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Why the EU Needs Only One Eastern Policy: Deficits of the Existing Framework

Summary: At present, the EU applies several and separate strategic frameworks for developing its relations with Eastern neighbours: 1) building four common spaces with Russia within the EU-Russia bilateral framework; 2) European neighbourhood policy (ENP) concept in relations with Ukraine and Moldova, which frames also bilateral EU-Ukraine and EU-Moldova agendas; and 3) a non-existent one that is represented by the EU's frozen relations with Belarus. The above three strategic frameworks represent three different and separate EU's Eastern policy agendas or, in other words, parallel policies of the EU towards its Eastern neighbours. Does this parallelism serve the EU in enforcing its interests in Eastern Europe? Does the EU need three/or more or one strategic framework for developing its relations with East European countries? The contribution aims to reason the need for both a new and one strategic framework for the EU's Eastern policy.

Russia and Ukraine were the first countries for which the EU passed the external relations' Common Strategies – the new instruments of the Common Foreign and Security Policy (CFSP), established by the Treaty of Amsterdam, which entered into force in May 1999. Since then the EU has significantly advanced its external relations with third countries through the respective provisions of the Treaty of Nice, adoption of the European Security Strategy, the Wider Europe concept followed by the ENP, etc. Nevertheless, one can conclude that it has failed so far in bringing the instruments of its external actions in line with declared foreign policy goals.

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Discrepancy between Goals and Instruments

The EU has declared that it would like the countries in Eastern Europe to be established as stable, open and pluralistic democracies; the EU strategies, however, fail to determine the instruments and policies to achieve such a 'value-centered' outcome. Pursuant to *The European Union's Role in Promoting Human Rights and Democratization in Third Countries* (as of May 8, 2002), promoting human rights and democratization became a high priority of EU external relations, and any assistance and enhancement programs relating to third countries were to have such priority.

In the 1990s, the 'good governance' principle – a pragmatic approach aimed at stabilization of post-Soviet countries – became a high priority of the EU's relationship with the countries of Eastern Europe. Pursuant to the 1997 *Treaty of Amsterdam*, and following the advancement of the CSFP since 1999, the EU has perceivably sought for a more 'value-centered' approach within its external policy; the reality, however, has not matched this purpose at all.

The Treaty of Amsterdam of 1997 proclaimed human rights to be a cornerstone of the EU's external policy. The EU Charter of Fundamental Human Rights followed the Treaty of Amsterdam, and the December 2000 Summit in Nice declared it necessary to harmonize EU external and internal policies. The TACIS assistance programs approved for Russia and Ukraine for 2002 – 2003, and 2004 - 2006, however, gave no evidence that any cardinal changes have been made to the 'pre-Amsterdam Treaty' pragmatic stabilization approach. According to the TACIS Indicative Program for 2002 - 2003, and to that for 2004 - 2006, the share of resources to be used to promote the development of civil societies in Russia and Ukraine was about 10 % of total EU national assistance. As in the 1990's – prior to the adoption of the EU's 'value-centered' foreign policy planning documents - the rest of the resources were used in promoting so-called 'good governance' principles. Did not the structure of assistance approved within the TACIS Indicative Programs contradict the EU priority regarding its external relations towards third counties proclaimed in the EU treaties and the Communication of May 8, 2002?

An interesting paradox can be seen when observing the development of the EU's approach towards Russia. In the 1990s, the EU's external assistance policy followed the November 28, 1991 Council Resolution – before the *Treaty of Amsterdam* came into force in 1999 – which responded to the breakdown of the Soviet Union and underlined the importance of the good governance and a 'state stabilization' principle applied within EU external assistance policy. According to this Resolution, non-governmental organizations should

be promoted in partnership countries in order to improve democratization processes there, but NGOs were the EU assistance root recipients only in the event that negotiations with their national governments had failed.

In other words, the EU decided to favor the pragmatic good governance principle – or the external partners' stability – within its assistance policy, while EU-Russia relations in the 1990s were, on the contrary, determined by strictly value-policy matters – the response of the Russian government to the crisis in Chechnya is an example. Having passed the *Amsterdam Treaty*, the EU defined its promotion of democratization processes and human rights – value-policy matters – in third countries to be of the highest

importance within the CFSP. However, the EU assistance policy has not reflected such priorities at all, as the TACIS assistance programs passed for Russia and Ukraine for 2002 – 2003, and 2004 – 2006 have maintained the assistance allocations of the 1990s. The paradox of this approach lies with the EU's proclamation of its new 'value-centered' relations and approach towards its Eastern neighbors and its simultaneous failure to change the old 'pragmatic' policy instruments.

The tension between the good governance principle, or the enhancement of post-communist regimes' stability, and value politics, or the enhancement of democratization processes and human rights in the countries concerned can be easily discerned in the EU's policy

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towards its Eastern European partners from the beginning of the 1990s. Neither the 1999 *Common Strategies on Russia and Ukraine*, nor the ENP and subsequent documents nor the political practices of the years that followed have addressed the issue of harmonizing these two EU policy principles or the dilemma of which should be of higher priority. Without well-defined implementation instruments, a strategy ceases to be a strategy. The ENPI (*European Neighborhood and Partnership Instrument*) for the EU's new financial perspective 2007 – 2013 should be seriously discussed in order to meet the ENP goals, but also challenges identified in the EU's basic treaty in general, and the European Security Strategy in particular.

Bilateral versus Regional Strategy

Why has the EU so far developed no regional strategy towards the region of Eastern Europe? This is an especially intriguing question since the EU has developed regional strategies towards its Southern neighbors – the Mediterranean Region (the *Barcelona Process* involves twelve countries) and the countries of the Western Balkans (*Stabilization and Association Process*). Why does Eastern Europe represent a departure from this rule in the EU's policies towards neighboring regions?

A 'Regional Gap' in the EU's Approach

The above question might seem to be just a rhetorical one, but a bilateral approach to Russia and Ukraine prevents the Union from formulating an adequate response to the challenges arising within the strategic Russia-Belarus-Ukraine-Moldova quadrangle in Eastern Europe. For example, an independent Ukraine has been said to represent an essential key to Europe's stability and security, and the country is 'exposed to Russian economic and political influence' in the EU Country Strategy Paper on Ukraine (2001). However, an individual EU approach to Russia and Ukraine prevents the Union from dealing with the mutual relations of these states, which is of essential importance for the stability of Europe. If a common regional strategy on this issue were to be developed, the correlation within the Russia-Ukraine-Belarus triangle in Eastern Europe could not be omitted. Why does the EU strategy fail to address 'Russian influence on Ukraine' even though its independence is considered to be of key importance for the stability and security of the continent? Definitely, the ENP concept does not provide answers to this challenge. It seems reasonable for the EU - if it is to become more able to pursue its own interests in Eastern Europe – to develop a regional policy in addition to the existing bilateral frameworks.

As already stated, having passed the Amsterdam Treaty in 1997 (valid from 1999), the EU defined its promotion of democratization processes and human rights – value-policy matters – in third countries to be of the highest importance within the CFSP. Having in mind all that, why has the European Union been marginalizing Russia's support of semi-democratic regimes in Eastern Europe? Russia's support of the regime of Alexander Lukashenko in Belarus is the most striking example. The EU has frozen its relationship with Belarus since 1997 because of the heavy-handed and undemocratic conduct of the Minsk government. A number of similar situations have arisen in the past when the EU's interests, such as its relationships with semi-democratic regimes in the former Yugoslavia, and even with that of Slovakia in 1994 –

1998, differed profoundly from its relationship to the Russian regime. Even though Russia continues to provide such support to some of its neighbors, this support is not addressed by the EU's Eastern policy in general and its bilateral relationship towards Russia in particular. Why has this 'gap' arisen in the EU's Eastern policy? The EU's Country Strategy Paper on Russia includes a statement asserting that 'the EU seeks to cooperate with Russia in order to promote the democratization of Belarus', but there are no EU policy instruments in its relationship with Russia to put such statement into practice.

The 'impotence' of the EU's Eastern policy outlined above represents a politically sensitive issue within the CFSP debate between EU member countries. There is a discrepancy between the declared goals of the EU's foreign policy, which are contained even in the basic EU treaty, and the

reality on the ground. If the EU is to be an international actor, sooner or later it should make new *regional* policy arrangements for developing relations with the East European countries.

Why and Which Sectors to Regionalize

A regional strategy in Eastern Europe is needed if the EU is to effectively sustain its interests in certain sectors, e.g. justice and home affairs, energy, foreign trade liberalization, transport, environmental

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protection, etc. First, if the EU's eastern borders could be secured more effectively and at lesser expense, the EU could assist the East European countries in developing cooperation in the JHA area. The EU might expend extensive resources securing its eastern borders with Ukraine and Belarus; however, the EU's eastern borders would be far more secure if the Belarus-Russia and Ukraine-Russia borders were to be brought into line with higher security standards, not to mention improvements in cooperation between the East European countries in the area of readmission. If it serves EU interests, why not initiate cooperation in the JHA area with Russia, Ukraine, Belarus, Moldova and eventually other relevant countries in the region?

Second, since October 2002, the EU-Russia energy dialogue has included the issues of Russia's supply of energy resources and new oil and natural gas pipeline routes that may eventually cross the territories of Ukraine and Belarus, not to mention existing ones. Both oil and natural gas transits are highly profitable and are directly related to the strategic economic interests

of transiting countries. It would be simply politically correct on the part of the EU to

involve the other respective East European countries in its energy dialogue with Russia; otherwise this dialogue will take place 'over their heads', which does not make the EU a more transparent and reliable actor in the region.

There are several cases from the recent past that demonstrate the negative consequences of such a mistake. The first one was the case of the so-called Yamal 2 gas pipeline, which was intended to bypass Ukraine and would result in the modification of Russia-Poland agreements signed in the mid-1990s on the Yamal-to-Germany gas pipeline crossing the territory of Poland. Referring to EU attitudes – presented as identical to those of Russia – Russian Gazprom, a gas monopoly concern supported by the Russian government, was trying to get the government in Poland to make compromises serving both its commercial and political interests. The misunderstanding" which arose over this issue between the EU and Poland, at that time an EU candidate country, could have been avoided if Poland - and other candidate countries - had participated in the EU-Russia energy dialogue. Recently, a similar situation occurred in the case of the North Baltic Sea gas pipeline and again a 'misunderstanding' arose between two EU member countries - Poland and Germany. In addition, the gas dispute between Russia and Ukraine of January 2006 proved that it is in the EU's interest to develop a common and 'inclusive' energy policy towards all East European countries relevant for EU energy security. The way forward is to regionalize the EU's energy dialogue with Russia so that it includes Ukraine, Belarus and Moldova. The first move in this direction was signaled during the recent Austrian EU Presidency by Austrian Ambassador to Russia Martin Vukovic who supported the idea of involving Ukraine and Belarus in Russia's energy dialogue with the EU.

And finally, the EU-Russia dialogue on the creation of the *Common Economic Space* (CES) also addresses trade liberalization between the two partners. Both Russia and the EU are key foreign trade partners for the countries situated in between – Ukraine, Belarus and Moldova. Why not include them in the CES dialogue? There are also other sectoral policies where a regional approach on the part of the EU would be helpful for the EU and non-EU countries in the region alike. First, this would be a positive move by the EU in the direction of pursuing its interests in Eastern Europe and becoming a more transparent and reliable partner in the region. In sum, it is impossible to replace a complex EU regional strategy towards the East European region with bilateral strategies towards particular countries of the region. Owing to the lack of such a regional approach, the EU will fail to give a clear response to questions relating to its declared goals and interests in Eastern Europe.

The EU's Home Deficits

The following are the most challenging *home* deficits of the EU in areas that have to do first and foremost with the EU's institutional capacity to plan and implement effective policies towards its Eastern neighbors:

- inflexible policy planning;
- · strategic inconsistency between the CFSP and ENP frameworks;
- institutional deficiency between the Council's and Commission's responsibilities in the area; and finally,
- 'enlargement fatigue' as a result of the failed institutional reform process.

Inflexible Policy Planning

As already stated, in 2001 the EU passed the first *Country Strategy Papers* (the 'CSP') on Russia and Ukraine, which assessed the transformation processes and grounds for the EU's TACIS assistance programs to be carried out in the years to come. *The European Commission's Communication on Conflict Prevention* from April 2001 defines the CSP as an instrument used to "analyze national conditions and use EU assistance for conflict prevention Policies". Since the end of 2001, CSPs have accompanied the TACIS *Indicative Programs*, providing the basis for the allocation of EU assistance and its use by beneficiaries. Pursuant to the CSPs these aim at establishing:

- · cooperation objectives;
- the EU's policy response; and
- priority areas of cooperation.

The very fact of whether the *National Indicative* TACIS program for Russia and Ukraine for 2004 – 2006 follows the CSPs adopted in 2001 seems questionable at best. Russia after the Beslan tragedy and Ukraine after the Orange Revolution in 2004 became completely different from the way they had been in 2001; however, these dramatic changes were not reflected in the EU assistance programs for these countries in 2005 – 2006. How could the 2001 CSP on Ukraine identify an appropriate EU policy response to Ukraine after the *Orange Revolution* in 2004? At the EU-Ukraine Cooperation Council that took place in February 2005, both sides declared their readiness for better cooperation and a more intense dialogue and agenda, including Ukraine's willingness to advance its domestic reforms and implement EU standards within its ENP Action Plan. Why has the EU in turn been unable to reshape its TACIS program for Ukraine in order to provide effective assistance to the new Ukrainian government and finally, to promote its own policy goal declared in both the *Common Strategy on Ukraine* of 1999 and *Action Plan* of 2005?

The challenge of EU policy planning towards its Eastern neighbors has to do not only with adequate assessment of developments in post-Soviet states as has already been pointed out, but also with a lack of flexibility. If the CFSP and ENP are to be viable policies serving the EU's interests, their planning mechanism should first be modified to facilitate a flexible EU policy response, including continuous adjustment of its assistance programs for external partners. The EU cannot plan its policy response towards the countries of Eastern Europe for periods of five years or more in advance. The post-Soviet countries are still facing dramatic political and economic challenges stemming from their post-communist transition. It is almost impossible to

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reliably predict developments a month in advance in these countries, not to mention a longer time interval.

Strategic Inconsistency

The EU's approach towards the East European countries has passed through two important development stages since the Amsterdam Treaty entered into force in 1999: CFSP' 1999 –

2001 and ENP' 2002 – 2004. In fact, the EU has developed two *parallel* strategic concepts for its policies towards the East European countries over the last eight years.

The first could be considered a *CFSP'* 1999 –2001 *Council's* concept. It became possible thanks to the CFSP institutional framework and instruments called into action by the *Amsterdam Treaty* in 1999. The other could be considered an *ENP'* 2002 – 2004 *Commission* concept. It has evolved out of the *New Neighbors Initiative* of 2002 through the *Wider Europe* concept of 2003, including *common spaces* with Russia, and finally, the present shape of the *European Neighborhood Policy* of 2004. Both policy concepts have their own parallel implementing instruments and institutional mechanisms for the EU's collaboration with partner countries from Eastern Europe. However, the principal question is why they have not been adjusted to each other. Why have the TACIS programs for Ukraine and Moldova as implementing instruments of the CFSP' 1999 – 2001 not been adapted to their Action Plans with the EU that are the main implementing instruments of the ENP'2002 – 2004?

The Common Strategies on Russia and Ukraine adopted in 1999 and followed by the respective Country Strategy Papers in 2001 aimed at harmonizing the

EU's internal and external policies. In other words, the aim was to harmonize the EU's TACIS programs – understood as CFSP instruments – with value-centered EU foreign policy goals as proclaimed by the Treaty of Amsterdam and subsequent EU documents, e.g. the EU Charter of Fundamental Human Rights, the Nice Treaty, European Security Strategy, etc. In fact, in the course of 1999 – 2001 the EU has changed the formulation of its foreign policy goals, but not so much the TACIS programs as already discussed above. The period of 1999 – 2001 should be viewed as a move on the part of the EU to redefine its international role in both European and global affairs following the 'Yugoslav crisis' on its doorstep. The line 'Common Strategies (Russia and Ukraine) – Country Strategy Papers – TACIS' does represent the first attempt by the EU to develop a complex policy towards its Eastern neighbors and should be viewed as the Eastern part of the EU's new CFSP/ESDP concept as such. However, it was soon replaced by the new ENP concept.

The existing shape of the *European Neighborhood Policy* (ENP) of 2004 is an outcome of the debate during the period of 2002 – 2004 starting from the *New Neighbors Initiative* (2002) and the *Wider Europe* concept (2003). The aim of the ENP was, first, to adapt the enlarged EU to its enlarged neighborhood, and second, to support the transformation process in neighboring countries in line with EU standards, but outside the Union. The ENP applies the instruments of the EU's enlargement policy towards neighboring countries, but without a membership perspective. Nevertheless, the main ambition of the ENP is to go beyond the horizon of the CFSP since ENP countries are given the prospect of participation in the EU's integrated area of

four freedoms if they implement the respective EU acquis. Commission ex-President Romano Prodi, who said that the EU is ready to share with its neighbors "everything, but its own institutions", expressed the main idea of the ENP in a magnanimous way. The ENP was developed as a universal 'modernization' policy framework making no distinction between the EU's neighbors in the South and East. When it comes to Eastern Europe, the ENP concept that was applied to Ukraine, Moldova and the Caucasus countries has been supplemented in a parallel way by a *common spaces* concept for building EU relations with Russia not necessarily based on *exporting* the European acquis.

While the main implementing instrument of the EU's first CFSP 1999 – 2001 strategic framework for its Eastern neighbors was the TACIS program, the main implementing instrument of the second ENP'2002 – 2003 strategic framework for ENP countries were the Action Plans between the EU and the countries concerned. The problem is that the TACIS instrument of the 'old' CFSP was not adjusted to that of the 'new' ENP – the *Action Plan*. The

TACIS programs for ENP countries during the years 2004 – 2006 have been carried out according to the EU's priorities and a 'policy response' formulated still in the *Country Strategy Papers* adopted in 2001(!). For instance, Ukraine started to implement its *EU Action Plan* in 2005 without referring to the TACIS program or utilizing its resources to meet the goals of the Action Plan. In 2005 – 2006, the TACIS programs and the *Action Plans* became parallel and separate instruments of the EU's relations with ENP countries in the region of Eastern Europe.

In other words, there is a discontinuity between the two strategic frameworks developed over the last eight years for EU policy towards its Eastern neighbors – both at the level of planning and implementation. Why have the instruments of the EU's CFSP concept' 1999 – 2001 not been resumed in that of the ENP' 2002 – 2004? Why does the ENP not represent a follow-up

There is a discontinuity between the two strategic frameworks developed over the last eight years for EU policy towards its Eastern neighbors – both at the level of planning and implementation. to the CFSP from the 1999 – 2001 period in the area of EU relations towards the East European countries? The ENP is treated as a completely new 'external relations' concept with respect to what was specified in the CFSP' 1999 – 2001. The EU's strategic inconsistency in its policy towards the East European countries represents one of the weakest points of the EU's CFSP as such.

Institutional Deficiency

The strategic inconsistency between the CFSP and ENP in the EU's policy towards

its East European neighbors is not only the result of inadequate policy planning on the part of the EU, but it is also the consequence of the EU's deficient institutional framework of the in this area. While the CFSP' 1999 – 2001 concept was developed under the responsibility of the Council, namely the Secretary General and the EU's High Representative for the CFSP, the ENP' 2002 – 2004 concept fell under the competence of the European Commission and the Commissioner for

External Relations and ENP. This institutional 'division of labor' was one of the reasons why the ENP policy did not incorporate the CFSP instruments.

The Neighborhood Policy was intended from its very beginning as a sort of compromise between the EU's foreign and enlargement policies. As already quoted, ex-President Romano Prodi declared the EU's readiness to share with its neighbors "everything, but its own institutions". The said 'everything' implied nothing to the neighbors but eventual access to the EU's

common market and its four freedoms if they chose to implement respective European acquis. For example, if Ukraine were to implement the European acquis through its *Action Plan*, it could gain access to the EU market or some its sectors, provided of course that it becomes a WTO member. In this way, Ukraine would participate in an integrated space of the EU or part thereof, but without access to EU institutions and its decision-making process. Since the ENP has a potential impact on EU communitarian policies, it falls under the competence of the Commission and the European Commissioner for External Relations and European Neighborhood Policy. In the end, an important agenda of the EU's relations with its Eastern neighbors was extracted from the portfolio of the Council and the EU High Representative for CFSP. Consequently, the EU started to implement a two-track policy 'on' and 'in' the region of Eastern Europe. In this way, it becomes more understandable why and how the discontinuity between the CFSP' 1999 – 2001 and the ENP' 2002 – 2004 has emerged in this area of EU policy.

The division of competencies between the Council and the Commission with respect to EU policy towards its Eastern neighbors is not a good institutional solution for the EU or for the countries concerned. The Council, which derives its legitimacy from the member states, should be given the authority to make strategic decisions regarding the agenda of the CFSP, including such communitarian agenda and/or agendas that are important for efficient crafting of EU foreign policy. Since the ENP has been understood from its very beginning as the policy of 'non-membership', it seems logical that it should fall under the primary competence of the Council. Any further EU institutional reform in general, and in particular reform of those institutions that participate EU foreign policy planning, should take into account the lessons learned from the EU's relations with its Eastern neighbors in the period of 1999 – 2006.

Foreign versus Enlargement Policy

The institutional tension between the CFSP and the ENP within the EU in the area of relations with its Eastern neighbors manifests a substantial dilemma in EU external policy as such: the determination of where the EU's enlargement policy ends and where its foreign policy begins. Well-known are expressions that the most successful EU foreign policy is precisely the enlargement policy or that the EU has no foreign policy at all, but rather merely one of enlargement. The dilemma between the EU's foreign and enlargement policies is a 'false dilemma' since the Union has both of them.

'Enlargement fatigue' is a prevailing mood in the present day discourse within the EU when it comes to the prospects for its relations with its

neighbors. Following the big-bang enlargement of 2004/2007 and the failure of the institutional reform process in 2005, critics of the enlargement policy have argued that the EU must cease further enlargement and start to develop no more than a classical foreign policy towards third countries. The best collection of anti-enlargement

arguments was raised during the so-called 'Turkey debate' on the eve of the EU's decision on whether or not to initiate accession talks with Turkey in 2004.

However, the question is: what would the gains and losses for the EU have been if its decision on Turkey in 2004 had been negative? It is difficult to identify any gain for the EU if such decision would have been taken; however, it is easy to identify the EU's potential losses in such a case. First, the EU would have lost its strategic initiative towards this strategically

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important country; second, instead of a country contributing to the EU's security, Turkey would gradually be changing into a country challenging the EU's security; third, the EU would have missed a chance to contribute to Turkey's modernization in line with European standards; and finally, the EU would have lost instruments and resources to pursue its own foreign policy interests with respect to this country. Why should the EU retreat from its enlargement policy if it is instrumental for achieving the Union's foreign policy goals?

There was a turning point in the history

of the EU when the enlargement policy became part of its foreign policy. The accession of three relatively poor South European countries in the 1980s – Greece, Portugal and Spain that not long before had experienced totalitarian regimes – had a profound impact on both the institutional framework and financial arrangements within the then European Economic Communities (EEC), including further policy in the area of enlargement. First, it pushed the EEC to seek a new institutional framework, which ultimately resulted in the adoption of the Maastricht Treaty (valid from 1993) which transformed the EEC into the European Union. Second, the accession of economically less-developed and relatively poor countries forced the Union to develop new solidarity instruments in order to maintain the political stability and economic prosperity of its new members. As a consequence of this, the EU developed its structural funds policy, representing one of the EU's most

important achievements since the very beginning of the European integration process. Finally, the accession of the three

South European countries brought a new dimension into the Union's external policy; the Union became a key international actor in Europe by exporting prosperity and stability to countries seeking freedom and democracy. At the very least one can say that the accession of Greece,

Portugal and Spain prepared the Union mentally and politically for its present role in Europe, providing an understanding of its foreign policy goals, its further enlargement policy and, in particular, the admission of the group of 8 post-communist countries in 2004. Why should the EU resign on its own mission and purpose?

The EU is and should remain primarily a 'modernization and integration project for Europe in the 21st century and beyond' by exporting democracy, stability and prosperity to its neighbors. The dilemma between the EU's foreign and enlargement policies is a false one. The EU never has been and only with great difficulty could become a classic foreign policy actor, and this is why its foreign policy cannot be a classic one. In other words, the EU's enlargement policy is an inherent part of its foreign policy. In the end, there is no contradiction between them.