html>, December 22, 2007.

to achieve. Bosnia and Herzegovina, and Serbia, for example, are still experiencing ethnic tensions ten years later. EU integration, but also closer partnership which would help economic development, can also lead to “increased wealth and employment” which can alter people’s preferences and is an indirect effect of the constructive impact.¹¹⁸

The *connective impact* “supports the contact between conflict parties, mainly through direct financial support of common activities.”¹¹⁹ In the area of research covered by this paper, the connective impact is present in the form of the EU’s support for the 5+2 format negotiations in Moldova and the Joint Control Commission in Georgia.

Bauer *et al.* further suggest that while compliance with EU rules in unlikely members will be almost non-existent, some or low impact can be expected in terms of communication processes,¹²⁰ which resonate with socialization. The EU can foster communication between “national policy makers,” leading to information exchange and mutual learning. The EU communicates with third-countries via various reports, action plans, visits, expert exchanges and statements. The Special Representative can be seen as a direct communicative link between the EU and the partners. Co-operating on issues with other countries, candidates or not, gives the EU a ‘foot-in-the-door’ in a specific issue area.

Jacoby also briefly suggests historical institutionalism (HI), as it explains that the motivation for emulation comes from the existing capacities of the state that are conducive to emulation. HI also suggests that a mismatch between “prevailing institutions and

¹¹⁸ Diez, *et al.*, “The European Union and Border Conflicts: The Transformative Power of Integration.”

¹¹⁹ Ibid. p. 573

¹²⁰ See Bauer, *et al.*, “Differential Europeanization in Eastern Europe: The Impact of Diverse EU Regulatory Governance Patterns.”

problem sets”,¹²¹ in the case of Moldova and Georgia institutions for border management and providing the rule of law, can also serve as a potential motive for emulation. In both cases, institutions were present, but inherited a legacy which was to serve as institutions of isolation (during the USSR regime), rather than openness.¹²²

And while the EU has only a limited active leverage stemming from conditionality, I would argue it still has what Vachudova calls “passive leverage”¹²³ (her book is, however, mainly about enlargement).

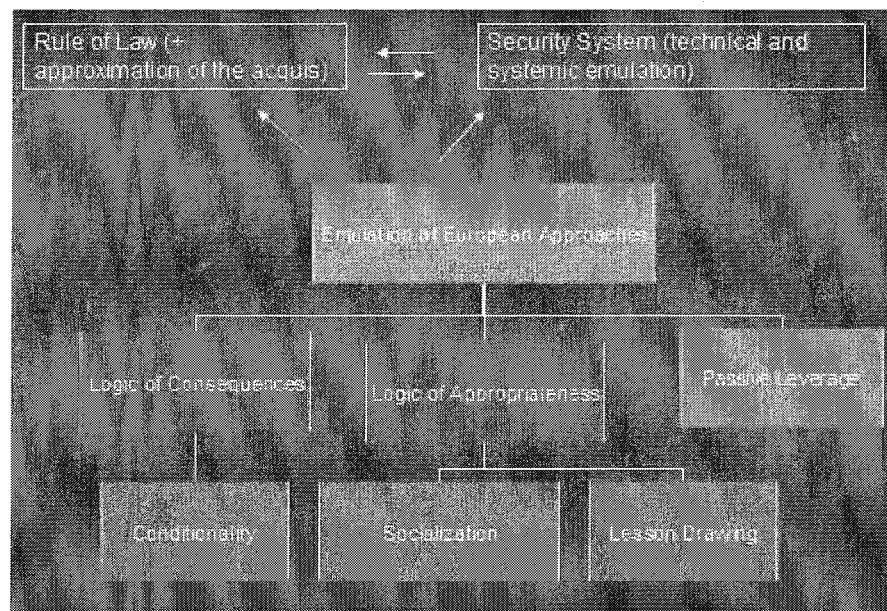


Figure 1: The Logic of European Influence¹²⁴

Passive leverage exists because the EU arguably offers items that are attractive to domestic leadership. Leadership that's bound on making changes is pressed to act in a way that would make that possible. For Moldova, the poorest country in Europe (after Kosovo), and even Georgia, there are hardly any alternatives to joining the EU system.

¹²¹ Jacoby, The Enlargement of the European Union and NATO: Ordering from the Menu in Central Europe.

¹²² See Chandler, A., Institutions of Isolation: Border Controls in the Soviet Union and Its Successor States, 1917-1993 (McGill-Queen's University Press, 1998).

¹²³ See Vachudova, Europe Undivided: Democracy, Leverage, and Integration after Communism.

¹²⁴ Figure is an original creation by the author

From an economic standpoint it's almost essential, for if they do not, they are likely to suffer "trade diversion, investment diversion, and aid diversion"¹²⁵ (similar to competition concept above).

Resting on the possibility of membership, passive leverage makes a reference to the "appeal of membership" plus "the protection of EU rules, voice in EU decision-making, access to the EU market, transfers from the EU budget, increased investment and growth, increased entrepreneurship and skills" are appealing incentives, as opposed to the "cost of exclusion and the EU treatment of non-members."¹²⁶ Moreover, joining the EU will decrease the role of power and wealth in terms of bargaining power, as all will, theoretically at least, have to adhere to the same rules. The EU also has a greater bargaining power as a collective, and affords its members protection from outside competition. In fact, "states faced with the possibility of joining a powerful regional organization like the EU will do so to avoid the costs of exclusion."¹²⁷ Hence, the EU is viewed as an attractive and appropriate system of ordering inter-state relations.

On the other hand, and along Heather Grabbe's line of thinking, we can estimate that Moldova and Georgia were willing to approach the EU because it would suit their own agendas equally well – namely, improved border controls and the consolidation of the rule of law. However, whereas Georgia expected the EU to help them solve the frozen conflicts, the EU was reluctant and rather focused more on what it wanted, namely creating stability in the country.

Moldova and Georgia can't turn away from the EU – seen as the only other regional partner to help them out as both are at odds with Moscow. Similarly, the domestic

¹²⁵ Vachudova, Europe Undivided: Democracy, Leverage, and Integration after Communism. p. 71

¹²⁶ Ibid.

¹²⁷ Ibid. p. 68

situation also makes it reasonable to seek outside help. As Jacoby notes, "elite efforts to distance themselves from the communist state have often so diminished state capacities that the state cannot oversee reform. In some cases, this was a result of personnel losses to the private sector, but in other cases administrative decentralization left the [for example] Ministry of Health without authority or resources. Thus states have been too weak or governments too temporary to carry out good reform designs."¹²⁸

Rule of law, security, border and customs management all play a role in contributing to an effective framework conducive to an economically competitive environment. Moldova may feel pressured to change its title as the poorest country in Europe, and as a member of CEFTA may see additional benefits from institutional efficiencies. For Georgia, it may be a way to justify pursuing closer relations with the West and extracting itself from the stigma of Central Asian instability.

An alternative explanation for the institutional change and the EU's influence is the role of geographic proximity to the EU, as suggested by Kopstein and Reilly.¹²⁹ They concluded that "location is important insofar as it serves as a proxy for underlying causal processes."¹³⁰ Hence, we expect to see closer adaptation in Moldova which shares a border with the EU, than in Georgia.

The aforementioned theoretical approach provides part of the framework to understand the process through which the EU enacts changes beyond Europe. In terms of conflict resolution, as Natalie Tocci suggests, "segregation entrenches, as vested interests

¹²⁸ Jacoby, The Enlargement of the European Union and NATO: Ordering from the Menu in Central Europe.

¹²⁹ See Kopstein, J. S. and D. A. Reilly, "Geographic Diffusion and the Transformation of the Postcommunist World," World Politics 53.1 (2000)., and Kopstein, J. S. and D. A. Reilly, "Explaining the Why of the Why: A Comment on Fish's" Determinants of Economic Reform in the Post-Communist World", East European Politics and Societies 13.3 (1999).

¹³⁰ Kopstein and Reilly as quoted in Jacoby, The Enlargement of the European Union and NATO: Ordering from the Menu in Central Europe. p. 38

form and consolidate around the status quo.”¹³¹ In that sense, the EU is attempting to get past the status quo, not by acting as a principle mediator, but by influencing reforms where it can.

3. Tracing the Evolution of the EU’s External Relations

3.1. The European Security Strategy

The 2003 European Security Strategy outlines the basic underpinning for the EU’s role in the neighbourhood.¹³² The ‘European’ strategy, presented by Javier Solana, gives an illusion that the EU speaks with one voice, and presents the EU as a unified foreign policy actor. Arguably, it is a response to US criticism regarding the member state split on the issue of Iraq and the potential inability to jointly address several other security issues (such as terrorism and weapons of mass destruction (WMD)). It is also a response to the new constitution and the prospective affirmation and modernization of the CFSP and ESDP.¹³³ The inclusion of ‘the neighbourhood’ in a document indicating the EU’s readiness to act together to address common security problems, is representative of its willingness to more concretely address the neighbourhood issues. However, it also sets a written manifesto against which it can be held accountable to in the future by potential critics and international partners.

Finally, the emphasis in the document is on civilian means of conflict management as opposed to military ones, which contrasts with the United States National Security Strategy. The EU also gives an impression of primacy of multi-lateral and legally sanctioned action (ie. UN sanctioned), unlike the US emphasis on pre-emption and self-

¹³¹ Tocci, Nathalie, Conflict Resolution in the European Neighbourhood: The Role of the EU as a Framework and as an Actor (EUI Working Paper) (Florence: European University Institute 2004). p.7

¹³² See A Secure Europe in a Better World: European Security Strategy 2003, Council of the European Union, Available: <http://www.consilium.europa.eu/uedocs/cmsUpload/78367.pdf>, December 20, 2007.

¹³³ Bailes, Alyson JK, The European Security Strategy : An Evolutionary History (Stockholm: Stockholm International Peace Research Institute, 2005).

interest, thus giving us an insight into the limits of future EU engagement, particularly in the area of Russian influence where it holds the UN Security Council veto power.

Specifically, the strategy calls for, as it has been already presented in a number of texts, both a “ring of well governed countries” and a “stronger and more active interest in the problems of the Southern Caucasus which will in due course also be a neighbouring region.”¹³⁴ However, no clear indication is given of what constitutes a well-governed state nor is it clear what a “stronger and active interest” means. Similarly, the strategy mentions that the “violent or frozen conflicts, which also persist on our borders, threaten regional stability.”¹³⁵ This indicates that the EU perceives the frozen conflicts as threat that can “hit home” and disrupt the regional peace and prosperity that the EU seeks in the wider Europe.

The ESS devotes a whole section to “Building Security in our Neighbourhood” and hints at the internal EU struggle – of how to limit inclusion without creating exclusion and forming new dividing lines on the continent.¹³⁶

From a theoretical standpoint the ESS can be viewed as a normative project. Subsequently, missions to fulfil the ESS goal can be seen as norm projections by transferring norms through technical assistance, standards and socialization of experts and policy makers.

Sven Biscop argues that the objectives of the ESS can be seen as global public goods (GPG), that is, goods in the interest of everybody, but one which cannot be left to

¹³⁴ A Secure Europe in a Better World: European Security Strategy p. 8

¹³⁵ Ibid. p. 4

¹³⁶ Ganzle, Stefan, European Neighbourhood Policy: Extending Governance Beyond Borders, 2007, Available: www.unc.edu/euce/eusa2007/papers/ganzle-s-11a.pdf December 20, 2007.

market forces and instead need to be managed by the government.¹³⁷ While perhaps too much confidence is placed in the government to secure public goods (as they have failed in other regards), both due to their short-term interests and at times a lack of transparency and openness to influence from better-off special interest groups, some merit is contained within this proposal. Herein lies the reasoning for why the EU should act externally, namely due to global and, more specifically, regional interdependence. As a result of rising inequality and potential for political upheaval on the margins, and with the EU expanding and getting geographically closer to those less equal, these issues need to be addressed. As argued below, the EU and the neighbours are “interdependent, and because of the “global public good” is non exclusive – maintaining our access to the GPG requires improving other’s access.”¹³⁸ We could use this approach to understand the reasoning behind the EU’s mission, but also to point out the relationship between security and development. Without arguing which comes first, both are necessary, but “in the long term no durable solution of politico-military problems can be achieved unless the stability of the world system itself is assured.”¹³⁹ Ultimately, the next time someone questions the need for EU involvement abroad, the answer is one of interdependence. How best to maintain that dynamic, however, remains to be seen.

3.2. Looking East

The EU policy towards the “wider Europe” has been strongly directed by the European Commission, which stated that the EU “has a duty, not only towards its citizens and those of the new member states, but also towards its present and future neighbours”

¹³⁷ See discussion in Biscop, “From Reflections to Power: Implementing the European Security Strategy.”

¹³⁸ Ibid.

¹³⁹ Ibid.

and promotes regional and sub-regional co-operation in the “shared environment.”¹⁴⁰ In 1999 the Forward Studies Unit of the European Commission published 5 scenarios (with some of the contents relatively accurately depicting the situation today) of what might the EU be facing in 2010.¹⁴¹ In each scenario, the issue of a neighbourhood was mentioned in varying contexts from blooming flowers to gloom and doom (“turbulent neighbourhood”). Beyond fortune telling, however, calls to debate the “Wider Europe” came from the UK in 2002, and subsequently from Sweden calling for a “development of an even broader set of neighbourhood policies ‘from Russia to Morocco’”.¹⁴² With the inevitable enlargement of the EU to include the Central and Eastern European states in 2004, and future prospects in the South-East Europe the eastern neighbourhoods became a reality. Clearly, the time has come when “it was no longer adequate to see these countries through Moscow and treat them as a Russian sphere of influence, as the EU had mostly done in the 1990s.”¹⁴³

In March 2003, the European Commission presented a policy paper titled “Wider Europe”. Parallel to the *Wider Europe* initiative, a particular *Eastern Dimension* was actively pursued by Poland, who was to become the newest member of the EU and one sharing the largest border with the “outsiders.”¹⁴⁴ Ultimately, the EU finalized its neighbourhood approach with the creation of the *European Neighbourhood Policy* (ENP)

¹⁴⁰ European Commission, Communication from the Commission to the Council and the European Parliament, “Wider Europe - Neighbourhood: A New Framework for Relations with Our Eastern and Southern Neighbours” Com (2003) 103 Final (Brussels: European Commission). p. 3, 9

¹⁴¹ Gilles Bertrand, Ana Michalski, Lucio R. Pench, Scenarios Europe 2010: Five Possible Futures for Europe, 1999, Forward Studies Unit, European Commission, Available: http://ec.europa.eu/comm/cdp/working-paper/senarios_an.pdf, December 20, 2007.

¹⁴² Browning, C. S. and P. Joenniemi, “The European Union's Two Dimensions: The Eastern and the Northern,” Security Dialogue 34.4 (2003). p. 464

¹⁴³ Gromadzki, Grzegorz, “How to Deal with Troublesome Neighbours,” European Neighbourhood Policy : Challenges for the EU-Policy Towards the New Neighbours, ed. Kai Olaf Lang Johannes Varwick (Opladen: Budrich, 2007). p. 130

¹⁴⁴ The term used by Smith, Karen E., “The Outsiders: The European Neighbourhood Policy,” International Affairs 81.4 (2005).

in 2004. The policy itself located the new security concerns in the area of organized crime, and efficient and secure border management. It aimed to achieve this by “creating good neighbours” that conform to more than just EU values, but also accept the “EU standards and laws.”¹⁴⁵ The EU is also following the same strategy as enlargement using evaluation instruments such as benchmarks and gate-keeping to measure partner’s progress. Kelley’s article suggests a fairly path-dependent process, one based not only on enlargement experience but also through being formulated by the same policy makers.¹⁴⁶

The issue of borders plays a key role in the ENP as it encourages cross-border co-operation. Further, it calls for “visa facilitation and the establishment of local border traffic regimes, to allow border area populations to maintain traditional contacts.”¹⁴⁷

The ENP aimed to address some of the issues that the ESS raised. Further, it was a response to “enlargement fatigue”¹⁴⁸ and it aimed to address the dividing lines, by not quite offering membership but not quite excluding possibility of closer co-operation by offering institutions and a relationship of partners. However, Karen Smith argues that regardless of what it strived to do, the ENP actually created the division it sought to prevent.¹⁴⁹

The ENP builds on the EUROMED partnership conceptually, where the “objective is to generate political stability through economic integration and political dialogue...which building on the core assumption, where economic integration is seen to be a powerful instrument in eliminating regional conflict and developing peace.”¹⁵⁰ How-

¹⁴⁵ Ibid. p. 763

¹⁴⁶ See Kelley, J., “New Wine in Old Wineskins: Promoting Political Reforms through the New European Neighbourhood Policy,” *Journal of Common Market Studies* 44.1 (2006).

¹⁴⁷ Smith, “The Outsiders: The European Neighbourhood Policy.” p. 766

¹⁴⁸ Ibid. p. 2

¹⁴⁹ See the overall argument - Ibid.

¹⁵⁰ Christiansen, *et al.*, “Fuzzy Politics around Fuzzy Borders: The European Union's 'near Abroad'.”

ever, closer economic co-operation is dependent in some part on the presence of the rule of law.

“Most ENP countries are poor, have no democratic tradition and a record of extensive human rights abuses.”¹⁵¹ Lacking a democratic history, it is more difficult for them to revert to institutions that have had some semblance of democracy, and building these from scratch is likely to be too costly and time consuming. A more rational response then would be to copy institutions and obtain technical assistance from more “advanced” countries with a similar background, along the lines of emulation.

The ENP sits well within the overall external relations strategy of the EU, namely along the side of the European Security Strategy and the ESDP, aiming to support the development of a “ring of friends”. The EU is developing a more comprehensive and integrated, yet arguably differentiated approach to foreign policy, via a number of instruments: CFSP, EDSP, ESS, the ENP and the SAA/SAP, plus the development aspect via agreements such as with the ACP countries.

The EU strives to expand its normative reach, by emphasizing the role of values it represents.¹⁵² “By referring to international standards and norms to legitimize those subjects for bilateral debate, the Action Plans however even more so underscore that the normative changes are an integral part to the ENP project.”¹⁵³

The ENP represents the EU’s cautious yet committed approach to democratization. It appears to be guided by a gradual and sectoral co-operation, namely by “broadening political and economic freedom step by step through support for legislative approxi-

¹⁵¹ Frölich, Stefan, “The European Neighbourhood Instrument: An Adequate Instrument for Democratization?,” European Neighbourhood Policy: Challenges for the EU-Policy Towards the New Neighbourhood, ed. Kai Olaf Lang Johannes Varwick (Leverkusen Opladen: Barbara Budrich Publishers, 2007).

¹⁵² Ibid. p. 80

¹⁵³ Ibid. p. 80

mation, administrative and judicial reforms, technical assistance, twinning and monitoring.”¹⁵⁴

Overall, the ENP is viewed as having “the potential to encourage political and social reform and sector-specific capacity building in such areas as 1) trade, 2) Justice and Home Affairs, 3) connecting people and 4) science and public health.”¹⁵⁵ Clearly the first two directly, and the latter indirectly are all related to this thesis.

Further financial support for domestic reform is offered under the Governance Facility, €300 million (2007-2013) and similarly €700 million to support international financial institution (IFI) lending. Human Rights will remain a separate funding entity, despite plans to incorporate it. The 2007-2013 funding will increase 32% over the 2000-2006 period, reaching €12 billion.¹⁵⁶ Conflict resolution while mentioned within the ENP still remains within the Common Foreign and Security Policy and the European Security and Defence Policy.

3.3. New Members, New Stakes

Since enlargement, the Eastern states have played a significant role in maintaining EU’s focus on the east. Being now on the frontiers of Europe, they assumed responsibility for safeguarding the inner Europe. The new members have themselves also been exerting a significant diplomatic effort in the Eastern neighbourhood.

For example, Poland has actively pursued an Eastern Dimension. Partly, it was a self serving project – it constructed a new identity for itself, as a bridge to the East of which it is no longer part of, thus at the same time distancing itself from the East and

¹⁵⁴ Ibid. pp. 84, 85

¹⁵⁵ East-West Institute, Conference Report, March 19, 2004, East West Institute, Available: <http://www.ewi.info/pdf/IBMREPORT%20March%2019%202004.pdf>.

¹⁵⁶ European Commission, The Policy: Frequently Asked Questions (Faq), European Commission,, Available: http://ec.europa.eu/world/enp/faq_en.htm#4.3, December 23, 2007.

nearing the West.¹⁵⁷ However, "this idea of a specific 'Eastern Dimension' was rejected" in favour of a more comprehensive East-South approach, put forth by Prodi in December 2002.¹⁵⁸ Since then, Poland has seconded and funded fifteen experts to the EUBAM mission. Polish government is recognizant of playing a "particularly important role as one of the EU member states on the external border of the EU."¹⁵⁹

Estonia launched a diplomatic effort to establish a military representation in Georgia. Estonian foreign minister stressed their commitment to support Georgian efforts towards integration into Western structures.¹⁶⁰ However, the issue of frozen-conflicts amongst new members remains on the back-burner and is at times publicly avoided.¹⁶¹

Lithuania also committed border guards to assist the EU mission in Georgia, participating in the EU's CFSP mandated Border Support Team (BST) and sharing its expertise in protecting the 1000km external border of the EU.¹⁶² Further, it supports Georgia's quest towards the consolidation of its statehood, pledging assistance for reforms.¹⁶³ Overall, the Baltic states have proven to be significant supporters of the EU's involvement in Georgia.¹⁶⁴

¹⁵⁷ Argument put forth by Browning and Joenniemi, "The European Union's Two Dimensions: The Eastern and the Northern."

¹⁵⁸ Gromadzki, "How to Deal with Troublesome Neighbours." p. 130

¹⁵⁹ Polish Interior Minister Stressed Support for EUBAM, March 2, 2007 March 2, 2007, Press Release - Word Document, European Union Border Assistance Mission to Moldova and Ukraine, Available: <http://www.eubam.org/files/0-99/83/Press-release-polish-02-03-07.doc>, December 20, 2007.

¹⁶⁰ Estonian Foreign Minister Promises All-Round Assistance to Georgia 2005, Estonian Embassy in Stockholm, Available: http://www.estemb.se/frontpage/estonian_review/newwin-middle50/aid-446, December 20, 2007.

¹⁶¹ Czech Premier Ends Visit to Georgia, February 5, 2005, Online Newspaper Article, Czech News Agency CTK, Available: <http://www.lexisnexis.com/>, December 20, 2007.

¹⁶² Lithuanian Border Guards to Participated in Mission at Georgian-Russian Border, July 20, 2006, Newspaper Article, Baltic News Service (BNS), Available: <http://www.lexisnexis.com/>, December 20, 2007.

¹⁶³ Chauffour, Célia, Giorgi Baramidze: "Speaking About NATO, I Have to Say That It Represents a More Realistic Goal", March 27, 2006, Newspaper article, Caucas EuropeNews, Available: http://www.caucas.com/home_eng/breve_contenu.php?id=242, December 20, 2007.

¹⁶⁴

The Czech Republic has also been active in the neighbourhood, participating in the EU Border Assistance Mission, and advocating Moldova's territorial integrity.¹⁶⁵ Further, the so-called "New Group of Friends" – Bulgaria, Estonia, Lithuania, Latvia, Poland, Romania, Czech Republic (all EU member states) – is committed to help Georgia integrate into western structures, and all support Georgia's territorial integrity and the approaches to conflict settlement.¹⁶⁶ It is interesting that this new group of friends is separate from the "Group of Friends of the UN Secretary General for Georgia", which includes Germany, France, Russia, UK and the USA.

4. The EU's Approach to Civilian Conflict Management

The civilian components discussed below can have their origins traced to the Feira (June 2000) and Gothenburg (June 2001) European Council meetings. As a result of these two meetings, and with "extensive contributions from the Commission,"¹⁶⁷ the EU resolved to establish four civilian components for crisis situations. The four areas were: police co-operation (officers), rule of law (judges and experts), civilian administration (elections, taxation, education, etc.) and civilian protection (humanitarian efforts).¹⁶⁸ Further, the 2001 Communication on Conflict Prevention and the Checklist for Root Causes of Conflict.¹⁶⁹ The Communication also presented a starting point for understanding the EU's approach to conflict management. Overall, "while the Commission stays clear of

¹⁶⁵ Czechs to Extend Participation in EU Mission in Dniester Region, April 21, 2006, Newspaper Article, Czech News Agency, Available: <http://www.lexisnexis.com/>, December 20, 2007.

¹⁶⁶ Georgian Foreign Minister Meets Group of East European Supporters, November 9, 2006, Press Release, Ministry of Foreign Affairs Georgia via BBC Monitoring International, Available: <http://www.lexisnexis.com/>, December 20, 2007.

¹⁶⁷ Hauser, Gunther, "The ESDP: The European Security Pillar," European Security in Transition, eds. Gunther Hauser and Franz Kernic (Hampshire: Ashgate Publishing Limited, 2006).

¹⁶⁸ Ibid.

¹⁶⁹ European Commission, European Commission Check-List for Root Causes of Conflict, European Commission,, Available: http://ec.europa.eu/external_relations/cfsp/cpcm/cp/list.htm, December 20, 2007.

military matters, it is involved closely in the civilian aspects of crisis management, focusing in particular on “police, rule of law, civilian administration and civil protection.”¹⁷⁰

4.1. Moldova

With the EU’s new borders following the recent enlargements, the neighbourhood became of greater concern to the EU, as it wanted to be surrounded by a “ring of well-governed countries.”¹⁷¹ If by “well-governed” we take to mean democracy, human rights, rule of law then Moldova is at this point only on its way to being well governed. The sum of our expectations is that the EU is pursuing indirect means of conflict resolution. The underlying argument then is that by improving the economic, social and political situation in Moldova, Chisinau will become more attractive for the Transnistrian population, leading to conflict settlement. As noted on the Special Representative page of the Council “The principles of international law need to be respected. At the same time, the Moldovan development model must be attractive to the inhabitants of the left bank of the Nistru river. This highlights the need for economic reforms and deepening democracy and human rights in Moldova.”¹⁷²

4.1.1. Border Management

This thesis will proceed to present a case that the EU has a significant impact in the border management sector in Moldova. Stemming from the empirical evidence, this thesis will suggest that this is a case of externalization of the EU’s Justice and Home Affairs governance.

¹⁷⁰ Schweiss, Christina, “European Security and Defense Policy: Capabilities for a Complex World,” Old Europe, New Security : Evolution for a Complex World, eds. Janet Adamski, *et al.* (Aldershot, England ; Burlington, VT: Ashgate, 2006). p. 97

¹⁷¹ A Secure Europe in a Better World: European Security Strategy p. 8

¹⁷² Kálmán Mizsei, EU Special Representative for the Republic of Moldova, The Council of the European Union, Available: http://www.consilium.europa.eu/cms3_fo/showPage.asp?id=1194&lang=EN&mode=g, December 20, 2007.

The EU has several inputs into the border management sector. All of them contribute to the pursuit of an Integrated Border Management (IBM) strategy, and ENP can be seen as an acceptable framework within which to do so.¹⁷³

IBM can be defined as: “National and international coordination and cooperation among all the relevant authorities and agencies involved in border security and trade facilitation to establish effective, efficient and integrated border management systems, in order to reach the objective of open, but well controlled and secure borders.”¹⁷⁴ IBM rests on three levels: “1) integration of border operation between countries of origin and destination, 2) processing of different flows of people and goods at different stages and 3) facilitation of trade and efforts to control illicit flows.”¹⁷⁵ Further, IBM aims at intra-service, interagency co-operation and international co-operation.

The main way the EU is having an impact on border management in Moldova is through the EU Border Assistance Mission to Moldova and Ukraine. Establishing Integrated Border Management “would align Moldova and Ukraine more closely with European standards.”¹⁷⁶

Marius Vahl presented a timeline indicating a growing EU involvement in Moldova.¹⁷⁷ As he points out, in February of 2003, the EU issued a travel ban on the Transnistrian leadership which was subsequently renewed in 2004 and 2005. Most of the EU actions were limited to political areas, namely advising Moldovan leadership (as in

¹⁷³ East-West Institute, Conference Report.

¹⁷⁴ International Centre for Migration Policy Development, Guidelines for Integrated Border Management in the Western Balkans, 2007, Available: [http://www.icmpd.org/792.html?&tx_icmpd_pi2\[document\]=584&cHash=4a3246083c](http://www.icmpd.org/792.html?&tx_icmpd_pi2[document]=584&cHash=4a3246083c), April 10, 2008.

¹⁷⁵ East-West Institute, Conference Report.

¹⁷⁶ Summary of EUBAM Activity Report for June-August 2007, September 26, 2007, European Union Border Assistance Mission to Moldova and Ukraine, Available: <http://www.eubam.org/files/300-399/388/ABM7-ACTIVITY-REPORT-summary-eng.doc>, December 20, 2007.

¹⁷⁷ Vahl, The Europeanisation of the Transnistrian Conflict (CEPS Policy Briefs). p. 2

rejecting the Kozak Memorandum), brokering customs agreement between Moldova and Ukraine and having a political debate in the EU on possible actions in conflict area (i.e. “a possible EU-led ‘peace consolidation’ operation in Transnistria.”).¹⁷⁸ However, beginning in 2005, there is noticeably a more on-the-ground approach through the appointment of a Special Representative, establishment of a European Commission (EC) delegation in Chisinau (Moldova’s capital) and the deployment of an EU Border Assistance Mission to Moldova and Ukraine (EUBAM). The section will look at the on-the-ground missions specifically.

The control of the borders plays a significant role in sustaining the Transnistrian regime. The European Union Border Assistance Mission was established on November 30, 2005 at the request of Moldovan and Ukrainian governments for assistance in creation of an ‘international customs control arrangement and an effective border monitoring mechanism on the Transnistrian segment of the Moldova-Ukraine State border’.¹⁷⁹ The objectives of the mission are to assist with the harmonisation of border management in line with the EU and more specifically “to help prevent smuggling, trafficking, and customs fraud, by providing advice and training to improve the capacity of the Moldovan and Ukrainian border and customs services.”¹⁸⁰

More cautiously Solana also indicated a role for the mission in the Transnistrian conflict by stating the “mission will also play an important role in building preconditions

¹⁷⁸ Ibid.

¹⁷⁹ European Union - Factsheet - EU Border Assistance Mission to Moldova and Ukraine, December 2007, The Council of the European Union, Available: http://consilium.europa.eu/uedocs/cmsUpload/071205_Factsheet_BM_Moldova_Ukraine-update.pdf, December 20, 2007.

¹⁸⁰ Solana and Ferrero-Waldner to Launch Border Assistance Mission in Odessa 30 November, November 29, 2005, European Commission, Available: http://ec.europa.eu/external_relations/ceeca/news/ip05_1488.htm, December 20, 2007.

for seeking a peaceful settlement of the Transnistrian conflict.”¹⁸¹ Finally, Commissioner Benita Ferrero-Waldner indicated the economic as well security reasoning behind the mission, claiming it “should reduce the risk of criminal activities such as trafficking in persons, smuggling, proliferation of weapons and customs fraud. I hope that it can also help ensure that the Chisinau government receives all the duties due to it, which should bring real economic benefits to the country.”¹⁸² Reports from the mission indicate overall satisfaction with the progress but the “the Mission would like to see greater efforts including in anti-corruption, deterrence of crime, and swifter progress on information exchange”¹⁸³ suggesting some of the hardened organizational and cultural norms are still in place.

The Mission, initiated by the Council Joint Action of November 7, 2005 and with an intended mandate of two years, was extended until November 2009. It was originally funded by the Rapid Reaction Mechanism, and subsequently under the TACIS program. The mission expenditure up to November of 2007 was €20.2 million, further supported by secondment of a number of border experts, and will be further financed with €10 million per year for two years.

EUBAM focuses on roughly three core areas: modernization of infrastructure (equipment), joint training and mentoring and development of risk analysis culture/systems. The number of experts from the EU is 129, mostly from the member state border services, and the rest of the 200 is local staff and UNDP partners.

¹⁸¹ Ibid.

¹⁸² Ibid.

¹⁸³ Summary of Reports to the Eighth EUBAM Advisory Board Meeting, November 30, 2007, European Union Border Assistance Mission to Moldova and Ukraine, Available: <http://www.eubam.org/files/100-199/191/ABM8%20summary%20of%20reports.doc>, December 20, 2007.

The mission orientation is very much in line with the FRONTEX approach to border management, pictured below:

FRONTEX operations span areas of training, infrastructure (compatible equipment), joint operations and joint risk analysis, the very same areas being fostered via EUBAM. The mission led to three joint operations between Moldova and Ukraine (April and October 2006 and April and October 2007) and fostered co-operation across the law enforcement branches of the two states. The April exercise led to intensified border controls and contributed to increased awareness of criminal methods used, potentially producing intelligence for improved risk-analysis and targeting. Despite common suggestions of significant arms smuggling, the majority of seizures were in the areas of consumable goods (meat, tomatoes, vodka, cigarettes), 11kgs of marijuana and ammunition. Failure to detect arms smuggling does not however imply there is no arms smuggling but rather that it remains undetected. Compared to the previous year, there was an increase in the number of people not allowed to cross the border and the quantity of drugs and smuggled goods seized. The number of people detained for illegal border crossings dropped, perhaps due to deterrence by awareness of increased vigilance or due to an increase in alternative and more covert methods of smuggling. Finally the economic benefit via value of goods seized was \$322,000 or 2.5 times higher than previous operations.¹⁸⁴ In October 2007, a successful Joint Border Operation 'Focus' was conducted by Ukrainian and Moldovan law enforcement agencies, as well as the EU Member States, the European Agency for the Management of Operational Cooperation at External Borders of the

¹⁸⁴ The Third Joint Border Control Operation Showed Significant Progress in Improving Co-Operation and Led to Significant Findings in Combating Cross Border Crime, May 15, 2007, European Union Border Assistance Mission to Moldova and Ukraine, Available: <http://www.eubam.org/files/0-99/83/JO-press-17-05-07.doc>, December 20, 2007.

Member States of the European Union (FRONTEX) and F (OLAF) and the regional organization Southeast Europe Cooperative Initiative (SECI). The operation led to discoveries of large-scale smuggling of food, human and vehicle trafficking, particularly along the Transnistrian section of border.¹⁸⁵

Overall, Ukraine and Moldova remain significant drug (for heroin from Afghanistan, psychoactive drugs and marijuana and discoveries of its cultivation) and human trafficking routes. The EU reports that in the area of corruption, despite decreases, more needs to be done as there is a “lack of proper investigations and evidence-gathering and unsatisfactory court decisions which result in a weak deterrent for criminal activity.” Further, food smuggling, due to “price differentials” and “high levels of poverty”, remains a problem across the Transnistrian region and that forged Moldovan certificates of origin being used are costing Ukraine some €2 million.¹⁸⁶ So far, over 370 agents have registered with Chisinau, allowing them to enjoy the trade preferences via Moldova. The resulting trade is estimated to be around €700 million, 600 of which are exports.¹⁸⁷

In terms of customs, the EU has a TACIS project, that would “to reform the organizational and operational capabilities of Customs Service towards compliance with WTO agreements, EU customs legislation and best practices, and to facilitate the dialogue and co-operation with trade community.”¹⁸⁸ It aims to support interagency co-operation between customs and border guards.

The EU is attempting to foster a culture of risk-analysis in terms of border controls. Arguably, this should make the process less burdensome, by making it both more

¹⁸⁵ Summary of Reports to the Eighth EUBAM Advisory Board Meeting.

¹⁸⁶ Summary of EUBAM Activity Report for June-August 2007.

¹⁸⁷ Summary of Reports to the Eighth EUBAM Advisory Board Meeting.

¹⁸⁸ Project fiche customs 2006

efficient and thorough by decreasing the number but increasing the quality of inspections, leading to a less burdensome experience for a majority of travelers as the services develop intelligence and analysis capacity.¹⁸⁹ At the same time, it may push illegal migration further underground making it riskier and consequently costlier for those trying to migrate.

Emphasis is further placed on infrastructure (IT) improvements and information exchange and inter-agency cross-border co-operation between Ukrainian and Moldovan customs services. Moreover, databases had been adopted that can potentially be aligned with the EU databases in the future. The EU further organized study tours in member states - Ukrainian and Moldova officers visited member states Finland, Austria, Greece and Hungary, and Croatia, Macedonia and Turkey – and deployed experts to help with standardization and harmonization of customs processes.

The mission is significant because it indirectly addresses the conflict by re-establishing Moldovan legal primacy over the whole of its territory – at least in the economic/business sector. And while the focus is clearly on the areas surrounding Transnistria, the additional benefit stems from increased Ukraine-Moldova co-operation and training by the EU. The latter can later be incorporated, based on results in the EUBAM area, to other sections of the country and operations overall.

It is ironic, that on one hand, a majority of the EU states are giving up border controls to the peripheral borders, while at the same time the EU is emphasizing the need for better border controls externally. It appears that the EU is attempting to extend the front-line of border controls externally. The ring of friends serves as an additional filter for migrants trying to reach the EU. If the borders were porous externally, the EU would have

¹⁸⁹ Summary of EUBAM Activity Report for June-August 2007.

to deal with “problematic” migrants increasingly at their borders, in addition to administrative and logistical tasks of returning these unwelcome migrants to the last states of origin. It is also, to some extent, exporting risk analysis and risk management externally into the hands of partner states, externalizing the principles of Schengen. Finally, it is indicative of “EU’s dependence on its neighbourhood” to establish its own internal security as “there is no serious alternative to closer co-operation with neighbouring states”¹⁹⁰ However, careful consideration needs to be placed on not proclaiming the EU as acting strictly in self-interest. Rather, it should be in the interest of states like Moldova to provide a functioning society for its people, rather than enjoying the status quo, which in the short term may benefit the government and corrupt officials.

The EU has also funded the ‘Söderköping Process’, or the Cross-Border Co-operation Process “to facilitate cross-border co-operation between new EU Member States, candidate countries and the Western NIS on asylum, migration and border management issues.”¹⁹¹ The process brought together border management experts from the EU and the Western Newly Independent States, including Belarus. It allowed for co-operation of states within and outside the EU, the facilitation of exchange of best-practices, policy solutions, and fostered research on topics of migration, asylum and border management.¹⁹² And it aimed at “strengthening the role of the Western NIS as vital partners of the EU in managing irregular migration and improving protection standards

¹⁹⁰ Knelangen, Wilhelm, "A Neighbourhood of Freedom Security and Justice," European Neighbourhood Policy: Challenges for the EU-Policy Towards the New Neighbours, ed. Kai Olaf Lang Johannes Varwick (Opladen: Barbara Budrich Publishers, 2007). p. 92

¹⁹¹ The Söderköping Process, The Söderköping Process - European Commission, Available: <http://soderkoping.org.ua/page2864.html>, December 20, 2007.

¹⁹² Ibid.

for asylum seekers and refugees in the region”¹⁹³ indicating EU’s reliance on the new partners in combating one its greatest concerns.

In addition to EUBAM, which paves ground for socialization between technocrats, and the Söderköping process which enables regional and international socialization between policy makers and border personnel, the EU, via the European Commission, funded a UNDP implementation of Belarus, to deliver a program to combat drug use and drug trafficking. Of relevance to border management issues is the focus on combating drug trafficking. The objective of this project area is “to enhance analytical and technical capabilities of relevant services to counteract drug dealing and drug trafficking through acquiring and introducing best EU knowledge and practices in drug enforcement and border management.”¹⁹⁴ While most of the activities overlap with EUBAM, the focus is slightly different. This project supports the focus on regional co-operation in EU’s external relations

4.1.2. The Rule of Law

The rule of law component in Moldova, besides being supported with border reforms, also consists of supporting judicial reform. The EU is further involved in combating corruption, money laundering and terrorist financing via an established project.

The judicial project is meant to “improve the independence, transparency and efficiency of the justice system in the Republic of Moldova and guarantee a fair access to justice for all citizens, based on rule of law and respect of *common European democratic values and standards* (my emphasis).”¹⁹⁵

¹⁹³ Ibid.

¹⁹⁴ <http://bumad.un.kiev.ua/index.php?lang=en&sID=12>

¹⁹⁵ http://www.delmda.ec.europa.eu/eu_and_moldova/pdf/project_fiche_justice_en.pdf

In the areas of combating human trafficking, the EU acts through the ILO, while in combating terrorist financing, money laundering and corruption through a local partner organization.

4.1.3. The European Union Special Representative to Moldova

The EU's approach to Moldova may be seen as a little incoherent. To add to the range of policy and legal instruments, the EU deployed a new foreign policy initiative – the EU Special Representatives (EUSR). The EUSRs are “an instrument of the CFSP” but are problematic in a sense that they lack accountability to the European Parliament.¹⁹⁶

The EUSRs are meant to “enhance the public image of the Union and address the much lamented deficit of public diplomacy.”¹⁹⁷ As such, they can be seen to serve to communicative role between the EU and partner country. The EUSR for Moldova is intrinsically linked to the EUBAM – the EUSR was responsible for negotiating the Memorandum of Understanding, “enabling the deployment of the mission” but also remove political obstacles that may interfere with fulfilling the mission's mandate.¹⁹⁸ The Head of the EUBAM mission, also reports to the EUSR in addition to the Commission.

Apart from the diplomatic and administrative role in assisting the EUBAM, EUSR was primarily entrusted with finding the solutions to conflict by supporting the activities of the OSCE, observe and follow the political situation on the ground in Moldova and maintain contacts with domestic actors, and develop the “EU conflict pre-

¹⁹⁶ Grevi, Giovanni, Pioneering Foreign Policy: The EU Special Representatives (Paris: European Union Institute for Security Studies). p. 17

¹⁹⁷ Ibid. p. 44

¹⁹⁸ Ibid.

vention and conflict settlement policy” as well as supervise the “relevant aspects of the ENP Action Plan.”¹⁹⁹

While this approach to reaching resolution to the conflict is a more direct one, it is still fairly indirect, showing more restraint than unilateral peacekeeping deployment and consequently giving support to the initial thesis. However, the 5+2 negotiation format has collapsed since the introduction of Customs registration requirement for the TN companies and the EUSR’s mandate is concentrated on supporting the OSCE and maintaining an overview of EU activities. Some contact has been established with the Transnistrian regime and high-level talks were held in Moscow and Kiev, but overall no new or significant developments have been put forth. The EUSR stresses the need for greater EU-Russia co-operation and acknowledges the role of Ukraine.

4.1.4. Synthesis

It becomes clear that the role of Europe has been quite limited in finding a conflict solution in Moldova. Rather, the EU focused on reinforcing the state capacity in Moldova, in hope to make it an attractive future federal partner for Transnistria. The emphasis has also been placed on the area of Justice and Home Affairs, an increasingly relevant field for the EU and one of significance within the ENP Action Plans. As in other fields, the internal EU priorities and efforts are complemented by external solutions.²⁰⁰ It appears then that the EU’s role in Moldova is both one of striking a fine balance of minimizing potential risk (through a civilian rather than military mission, and not directly challenging Russia), maximizing EU’s image and satisfying both self-interest of immi-

¹⁹⁹ Ibid.

²⁰⁰ Knelangen, "A Neighbourhood of Freedom Security and Justice." p. 88-89

gration and border management and Moldovan interest in state capacity and long term conflict resolution.

As Knelangen suggests, JHA progress in the neighbourhood “reflects the character of government in a particular country” and is “inherently value-related.”²⁰¹ If we speak about the initiatives above as value-related then we place them in a normative field, and the project becomes one of norm dissemination, which is ultimately the underlying theme of democratization.

4.2. Georgia

The EU can foster regional co-operation, due to the Georgian and other Caucasian “sensitivity to international opinion.”²⁰² Already, Georgia is a member of GUAM (Georgia, Ukraine, Azerbaijan and Moldova) and the Black Sea Economic Co-operation (BSEC). Within BSEC, Georgia is one of the “most enthusiastic, seeing BSEC as a step toward greater integration in Europe and as a useful framework for assisting Georgia’s development as a transit country.”²⁰³ Regional co-operation however, will only work if conflicts are resolved, since, for example, the Abkhazia conflict is to a certain extent damaging to Georgia-Armenia relations, considering the latter supported Abkhazia.²⁰⁴ Much along the line of Natalie Tocci’s proposals, Peter Semneby suggested that one way the conflicts in the South Caucasus can be overcome is by providing an overarching identity, such as a European one, to overcome the identity differences and establish commonness. However, how workable this is uncertain. Similar identity-building projects in the Balkans, while somewhat successful, have also met resistance (ie. Bosnia). Further, this

²⁰¹ Ibid. p. 91-92

²⁰² Yunusov, Arif, “The Southern Caucasus: Cooperation or Conflict?,” Building Security in Europe’s New Borderlands : Subregional Cooperation in the Wider Europe, ed. Renata Dwan (Armonk, N.Y.: M.E. Sharpe, 1999). p. 165

²⁰³ Ibid. p. 166

²⁰⁴ Ibid.

kind of a project will take time – the conflicts in the Balkans have already passed the 15 year mark. Ultimately, whether the externally brought in values and emphasizing a “shared identity”, somewhat imposed from above and outside, can take hold is unclear. To that end, domestic partnerships and support are essential, and this requires a series of small steps, confidence building and mutual trust.

4.2.1. The European Union Border Support Team

Within the EUSR office, the EU deployed a border support team “to assist the Georgian Border Police and other relevant Georgian government institutions in the preparation of a comprehensive border management reform strategy.”²⁰⁵ The reform process is meant to adapt the Georgian standards to the EU, and follows the EU’s Four-tier Border Security System pictured below (Figure 3).²⁰⁶

It does not, however, cover the border where the conflicts are located, which is different from the Moldovan case. In fact, the decision to not send a full fledged Border Support Team indicated the preference for the EU to maintain a relatively low-profile,²⁰⁷ while at the same time appearing to be actively engaged. The limited profile of the mission was due to internal inability of the EU to reach consensus for a more comprehensive mission mandate.²⁰⁸ In this regard, the tables are turned as in Georgia it was the EU Rule of Law Mission that was arguably more prominent, while in Moldova and Ukraine the focus was on borders. According to Nicu Popescu’s findings the Border Support Team was meant to de-escalate tensions between Russia and Georgia due to former’s criticism

²⁰⁵ European Union Border Support Team Factsheet, Council of the European Union, Available: http://www.consilium.europa.eu/cms3_fo/showPage.asp?id=1319&lang=EN, December 20, 2007.

²⁰⁶ Ibid.

²⁰⁷ Kurowska, Xymena, Beyond Balkans but Still in Civilian Uniform: EUJUST THEMIS, December 20, 2007, London School of Economics, Available: <http://www.fornet.info/documents/CFSP%20Forum%20vol%204%20no%203.pdf>, 3 4.

²⁰⁸ Socor, Vladimir, France Leads the Eu's Nyet to Georgia Border Monitoring, 2005, Jamestown Foundation, Available: http://www.jamestown.org/edm/article.php?article_id=2369613, December 22, 2007.

of Georgian border controls, and not directly have an impact on the state of the secessionist conflicts.²⁰⁹

The overall impact of the EU on the conflicts has been negligible. In fact, EU's own Special Representative Semneby offered equal assessment in his report to the Parliament, stating: "no progress' in resolving the frozen conflicts in Georgia's breakaway regions of Abkhazia and South Ossetia."²¹⁰ "Given the rivalries between and inside the countries [of the South Caucasus], this identity has to be larger than the region itself. An additional layer of identity, a European identity, is what comes to mind here."

4.2.2. The European Union Rule of Law Mission: EUJUST THEMIS

The EU and Georgia have divergent approaches to their relationship. EU emphasizes democracy, human rights and rule of law and keeps Georgia at a distance in terms of membership. Georgia on the other hand wants EU to take a more active and direct approach to helping it resolve the conflicts.²¹¹ Georgian government, recently winning over the conflict in Ajaria, is likely motivated to continue with political successes. On the one hand, the difference is there, but on the other hand EU's strategy would in the long term address Georgian concerns. EU's has been involved in the Caucasus since 1993, by providing technical assistance in an attempt to revive the Silk Road transport corridor via the Transport Corridor Europe-Central Asia (TRACECA) and the Interstate Oil and Gas to Europe (INOGATE) initiative, both "designed to promote economic development, reduce economic independence on Russia and encourage sub-regional co-operation."²¹² While

²⁰⁹ Popescu, Europe's Unrecognized Neighbours: EU in Abkhazia and South Ossetia. p.11

²¹⁰ Lobjakas, EU Envoy Calls South Caucasus a 'Broken Region'.

²¹¹ Popescu, Europe's Unrecognized Neighbours: EU in Abkhazia and South Ossetia.

²¹² Cotty, Andrew, ed., Europe's Security Architecture and the New "Boundary Zone" (Armonk, N.Y.: M.E. Sharpe, 1999). p. 190

this project has produced some successes at the regional level, the ongoing conflicts still prevent deeper co-operation in the region.²¹³

The EU is pursuing a similar tactic as in Moldova. It dispatched an EU rule of law mission EUJUST THEMIS and the EU Special Representative. Further, an “invisible” border mission under the Special Representative is also in place. So far, the EU, as in Moldova, has shown restraint in addressing the conflicts directly. An opportunity to send a replacement mission for the ending OSCE border monitoring mission in 2005 was not pursued, leading to frustrations in the Georgia–EU relationship.²¹⁴ However, the EU did send a three-person expert team to examine the situation for three months and report back with suggestions.²¹⁵

The new government Georgia has since indicated a clear preference towards further integration with the European and Euro-Atlantic institutions, outlined in the National Security Concepts and National Military Strategy documents.²¹⁶

EUJUST THEMIS was a response to the request for assistance by the Georgian Prime Minister Zhevia with the objective to strengthen the rule of law in Georgia. It took a month and a half from the request by the Georgian PM (June 3, 2004) to the establishment of the EUJUST mission office in Tbilisi (July 22, 2004) with a mandate of twelve months. The mission was meant to be planned and deployed within two weeks. The mission benefitted from the new Rapid Reaction Mechanism (RRM), which was used to finance the initial phase of the mission. EUJUST THEMIS was also the first ESDP based

²¹³ Yunusov, Arif, "The Southern Caucasus: Cooperation or Conflict?," Ibid. p.169 – 170.

²¹⁴ See Lynch, Dov, Why Georgia Matters (Paris: European Union Institute for Security Studies). p.14

²¹⁵ Conflict Resolution in the South Caucasus: The Eu's Role, March 20, 2006, International Crisis Group, Available: <http://www.crisisgroup.org/home/index.cfm?id=4037>, December 20, 2007.

²¹⁶ Lynch, Why Georgia Matters. p. 30

rule of law mission. THEMIS was based on the Council Joint Action²¹⁷ and the Head of Mission, Sylvie Pantz, was approved by the Political and Security Committee Decision²¹⁸. It was also a way to act preventatively, in light of the Rose Revolution and subsequent unstable political environment.²¹⁹

The EU experts were deployed as part of the “280 civilian ‘rule-of-law experts’”, that were made available via ESDP by member states; this also included 2,000 civil protection personnel and 5,000 civilian police officers.²²⁰ The main focus of the mission was to:

- a) “Provide urgent guidance for the new criminal justice reform strategy;
- b) Support the overall coordinating role of the relevant Georgian authorities in the field of judicial reform and anti-corruption;
- c) Support the planning for new legislation as necessary, e.g. Criminal Procedure Code; and secondarily to:
- d) Support the development of international as well as regional cooperation in the area of criminal justice“²²¹

Clearly, the mission mandate was focused on strengthening the governing capacity of the Georgian state, but it did also hint at regional co-operation. Further, the action acknowledged the role of other actors in the region, namely the OSCE but it did not mention Russia.

²¹⁷ Council Joint Action 2004/523/CFSP of 28 June 2004 on the European Union Rule of Law Mission in Georgia, EUJUST THEMIS

²¹⁸ Political and Security Committee Decision THEMIS/1/2004 of 30 June 2004 concerning the appointment of the Head of Mission of the EU Rule of Law Mission in Georgia, in the context of ESDP, EUJUST THEMIS (2004/540/CFSP)

²¹⁹ Lynch, *Why Georgia Matters*, p.94

²²⁰ Schweiss, "European Security and Defense Policy: Capabilities for a Complex World." p. 96

²²¹ Council Joint Action 2004/523/CFSP of 28 June 2004 on the European Union Rule of Law Mission in Georgia, EUJUST THEMIS

The mission head report to the then Special Representative Heikki Talvitie, both under the leadership of EU's High Representative Javier Solana. It was the first such mission under the ESDP framework. The mission was timely as there were raised concerns over the human rights violations in Georgia.²²² It was "completed successfully in summer 2005" and had "addressed urgent challenges in Georgia's criminal justice system, encouraged reform, strengthened the rule of law, and supported Georgia's international and regional cooperation in criminal justice areas."²²³ The mission was composed of 12 (9 seconded, 4 contracted, and one head of mission) experts from most of the EU countries and 14 local staff (during the initial 18 months).

While officially proclaimed a success, post-mission review by Pantz gave a more sombre outlook. She noted "there is "no guarantee" that the government won't simply put the new reform strategy "in a drawer" and gave a more realistic outlook, stating that the implementation of any reform plan will take time and political will.²²⁴ As the mission wrapped up, however, two senior experts stayed behind, under the auspices of the EUSR, to monitor the situation. Recent crackdowns via the imposition of the emergency rule, suggest that Pantz's long-term proposal was not incorrect.

Declassified EU assessment reports indicate slow progress. Lack of action has been noted in the legislative and judicial sectors. The Ministry of Interior is not preparing

²²² Human Rights Violations in Georgia, October 15, 2007, International Federation for Human Rights (FIDH), Available: <http://www.fidh.org/spip.php?article4788>, December 20, 2007.

²²³ European Security and Defense Policy: Working for a Safer World, January 2006, Delegation of the European Union to the United States of America, Available: <http://www.eurunion.org/News/eunewsletters/EUFocus/2006/EUFocus-ESDP.pdf>, December 20, 2007.

²²⁴ Lobjakas, Ahto, Georgia: Chief of EU Judicial Mission Leaves with Mixed Feelings, July 20, 2005, Radio Free Europe/Radio Liberty, Available: <http://www.rferl.org/featuresarticle/2005/07/21fd4483-0ba0-46fd-9442-e245d767acb9.html>, December 20, 2007.

the necessary laws governing the Police, which are essential if the Strategy tools will be implemented.²²⁵

This is likely due to the presence of corruption, and appropriate incentives, and the level of entrenchment of old norms for over 30 years of communism. Moreover, it is likely due to the fact that Georgia did not have a democratic legacy. Further, questionable decisions in judges' assessments revealed cases where lack of objectivity was clear, contributing to a situation where one third of judicial positions are vacant. The concept paper aims to civilianize the Ministry of Interior, by focusing police mission on crime prevention, introducing civilian rank structure and civilian oversight, and witness protection amongst couple of other points. The report outlines some progress in education and in-service training, working conditions, community policing, and several other areas. However, the end result across the number of areas is mixed - "reforms are not well planned and prepared" and that "there is a lack of transparency..."²²⁶

While the mission clearly did not include any reference to the frozen conflicts, it did provide impetus for reforms. Should these reforms eventually be fully implemented, Georgia might become more attractive for the secessionist entities, gain more legitimacy internationally and regionally, and have fewer faults for Russia to criticize.

The mission was also of importance for the EU's international image. It followed the rhetoric of ESS with concrete action on the ground. Being the first mission it would also have set a significant precedent for missions to come. Since, the EU has a several engagements which give it claim that it's following the ESS policy prescriptions.

²²⁵ EUJUST THEMIS Follow-Up: Assessment Report on the Status of Implementation of the Strategy of the Reform of the Criminal Justice System of Georgia June 19, 2007, Council of the European Union, Available: <http://register.consilium.europa.eu/pdf/en/05/st15/st15587-re01.en05.pdf>, December 20, 2007.

²²⁶ Ibid.

4.2.3. Rapid Reaction Mechanism (RRM)

The EUJUST mission was also complementary to the Rapid Reaction Mechanism funded project dealing with electoral (€2,000,000 package in 2003) and rule of law (€4,650,000 funding in 2004) reform.

The electoral package was meant to assist with the upcoming elections in 2003, following the resignation of President Shevardnadze's resignation. Due to time pressure the RRM proved effective in allocating the necessary funds in due time. It was channelled through the UNDP, the OSCE and other relevant organizations in areas of electoral logistics and administrative support, training, media, and voter education and participation.

The Rule of Law package was aimed to help Georgian leadership, in the aftermath of the Rose Revolution, "to transform Georgia from a weak state prone to corruption, organised crime and separatism into a stable, accountable state respectful of the social, economic and cultural aspirations of its population."²²⁷ It was to work in co-ordination with the EUJUST THEMIS.

The Rapid Reaction Mechanism "is designed to enhance the EU's civilian capacity to intervene fast and effectively in crisis situations in third countries. It will provide the flexibility to mobilise Community instruments to be deployed quickly, whenever necessary."²²⁸ Further, the External Affairs Commissioner at the time, Chris Patten, named conflict prevention and crisis management to be "at the heart of the EU's foreign and se-

²²⁷ Rapid Reaction Mechanism: Georgia/Rule of Law and Democratic Processes/Rrm 5-2004 June 29, 2004, European Commission - DG External Relations, Available:

http://ec.europa.eu/external_relations/cfsp/cpcm/rrm/docs/2004/georgia_ruleoflaw.pdf, December 20, 2007.

²²⁸ Council Adopts Rapid Reaction Mechanism Commission Now in Position to Intervene Fast in Civilian Crisis Management February 26, 2001, European Commission, Available:

http://ec.europa.eu/external_relations/cfsp/cpcm/rrm/ip_01_255.htm, December 20, 2007.

curity Policy.”²²⁹ The RRM was designed to increase the capacity of the Union to act “within hours or days” in response to crisis and deploy experts in “areas such as mine clearance, customs, mediation, training of police or judges.”²³⁰ It operates on a separate budget and allows the Commission to intervene quickly in cases of emergency.

The RRM appears then as a targeted and preventive support and is a useful mechanism, which can be injected at particular points of time as deemed necessary by risk assessment. It allows the EU to quickly respond in critical situations and minimize the risk of crisis. Theoretically, it can be considered to support the EU’s constructive impact.

4.2.4. The European Union Special Representative for South Caucasus

As in Moldova, the EUSR provides a more concrete approach to conflict resolution, although it is still more of a symbolic measure. In fact, it could be argued that the EU “only marginally contributed to conflict settlement” in the Caucasus.²³¹ The nine EUSRs are meant to act as a “‘voice’ and ‘face’ for the EU and its policies.” They are to oversee EU policies in “troubled regions” and “play an active role to consolidate peace, stability and the rule of law.”²³²

The EUSR was dispatched in 2003, with a primary mandate to support good governance and then conflict management. In Georgia (and Armenia and Azerbaijan), the EUSR, Peter Semneby is tasked with assisting these states “on their way in moving closer to the EU and its core values.”²³³ Relative to the EUSR in Moldova, Semneby’s curricu-

²²⁹ Ibid.

²³⁰ Ibid.

²³¹ Grevi, *Pioneering Foreign Policy: The EU Special Representatives*. p. 58

²³² Ibid. p.58

²³³ Peter Semneby, *EU Special Representative for the South Caucasus*, Council of the European Union, Available: http://www.consilium.europa.eu/cms3_fo/showPage.asp?id=1037&lang=EN&mode=g, December 20, 2007.

lum vitae indicates greater experience with security matters, perhaps hinting at the underlying reason for his assignment there – the more complex security environment. The EUSR's role was however, upgraded with the extension of the ENP towards Georgia and deploying the EUJUST THEMIS.²³⁴

Initially, the Special Representative however, was not tasked to directly undertake resolving the conflicts, but rather to support the UN and the OSCE. However, as Semneby took over in 2006, he was given authority to take a greater role in “creating conditions” for conflict settlement. The EU may also be sending mixed and multiple signals as the EUSR is mandated via the EU Council and tasked with dealing with conflict resolution and yet it's the Commission that participates in the multi-party negotiations.²³⁵

Constructive impact of the EU is visible more so in Georgia, where the European Commission is “also the largest international donor in both conflict zones and programmes are designed to benefit both communities.”²³⁶ It also supports the Joint Control Commission in its efforts to “to promote demilitarization of the area and resolution of the conflict.”²³⁷ However, how long the JCC will continue to operate is questionable due to the recent efforts of Georgia to have it dismantled. Hence, another difference between Georgian and Moldova is the EU's greater constructive effort in the conflict zones of Georgia.

²³⁴ Grevi, Pioneering Foreign Policy: The EU Special Representatives. p. 59

²³⁵ Popescu, Europe's Unrecognized Neighbours: EU in Abkhazia and South Ossetia. p. 14 - 16

²³⁶ European Commission, European Neighbourhood Policy – Georgia, European Union, Available: <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/08/207&format=HTML&aged=0&language=EN&guiLanguage=en>, April 16, 2008.

²³⁷ Socor, Vladimir, South Ossetia Joint Control Commission Ingloriously Mothballed March 7, 2008, The Jamestown Foundation, Available: http://www.jamestown.org/edm/article.php?article_id=2372864, April 16, 2008.

4.2.5. Synthesis

As recent events in the Georgia indicate, the progress in terms of rule of law and democratization is questionable. It also questions whether the EU, despite cautioned support of the Saakashvili regime, isn't also acting pre-maturely. While sweeping reforms in the rule of law and police sectors have been made, ostensibly giving support in areas of rule enforcement under a "young democracy" can also backfire, by giving better training and making the security apparatus more efficient in subduing resistance.

Similarly, the question of what relationship in making CFSP and ESDP decisions with partners exists, also remains unclear. While Georgia was requesting greater EU involvement in border management and conflict settlement, EU provided little of that, and ultimately reached the decisions of what will be done on its own.

5. Other Actors

The OSCE has played a key role in attempting to manage the Moldova-Transnistria-Russia dispute. The EU has been willing to accept this, and has chosen to act through the OSCE by giving it support. In fact, EU-OSCE relations have been quite positive for the most part, "collaborating under the EU TACIS program to encourage the government of Moldova and the Trans-Dniestrian (Transnistrian) authorities to begin reconstruction projects."²³⁸ However, with the enlargement of the EU, some overlap over competencies is beginning to arise. The OSCE also played a significant role in the Caucasus having deployed a border monitoring mission. However, in 2005, it withdrew the mission, in part due to Russian objections to its effectiveness. With the increased engagement of the EU, and North Atlantic Treaty Organization (NATO) for that matter, in the eastern Europe,

²³⁸ Ham, Peter van, "EU, NATO, OSCE: Interaction, Cooperation and Confrontation," European Security in Transition, eds. Gunther Hauser and Franz Kernic (Aldershot, England ; Burlington, VT: Ashgate, 2006).

the future of the Organization for Security and Co-operation in Europe (OSCE) also begins to be put in question, as it's "niche capabilities are increasingly filled by the EU...and NATO."²³⁹ With the slow "overtaking" of OSCE responsibilities by the other two actors, with relatively more leverage, the ability of OSCE to answer political question in the region is also diminishing.

Russia plays a significant role in maintaining the status quo, despite attempts to address the conflict. It's part of the 5+2 negotiation format, alongside Moldova, Transnistria, Ukraine, the OSCE and the EU and United States as observers (the +2). Some 1,500 troops are stationed as peacekeepers and guardians of 21,000 – 25,000 tons of armaments,²⁴⁰ a collection which tied to an authoritarian and corrupt regime is not irrelevant. Russia is reluctant to withdraw from Transnistria, even though the European Court for Human Rights and the New York City Bar Association's Committee on European Affairs reached similar conclusions, namely that the conflict in Moldova is one "conducted by Russia in Moldova, Russia as an occupying power that forcibly seized part of Moldova's territory, and Tiraspol's leaders as 'agents' of Russia."²⁴¹ Besides its troops, it sustains Transnistrian economy through hidden subsidies, such as a \$1.3 billion unpaid bill owed to Russian gas company OAO Gazprom.²⁴² It appears that Russia's main goal then is pre-serving status quo at worst, and at best to create a common state, something akin to a fed-

²³⁹ Hauser, Gunther and Franz Kernic, European Security in Transition (Aldershot, England ; Burlington, VT: Ashgate, 2006).

²⁴⁰ Bohlen, Celestine, Transnistrians Have Flag, Stamps, Need Country to Go with Them December 10, 2007, Newspaper article, Bloomberg, Available: http://www.bloomberg.com/apps/news?pid=20601085&sid=a.naXvEF_QU0&refer=europe, December 20, 2007..

Popescu, Nicu, The EU in Moldova - Settling Conflicts in the Neighbourhood, 2005, PDF Publication, European Union - Institute for Security Studies, Available: <http://www.iss-eu.org/occasion/occ60.pdf>, December 20, 2007.

²⁴¹ Socor, Vladimir, Moldova Can Follow Georgia's Example on Russian "Peacekeeping" Troops, May 15, 2006, Jamestown Foundation, Available: http://www.jamestown.org/edm/article.php?article_id=2371087, December 20, 2007.

²⁴² Bohlen, Transnistrians Have Flag, Stamps, Need Country to Go with Them

eral system, thus preserving Moldova and Transnistria and giving it continued ability to maintain troops and perseverance of Russian culture, akin to Kaliningrad.²⁴³

In the Caucasus, Russia is wary of an EU sponsored initiative that might reduce the region's dependence on Russia (ie. TRACECA).²⁴⁴ Russian hardliners, like the Zhirinovsky's Liberal Democratic Party, influences Russian policies regarding Georgia, by "demanding the incorporation of the secessionist states"²⁴⁵ into Russia proper. To what extent, Putin was playing to these demands in the run up to the elections is uncertain, as it is uncertain whether Russian policies will be more flexible now that he has insured another term in office. Russia, via its troops, believes it is a "stability factor." It did end up holding up to its end of the bargain by recently withdrawing the last of its troops from Georgia, although it still maintains "peacekeeping troops" in South Ossetia and Abkhazia. The peacekeeping operation however, is not up to the international and UN standards, by including soldiers from warring parties and, as it is rumoured, supplying weapons to separatists. Some of the troops are also rumoured to be from Chechnya, and to be ruthless and experienced in combat.²⁴⁶

Russian policy is however a contradictory one, particularly due to Russian policies in Chechnya where it is engaged in a violent conflict and in Kosovo where it supports a unified Serbia. For as long as Russian troops guard the border with Abkhazia and Ossetia, any sort of reassertion of Georgian state will be impossible, nor is it likely that

²⁴³ Popescu, The EU in Moldova - Settling Conflicts in the Neighbourhood. p. 20

²⁴⁴ Cotty, ed., Europe's Security Architecture and the New "Boundary Zone". p. 190

²⁴⁵ Malek, "The South Caucasus at the Cross-Roads."

²⁴⁶ Radio Free Europe/Radio Liberty, Chechen Military Officials Confirm Troops Deployed to Abkhazia, South Ossetia, 2007, Radio Free Europe/Radio Liberty, Available: <http://rfe.rferl.org/newsline/2007/12/1-RUS/rus-191207.asp#archive>, December 20, 2007.

external intervention forces would be deployed in this higher risk environment²⁴⁷ (due to EU's preference for operations that are likely to succeed).

Thus it appears that the traditional notion of 'spheres of influence' remains. Getting more involved in the conflicts in Georgia, would mean that the EU is directly encroaching in Russia's backyard. Already, Russia is resistant to the idea of Georgia joining NATO as a full member. For the time being however, Georgia's distance from the EU and its proximity to Russia make stronger EU involvement unlikely.

Yet, the Russian approach to security is more state-centric, as opposed to the EU's focus on people, as well the state.²⁴⁸ The EU tries to support well-governed states that provide security both for the state and the people, but at the same time offering protection for human rights and basic freedoms. While these two approaches may seem divergent, the end goal is the same – namely, removing an environment that supports terrorism, organized crime and other security threats. However, as some of these security threats arise from the fact that human rights and fundamental freedoms are violated; the EU approach seems more comprehensive in the long term. Considering then, that the end result is similar, namely one of state stability, there is some room for co-operation between the EU and Russia, and “both sides realize that their deep, underlying interests in other areas are too important to ignore. This awareness of mutual dependence makes a serious rupture improbable.”²⁴⁹

However, Russia plays a role in potentially undermining the EU's common approach. Several EU countries, such as France, Germany and the UK (the Big Three) pre-

²⁴⁷ Malek, "The South Caucasus at the Cross-Roads." p. 154 - 155

²⁴⁸ Nadkarni, Vidya, "The European Union and the Russian Federation," Old Europe, New Security : Evolution for a Complex World, ed. Adamski et al. (Aldershot, England ; Burlington, VT: Ashgate, 2006). p. 136/137

²⁴⁹ Ibid. p. 142

fer a stable relationship with Russia over exacting concessions from it. At the same time, Russia stresses the relationship with these countries over the relationship with the EU as a whole, even using this “preferential” relationship to bypass EU policies.²⁵⁰ In fact, the relationship with the Big Three appears to be at odds with the relationship with the new member states, which present a “‘young’ and ‘defiant’ position with Russia.”²⁵¹

The EU is stuck between negotiating interests only and interests and values. Russia realizes that if the EU manages to expand its normative influence east, Russia’s values will be increasingly isolated, and subsequently under greater pressure to change – this would require significant political effort within Russia which in the short term may not be possible. Further, the said divisions among member states also undermine the “single-voice of Europe” both in CFSP and in the presentation of the European Security Strategy.

Ukraine is also a mediator in the conflict and has since its turn to democratization come about in enforcing agreed up customs regulations with Transnistria/Moldova. It is also an example of how developments in one state can have a positive impact on regional developments, and imply the need to further support budding democracies. Therefore, greater attention should be devoted to promoting contacts amongst neighbours on a regional level.²⁵²

6. Conclusion

This thesis has linked EU’s efforts in the rule of law sector to development, arguing that these two areas underpin EU’s strategy to address the frozen conflicts indirectly. Empirical data indicates that there has been some institutional adaptation in the security

²⁵⁰ Ibid. p. 143

²⁵¹ Ibid. p. 144

²⁵² Helmerich, Nicole, “CFSP and ESDP: How to Include New Partners,” European Neighbourhood Policy: Challenges for the EU-Policy Towards the New Neighbours, ed. Kai Olaf Lang Johannes Varwick (Opladen: Barbara Budrich Publishers, 2007). p. 106

systems of Moldova and Georgia towards EU standards – hence, there has been Europeanization of governance in the neighbourhood, particularly in relation to Justice and Home Affairs.

This thesis has argued that a logic of consequences and conditionality partially underpinned decision-making, the main pathway towards this has been the logic of appropriateness that has led to the emulation in the technical sector of border management. The reason for giving priority to the latter is that conditionality has not been as prominent as in the CEE enlargement, due to the absence of the membership incentive.

Several other conclusions can be extracted: in both Moldova and Georgia, we are witnessing a contradictory approach to the notion of de-territorialisation. Governments are actually still quite “passionate about territory.”²⁵³ From the EU’s standpoint, a more correct phrase would be re-territorialisation – not only from the state-level to the EU-level, but also externally, into the periphery. As the US deploys border controls in foreign territories, the EU indirectly pursues similar effect by “training” partners, although with the added benefit of contributing to the security of the partner states as well.

In terms of progress, there are mixed results. Freedom House Countries at the Crossroads report rates Georgia as the best performing Eurasian country, in terms of public voice and accountability, civil liberties, rule of law, and anti-corruption and transparency. Since 1992, Georgia has continued to slightly but steadily improve its ranking (over a decade score fluctuated around three or four on a scale of one to seven, Partly Free – in 2006 it ranked third for political and civil liberties (partly free), which remained unchanged in 2007), however, it is still concluded to be Partly Free. Abkhazia has ranked

²⁵³ Zureik, Elia and Mark B. Salter, Global Surveillance and Policing : Borders, Security, Identity (Cul-lompton, U.K. ; Portland, Or.: Willan, 2005).

partly free with a score of five since 2005 – it was deemed not free in 2004. The political environment is still tense; there is widespread corruption, ongoing violence and serious human rights and humanitarian concerns.²⁵⁴

Georgia has also improved according to the Bertelsmann Transformation Index (BTI) 2006 rating, relative to 2003 issue. On the Status Index (Status Index measure the level of political and economic transformation) it ranked 61st, down from 79th place (out 119) and down to 35th from 95th spot in term of political leaders management performance according to the difficulty of the political environment. Moldova has improved slightly in the BTI ranking from 79th to 75th place in the Status Index but dropped in terms of the Management Index from 76th to 95th place,²⁵⁵ suggesting that the complexity of problems is unmatched by the governments ability to manage them.

According to the World Bank Governance Indicators, both Georgia and Moldova have shown improvements in the last several years. Moldova on the other hand however, was doing quite well until the conflict with Transnistria erupted in 1992, which was followed by poor performance in terms of good governance.²⁵⁶ Despite progress, challenges remain, as recent protests and government's response in Georgia indicates.

It would appear that Georgia is improving governance over time, while Moldova is still struggling. To what extent these developments can be attributed to the role of the EU is unclear. The Moldovan President has fluctuated between courting Russia and ex-

²⁵⁴ Freedom House, Freedom in the World - Abkhazia Report (Washington: Freedom House,, 2007).

Freedom House, Freedom in the World - Georgia Report (Washington: Freedom House,, 2007).

²⁵⁵ Bertelsmann Stiftung, Bertelsmann Transformation Index, 2006, Bertelsmann Stiftung, Available: <http://www.bertelsmann-transformation-index.de/11.0.html?&L=1>, December 19, 2007.

²⁵⁶ World Bank, Governance Matters 2007: Worldwide Governance Indicators 1996 - 2006, World Bank, Available: http://info.worldbank.org/governance/wgi2007/sc_country.asp, December 21, 2007.

pressing desire for closer EU integration. Recently, the latter seems to prevail and may indicate more progress on the way as the leadership strives to get closer to the EU.

However, the political improvements in Georgia, are overshadowed by continued inability to create progress with the secessionist countries, occasional flare-ups with Russia and crackdowns by the security forces on exercises of free speech (such as demonstrations).

The EU seems to be more involved in Moldova, both via the EUBAM mission and by funding the modernisation of the customs and border guard services and diversified rule of law strategy. It also assigned one Special Representative for Moldova, while the EUSR for South Caucasus covers three countries, Georgia, Armenia and Azerbaijan, and three conflicts. At times, the EU approach seems contradictory: on the one hand it supports the OSCE in negotiating a settlement between Moldova and Transnistria, but on the other it basically created conditions of sanctions via emphasis of border controls. Further, it fails to actively engage the secessionist leadership and continues to have a trade relationship with the companies under the regime.

Nevertheless, the EU has had a more significant impact on the frozen conflict in Moldova than on the two conflicts in Georgia. This impact was, however, negative as it contributed to a breakdown in talks between the conflicting parties. It did re-establish customs controls on goods coming from Transnistria, thus creating conditions to disrupt the status quo. The situation may have an impact on the Transnistrian shadow economy and reasserts Moldova's rule over parts of economic activities in Transnistria.

In Georgia, the EU appears to be failing in terms of conflict resolution, but, according to indicators succeeding more so in terms of creating conditions for economic

growth, via improvements towards good governance. This would mean that the EU is successful in pursuing its priorities, but perhaps not so the priorities of Georgian leadership. At the same time however, the EU's approach does seem more low profile than in Moldova, particularly in the border sector. Still, the EU's role is more prominent in attempting to have a constructive impact in Abkhazia and South Ossetia.

Unfortunately, the ESDP THEMIS mission was completed and no major replacement has been planned, despite the need for continued and closely monitored support of reforms. An initiative to implement Integrated Border Management at the regional level, however, is planned. The Border Support Team's operations are also far less transparent, and smaller in scale compared to the Moldovan mission.

We can conclude that the EU has preferred to take a low risk approach to conflict resolution by focusing on indirect and civilian means, as opposed to the higher risk military/peacekeeping missions. Even though the latter has been mentioned, EUSR for South Caucasus declared that this will not happen unless all sides support it – it is highly unlikely that Russia will be supportive. The EU refused to have economic and political development be hostage to conflict negotiation process and instead chose to bypass that issue. EUSR himself noted that the EU's efforts have been fairly “modest” in the security sector. The candid response that the EU has little new to offer also does not sound very promising.²⁵⁷

While Semneby proclaimed Georgia as the most advanced country in the Caucasus region, he also pointed out that there has been limited progress in terms of conflict resolution, something that is also the conclusion of this research. Part of that is perhaps due to the fact that the indirect method will take longer – establishing shared values is not

²⁵⁷ Lobjakas, EU Envoy Calls South Caucasus a 'Broken Region'.

something that will happen overnight or within a span of a couple of years. And to the extent that progress has been noted in the principal states, it remains to be seen if it is not merely superficial.

The potential pitfall of the EU strategy is that it may lead to greater alienation and segregation of the secessionist entities beyond reproach, particularly if the EU is unable to achieve common ground with Russia. In Moldova, the Border Mission resulted in the breakdown of the 5+2 talks and the sanctions of wine exports to Russia.

As a side note, another conclusion that is a result of this research, is that these external challenges also highlight a challenge internal to the EU – disagreements between various EU members on the correct intensity of EU involvement in the ‘frozen conflicts’. This suggests that the EU may still have to resort to the ‘lowest common denominator’ idea when deciding on external actions. The overlap of various instruments, funding schemes, and actors on behalf of the EU also indicate that alongside of inadequacy of capacity to respond, a level of institutional disorganization also exists.

What can also be extrapolated is that despite what should be common concerns, such as global warming, poverty reduction, pursuit of peace, geopolitics and great-power games remain – the EU is still wary of Russian responses to the former’s greater involvement in the Russia’s wider neighbourhood.

Some of the recommendations include: continued support for regional organizations and the economic development of the principle states of Georgia and Moldova. At the same time, the EU could offer assistance to the secessionist states, particularly in reducing poverty, supporting education and fostering a civil society. It would be in the EU’s interest to expand its presence in Moldova to include a rule of law mission, particu-

larly focused on eliminating corruption and fighting human trafficking. At the same, it is necessary to ensure a well functioning law-enforcement sector beyond the border guards, to provide a more integrated system in combating organized crime. On that note, it is also essential to engage actors at the regional and pan-European level as organized crime is not limited by borders. Of course, the EU will find it difficult to share expertise and information, however, if corruption threatens the integrity of its partners.

In Georgia, it is necessary to support the reform processes already underway. According to the reports, some areas of rule-of-law reform are being hampered and these need to be targeted, perhaps by reinforcing the remaining experts by another concrete mission. The EU should use Georgia's desire for membership as leverage to keep up the reforms and it should be more critical of breakdowns in good governance, such as the latest crackdown on protesters. The crackdown also suggests that more work needs to be done in the area of policing reform. Russia's concerns over border security should be exploited and used to set-up co-operation similar to the Ukraine-Moldova partnership.

Further, it is necessary to engage the secessionist entities' leaders as well and attempt should be made to promote civil society and development in secessionist areas. In Transnistria, the EU can use its trade and business ties more strongly as conditions for resuming talks, although the solutions achieved should be mutually agreeable if they were to be considered legitimate.

However, none of this will be possible without a Russia's constructive participation. The EU's foreign policy in the neighbourhood, suggests that the viewing international relations through traditional 'spheres of influence' approach to international politics still remains in tact.

The EU has been careful not to get involved too much in the conflicts in Georgia, preferring to support indirect means towards stabilization – more indirect than in Moldova.

Having won the recent elections, Putin may be in a more flexible position. Overall, the ultimate goals of both the EU and Russia are similar but the means to achieve them may be divergent. Russian energy will not forever support its economy, but in the meantime Putin may be hard-pressed to extract as much from that bargaining chip as he can. However, it may not be a well advised way forward, as it might strain relations with its neighbours. For the EU, the problem is that various member states' relationships with Russia are causing a rift within the EU. Thus a mutually arranged agreement would be in the interest of all sides; until then, time and money is wasted. The citizens of Transnistria and other secessionist countries, and even Moldova and Georgia, are being left behind in the global knowledge economy.

Finally, the EU should consolidate various instruments and assistance programs under a more unified and coherent structure. This would deliver greater transparency and would present a clear and unified voice of Europe. The role of the European Commission, the EU High Representative and the Special Representative, as well as the Council are intertwined at times at odds with each other suggesting a better way of communicating and delivering the EU message should be devised. The Action Plan goals tend to be vague and thus difficult to measure and achieve (unless more specific plans are in place between the EU and the partners at a non-public level). Some of the data on the EU activities in Georgia is also far less transparent and accessible as compared to Moldova. Overall, the EU should continue along the same route, but really invest more financial

and technical instruments to provide a more coherent and holistic approach and keeping in mind Russia's interests in the region.

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