

# **The EU Policy toward Direct Neighbours: Conditionality Shift**

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## **ABSTRACT**

The thesis explores the essence of the change in the conditionality mechanism used by the EU towards nonmember states both in the case of presence and absence of membership perspective or incentive. It looks at the inferences of the shift which took place while scrutinizing two regions – Central Eastern Europe and Europeanian Neighbourhood in two time frames. In order to be able to conduct an analysis of the two case-studies it is proposed to use an external incentives model while taking into account cost-benefit analysis, credibility of conditionality and exteranal constraints.

On this basis the thesis fings that the conditionality shift took place, however the role of the conditionality mechanism can not be denied completely as it provoked some changes evident in the case of Ukraine. Consequently, the foundation of the ENP – “everything but institutions” – leaving countries covered by the initiative without membership incentive, really matters for the possibility to exert influence at the targeted governments and be treated as transformative power for the EU.

## TABLE OF CONTENTS

<b>INTRODUCTION.....</b>	<b>1</b>
<b>CHAPTER 1 – ESTABLISHING A FRAMEWORK FOR DISCUSSION.....</b>	<b>8</b>
1.1. REVIEW OF RELEVANT LITERATURE.....	8
1.2. REVEALING DEBATES ON CONDITIONALITY .....	11
1.3. THEORETICAL FRAMEWORK: EXPLANATORY MODELS.....	15
<b>CHAPTER 2 - THE CASE OF POLAND: PROVING CONDITIONALITY EFFECTIVENESS.....</b>	<b>19</b>
2.1. EU CONDITIONALITY IN THE EASTERN ENLARGEMENT PROCESS.....	19
2. 2. STATE AND ADMINISTRATIVE CAPACITY OF POLAND DURING THE CANDIDACY STATUS.....	23
2.3. DEMOCRATIZATION AND CONSTITUTIONAL CHANGE IN POLAND.....	27
<b>CHAPTER 3 – THE CASE OF UKRAINE: UNCONDITIONAL CONDITIONALITY.....</b>	<b>31</b>
3.1. ENP: AN ORGANIZATIONAL FRAMEWORK FOR EASTWARD CONDITIONALITY.....	31
3.2. DEMOCRACY PROMOTION IN UKRAINE: DISSONANCE BETWEEN LONG-TERM INCENTIVES AND PROHIBITIVE ADOPTION COSTS .....	34
3.3. UKRAINE – RUSSIA DISCREPANCIES: THE CAUSAL RELATIONS BETWEEN EXTERNAL CONSTRAINT AND COMPLIANCE WITH THE EU CONDITIONALITY.....	39
<b>CONCLUSION.....</b>	<b>43</b>
<b>BIBLIOGRAPHY.....</b>	<b>46</b>

## INTRODUCTION

Since the end of the Cold War and dissolution of the USSR the European Union (EU) has been actively involved into the area of democracy promotion, modernization, economic stabilization and marketization, human rights protection and other key principles of the evolving European community in Central Eastern Europe (CEE). The predefined intra-European standards became the benchmark for assessing eligibility of possible candidates for a membership perspective. Furthermore, the EU decided to provide support to the countries in transition in order to push for the establishment of democratic institutions and assure rule of law prevalence. At the same time, financial support and further assistance in the pre-integration modernization and integration process were made dependent on compliance with the standards of the EU<sup>1</sup>. Thus, the so-called policy of ‘reinforcement by reward’ has become the Union’s core instrument applied to the relationship with the CEECs as well as the underpinnings for other EU’s foreign policy tools used in the process of enlargement to the East.

“We just ask the countries which are interested in participating in our structures to comply with our rules and to share our values”<sup>2</sup> stated Javier Solana in the paper presented at the European Council a year before the largest enlargement of the EU took place. These words clearly represent the foreign policy approach used by the EU towards those aspiring to join the Union. Meanwhile, the desire to join the EU appears as one of the conditions enabling conditionality as such. Consequently, one should understand any changes (success or failure)

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<sup>1</sup> Frank Schimmelfennig, “The International Promotion of Political Norms in Eastern Europe: a Qualitative Comparative Analysis,” Center for European Studies, Central and Eastern Europe, Working Paper No. 61, 2004, <http://aei.pitt.edu/9272/1/Schimmelfennig.pdf> (accessed May 30, 2012).

<sup>2</sup> Javier Solana, “A secure Europe in a better world,” Paper presented at the European Council, Thessaloniki, Greece, June 20, 2003. [http://ue.eu.int/ueDocs/cms\\_Data/docs/pressdata/en/reports/76255.pdf](http://ue.eu.int/ueDocs/cms_Data/docs/pressdata/en/reports/76255.pdf) (accessed May 31, 2012).

taking place in the framework of integration through the lens of existing interdependence and mutually binding logic.

However, it is clear that in the defined framework the EU in comparison to the non-member states has been a more powerful and influential actor. In fact, having gained an ability and power to induce changes in the non-member states, it has been able to use not only positive conditionality (granting incentives and promising benefits) but negative conditionality such as sanctions or punishment in the way of terminating, reducing or suspending benefits as well. This clearly underlines the EU's prevalence in the relations with the CEECs.

The defined state of affairs was institutionalized through the Copenhagen membership criteria<sup>3</sup>, bringing into life asymmetrical bargaining mode with the applicant countries and creating an official setting for the conditionality principle. Though the adopted Copenhagen criteria were too broad and too vague, without referring to any necessary tools for implementation, the EU pushed its way to resolve the issue.<sup>4</sup> This allowed for the opportunity to count on the full effectiveness of the conditionality principle and its practical utilization. That is why, despite coming across a reference to the enlargement as the most successful foreign policy of the EU<sup>5</sup> in a broad array of scholarly studies, one has to take into account first of all the role conditionality played both in the enlargement policy and enlargement process. Post-factum it is evident that it appeared to become a highly effective tool for shaping the whole processes of integration in the candidate countries, mainly pushing for

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<sup>3</sup> European Commission Official Web Site, "Enlargement. Accession Criteria," European Commission, [http://ec.europa.eu/enlargement/enlargement\\_process/accesion\\_process/criteria/index\\_en.htm](http://ec.europa.eu/enlargement/enlargement_process/accesion_process/criteria/index_en.htm) (accessed May 30, 2012).

<sup>4</sup> Dimitry Kochenov, *EU Enlargement and the Failure of Conditionality: Pre-accession Conditionality in the Fields of Democracy and the Rule of Law* (Alphen aan den Rijn: Wolters Kluwer Law & Business, 2008), 65.

<sup>5</sup> Frank Scimmelfennig and Hanno Scholtz, "Legacies and Leverage: EU Political Conditionality and Democracy Promotion in Historical Perspective," *Europe-Asia Studies* 62, no. 3 (May 2010): 443.

democratization, transposition of the *acquis communautaire* in the pre-defined areas and transition to a market economy.

Meanwhile, EU conditionality has not ended after the accession of the CEE countries into the EU. Except that in isolated cases certain monitoring mechanisms were attached (after the fifth wave of enlargement), all new member states were obliged to comply with the defined treaty clauses to join the Eurozone and the Agreements on the Schengen Area<sup>6</sup>. Moreover, as it turned out that EU conditionality is not limited in its time framework, similarly, it is not fully limited in geographical context. After the EU boundaries moved further eastwards, the part of the EU policies directed previously at the CEECs changed their recipients, causing to some extent a ‘domino effect’ in the studied area.

Though EU conditionality has been never bounded by the enlargement context and could have been applied to the third countries for getting benefits, still it seems to be more applicable in the cases of the direct neighbors, countries participating in the EU programs and candidate countries. As a result, after the ‘big bang’ enlargement, the once remote region of Eastern Europe appeared on the frontiers of the EU. Consequently, the EU needed to change its approach to the countries situated in the immediate proximity and supposedly constitute specific threats to Europe.

The relationships between the EU and the post-Soviet countries strengthened, thus replacing the EU’s ambiguousness and hesitancy towards the region. Both sides have been cooperating in institutional frameworks such as the European Neighborhood Policy (ENP), the Black Sea Synergy and the Eastern Partnership (EaP), all launched specifically to meet demands of the East European countries, namely Belarus, Moldova, Ukraine, and South Caucasus. Nonetheless, ever since these programs were launched, it has not become clear whether the EU will manage to give these countries a membership perspective and attach

<sup>6</sup> Tim Haughton, “Half Full but also Half Empty: Conditionality, Compliance and the Quality of Democracy in Central Eastern Europe,” *Political Studies Review* 9, no. 3 (2011): 323-333.

enough credibility to it. The internal problems and the EU's fatigue after the last two waves of enlargement do not allow us to talk in this case about a short-term probability of the accession as the main incentive of the conditionality policy.

Meanwhile, conditionality *per se* still has been used by the EU and applied to different spheres at the domestic level of the whole range of the ENP countries, however, with different level of consistency and persuasion according to what different groups of the countries can be identified. In this case, the interest is directed towards countries interacting with the EU most actively, that is why, while looking in the eastward direction where the EU frontiers moved, Moldova and Ukraine can be indeed considered to be those countries. This appears to be more coherent as their relations with the EU are marked by a high level of conditionality in comparison to some other countries participating in the ENP initiative. On one side, they are direct neighbors (geographic proximity context), and on the other side they have been considered 'frontrunners' (due to cooperation predisposition and tangible results) according to the Progress Reports over the last few year<sup>7</sup>. These aspects create a background for selecting one of them as a case study among the countries of Eastern part of the European Neighborhood on order to trace the interconnectedness between changes and applied conditionality.

However, it is evident that due to the differences in external and internal conditions in Eastern Europe in comparison with CEECs, the essence of the conditionality could not be the same. While in the case of the CEECs it worked as an underpinning of the enlargement process, in the case of Eastern Europe it has been used as a supportive mechanism of the EU's transformative power applied to the third countries. This oversimplified explanation of the difference in the conditionality policy, 'locally' adjusted by the EU, serves as a starting point of the research. In this context, the puzzle arises from the characteristics of the conditionality

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<sup>7</sup> European Commission Official Web Site, "European Neighbourhood Policy - Reference documents," [http://ec.europa.eu/world/enp/documents\\_en.htm#2](http://ec.europa.eu/world/enp/documents_en.htm#2) (accessed May 31, 2012).



shift as well as the consequences caused by this change, as I do not excessively analyze the reasons of the conditionality shift considering them to be constructed as given.

Departing from this, the following question has evolved: to what extent has the change in the essence of the EU conditionality mechanism since the 2004 enlargement round invoked a differentiated answer among the ENP countries in comparison to the CEE countries?

Building a clear path for an explicit and comprehensive answer, I will firstly argue that the conditionality mechanism primarily used by the EU in the process of the CEECs accession had a number of differences comparing to the ‘mechanism with the same name’ used later in the ENP framework. The examination of variations in the use of conditionality in both cases shows that they were grounded in the EU’s vision of the ENP revealed through Romano Prodi’s promise – “everything but institutions”.<sup>8</sup> Secondly, I will state that the lack of the main incentive – membership perspective – appeared to be the main determinant undermining strength of the EU’s conditionality. Thirdly, relative weakness of the conditionality clauses leads to the weakened bargaining power of the EU, which is caused by the lack of the conditionality’s credibility. In comparison with the CEE countries, where incentives and benefits were conditioned, i.e. were interlinked between themselves, conditionality in the case of the ENP initiative does not provide the link between the two.

Furthermore, the thesis is built on the approach of rationalist institutionalism, which considers states rational actors. In line with the defined approach, the analysis and assessment of the governments’ desire and progress in complying with the pre-defined conditions is conducted within the external incentives model by Shimmelfennig and Sedelmeier as an explanatory tool. Using this model as a rationale for assessment of the conditionality shift implications as well as its influence on the neighboring countries, I conclude that whilst

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<sup>8</sup> Romano Prodi, “Peace, Security And Stability International Dialogue and the Role of the EU,” Paper presented at the Sixth ECSA-World Conference, Jean Monnet Project, Brussels, December 5-6, 2002, <http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/02/619> (accessed May 30, 2012).

showing high endeavor to encompass conditionality proposed by the EU, the ENP countries further get involved into building a cost-benefit analysis and calculation of the adoption costs, which can be prohibitive. This also differentiates them from the CEE countries, which could agree on high adoption costs while having a clear membership perspective. This was provided by the short-term character of high adoption costs contrasted with the highly credible long-term incentive, where the latter outweighs the former.

Apart from the external incentives model, there is also a causal relationship built into this thesis. The causality shows the linkage between the externalities (external factor) and (non)compliance. The aim of displaying this causal relation is to show that not only domestic players or veto players can exert influence on the speed and size of compliance with the conditions but also external constraints, whose impact can have a decisive role in the country's desire to follow the path protracted by the EU.

To be able to answer the research question and present valuable findings, the thesis relies on the following methodology: process tracing and comparative case-study. The process tracing allows for the possibility to see the extant of the change within the conditionality mechanism over two different periods of its application framed by the different circumstances. Moreover, it helps to investigate and explain a translation of the causes, predefined or developed conditions and arising problems into outcomes, and uncover the foundations of the behavior of the rational actors despite existing problems contextual problems. Since process tracing is quite often looking at the comparisons of the variations, it is corroborated by the comparative case study of Poland and Ukraine as countries representing the CEE and ENP respectively. The choice was given to these countries due to different reasons, also taking into account Hague and Harrop's categorization of the case studies<sup>9</sup> according to which they can be regarded as 'crucial' cases. Poland, as the British

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<sup>9</sup> Rod Hague, Martin Harrop, and Shaun Breslin, *Comparative Government and Politics: An Introduction* (London: Palgrave Macmillan, 2004), 335.

scholar Guerra stated, has been “a more difficult case to accommodate within the EU as a result of its size and the large and demanding agricultural sector” what makes it interesting and comparable to Ukraine in physical dimensions. Ukraine is chosen on the basis of its willingness to cooperate, move further towards full membership and existing possibilities to pursue such type of policy despite an increased criticism from the EU of the changes which took place in 2010-2011 with the regime change.

Bringing together the theoretical framework, methodology and empirical insight, it supposed that the findings of the thesis will provide deeper understanding of the whole issue of the conditionality strategy used by the EU towards its neighbors despite presence or absence of the membership perspective and will give a comprehensive answer to the defined research question.

The remainder of the thesis is structured as follows. The first chapter will provide a review of the literature relevant to the topic, thereby revealing the existing debate in the research area. Moreover, it will set up a theoretical framework providing a basis for the necessary analysis. The second chapter will give a deep insight into the specificity of the conditionality impact and resulted changes in the CEE countries, with Poland as a case-study. The third chapter will assess the possibilities of the existing conditionality towards ENP countries while it lacks the main incentive able to make countries to follow the guidelines proposed by the EU. In particular, it will show the contested implications of the conditionality looking at the linkage between the external constrain presented by Russia and compliance with those EU standards and norm that are binding for Ukraine.

## CHAPTER 1 – ESTABLISHING A FRAMEWORK FOR DISCUSSION

The aim of this chapter is provide an overview of the literature relevant to the theoretical framework of this thesis. The first sub-chapter is focused on the main ‘fault’ line among scholars examining the enlargement mechanism and external governance as a framework for conditionality. The second part of the chapter gives an insight into the existing literature on conditionality, thereby revealing core issues raised by the current debate and discovering specific subfields that are of special interest to this thesis. Therefore, by assessing previous research on the question, it attempts to identify any existing gaps in literature. Finally, the third sub-chapter provides a theoretical framework, namely models that enable an analysis of shifts in conditionality.

### ***1.1. Review of Relevant Literature***

Scholarly research on topics connected to the last two waves of EU enlargement as well as on factors, mechanisms, problems and other developments surrounding them has gained significant momentum in the last decade. Taking into account that the frames of the thesis surround this area, with the focus on the EU’s external influence on the neighboring countries, it is necessary to investigate the existing debate in the literature relevant to the scope of the research.

At the outset, I want to draw attention to the discussion of EU enlargement policy. Bearing in mind the gradually increasing number of literature on EU enlargement, which was pushed by the fall of communism and later got much more significance due to the voiced accession prospects for the CEE countries, it may seem difficult at first sight to bring a new insight into it. However, the effectiveness, the impact and the outcomes of EU enlargement strategy still creates some lacunae in the research field for the academic community. This deep interest in the field has led to a significant number of approaches towards main standpoint.

The biggest ‘fault’ line has emerged between the constructivist and the rationalist camp over the incentives determining the successful result of the entire decade-long pre-accession process of the CEECs. Using liberal intergovernmentalism under the rationalist cover, Moravcsik and Vachudova<sup>10</sup> state that the behavior of both sides to a great extent is defined by “material national interests and state power.”<sup>11</sup> They stress that even though the benefits that both sides expect from cooperation belong to the long-term prospects, the potential economic and geopolitical ‘remuneration’ worth “the laborious accession process.”<sup>12</sup> On the other hand, opponents from the constructivist account look at the problem through a sociological perspective, and try to give an explanation with the help of liberal intergovernmentalism. They argue that the latter theoretical framework does not allow to understand why instead of maintaining an association, the EU decided to move beyond and conclude Membership Agreements.<sup>13</sup> In this respect, Schimmelfennig understands enlargement (a normative outcome in comparison to association considered to be a rationalist one) as “the expansion of international community”.<sup>14</sup>

As one can see, both approaches account for almost the same instances but look at them in a partially disembodied way, which as a result does not allow for the opportunity to see a complete picture of the studied process. From this standpoint, combining these two approaches, what in fact has been done by Schimmelfennig in his later studies mainly focused on Europeanization, democratization and conditionality directed eastwards, seems to be quite fair and logical. Providing a link between the two allowed him to see the transition from a bargaining process to the norm-based collective decision action with enlargement as a goal.<sup>15</sup>

<sup>10</sup> Andrew Moravcsik and Milada Anna Vachudova, “National Interests, State Power and EU Enlargement,” *East European Politics and Societies* 17, no.1 (2003): 43.

<sup>11</sup> Moravcsik and Vachudova, “National Interests,” 43.

<sup>12</sup> *Ibid.*, 43.

<sup>13</sup> Frank Schimmelfennig, “The Community Trap: Liberal Norms, Rhetoric Action, and the Eastern Enlargement of the European Union,” *International Organization* 55, no. 1 (2001): 47.

<sup>14</sup> Schimmelfennig, “The Community Trap,” 47.

<sup>15</sup> *Ibid.*, 76.

Meanwhile, before reviewing the literature on conditionality, it is necessary to touch on the discussions surrounding EU external governance. The attention given to it here is justified by virtue of mediating position (between the enlargement process and conditionality mechanism) the external governance occupies. This is explained by the fact that “external governance takes place when parts of the *acquis communautaire* are extended to non member-states,”<sup>16</sup> what gave a birth to a number of research questions in the frames of an ‘inside-out’ approach. Hence the last decade has been marked by the emergence of a significant amount of literature on EU external governance, particularly in the area of enlargement looking eastwards. Conclusions derived from the literature were mostly applied to studies on EU conditionality as the existence of EU external governance examined with the help of its models<sup>17</sup> (to be explained later in a theoretical framework part) were underpinned by conditionality.

Apart from this, a number of scholars were dealing with the question of the effectiveness of rule promotion beyond the borders of the EU, which constitutes a separate interest for this thesis. Barbe, Costa, Herranz and Natorski<sup>18</sup> having studied the rule selection in the foreign policy area on third-country case studies, including two that belong to the EaP space—Georgia and Ukraine—came to the conclusion that the policy convergence is taking place not on the basis of the *acquis*, but mainly with the help of rules agreed internationally or on a bilateral basis.<sup>19</sup> Moreover, Dimitrova and Dragneva<sup>20</sup> bring an additional insight arguing that EU external governance can be constrained by patterns of interdependence

<sup>16</sup> Sandra Lavenex, “EU External Governance in ‘Wider Europe’,” *Journal of European Public Policy* 11, no. 4 (August 2004): 683.

<sup>17</sup> Frank Shimmelfennig and Ulrich Sedelmeier, “Governance by Conditionality: EU Rule Transfer to the Candidate Countries of Central and Eastern Europe,” *Journal of European Public Policy* 11, no. 4 (August 2004): 661-679.

<sup>18</sup> Esther Barbe, Oriol Costa, Anna Herranz, and Michal Natorski, “Which Rules Shape EU External Governance? Patterns of Rule Selection in Foreign and Security Policies,” *Journal of European Public Policy* 16, no.6 (2009): 834-52.

<sup>19</sup> Barbe et al., “Which Rules Shape EU.”

<sup>20</sup> Antoaneta Dimitrova and Rilka Dragneva, “Constraining External Governance: Interdependence with Russia and the CIS as Limits to the EU’s Rule Transfer in the Ukraine,” *Journal of European Public Policy* 16, no. 6 (2009): 853-72.

inherited in the recipients' political and economical relations with internal and external actors. This points to the necessity of taking into account the influence of external constraints while studying the conditionality mechanism used by the EU towards neighboring countries. Having drawn a parallel between the previous two strands of literature, it is possible this point to make a theoretical proposition that the impact exerted by certain factors and actors can lead to the rejection of benefits granted through positive conditionality, which in fact constitutes a part for the research question of the this thesis.

## **1.2. Revealing Debates on Conditionality**

As mentioned before, soon after the Copenhagen criteria were adopted, more and more attention was paid to the EU's impact on applicant countries, viz. CEECs. The EU was labeled as a 'transformative power' due to its significant impact on state building and democratic change through conditionality mechanism. The European Union has been trying on its part to preserve such a reputation by claiming in the documents that the conclusion of membership negotiations equals democratic consolidation of the region. This position of the EU was accepted and supported by several academics. For instance, Pridham<sup>21</sup> explains that the position taken by the EU is aimed at erasing doubts concerning conditionality effectiveness and seeking to prevent criticisms of euroskeptics related to the role of the EU in democratization processes. He also underlines that conditions imposed by the EU facilitated consolidation of democracy in the CEE countries. However, as it was argued by Kochenov, the Copenhagen Criteria have not been supported by an explicit toolset for their own implementation, extending the scope of the existing *acquis communautaire*.<sup>22</sup> Only after the creation of a comprehensive system composed of clear-cut legal and political instruments the whole system could be considered workable<sup>23</sup> as the result making use of the conditionality

<sup>21</sup> Geoffrey Pridham, "European Union Accession Dynamics and Democratization in Central and Eastern Europe: Past and Future Perspectives," *Government and Opposition* 41, no. 3 (2008): 373-400.

<sup>22</sup> Kochenov, *EU Enlargement and the Failure of Conditionality*, 65.

<sup>23</sup> *Ibid.*, 76.

mechanism. Thus, the understanding of the legal framework of conditionality will allow to avoid any wrong conclusions while analyzing the (in)effectiveness of conditionality used towards CEE countries at the beginning of the 1990s.

Under the umbrella of the Copenhagen criteria, the number of specified rules and norms were supposed to be adopted by the countries aspiring to join the EU under its vigilant supervision. These issues raised interest among scholars such as Grabbe, Haughton, Pridham, and Spornbauer<sup>24</sup> who have been examining the way in which conditionality was used by the EU to encourage candidate countries to adopt reforms. However, while on one hand striving to show the importance of conditionality in explaining compliance of applicant countries with the criteria,<sup>25</sup> scholars expose an idea of the EU as an engine of the process,<sup>26</sup> on the other hand, they also claim that the strength of conditionality differed, what was defined either by a specific policy sphere<sup>27</sup> or political disposition of governments in the CEE countries.<sup>28</sup> On the basis of the emerged questions, Schimmelfennig and Sedelmeier come up with a theoretical framework able to explain existing variations in effectiveness of the EU conditionality implementation across policy spheres and government behaviors.<sup>29</sup> A brief overview of their idea will be given in the theoretical part, as it creates background for the case-studies used in this thesis.

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<sup>24</sup> Heather Grabbe, *The EU's Transformative Power: Europeanization through Conditionality in Central and Eastern Europe* (Basingstoke: Palgrave Macmillan, 2006), 231; Tim Haughton, "When Does the EU Make a Difference? Conditionality and the Accession Process in Central Eastern Europe," *Political Studies Review* 5(2007): 233-246; Geoffrey Pridham, "Change and Continuity in the European Union's Political Conditionality: Aims, Approach, and Priorities," *Democratization* 14, no.3 (June 2007): 446-471; Martina Spornbauer, "Benchmarking, Safeguard Clauses and Verification Mechanism – What's in a Name? Recent Developments in Pre- and Post-accession Conditionality and Compliance with EU Law," *Croatian Yearbook of European Law & Policy* 3 (2007): 273-306.

<sup>25</sup> Grabbe, *The EU's Transformative Power*.

<sup>26</sup> Haughton, "When Does the EU Make a Difference?"

<sup>27</sup> Ibid., 233.

<sup>28</sup> Pridham, "Change and Continuity in the European Union's Political Conditionality," 284.

<sup>29</sup> Schimmelfennig and Sedelmeier, "Governance by Conditionality."



Another research angle on conditionality is proposed by Vachudova<sup>30</sup>. She differentiates between passive (membership attractiveness) and active (‘deliberate conditionality’) leverage in order to separate between the two main types of influence the EU can exert on prospective member states.<sup>31</sup> In her opinion, after CEE countries left the communist bloc, the EU used in a period of five years exclusively passive leverage<sup>32</sup>, which can be explained by Kochenov’s observation of the absence of necessary tools for using conditionality in that timeframe.<sup>33</sup> In the frames of active leverage, financial rewards are considered to be the most important tools for encouraging transformations and complex approaching to the EU standards and norms. Moreover, a threat of exclusion from further negotiation process (which in this thesis is viewed as a negative conditionality) can also serve as a useful tool of persuasion to comply. However, the possibility of noncompliance and backsliding is not excluded, and that leaves an ample room for research.

In line with the aforementioned scholars, one can also place Heather Grabbe<sup>34</sup> who stands for conditionality as one of the most effective tools used by the EU to reassure and foster applicants’ movement towards achieving listed criteria. She considers both incentives and threats as working mechanisms. In contrast, there are scholars who accept the opposite or different side in the discussion of conditionality effectiveness role. Some prescribe a more decisive role to communist legacies in comparison with conditionality applied from outside,<sup>35</sup> others to the regime type, domestic factors or institutional choices.<sup>36</sup> However, in my research, I use rationalist institutionalism as a perspective through which I consider states rational

<sup>30</sup> Milada Anna Vachudova, *Europe Undivided: Democracy, Leverage, and Integration after Communism* (New York: Oxford University Press, 2005), 341.

<sup>31</sup> Vachudova, *Europe Undivided*, 63.

<sup>32</sup> *Ibid.*, 63.

<sup>33</sup> Kochenov, *EU Enlargement and the Failure of Conditionality*.

<sup>34</sup> Heather Grabbe, “European Union Conditionality and the Acquis Communautaire,” *International Political Science Review* 23, no.3 (2002): 249-268.

<sup>35</sup> Grigore Pop-Eleches, “Historical Legacies and Post-Communist Regime Change,” *The Journal of Politics* 69, no. 4 (2007): 908-926.

<sup>36</sup> Ulrich Sedelmeier, “Europeanization in New Member and Candidate States,” *Living Reviews in European Governance* 6, no. 1 (2011): 1-32.

actors exposed to cooperation with the EU and implementation of reforms for gaining promised benefits. *Ad interim*, I account for possible deviations in the behavior of actors, thereby building up a theoretical framework for their analysis.

Leaning to one side of the debate on conditionality urges one to go back in time and look at an explanation of the entire scope of the debate. An actual debate here is placed between rationalist and constructivist approaches. First models explaining conditionality have grown from the rationalist perspective with the rational-choice theory as a starting point,<sup>37</sup> characterized by actor-centered view with the logic of consequences as a basis (later elaborated by Scimmelfennig).<sup>38</sup> The attention has been paid to consequences of the rationalist bargaining process as an element defining correlation between European integration and policy-making in the current member-states.<sup>39</sup> Thus, the early rationalist approaches to conditionality were concerned with the impact of the EU on its own member states. However, the whole theoretical framework was later extended on the countries involved into enlargement process, gradually considering neighboring countries in eastern Europe as ‘recipients’ of EU external governance as well.

On the contrary, the alternative constructivist approach looks at conditionality as a norm in itself. It understands conditionality as a structure that is shaped by norms, values representing a standard of behavior.<sup>40</sup> Moreover, in Lippert’s view, who looks through the lens of Europeanization, conditionality is shaped by idea framing.<sup>41</sup> As stated previously, the

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<sup>37</sup> Adrienne Windhoff-Héritier et al., *Differential Europe: the European Union Impact on National Policymaking*. (Lanham, Md.: Rowman & Littlefield, 2001), 342; Simon Hix and Klaus Goetz, “Introduction: European Integration and National Policy-Making,” *West European Politics* 23, no.1 (2000):1-26.

<sup>38</sup> Frank Scimmelfennig and Ulrich Sedelmeier, “Introduction: Conceptualizing the Europeanization of central and Eastern Europe,” in *The Europeanization of Central and Eastern Europe*, ed. by F. Scimmelfennig and U. Sedelmeier (Cornell University Press, 2005), 9.

<sup>39</sup> Simon and Goetz, “Introduction.”

<sup>40</sup> Karen Smith, “The Outsiders: the European Neighborhood Policy,” *International Affairs* 81, no. 4 (2005): 757-773.

<sup>41</sup> Barbara Lippert, Gaby Umbrach, and Wolfgang Wessels, “Europeanization of CEE Executives: EU Membership Negotiations as a Shaping Power,” *Journal of European Public Policy* 8, no. 6 (2001): 980-1012.

constructivist perspective is also used by Schimmelfennig and Sedelmeier as a counter-point to the rationalist model considered a core one both in their work and this thesis.

Despite the existing alternative, the traditional rationalist approach to conditionality is considered as the main theoretical framework for the thesis. The same rationalist approach is mainly used to explain the application of conditionality mechanism in Eastern Europe after the ten CEE countries joined the EU in two waves. Studies exploring conditionality as a foundation of EU external governance and Europeanization of the region are mainly critical about the mechanism's effectiveness, thereby bringing in the problems of weak conditionality, weak socialization and external constraints.<sup>42</sup>

Overall, scholars agree that the conditionality mechanism has a solid influence on the transformation process in the candidate countries. The instruments and mechanisms proposed by the authors seem to have a significant explanatory power. However, mainly looking at CEE and EaP countries through different lenses, specifically in the case of actors' behavior deviations, a clear juxtaposition cannot be done. Consequently, my research project will endeavor to fill in this gap.

### **1.3. Theoretical Framework: Explanatory Models**

To be able to answer the main research question asked in this thesis and prove the placed arguments, a theoretical framework needs to be set. It will enable the analysis of the conditionality mechanism towards the CEE countries during the enlargement process and applied to Eastern European countries in the framework of the EU Neighborhood Policy. It

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<sup>42</sup> Iryna Solonenko, "The EU's 'Transformative Power' Towards the Eastern Neighbourhood: the Case of Ukraine," *SPES Policy Papers*, Institut für Europäische Politik (August 2010): 1-30, [http://www.iep-berlin.de/fileadmin/website/09\\_Publikationen/SPES\\_Policy\\_Papers/The\\_EU\\_s\\_transformative\\_power\\_towards\\_the\\_Eastern\\_neighbourhood-the\\_case\\_of\\_Ukraine\\_Iryna\\_Solonenko.pdf](http://www.iep-berlin.de/fileadmin/website/09_Publikationen/SPES_Policy_Papers/The_EU_s_transformative_power_towards_the_Eastern_neighbourhood-the_case_of_Ukraine_Iryna_Solonenko.pdf) (accessed May 29, 2012); Kataryna Wolczuk, "Implementation without Coordination: The Impact of EU Conditionality on Ukraine under the European Neighbourhood Policy," *Europe-Asia Studies* 61, no. 2 (March 2009): 187-211.

will also demonstrate the core reasons, characteristics and consequences of conditionality shift, which is assumed to take place.

The backbone of the theoretical approach of the thesis is mirrored in the models designed by Schimmelfennig and Sedelmeier. While distinguishing three models of rule adoption, Schimmelfennig and Sedelmeier place them in the frames of two different logics of action which rule adoption can follow,<sup>43</sup> doing that in line with rationalist-constructivist debate in IR theory. In accordance with this, they define ‘logic of consequences’ (rationalist perspective), which assumes rational actors to be utility-maximizers, and ‘logic of appropriateness’ (constructivist perspective), according to which “[...] the legitimacy of rules and appropriateness of behavior (rather than bargaining about conditions and rewards), persuasion (rather than coercion) and “complex” learning (rather than behavioral adaptation).”<sup>44</sup> In accordance with these logics, Schimmelfennig and Sedelmeier differentiate three explanatory models of rule adoption<sup>45</sup> or external governance,<sup>46</sup> focusing on the ‘external incentives model’ as the main one and proposing two alternatives – the ‘lesson-drawing model’ and the ‘social learning model.’<sup>47</sup>

The first model – the external incentives model – which follows the logic of consequences is a rationalist bargaining model according to which the EU provides incentives for a nonmember state in return for compliance with the stated conditions. Under this model, a strategy of conditionality is used as a main tool, which ensures transformation of the EU norms into conditions and requires their fulfillment from target governments for receiving promised rewards (either different types of assistance or financial benefits or co-operation frameworks with the EU). Meanwhile, conditionality strategy in most of the cases follows a strategy of reinforcement by reward, which implies that the EU gives a reward in exchange

<sup>43</sup> Schimmelfennig and Sedelmeier, “Introduction,” 9.

<sup>44</sup> Ibid., 9.

<sup>45</sup> Ibid., 8.

<sup>46</sup> Schimmelfennig and Sedelmeier, “Governance by Conditionality,” 663.

<sup>47</sup> Schimmelfennig and Sedelmeier, “Introduction,” 9-10.

for a compliance with its rules (positive conditionality), but for a non-compliance it just withdraws a reward (negative conditionality) instead of applying ‘reinforcement by punishment’ (adding extra costs) or ‘reinforcement by support’ (proposing extra benefits).<sup>48</sup>

As it was stated before, this model assumes that actors are rational utility-maximizers, which means that their decisions are based on a cost-benefit analysis dependent on “(i) the determinacy of conditions, (ii) the size and speed of reward, (iii) the credibility of threats and promises, and (iv) the size of adoption costs.”<sup>49</sup> Under this proposition, the main hypothesis of the external incentives model sounds as follows: “A state adopts EU rules if the benefits of EU rewards exceed the domestic adoption costs.”<sup>50</sup>

The two alternative models proposed by Schimmelfennig and Sedelmeier follow the logic of appropriateness, consequently they are constructivist in essence. The first alternative model is the social learning model, according to which actors’ behavior is instigated by internalized identities, norms and values,<sup>51</sup> and compliance is provided by choosing among alternative courses of action the most appropriate or legitimate one. The second alternative model is the lesson-drawing model. In the case of this model “a government adopts EU rules if it expects these rules to solve domestic problems effectively.”<sup>52</sup> Basically, the model explains that incentive of membership does not work as an ultimate reward in this case, and countries are inclined to comply because of their dissatisfaction with the domestic status quo regarding defined issues.

In sum, Schimmelfennig and Sedelmeier conclude that rule transfer and differences in effectiveness are explained in the best way through the lens of the external incentives model, which today is common for research in the external governance field. Hence, using this perspective, two main conditions for establishing effective conditionality can be identified.

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<sup>48</sup> Ibid., 11.

<sup>49</sup> Schimmelfennig and Sedelmeier, “Governance by Conditionality,” 664.

<sup>50</sup> Ibid., 664.

<sup>51</sup> Ibid., 667.

<sup>52</sup> Ibid., 668.

The first one is based on *stimuli* such as prospects of EU enlargement and clear membership perspective, and second is founded on low domestic costs. Only accession perspective makes external governance of the EU strong enough. Non-material ‘motivators’ as persuasion, social learning and imitation emanating from social learning perspective do not constitute a mechanism which could be strong enough to overcome internal resistance and push for reforms in nonmember states. Even material incentives such as financial aid or agreements providing background for tighter co-operation with the EU have lower attractiveness, consequently lower power for encouraging nonmember states’ governments to yield a point.<sup>53</sup> Thereby, only membership perspective looks credible enough; exclusively credible conditionality can lead a government by the defined transformation path.

The assessment of conditionality credibility at the domestic level shows that each government gets involved into cost-benefit analysis, where both the size and credibility of EU reward and domestic adoption costs are considered.<sup>54</sup> Filling up a cost-benefit balance by analysts also demands to take into account the conditionality context. In the case of democratic (political) conditionality, its effectiveness (despite credibility and size of the rewards) is seriously limited by domestic adoption costs as introducing liberal democracy with its rules appears too costly for authoritarian governments. Meanwhile, in the case of *acquis* conditionality a question could arise concerning the speed of rule transfer. It was related to the size of domestic adoption cost, but an effectiveness was not changed. It is in the light of these explanations of conditionality changes and differences in nonmember states’ behavior that this particular theoretical framework will be used to explain conditionality shift through scrutinizing Poland and Ukraine as targeted governments.

<sup>53</sup> Frank Schimmelfennig, “EU Political Accession Conditionality after the 2004 Enlargement: Consistency and Effectiveness,” *Journal of European Public Policy* 15, no.6 (2008): 918-937.

<sup>54</sup> Schimmelfennig and Sedelmeier, “Governance by Conditionality.”

## CHAPTER 2 - THE CASE OF POLAND: PROVING CONDITIONALITY

### EFFECTIVENESS

This chapter consists of three sections. The first sections gives an overview of the EU conditionality in the CEE region during the eastern enlargement process. The second section deals with the case of Poland, specifically focusing on the building process of state and administrative capacities in the country, as being important condition defined by the EU. Third section analyzes the EU's external influence on Poland's transformation and distinguishes other factors that also contributed to the country's democratization.

#### **2.1. EU Conditionality in the Eastern Enlargement Process**

With regard to 2004 and 2007 eastern enlargement process, a notion of external governance, understood as a “transfer of given EU rules and their adoption by non-member states,”<sup>55</sup> has been introduced to explain the increasing international role of the EU outside its member states. After the fall of communism and ensuing processes of political and economic democratization, Central and Eastern Europe experienced substantial transformation. In May 2004, eight countries (Cyprus, Czech Republic, Hungary, Estonia, Latvia, Lithuania, Poland, Slovakia, Slovenia) from the region joined the EU with two subsequent countries (Bulgaria, Romania) succeeding in January 2007. Ever since, the question of the EU's role in the enlargement process of the CEE region through conditionality has come to the fore.

It is important to note, though, that the idea of conditionality *per se* is not new. Tracing back to 1960s, conditionality was used towards the Southern European countries that expressed interest in a closer link with the then European Economic Community (EEC).<sup>56</sup> Through the Birkelbach Report of 1962, the EEC reacted to pressures from then authoritarian

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<sup>55</sup> Schimmelfennig and Sedelmeier, “Governance by Conditionality,” 661.

<sup>56</sup> Geoffrey, “Change and Continuity,” 451.

Spain and Greece by declaring democracy, a necessary condition for EU membership.<sup>57</sup> However, real actions were not undertaken until the start of democratization in 1974 and 1975. Back then, conditionality remained at the level of mere declarations.<sup>58</sup>

At first, conditionality was concerned with democratic consolidation but not transition. In comparison with the Southern enlargement, conditionality for the CEE region and after has been much more demanding.<sup>59</sup> As noticed by Geoffrey Pridham, since 1989-1990s, conditionality has changed in its timing, scope, focus, priority and procedures. First, contrary to Southern European countries – Greece, Spain, and Portugal, – membership negotiations started soon after the launch of democratization; in the case of the CEE countries, conditionality lasted longer. Second, as for the scope of conditionality, it has moved beyond formal demand of democracy while extending to minority and human rights issues, strengthening of state capacity, independence of judiciary, anti-corruption policy measures. Third, the new conditionality approach demanded that prior to opening of the accession process, candidate countries fulfill the necessary requirements by upholding democratic standards. Fourth, contrary to the Southern enlargement, the main responsibilities concerning the accession process shifted to the European Commission (with key decision still ‘in the hands’ of the European Council) and thereof launching more elaborate procedures of conditionality. With an emphasis on the political over other conditions, the author uses the term political conditionality.<sup>60</sup>

Ever since the eastern enlargement, conditionality has become the main mechanism of EU external governance. Considering the new approach of the EU with a stress on democratic standards, the question of the EU’s impact on the candidate countries has become a central

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<sup>57</sup> José Ignacio Torreblanca, “Accommodating principles and in the European Union the case of the Eastern enlargement,” <http://www.iuee.eu/pdf-publicacio/117/aGxrEb2U9FpGdNHbrib.PDF> (accessed May 27, 2012).

<sup>58</sup> Geoffrey, “Change and Continuity,” 451.

<sup>59</sup> Ibid., 452.

<sup>60</sup> Ibid., 451-453.



one. On the one hand, scholars have argued that the EU has played an important role in the transformation process of the CEE countries. While acting like “a gatekeeper at a number of points on the path to EU membership”<sup>61</sup>, the EU granted with membership only those who have performed necessary conditions as agreed in Copenhagen in 1993 (Copenhagen criteria). By determining conditions for the accession countries, the EU *de facto* has developed a conditionality system. With the EU membership defined as the main reward, the EU has managed to exercise its undisputable influence over candidate states on the basis of clear asymmetry, where the latter had to transpose the entire *acquis communautaire* (the EU body of law) into domestic law. On a whole, the EU acted as an anchor for democracy and the market economy for the CEE countries during the accession period.<sup>62</sup>

On the other hand, a number of scholars have claimed that the EU’s transformative power was limited and its extent varied from one policy area to another one. The of-cited ‘return to Europe’ was “more a wish to replicate democratic political system and economic success of Western Europe and the US”<sup>63</sup> than a mere desire to join the then European Communities (EC). The domestic dynamic has played a significant role in the process of democratization. To illustrate, Poland’s political elite embarked progressive political and economic reforms as a result of a shift of its political parties from communism to social democracy. In the economic area, marketization – launched by Leszek Balcerowicz – reflected ideological beliefs of the Polish political elite who aimed to replicate the economic success of the Western countries and not simply the idea of becoming a member state. Considering both positions, it has to be emphasized that conditionality did not instigate democratization as such; “rather, it was in effect concerned with furthering democratic consolidation.”<sup>64</sup> Therefore, the CEEC’s accession to the EU can be characterized as a double

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<sup>61</sup> Haughton, “When does the EU make a difference?” 235.

<sup>62</sup> Haughton, “When does the EU make a difference?” 236.

<sup>63</sup> Ibid.

<sup>64</sup> Geoffrey, “Change and Continuity,” 449.

process of the EU external influence and the process of democratization as such.

In addition to the problem of correlation between the EU's pressure on the candidate countries and the process of democratization, the question of the scope of conditionality has been put forward. While conditionality proved effective in different issue areas, in some, such as political parties and civil society, it remained outside the scope of conditionality.<sup>65</sup> That is because the European Commission, the EU institution empowered to set demands on democratic standards, in fact, did not wish to engage in political or institutional models of the CEE countries.

Moreover, the relationship between conditionality and enlargement is not static but a dynamic process. As negotiations have been associated with high credibility of the EU membership perspective, the opening of negotiations gives an important momentum to a country to comply with EU conditionality. In the case of the CEE countries, the effect of conditionality was "most powerful when [the EU] was deciding whether or not to begin accession negotiations with a particular state."<sup>66</sup> It is important to note that with regard to conditionality, the EU's leverage over the candidate countries hinged on the understood costs and benefits and therefore trade-offs between compliance and accession.<sup>67</sup>

Taking into account the aforementioned facts, conditionality, as main EU mechanism, has changed in its timing, scope, priority, focus and procedures in the course of the eastern enlargement that covered the CEE countries. That resulted into the development of a more elaborate and complex conditionality, thereby allowing for a stronger pressure on the side of the EU. The eastern enlargement concided with the democratization process in the CEE region (while breaking free from the communist past) that brought a special interest to political dimension of conditionality. When focusing on the tranformation and democratization of the CEE countries, the role played by the EU was indispensable, however,

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<sup>65</sup> Ibid., 450.

<sup>66</sup> Haughton, "When does the EU make a difference?" 243.

<sup>67</sup> Geoffrey, "Change and Continuity," 450.

other factors, specifically the motivation of domestic actors, were crucial in terms of preparing conducive environment for changes to follow.

## **2. 2. State and Administrative Capacity of Poland during the Candidacy Status**

The Luxembourg European Council decision of 1997 was crucial for compliance with the EU conditionality. According to the EU decision, the EU started a negotiation process with five states, namely Hungary, Poland, Estonia, the Czech Republic and Slovenia (CEEC-5) and Cyprus.<sup>68</sup> The opening of negotiations was an important momentum not only for the mentioned five states, but also for the remaining countries in the CEE region. The latter ones were stimulated to comply with the EU conditions so that not to be left outside the EU.

Among the CEE countries, Poland is an example of the successful transformation undergoing a full-scale reform process, although not without its limits. In response to the EU pressures, the caused transformations mainly took place in the interrelated political and administrative spheres that were complex and multi-leveled. In the process of its transformation, transition from the communist past to democracy became the most dramatic system change. With help of “negotiations between old and new elites”, which in Poland took form of negotiations between opposition movement of *Solidarność* and old communist party resulted first in partly competitive elections of 1989 and consequently to the first democratic elections in October 1991.<sup>69</sup>

An intriguing trend was identified after comparing the changes of coalition governments and duration of ministers at their cabinets in Western and Central and Eastern European countries. For Poland these measures were particularly than those in the West, and although they might have been a source of problems in administrative reforms, they did not

<sup>68</sup>Luxembourg European Council, December 12-13, 1997, “Presidency Conclusion,” [http://www.europarl.europa.eu/summits/lux1\\_en.htm](http://www.europarl.europa.eu/summits/lux1_en.htm) (accessed May 25, 2012).

<sup>69</sup> Barbara Lippert and Gaby Umbach, *The Pressure of Europeanisation: From Post-communist State Administrations to Normal Players in the EU System* (Baden-Baden: Nomos, 2005), 47.

cause the U-turns in general policy of these countries, because of their desire to reach the EU membership.<sup>70</sup>

Stable functioning of the key institutions of all three branches of government was and remains the main concern of the EU. The reforms made under the supervision of the European Commission contributed to the processes of democratization and improvement in the legal system and civil service, etc.

Administrative changes constitute the second crucial sphere of transformations, which took place in Poland. At the beginning of the accession negotiation, the European Commission gave a number of critical evaluations of the administrative structure of Poland. Incoherent national policy for the Civil Service, problematic administrative changes at managerial level, and lack of pre-accession plan for creation of professional public administration were the most crucial points in the list of significant constraints on Polish accession process.<sup>71</sup> Poland's response to the observations took the form of general transformation of the model of state administration.

In order to have a better understanding of the transformations in this field, it is important to trace the historical influences, which eventually resulted in adaptation of a certain administrative tradition. After study of the four main types of politico-administrative traditions in Europe, which include Germanic (organicist), French (Napoleonic), Anglo-Saxon (minimal state), and Scandinavian types, Lippert and Umbach conclude, that Poland along with other four CEE countries acquired Germanic model of administration. However, for Poland the adaptation of administrative tradition was the least straight forward. Because of the complex historical development, the country was exposed to the threefold influences from Prussia, accompanied by the strong impact of Napoleonic model in the late 18<sup>th</sup> century and Russian influence. As a result in the 1918, when Poland gained its independence, it “adopted

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<sup>70</sup> Lippert and Umbach, *The Pressure of Europeanisation*, 53, 56.

<sup>71</sup> Ibid., 105.

the Germanic model of administrative procedures and administrative courts, combined with the ‘Russian model of financial institutions’.”<sup>72</sup>

The communist model of public administration, which consequently became the source of all major problems, removed the previous complex model. Poland began administrative changes already during the communist regime by undertaking administrative reforms in 1972-1975.<sup>73</sup> However, these reforms were far from the fundamental changes as demanded by the EU. The administrative reform was conducted not only with help of the incentives of the EU membership, but also with help of cooperation with OECD/SIGMA and implementation of their standards.<sup>74</sup>

Among common targets of reform in the CEE countries, which included decentralization, accountability and control, etc., civil service became one of the main reform targets in Poland. With help of 1998 reforms the state planned to build and promote effective, accountable, and responsible civil service. Thus, with the act in 2002 Polish government established the grounds for the system of civil service “compliant with the standards of political neutrality, impartiality and professionalism adopted by the EU member states and in OECD countries.”<sup>75</sup> This reform also helped to eliminate the frustrating perception of the position of a state employee as worse than that of a civil servant, and to transform governmental administration from strong and not flexible political apparatus into an corpus of accountable civil servants.<sup>76</sup>

Training of civil servants constitutes the next step in the general campaign on strengthening of administrative capacity in CEE as a precondition for the EU membership. In order to build knowledgeable and stable civil service corps, which would correspond to the

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<sup>72</sup> Ibid., 68.

<sup>73</sup> Ibid., 73.

<sup>74</sup> Ibid., 75.

<sup>75</sup> Ibid., 76.

<sup>76</sup> Ibid., 81.

requirements of the EU, the National School of Public Administration (KSAP) was established in Poland early in May 1990.

One more step was marked by the strengthened assistance strategy of the EU characterized by the twinning projects helping at spreading the awareness about the EU in the society also being an important source of funding. The candidate states were granted freedom to chose from the “administrative market” a sphere, which they believe needs improvement and is of special importance for their country. Between 1998 and 2002, Poland was leader in the number of twinning projects in the CEE countries with 233 twinning projects in total.

As a result of the progress made by Poland, a special action plan was created in order to overcome the country’s weak administrative capacities. The EU did not practice the assessment of administrative system before,<sup>77</sup> and therefore this step, firstly, reflects the inherent problem with capacity building in the Poland. Secondly, it shows that the administrative capacities of the accession candidates became the “key element of the novel pre-accession strategy of the EU.” The successful reforms in this sphere were conceived of as “a confidence factor” in the negotiations.<sup>78</sup> Frequently, in this sphere the pressure is put through the mechanism of “peer-pressure”. The measurable indicators and thresholds in the area of administrative capacity are set up by the EU to be met by the new candidate countries.

Overall, as far as the new member states are imparted with a certain amount of responsibilities and they act as representatives of the EU on the national level, the questions of state administration and its capacities are of extreme importance. Being under influence of different models of state and administrative capacity, Poland transformed its model of state administration, including civil service. The successful administrative reform in Poland with

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<sup>77</sup> Ibid., 100.

<sup>78</sup> Graham Avery, “Reunifying Europe,” in Barbara Lippert and Gaby Umbach, *The Pressure of Europeanisation: From Post-communist State Administrations to Normal Players in the EU System* (Baden-Baden: Nomos, 2005), 100.

strengthened assistance of the EU via twinning programmes allowed the country to comply with the EU conditions of a necessary administrative capacity.

### **2.3. Democratization and Constitutional Change in Poland**

The Polish case is an example of “the critical role of the external factors influencing democratic consolidation”.<sup>79</sup> The project of ‘return to Europe’ in Poland rested on the two pillars – the EU and NATO – allowing for adoption and institutionalization of the norms and principles of the Western political and economic organization.<sup>80</sup> That does not mean that Polish political elite and society were passive in undertaking the necessary reforms. Yet, there has been a substantial disagreement between the Polish politicians concerning the speed and pace of the EU-led reforms. The main reason for that was a fear of a decrease in the competences of the national authorities.<sup>81</sup> As indicated by F. Steves, domestic players played an active role by reacting to the external conditions of the EU, however the EU’s impact as one of the two externalities on democracy consolidation was significant.<sup>82</sup>

The process of Poland’s application to and negotiations with the EU was a complex process that began soon after the collapse of communism in 1990.<sup>83</sup> Admitted as an associate member of the EU in 1993, Poland’s application for the EU membership perspective started only in 1996. As a preliminary step for the EU membership, Poland entered the European Free Trade Agreement, which aimed at creating a common market with Western Europe. Further internal developments in Poland coincided with the institutional changes within the EU that was preparing to accommodate to the eastern enlargement. By launching the Schengen Protocol in 1990, the EU substantially limited maneuvers of the Polish political

<sup>79</sup> F. Steves, “Poland and the international system: external influences of democratic consolidation,” *Communist and Post-Communist Studies* 34 (2001): 340.

<sup>80</sup> Steves, “Poland and the international system.”

<sup>81</sup> Eva Poplawska, “Constitutional Change in Poland: Adjustment in Anticipation – Legal and Democratic Dilemmas,” in *Driven to Change. The European Union’s enlargement viewed from the East*, ed. by Antoaneta L. Dimitrova (Manchester University Press, 2004), 59.

<sup>82</sup> Steves, “Poland and the international system,” 340.

<sup>83</sup> *Ibid.*, 341.

elite vis-à-vis accession criteria.<sup>84</sup>As other CEE countries Poland had to adjust to the Copenhagen democracy criterion, as well as other elements of conditionality. While the adjustments of political criteria were welcomed by the Polish society, a need to comply with the *acquis communautaire* of the EU and its economic requirements remained the most controversial. Concerning the process of Poland's preparation for the EU membership was accompanied by the intensification of *acquis*.<sup>85</sup>

Notably, the EU stimulated reform processes in Poland through different aid mechanisms. Importantly, a variety of multilateral and bilateral aid and loan programmes were implemented since 1990. In the period of 1990-1996, under the EU's programme "Poland and Hungary Assistance for the Restructuring of the Economy" (PHARE) almost \$ 1.7. billion was allocated to Poland alone. It is worth noticing that it was not only the EU that helped the country to democratize; bilateral relations with certain actors also had impact: for instance, Germany played a role of main advocate for Poland's admission to the EU. In terms of financial support, Germany, France and Italy along with European Investment Bank dispensed to Poland additional \$4 billion credit.<sup>86</sup>

It is interesting to note that Poland being at the front line to break with the communist past and follow the democratization path, was one of the last CEE countries to adopt a complete 'post-totalitarian constitution.'<sup>87</sup> The reasons for that were the following: first, the old version, the so-called Small Constitution was relatively satisfactory and did not impede effective functioning of state system; second and more importantly, it was difficult to find a compromise in the joint chambers of the Polish parliament (the National Assembly).As a result, the new Constitution was adopted on April 1997. A very important juncture underpinning the work on new constitution was a contested 'European clause' and thereof

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<sup>84</sup> Ibid., 341-342.

<sup>85</sup> Poplawska, "Constitutional Change in Poland," 59-60.

<sup>86</sup> Steves, "Poland and the international system," 342.

<sup>87</sup> Poplawska, "Constitutional Change in Poland," 60.



preparation for the EU membership. As mentioned earlier, the main reason to oppose the ‘European clause’ was the fear of loosing the state sovereignty, as presented by anti-European political forces. Instead, the argument in favor for adoption of the constitutional adjustment defined procedures for ratification of the accession agreement and behavior of public authorities and the process of socialization of the Polish citizens in regard to the country’s membership of the EU.<sup>88</sup> No wonder that that the primary mechanism originating from the EU was structural and behavioral preconditions the country had to fulfill at every stage of the accession process. On a whole, Poles supported the country’s compliance with EU political criteria as they matched the expectations of the Polish society longing for democratization of political system and protection of fundamental rights and freedoms.<sup>89</sup>

In addition to the EU factor, other important facilitating factors for the country’s democratic development and therefore compliance with the EU conditions was the fact of Poland’s official cooperation with NATO that started in December 1991 upon invitation to join the alliance. After Poland entered NATO in March 1999, the country secured its independence from other external interferences. Moreover, the strong pressures were exerted by the pan-European organization, namely the OSCE, OECD, the Council of Europe “through their legitimization of specific governments and reform programmes”.<sup>90</sup>

Overall, the EU’s influence on Poland’s transformation through compliance with the EU demands as the country had to adjust to the Copenhagen and other EU’s criteria. The EU stimulated the country’s development through different mechanisms, namely multilateral aid and loan programmes complemented with bilateral aid coming from external actors, with Germany being the key supporter for Poland’s admission to the EU. In the light of the EU membership Poland was bound to fulfill structural and behavioral preconditions, as demanded by the EU following each stage of the accession process. As for limitations of the EU power,

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<sup>88</sup> Ibid., 61.

<sup>89</sup> Ibid., 212.

<sup>90</sup> Steves, “Poland and the international system,” 341.

NATO and pan-European organizations like the Council of Europe OSCE had played an important role in promoting the country's democratic changes. Therefore, the process of Poland's transformation was stimulated by external factors, whereas the EU's role was vital as the country managed to comply with the EU demands and conditions.

## CHAPTER 3 – THE CASE OF UKRAINE: UNCONDITIONAL CONDITIONALITY

This chapter aims to examine the effects of conditionality on domestic reform in Ukraine. To be more specific, by taking a closer look at the development of the relations between Ukraine and the European Union, it will be investigated what the role of the EU in the promotion of democracy in Ukraine is, what characteristics it has and in what ways it is employed at various levels of the state apparatus.

### ***3.1. ENP: An Organizational Framework for Eastward Conditionality***

The ‘big bang’ enlargement of 2004-2007, which is considered a true success story, demonstrated the effectiveness of conditionality used by the EU towards applicant countries. The strict ‘stick and carrot’ strategy vested the EU with the kind of transformative power able to launch and lead to an end the whole scope of transformation processes, including modernization, democratization, and marketization of the whole region. Consequently, the strong incentive-based influence played the role of main determinant encouraging compliance among CEE countries. These inferences raise a number of questions, which are projected beyond the ‘waterline’ of 2004 both in geographic and strategic terms; the basic one, which seems to lie on the surface, is related to the EU endeavor to expand its reach beyond the new borders whilst lacking significant underpinning of conditionality, with accession incentive as a golden carrot.

In order to be able to keep an eye on its new Eastern neighbors and trace all changes taking place in the region as a new area of possible instabilities, the EU launched the European Neighborhood Policy. The initiative was aimed at establishing a framework for tighter cooperation with all sixteen closest neighbors of the EU.<sup>91</sup> Moreover, hoping to

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<sup>91</sup> European Commission Official Web Site, “The Policy: What is the European Neighborhood Policy?” European Commission, [http://ec.europa.eu/world/enp/policy\\_en.htm](http://ec.europa.eu/world/enp/policy_en.htm) (accessed May 31, 2012).

encourage countries to follow its guidance, the EU has been trying to position “the ENP as an effort to emulate the success of enlargement.”<sup>92</sup>

Correspondingly, in the last few years, the EU’s demands for improvement of governance quality through solid domestic reforms have significantly grown, promising to impose high adaptation costs on the targeted countries. However, governments ‘coped’ with the situation by simply refraining from the adoption of reforms defined in the ENP agenda, since the EU’s potential to exert influence appears to be circumscribed. In connection with the fact that EU officials were pointing at the comprehensive character of the Neighborhood Policy, encompassing relevantly the same scope of issues as accession policy, they also promised “everything but institutions”.<sup>93</sup> Eventually, this hints at the advanced level of prospective cooperation, but if one tries to adopt an objective standpoint, it becomes evident that such formulation excludes even the possibility of receiving the main incentive, thereby leading to weakening of conditionality effectiveness *per se*.

The abovementioned ENP agenda focuses on the three key areas: promotion of democracy, stabilization of economy and cooperation in security sphere.<sup>94</sup> The European Neighborhood Countries are not in need to cover a whole scope of the *acquis communautaire*, as still the ENP is established as an alternative, not a replacement or a complete imitation of the enlargement process. Thus, instead of harmonization, which takes place when the country is preparing to become a full member, an approximation as a legal compatibility should be considered. Meanwhile, the ENP is called to provide a privileged form of partnership,<sup>95</sup> which

<sup>92</sup> Judith Kelley, “New Wine in Old Wineskins: Promoting Political Reforms through the New European Neighbourhood Policy,” *Journal of Common Market Studies* 44, no. 1: 41.

<sup>93</sup> Romano Prodi, “Peace, Security And Stability International Dialogue and the Role of the EU,” Paper presented at the Sixth ECSA-World Conference, Jean Monnet Project, Brussels, December 5-6, 2002. <http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/02/619> (accessed May 30, 2012).

<sup>94</sup> Katja Weber, Michael Smith, and Michael Baun, edit. *Governing Europe’s Neighbourhood: Partners or Periphery?* (Manchester; New York: Manchester University Press, 2007), 254.

<sup>95</sup> Euro-Mediterranean Youth Platform, “Noticeboard. The European Neighborhood Policy,” Euro-Mediterranean Platform, <http://www.euromedp.org/noticeboard/the-european-neighbourhood-policy-enp/> (accessed May 31, 2012).

is built on mutual commitments and recognition of the fundamental principles of the EU. Overall, corresponding to the Accession criteria, democratic stability, rule of law and minority protection, functioning market economy, and sustainable development,<sup>96</sup> they represent crucial elements of the signed on a bilateral basis Partnership and Cooperation Agreements<sup>97</sup> setting up a general condition for closer cooperation between the neighboring countries and the EU institutions. However, specific priorities concerning desired reforms are stipulated in the Action Plans<sup>98</sup> serving as core documents of the ENP format of cooperation.

The examination of the number of the Action Plans shows that they lack comprehensible policy providing a background for development and sustaining of democracy. The importance of national and EU's interests appears to be overriding. Moreover, it occurs that the domestic costs of transposition and implementation of norms supporting liberal-democratic transformations are prohibitive for authoritarian regimes,<sup>99</sup> what shows governments' entrapment in the cost-benefit analysis. Thus, democratic conditionality in the ENP frame does not prove as effective as it is desirable. The second type of conditionality, which is differentiated in this thesis – the *acquis* conditionality – has also not fully evolved in the ENP context. The incentive credibility was eroded by the EU's internal opposition to the broadening of market access, possibility of undermining the EU's agriculture sector position due to the higher competitiveness of the same sector in certain ENP countries, and threats of the uncontrolled and increased immigration to the EU.<sup>100</sup> Moreover, the bargaining power of the EU and conditionality in the ENP context are engaged into 'direct proportional' relations,

<sup>96</sup> European Commission Official Web Site, "Accession criteria," European Commission, [http://ec.europa.eu/enlargement/enlargement\\_process/accesion\\_process/criteria/index\\_en.htm](http://ec.europa.eu/enlargement/enlargement_process/accesion_process/criteria/index_en.htm) (accessed May 31, 2012).

<sup>97</sup> Summaries of EU Legislation, "Partnership and Cooperation Agreements (PCAs): Russia, Eastern Europe, the Southern Caucasus and Central Asia," Europa, [http://europa.eu/legislation\\_summaries/external\\_relations/relations\\_with\\_third\\_countries/eastern\\_europe\\_and\\_central\\_asia/r17002\\_en.htm](http://europa.eu/legislation_summaries/external_relations/relations_with_third_countries/eastern_europe_and_central_asia/r17002_en.htm) (accessed May 29, 2012).

<sup>98</sup> European Commission Official Web Site, "European Neighbourhood Policy - Reference documents," European Commission, [http://ec.europa.eu/world/enp/documents\\_en.htm](http://ec.europa.eu/world/enp/documents_en.htm) (accessed May 31, 2012).

<sup>99</sup> Katja Weber et al. *Governing Europe's Neighbourhood*, 45-48.

<sup>100</sup> Ibid., 45-48.

as with the weakening of one variable, another weakens also and *vice versa*, what does not allow the EU to evince its transformative power.

Despite all this, the EU tries to be more coercive in the specific areas, mainly belonging to Justice and Home Affairs, including organized crime, money laundering and corruption, drugs trafficking, cross-border cooperation and irregular migration.<sup>101</sup> This leads to issue-specific conditionality,<sup>102</sup> which varies depending on the country and issue.

Subsequently, in the frameworks of the European Neighborhood Policy, it does not appear to talk about effective conditionality with the highly contested EU influence on the ENP countries. However, the presence of weak conditionality seems to be clear, thus proving the external-incentive model's prevalence. These observations will be traced in the further sub-chapter on Ukraine providing empirical evidence of the above explored developments.

### **3.2. Democracy Promotion in Ukraine: Dissonance between Long-term**

#### ***Incentives and Prohibitive Adoption Costs***

The landmark change that took place in 2004 and moved the EU frontiers to the East added a notion of a direct neighbor to the name of Ukraine. This change seriously influenced the bilateral relations of the EU with Ukraine although before the policy of the EU towards post-Soviet countries has not been marked neither by the already designed framework for cooperation nor by endeavor to get into deep cooperation. As Wolczuk states in her work, the political line pursued previously by the EU was marked by a Russia-first policy on the post-Soviet space.<sup>103</sup>

With the ENP being launched, the perception of the Eastern neighbors changed. However, this was induced by the desire to have a secure neighborhood region with stable states in the immediate geographical proximity with Ukraine as not only the largest by size

<sup>101</sup> Sandra Lavenex and Nicole Wichmann, "The External Governance of EU Internal Security," *European Integration* 31, no. 1(2009): 83-102.

<sup>102</sup> Rachel A. Epstein and Ulrich Sedelmeier, "Beyond Conditionality: International Institutions in Postcommunist Europe after Enlargement," *Journal of European Public Policy* 15, no. 3 (2008): 799.

<sup>103</sup> Wolczuk, "Implementation without Coordination," 187.

and population country on the Eastern EU border, but also as the one expressing its accession aspiration starting from the middle of the 1990s. Consequently, the desire of creating a new level of cooperation which would allow for simplifying and streamlining the relationship with the new neighbors (having covered not only the region of Eastern Europe, but also the Mediterranean region and the Southern Caucasus) brought the ENP initiative into life.

Ten years prior to the ENP start, Ukraine appeared to be the first post-Soviet country to sign the PCA in June 1994, which had a considerable symbolic importance to Ukrainian elites.<sup>104</sup> As the PCA entered into force in 1998, Kyiv declared membership in the EU to be a strategic objective of Ukrainian foreign policy. The pro-European choice and European aspirations of Ukraine were welcomed, but the option for Ukraine to become a member did not appear in any of the EU documents.

The policy of “positive ambiguity”<sup>105</sup> conducted by the EU was blamed by the Ukrainian side as it did not give a clear political perspective. The PCA failed to provide a strong incentive or rationale – conditionality clause – for Ukraine to foster further democratic development. At the same time, while Ukraine’s democratization processes were stagnating, the foreign policy was characterized by versatility and the domestic policy by authoritarianism, so no real steps were taken towards fulfilling EU conditions. Instead, the first decade of Ukrainian independence was marked by closer relations with Russia.

However, the 2004 Orange revolution brought changes into the EU-Ukraine relations, almost perfectly coinciding with the EU enlargement, only with a half-year difference. Prior to that, possible incentives, benefits and conditions were phrased in a very vague way without clear interconnections between them, which becomes evident if one examines the EU-Ukraine Action Plan.<sup>106</sup> While stipulating a necessity of free democratic elections, moving further in

<sup>104</sup> Ibid., 192.

<sup>105</sup> Hansen Flemming Splidsboel, “The EU and Ukraine: Rhetorical Entrapment?” *European Security* 15, no. 2(2006): 119.

<sup>106</sup> European Commission Official Web Site, “EU- Ukraine Action Plan. European Commission 2005,” European Commission,

the negotiations on joining the WTO, proceeding with a readmission agreement and Transnistrian conflict settlement, the EU gives limited indications of incentives, namely joining the EU market structures, conducting negotiations on the Free Trade Area, cooperation in the security issues, and benefiting from the EU's financial assistance.<sup>107</sup> However, the formulation was so broad and vague that Kyiv might hesitate in choosing concrete directions of change which would correspond to the EU priorities.

After the Orange revolution, as a response to the political change and in support of reform, the Action Plan was updated by new "Ten Points", which were added to the initial document, thus clarifying and linking the incentives and conditions.<sup>108</sup> What is important is that the "Ten Points" have called democratic progress to be a motor of the further enhancement of the incentives. That is why developments such as democratic elections and the formation of the parliament allowed for the vivid realization of the agreed incentives. If one further follows the EU-Ukraine relation through the lens of the conditionality mechanism, a few more clear examples of compliance and granting incentives can be found. After free democratic parliamentary elections were conducted in 2006 in Ukraine, the EU started negotiations on the New Enhanced Agreement; accession to the WTO allowed to start talks on the Deep and Comprehensive Free Trade Area (DCFTA), being attached to the prospective Association Agreement (AA).<sup>109</sup> Moreover, the visa facilitation agreement turned out to be conditional in its essence, as the part on visa facilitation was made conditional on the readmission part.<sup>110</sup>

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[http://ec.europa.eu/world/enp/pdf/action\\_plans/ukraine\\_enp\\_ap\\_final\\_en.pdf](http://ec.europa.eu/world/enp/pdf/action_plans/ukraine_enp_ap_final_en.pdf) (accessed May 29, 2012).

<sup>107</sup> Ibid.

<sup>108</sup> General Affairs and External Relations Council Meeting Council of the European Union. Press Release 6420/05. [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/gena/83909.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/gena/83909.pdf) (accessed May 30, 2012).

<sup>109</sup> Solonenko, "The EU's 'transformative power'," 7.

<sup>110</sup> Söderköping Process, "Ukraine Ratifies EU-Ukraine Readmission and Visa-Facilitation Agreement," January 15, 2008, <http://soderkoping.org.ua/page16843.html> (accessed May 31, 2012).



However, there are a number of examples where EU commentaries and requests were omitted. It is clear that at the top of the EU's agenda in Ukraine is the respect for the rule of law in criminal investigation and prosecutions, including the principle of fair, impartial and independent legal process.<sup>111</sup> In this frame, the conviction of Tymoshenko (the former Prime Minister) to seven years to jail is considered to be politically motivated and does not get any approval of the EU.<sup>112</sup> This caused the EU's ambiguity in signing the Association Agreement, which was postponed for an indeterminate period,<sup>113</sup> proving it is a clear case of negative conditionality.

Still the factual analysis of compliance with the conditionality clauses can appear to be partially sophomoric as it does not look into the essence of the linkage between compliance and conditionality; it raises concerns regarding the content and clarity of EU requests as well as incentives and rewards.

Having scrutinized the EU-Ukraine Action Plan in terms of demands, it becomes clear that the EU requests Ukraine's strong compliance with electoral standards, pointing at standards of the Organization for Security and Co-operation in Europe (OSCE), gradual adaptation of the Ukrainian legislature in accordance with that of the EU, and building up administrative capacities.<sup>114</sup> The determinacy of conditions put forward by the EU was

<sup>111</sup> High Representative of the European Union for Foreign Affairs and Security Policy, "Implementation of the European Neighbourhood Policy in Ukraine. Progress in 2011 and Recommendations for Action," European Commission, Joint Staff Working Paper, Brussels, May 15, 2012, [http://ec.europa.eu/world/enp/docs/2012\\_enp\\_pack/progress\\_report\\_ukraine\\_en.pdf](http://ec.europa.eu/world/enp/docs/2012_enp_pack/progress_report_ukraine_en.pdf) (accessed May 31, 2012).

<sup>112</sup> Hannes Swoboda, Kristian Vigenin, and Marek Siwiec, "Motion for a Resolution B7-0363/2011," June 7, 2011, European Parliament, Plenary Setting, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+MOTION+B7-2011-0363+0+DOC+PDF+V0//EN> (accessed May 29, 2012).

<sup>113</sup> "Herman Van Rompuy: The Way Ukraine is Dealing with Yulia Tymoshenko is Unacceptable," *Tymoshenko.Ua*, May 09, 2012, [http://www.tymoshenko.ua/en/article/yulia\\_tymoshenko\\_09\\_05\\_2012\\_06](http://www.tymoshenko.ua/en/article/yulia_tymoshenko_09_05_2012_06) (accessed May 31, 2012).

<sup>114</sup> European Commission Official Web Site, "EU- Ukraine Action Plan. European Commission 2005," European Commission, [http://ec.europa.eu/world/enp/pdf/action\\_plans/ukraine\\_enp\\_ap\\_final\\_en.pdf](http://ec.europa.eu/world/enp/pdf/action_plans/ukraine_enp_ap_final_en.pdf) (accessed May 29, 2012).

illuminated through granting the proposed incentives. However, the EU's involvement into domestic processes cannot be estimated as significant due to its sporadic involvement confined to cross-checking.<sup>115</sup> The sphere of rule of law is also treated as a part of democratization through conditionality with the highly prioritized checks and balances mechanism necessarily existing between state powers in a liberal democracy.

However, if a deeper look is taken into the EU-Ukraine Action Plan, the analysis shows that all the demands do not stipulate reflationary measures. Possible compliance with all the demands neither fully guarantee rewards for achieving progress, nor can assure punishment for not proceeding with the reforms as defined by conditionality. In the latter case, negative conditionality can be used instead (this is to be explained in the third sub-chapter). Thus, none of the 'reinforcements' work: neither 'reinforcement by reward,' nor 'reinforcement by punishment', hence leaving room for maneuvers in Kyiv.

Meanwhile, even if there are reflationary measures specified, only a few Ukrainians are aware of that.<sup>116</sup> This can be caused by general ambivalence within the society concerning the direction which Ukraine should choose.<sup>117</sup> Still, this decreases the potential pressure of the society on the government to comply with the conditions to get a reward. All this is reinforced by the absence of benchmarks which lead to the weakened pressure and weakened conditionality. The fact that benchmarking has not been provided in the Action Plan causes decline in prioritization and absence of a clear timeframe.

All in all, the examination of democratic conditionality in the case of Ukraine allows the following inferences to be drawn: (1) the role of the EU in promoting democracy in Ukraine cannot be denied, but it is limited; (2) democratic conditionality is characterized by

<sup>115</sup> Andrea Gawrich, Inna Melnykovska, and Rainer Schweickert, "Neighbourhood Europeanization through ENP: The Case of Ukraine," *Journal of Common Market Studies* 48, no. 5 (2010): 1219.

<sup>116</sup> Iryna Solonenko, "External Democracy Promotion in Ukraine: The Role of the European Union," *Democratization* 16, no. 4: 716.

<sup>117</sup> "Ukraine-EU Cooperation: Public Assessments," *National Security and Defence* 6 (2008): 37-56.

asymmetrical relations of both sides, (3) democratic conditionality vested by the EU is vague and broad, without explicit references to guidelines defining interconnectedness between conditions and incentives.

### ***3.3. Ukraine – Russia Discrepancies: the Causal Relations between External Constraint and Compliance with the EU Conditionality***

While all non-member states neighboring Ukraine have been included into the ENP initiative, one state insisted on the different framework. Russia has been cautious in its attitude to the ENP. The Commission's plans to include Russian in the program failed after the negotiations faced extreme negative reaction from the Russian part. Instead the mode of strategic partnership was chosen and at the moment it is based on the four main "common places", which include such spheres as "economic; freedom, security and justice; external security; research and education."<sup>118</sup> Partially this partnership mirrors the ENP, however bears it own special features and is characterized by slow pace of its development.

After the Orange Revolution the issue of EU integration provoked a cleavage in Ukrainian foreign and domestic policies. Subsequently, with the decline of democracy and strengthening of the Ukrainian-Russian relations under the presidency of Viktor Yanukovich, Ukraine faced "geopolitical evolution"<sup>119</sup> that made the external influence more explicit. Ukrainian energy dependence on Russian resources and strong business interests of the Eastern neighbor became the main tools of covert Russian objection to the possible Ukrainian membership in the EU.<sup>120</sup> The described situation is a hard test for the EU external governance, which has to cope with the strong influence of Russia mainly exercised through the aspirations to restore its regional hegemony and through the embedded policies in the Commonwealth of Independent States (CIS). On the one hand, Russia successfully uses the

<sup>118</sup> Gwendolyn Sasse, "The European Neighbourhood Policy: Conditionality Revisited for the EU's Eastern Neighbours," *Europe-Asia Studies* 60, no. 2 (March 2008): 306.

<sup>119</sup> Simion Costea, "EU-Ukraine Relations and the Eastern Partnership: Challenges, Progress and Potential," *European Foreign Affairs Review* 16, no. 2 (May 2011): 259-276.

<sup>120</sup> Sasse, "The European Neighbourhood Policy," 306.

framework of this organization and its existing commitments, bilateral agreements and coordination in order to make its role in the region more influential. On the other hand, Russia used power politics in the areas of extreme interdependence to limit the possible scale of achievements in the spheres for the EU.<sup>121</sup>

The so called “Russian factor” makes the compliance of Ukraine with the EU standards harder and more costly. In this framework it is important to underline three main aspect of Ukrainian-Russian relations. They include social and economic relations and Russian policy of carrots.<sup>122</sup> First, the social relations are strongly influenced by the common historical legacy and considerably big number of Russian people living in Ukraine. This bond increases the costs of integration because of the unfavourable attitudes of the society, which is more connected to Russia than CEECs. Secondly, it terms of economic integration with the countries of post-Soviet block, Ukraine being a big player has more bargaining power and therefore the adaptation costs are lower than those required for accession to the EU.<sup>123</sup> Finally, Reinhard includes the Russian “carrots” which make the adaptation costs of the EU conditionality more costly. She argues that the fact of hosting the Russian Black Sea Fleet in Crimea plays crucial role in the strengthening of the Ukrainian bargaining power and brings energy benefits in exchange.<sup>124</sup> However, the interrelation of these aspects is questionable and both energy element and the presence of the Black Sea Fleet could be considered as factors, which in fact reemphasize the superior position of Russia in these spheres and do not bring direct or indirect benefits for Ukraine as an independent country capable of its own foreign policy.

<sup>121</sup> Dimitrova and Dragneva, “Constraining External Governance,” 853-854.

<sup>122</sup> Janine Reinhard, “EU Democracy Promotion through Conditionality in its Neighbourhood: The Temptation of Membership Perspective or Flexible Integration?” *Caucasian Review of International Affairs* 4, no.3 (Summer 2010): 209.

<sup>123</sup> Reinhard, “EU Democracy Promotion through Conditionality,” 209.

<sup>124</sup> Ibid., 210.

The important debate aroused around the issue of the key elements that constraint the success of the EU external governance. For example, Dimitrova and Dragneva disagree with the position of Lavenex and Schimmelfennig, who consider the degree of institutionalization to be the most influential aspect of successful external governance, and argue that in case of Russia-EU relations the interdependence is the key factor used by Russia to limit the external governance of the EU. The spheres of interdependence between Russia and Ukraine define the areas of competition between Russia and the EU and mainly include geopolitical, economic and institutional interdependence.<sup>125</sup>

Comparison of the EU and the CIS and their effectiveness shows that the EU has more influence due to the better institutionalization and comparatively softer regime within the CIS. However, this advantage does not give enough grounds for neglecting of the role Russia plays in this context. And although the channels opened by the CIS for the implementation of Russian foreign policy are weak, the existing interdependence creates space for more traditional use of power. Therefore, after the analysis of the areas of interdependence, it is necessary to admit the correlation between the level of interdependence and the strength of the EU external governance. The findings of the analysis of the spheres of trade and energy show that the EU is more successful in the external governance in the fields where Ukrainian-Russian interdependence is low. In case of Russia works the reverse pattern.<sup>126</sup>

The same issue of energy was described as the “detering exogenous factor” by Verdun and Chira.<sup>127</sup> However, they also leave a space for the argument that this factor equally can play a role of catalyst in the Ukrainian accession to the EU, because the energy sphere is vital for both parties and it is hard for them to exclude Ukraine from the transition path.

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<sup>125</sup> Dimitrova and Dragneva, “Constraining External Governance,” 853-854.

<sup>126</sup> Ibid., 57-58.

<sup>127</sup> Amy Verdun and Gabriela E. Chira, “The Eastern Partnership: The Burial Ground of Enlargement Hopes?” *Comparative European Politics* 9, no. 4/5: 448-466.



## CONCLUSION

The present thesis has tried to assess the extent of the changes in the essence of EU conditionality as applied to different regions in a different time frame. In particular, it scrutinized the differentiated influence of the conditionality mechanism depending on the framework provided by the side exerting pressure – the European Union. Attention was also paid to democratic conditionality studied in the both chosen cases.

Having elucidated the debate surrounding conditionality, the author has taken the side of rationalist institutionalism, departing from it as the main theoretical approach. One of the main arguments of the abovementioned theory concerning political actors as rational players was proved correct. The example of the EU's change of the scope of the conditionality mechanism used in the case of the ENP countries proves the rationale of the enlargement fatigue and lack of desire to propose more to the new members at the current moment. Moreover, it identified a gap in the literature, which is lacking an analysis of changes in the conditionality in the two regions – Central Eastern Europe and European Neighborhood area (Eastern part focus) conducted through the similar or the same lens.

To cover the existing gap, three models of Schimmelfennig and Sedelmeier were observed and the rational 'external incentives model' was used as it supports a proposition about rationality of actors which is projected on their behavior, also encompassing cost-benefit analysis and credibility of conditionality. The defined model was applied to two case-studies – Poland and Ukraine.

The timeframe of the analysis included two consecutive periods: (1) since the fall of communism in Eastern Europe by 2004 enlargement round, and (2) starting from 2004 by now. This invoked a differentiated answer among the ENP countries in comparison to the CEE countries. The choice of the periods has been done on the basis of pre-accession cooperation with the EU either with or without membership prospective or incentive.

Therefore, having conducted an analysis within two case-studies on the basis of the chosen model the following inferences have been drawn. First of all, it is concluded that the serious variation in the essence of the conditionality mechanism is primarily caused by the absence of the membership perspective, what could appear to be evident in the frames of the external incentives model, however, it is proved one more time to be correct. Second, cost-benefit analysis shows that while country has the incentive of membership, it would still agree on the prohibited adoption costs (e.g. economic changes in Poland), in contrast, it is highly contested. As the case of Ukraine shows, ambiguity from the side of the EU leads to the decreased motivation of the Ukrainian government to comply with any conditions which require high expenditure. Furthermore, as both case studies display, public support of joining the EU plays an important role of the domestic motivator towards complying with the conditions despite the short-term costs but in the name of the long-term incentives, what could be observed in Poland, but, instead, does not take place in Ukraine. In this respect, credibility of the incentive or its lack can provoke corresponding attitude in the society leading to the increase or decrease in the exerted pressure.

Next inference, which is derived from the research, is build on the notion of the EU as transformative power projected at the nonmember states. It declares that the higher ‘misfit’ between the EU’s political system and system of the targeted government, the higher possibility of omitting transformation and reforms. Nonetheless, through the case of Ukraine it is proved that the EU’s democratic conditionality did not go unnoticed, however, the democratization capabilities of the EU occurs to be exaggerated. Since domestic actors can influence the level of compliance, the same influence can be done by external actors. The causal relation built between Russia and level of compliance with the EU conditions agreed with Ukraine on a bilateral basis proves credibility of the external constraint as a factor able to undermine internal support to the compliance. Thus, the partial success of the conditionality



in Ukraine cannot be denied but conditionality shift is more than evident what restates the relevancy of this phrase and its use in the title.

Having answered the research question, still there is an ample room for the further research. First of all there is a necessity to pay attention to different case studies what would provide more comprehensive information and data. Moreover, application of two other constructivist models – social learning model and lesson drawing model – proposed by Schimmelfennig and Sedelmeier would constitute a research interest and will constitute a platform for the further research in the area of conditionality.

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