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Research Report

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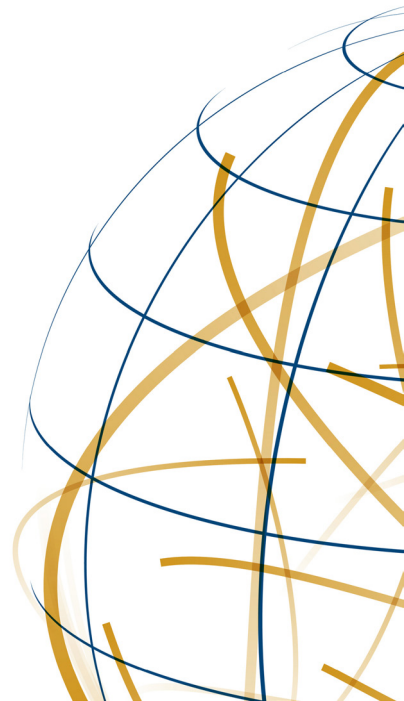
A Geopolitically Aware EU and Its Eastern European Neighbours: More Realism, More Investment

Barbara Lippert

The future European Commission under President Ursula von der Leyen claims to be a geopolitical Commission. Sceptics note that this ambition will only further broaden the well-known gap between the capabilities of the EU and the expectations about its ability to shape foreign policy. Others welcome the fact that the “geopolitical commission” wants to emerge from the shadow of technocratic politics. However, the postponement by EU member states in starting accession negotiations with North Macedonia in October 2019 is being viewed from this perspective as strategic blindness. The EU should not jeopardise its strategic opportunities in the neighbourhood, which will soon include the United Kingdom, by sticking to its established enlargement and neighbourhood policy. Instead, it should create new structures and invest more, both in political and material terms. One could imagine a European Political and Economic Area (EPEA) consisting of the EU and Eastern European countries of the Eastern Partnership (EaP).

The controversy in the EU over the start of accession negotiations with North Macedonia and Albania goes beyond these concrete cases and points to more fundamental problems of the Union in dealing with its European neighbours. For several reasons, the EU stands only half-heartedly by its political commitments to the countries of the Western Balkans to take them in: The EU is losing its willingness and capacity to welcome countries that will neither strengthen the Union’s economic power nor its political cohesion. The EU’s absorption capacity is also diminishing because

the fundamentals as well as performance of its integration policy are being challenged both internally and externally. This corresponds to a decreasing appetite for reform in candidate countries that are pursuing their own policies of conditionality towards the EU. Thus, for core areas of reform such as good governance (separation of powers, independence of the judiciary, fight against corruption) and functioning statehood, they are making their rate of progress dependent on the pace of the pre-accession or accession process. They are also counting on Brussels’ concerns about foreign and secu-



rity policy and its interest in continuing the enlargement process in order to stabilise the EU's neighbouring states. At the same time, the accession candidates are playing offers from "geopolitical competitors" against the EU, a situation that the Commission under Jean-Claude Juncker registered in its May 2019 Communication on Enlargement Policy.

Blaming each other for stagnation and regression will not help the EU if it wants to accept countries that are ready for membership or help in achieving its goal of being surrounded by responsibly governed countries with the same values. Similarly unproductive engagement patterns, as with the Balkan states, are already emerging with Ukraine, Georgia, and Moldova, with which the EU has the closest ties in the Eastern Partnership. At the EaP anniversary summit in May 2019, EU member states refused to make any political accession promises, as they had made the Western Balkan countries in Thessaloniki in 2003. In addition, the EU must quickly settle its new neighbourhood relations with the United Kingdom after Brexit and find an alternative to the negotiating framework for accession with Turkey. It should use these circumstances to create the possibility for new, realistic policy approaches.

Mandate and Lessons for the EU

For the foreseeable future, the EU will be the dominant economic – and hence political – force in Europe as a whole, affecting its neighbours to the north, east, and south. This gives the EU a mandate to structure these relationships, especially with regard to countries that have distanced themselves from it (see Turkey and the United Kingdom) and are in a stronger position vis-à-vis the EU than countries of the Eastern Partnership that seek maximum proximity to it, such as Ukraine and Georgia. The latter also expect protection and prosperity from the EU – ideally, as part of the EU – due to their volatile domestic political landscapes and precarious security situations.

For the Union, it is a matter of establishing qualified or privileged relations with these neighbours below the level of membership (and, if necessary, also with countries of the Western Balkans).

Before embarking on new paths, the EU should heed two recent lessons: first, Moscow's interventions, which, in 2013, initially prevented the signing of an Association Agreement that included a deepened and comprehensive free trade area (AA/DCFTA) between the EU and Ukraine. These interventions have revealed that the long-term technocratic-gradualist policy of ever closer association has lost its supposed geopolitical innocence. Whether in South-East or Eastern Europe, the EU must expect such reactions. It should be capable of handling conflicts at various levels – normative, economic, security policy – if it encounters resistance, especially from Russia. Second, the accession negotiations with Turkey, which have never really got off the ground, prove that the EU has failed with its ambivalent positioning on the question of whether it is actually prepared to accept the country, provided Ankara fulfils the conditions for this. Since 1987 it has been divided on the question of accession – for various reasons – and has still not been able to overcome its disagreements. In the past, this led to an enlargement policy towards Ankara that was not credible; today it means a massive loss of influence – quite apart from the fact that Turkey disqualified itself for membership some time ago.

This ambiguity resulting from disagreements is not recommended when dealing with countries of the Eastern Partnership. The EU should not bring into play unreliable commitments of accession, nor force itself and the countries into the rigid confines of accession negotiations.

A European Political and Economic Area

The explicit aim of the EPEA would be to establish a visible multilateral link between the EU and advanced EaP states that, in the

medium term, cannot count on becoming EU or NATO members. The offer would initially be addressed to Ukraine and Georgia, and later to Moldova as well. The European Economic Area (EEA, consisting of Norway, Iceland, and Liechtenstein on the one hand, and the EU on the other) should serve as an inspiration, not a blueprint, for the EPEA. The latter would have to be very different from the EEA in terms of (1) political signalling, (2) governance, and (3) functional scope.

(1) The EEA has an administrative-technocratic profile because the member countries of the European Free Trade Association (EFTA) in the EEA (i.e. Norway, Iceland, and Liechtenstein) only want economic integration and not political integration. Many Eastern European countries want both, and the EPEA should therefore signal that and offer them both, as far as it is possible below membership level.

(2) The EEA is a construct of its own that is based on international law, without provisions for the transfer of sovereignty. In this “joint venture”, the EU retains its decision-making autonomy (as do the EFTA-EEA countries). The EEA should not have supranational institutions either, but it should have a distinct political profile. Already with the European Neighbourhood Policy, launched in 2003, the EU announced everything for its neighbours except seats and votes in EU institutions. Analogous to the EFTA pillar in the EEA, an EaP pillar would have to be created in the EPEA. Ukraine and Georgia, for example, could begin by setting up a joint Permanent Secretariat and establishing their own structure so that they can function as an intergovernmental pillar, adopt coordinated positions vis-à-vis the EU pillar, and participate in the joint institutions of the EPEA. The EEA system – with its Council, Joint Committee, EEA Joint Parliamentary Committee, and Consultative Committee, as well as its specific modes of governance – is highly complex and demanding with regard to the capacities of the state and administration on both sides. Eastern European neighbours would only qualify for

the EPEA if they offered similar capacities for cooperation with the EU. The Eastern European countries would therefore have to prove themselves reliable, in particular in the functioning separation of powers as well as the implementation and enforcement of the law in a common policy and regulatory area with the EU. At present, this would still be a high hurdle, but it could also be an incentive to develop this capability – with targeted support from the EU.

(3) The EEA focusses on the full and ongoing incorporation of secondary legislation relating to the four freedoms of the internal market (free movement of goods, services, persons, and capital). If Eastern European neighbours were already able to adopt the Internal Market acquis today, EEA membership would be the preferred option and an EPEA would be superfluous. However, the EPEA would build on the AA/DCFTA, which provides for a gradual – and not necessarily full – adoption of the Internal Market acquis. In order to progressively expand the regulatory area through convergence, a specific mechanism for legal harmonisation and effective monitoring would need to be introduced, which would provide more incentives and be more legally binding than under the current AA/DCFTA. In line with its regional and structural policy in the Union, the EU could set up a new instrument to contain regional and social disparities in the countries, and thus counteract the persistent brain drain. In addition, the EU could co-finance projects in this framework, for example to expand the infrastructure, and dovetail this with the cooperation platforms of today’s multi-lateral public – private partnerships. The policies supporting the internal market are included in the EEA to the extent necessary to ensure a level playing field. But central policies such as agriculture, fisheries, and the Common Foreign and Security Policy/ Common Security and Defence Policy (CFSP/ CSDP), as well as justice and home affairs policy remain outside the EEA and are, at best (as with Norway), regulated in dozens of additional agreements. Consideration should be given as to which matters are

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transferred from the comprehensive, bilateral AA/DCFTA to the multilateral EPEA. Addressing foreign policy as well as external and internal security issues in the EPEA would give it the desired political profile and, at the same time, be in the interest of the EU. An added value to bilateral relations with the EU that are based on the AA/DCFTA could also be that, as in the case of the EFTA, the countries of the EaP pillar would have a free trade relationship with each other. As a result, a productive dynamic could emerge between them.

Outlook

If it had been necessary to prove that enlargement has not always been the EU's most successful foreign policy, the very different cases of the United Kingdom and Turkey have done so. With both, the EU will develop alternatives to membership and special bilateral arrangements in the spectrum of cooperation and association: a (modernised) customs union with Turkey, and an ambitious, broad-based, deepened, and flexible partnership with the United Kingdom. With the proposed EPEA, the EU could also break new ground in its dealings with the countries of the Eastern Partnership under the geopolitical considerations. In the future, it might even be of interest to those Balkan countries that get stuck on the ladder to membership.

The EPEA would offer Ukraine, Georgia, and possibly Moldova a goal that is more viable than EU membership. This would certainly not solve all the problems known from the context of accession negotiations – problems arising from how the offers of support and the standards set by the EU interact with the pace of reform and the quality of implementation in the target countries. In the EPEA, the Union would link up with the participating EaP countries in a political joint venture. This would clearly distinguish it from the asymmetric accession negotiations.

The EPEA should be open to development in terms of its functional scope and governance and should permit moderate differentiation among the EaP countries. In the longer term, it could even surpass the EEA in terms of depth of cooperation and integration, and thus represent a real offer and not a sidelining of the EaP countries. It would be up to the EaP states to seize this opportunity and not to focus everything on the ultimate goal of accession. In any case, the EU itself could not prevent Ukraine or Georgia from applying for EU membership, in accordance with Article 49 of the Treaty of the European Union, by explicitly rejecting the accession issue politically. But the gap between “inside” and “outside” would be smaller with an EPEA than it is today, and the ties between them would be stronger. Last but not least, the most plausible prospect would be that this arrangement would bring more and quicker benefits than entering into an open-ended process of accession negotiations, which could last decades.

Dr Barbara Lippert is Director of Research/Executive Board of SWP.