

### The EU's conditionality in the case of Moldova (2001-2009): failure or success?

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# SPES Policy Papers

## The EU's Conditionality in the Case of Moldova (2001-2009): Failure or Success?

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## Introduction

The enlargement of the European Union (EU) in 2004 and 2007 has made it a more significant actor in the world by increasing its number to 27 member states. At the same time however, this enlargement has also made the EU less homogenous. Currently facing the financial crisis and the challenge of institutional reform, the EU is not ready for further enlargement, all the more so because of the presence of so-called enlargement *fatigue*. Nevertheless, the EU has tried to create mechanisms for cooperation with neighbouring countries. These mechanisms are designed to avoid dividing lines within Europe, to create a “ring of friends” (European Commission 2003: 4), to help adjust standards across the continent, and to bring interested countries closer to the EU. The Republic of Moldova (hereafter referred to as Moldova) is among these countries.

Moldova started the transition period more or less successfully, being the first country from the former Soviet Union after the Baltic States, to be accepted as a member of the Council of Europe<sup>1</sup> in 1995 (Serebrian 2005). Its pro-western demarche however, did not finish here and European integration became the main priority of Moldova’s foreign policy in the following years.<sup>2</sup> The first success for Moldova was the negotiation of the Partnership and Cooperation Agreement (PCA) in 1994<sup>3</sup>, which entered into force in 1998 and established an economic and political framework for the relationship. Moldova has consistently expressed its willingness to join the EU. Despite having no membership perspective, and unlike the Ukrainian political establishment, Moldova’s political elites, consisting of all parties represented in the Parliament, continue to declare European integration their priority, while the EU continues

to request different reforms and apply a certain degree of conditionality on the basis of the PCA and the European Neighbourhood Policy (ENP), established in 2004.

Conditionality is understood in this paper as a strategy whereby the EU offers rewards in exchange for the target country fulfilling the requirements set by the EU (Kratochvil/Lippert 2008; Schimmelfennig et al. 2002). This paper analyses those areas in which the EU has made considerable efforts to adjust Moldova’s policies and standards to those of the EU. Moreover, it focuses on the impact these efforts have had on the country. It is noteworthy that Moldova is adjusting to the EU without the prospect of membership. Interest in Moldova has increased since the Russian-Georgian conflict in August 2008, because of certain similarities with Georgia – namely, that both have breakaway regions supported by Russia. Nevertheless, differences between these countries prevail. In the case of Moldova, the EU has a more significant interest because Moldova is situated on its own borders and the EU is interested in keeping the Transnistria settlement process peaceful and ongoing, especially taking into consideration that the nature of both the Georgian and Moldovan/Transnistrian conflicts are different. The most apparent instance of EU attention being paid to Moldova however, could be observed after the 2009 elections (5 April, 29 July) and during the post-election protests from April that led Moldova into a political crisis.

The aim of this paper is to evaluate whether EU conditionality is working in Moldova and whether it is capable of producing effects similar to those achieved in the accession countries in 2004 and 2007. The timeframe of the analysis is 2001-2009, the period during which Moldova had a communist government with a strong pro-European rhetoric but exhibited merely a selective compliance with EU conditionality. In order to answer this question, it is necessary to address further questions, such as: Which types of conditionality does the EU utilise? Which internal and external factors have an impact on the effects of EU conditionality? Are EU incentives sufficiently credible and sizeable to ensure Moldova’s compliance? What does Moldova expect from the EU and is Moldova

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1 Accepted as a country under the monitoring of the Council of Europe (CoE). This CoE monitoring continues to this day.

2 Moldova has had some short periods of foreign policy reorientation towards Russia in 1995-1998 and 2001-2003, and a certain degree of reorientation in 2007 and 2009.

3 Due to the long ratification procedure within the EU, the PCA formally entered into force on 1 July, 1998.



meeting the EU's expectations?

These questions suggest the structure of this paper, which is divided as follows: firstly, types of conditionality and the EU's conditionality enforcement in accession countries and ENP countries will be presented briefly. Secondly, the EU's policy instruments applied in the case of Moldova – democratic and economic conditionality and socialisation – will be analysed. Thirdly, external and internal factors that could impede the impact of EU incentives will be analysed with a special focus on the 'Russian factor' in Moldova.

The final section highlights shortcomings of the current EU approach and of Moldova's compliance and it recommends certain actions that could significantly improve the efficiency of EU-Moldova cooperation.

## I. Types of conditionality and the EU's conditionality enforcement in accession and ENP countries

In the last two decades, the EU's success in achieving high standards of economic development has led many of its surrounding countries to express their willingness to join<sup>4</sup> this *sui generis* organisation. Nevertheless, the selection criteria for EU membership are different to those of the North Atlantic Treaty Organization (NATO) during the Cold War. At that time, states had to oppose the Soviet Union and be able to militarily defy the 'Soviet threat'. In the case of the EU, states need to adjust to the political, administrative and economic structures of the EU in order to join.<sup>5</sup> Under this adhesion logic, the EU started to build its relations with all those who applied for membership in the 1990s and, today, with those countries in its immediate neighbourhood by requesting reforms in exchange for rewards. In the case of the accession candidates, the reward was clear: membership in the EU. Requirements and rewards in the case of the ENP countries are less obvious, with the exception of the Governance Facility, which is a less fuzzy concept due to its clear criteria of beneficiary selection.

Within academic circles, this strategy is called EU conditionality. There are many types of conditionality (e.g. political, economic, social, etc.) but the general definition is the "practice of setting conditions for the provision of a good from one actor or organisation to another" (Agné 2008). Today, a significant proportion of the conditionality applied by the EU is linked to standards in a wide range of areas, but most importantly in democratic institutions (European Commission 2009). Democratic conditionality is understood as the main strategy of international

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4 The first official statement asking for Moldova's association to the EU was addressed on 13 December, 1996 by the former President of Moldova Petru Lucinschi to the European Commission's President, Jacques Santer.

5 Today, NATO has specific criteria for membership, too; candidate countries have to fulfill the criteria agreed to in the Membership Action Plan (MAP).

actors and organisations to influence non-member states to respect their fundamental rules of statehood. Schimmelfennig et al. (2002: 1-2) define conditionality as an applied mechanism of reinforcement by a social actor to change the behaviour of another actor, while reinforcement represents a system of social control by which compliance is rewarded and non-compliance is punished.

The EU as leverage in its relations has always used conditionality with membership candidates and third countries. EU conditionality was introduced at the end of the 1980s and in the early 1990s, when the EU formalised conditionality in European Agreements and the Copenhagen Criteria. Post-communist Central and East European countries thus “became the first target of a very demanding political, economic and social conditionality, closely linked with the process of transition towards democracy and market economy” (Anastasakis/Bechev 2003: 5). The first programmes of cooperation between the EU and countries willing to join it were related to trade and financial assistance through the European Agreements and PHARE<sup>6</sup> programme, which were available to Central and Eastern European applicants. In this regard, “in 1992, the EU introduced a clause of relieving within the European Agreements the signing of trade and cooperation agreements if the target country does not respect five fundamental areas: 1) rule of law; 2) human rights; 3) multi-party system; 4) free and fair elections and; 5) market economy” (Grabbe 2008: 23). This first example of conditionality was followed by other important documents that laid out broader areas for cooperation and outlined concrete desired outcomes to be achieved by the applicant countries. The Copenhagen Criteria, established in 1993, “formally spelled out the link between democracy and membership” (Merkel

2008: 27) and raised the standards by also including an economic criterion and the acceptance of the *acquis* as mandatory, making membership much more difficult to achieve. In the case of Moldova, this paper will analyse the key instruments such as Autonomous Trade Preferences, Visa facilitation, budgetary support, EUBAM and others.

A state to which conditionality is applied is expected to change its behaviour in order to avoid punishment for non-compliance. In *The Conditions of Conditionality*, the authors emphasise four types (strategies) of conditionality once an international organisation has set out its conditions (Schimmelfennig et al. 2002). In the case of a state accepting the conditions, it is clear that the state receives the rewards; in the case that it does not, the international organisation: a) withholds the reward, which is called reactive reinforcement; b) inflicts punishment, which is called coercive (proactive) reinforcement; or c) provides support, which is called supportive (also proactive) reinforcement (See Figure 1).

The EU most often uses the *reactive reinforcement* strategy. As Scholtz argues: “EU conditionality (in the case of the ENP) is mainly ‘positive’, that is, the EU offers and withholds carrots but does not carry a big stick” (Scholtz et al. 2007: 6). The EU does not punish the non-compliant state but withholds the reward and sometimes even gives extra money through the Governance Facility. Thanks to this feature, EU conditionality is widely perceived as positive conditionality. There have, however, been some exceptions, for example in the case of Belarus, where the EU has applied travel restraints on Belarusian leaders, withdrawn access to the Generalised System of Preferences (GSP) (European Commission 2009) and also applied some other restrictive measures that can be categorised as *coercive reinforcement*. However, the employment of negative conditionality requires a careful analysis of “where pressure can be effective” (Youngs 2008: 2) and must be based on a study of how EU policies influence the domestic political environment.

Today, the EU has several levels of conditionality, which it applies to different countries or groups of countries, according to the level of development

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6 The programme of Community Aid to the countries of Central and Eastern Europe (PHARE) was the main instrument for pre-accession assistance to EU candidate countries. The main aim of this programme was to support the countries in implementing the *acquis* and to teach them to manage structural funds. It was launched in 1989 to support the reconstruction of the economies of Poland and Hungary and in 1994 became available to all candidate countries. In 2007, PHARE was replaced by the Instrument for Pre-accession Assistance (European Commission 2009).

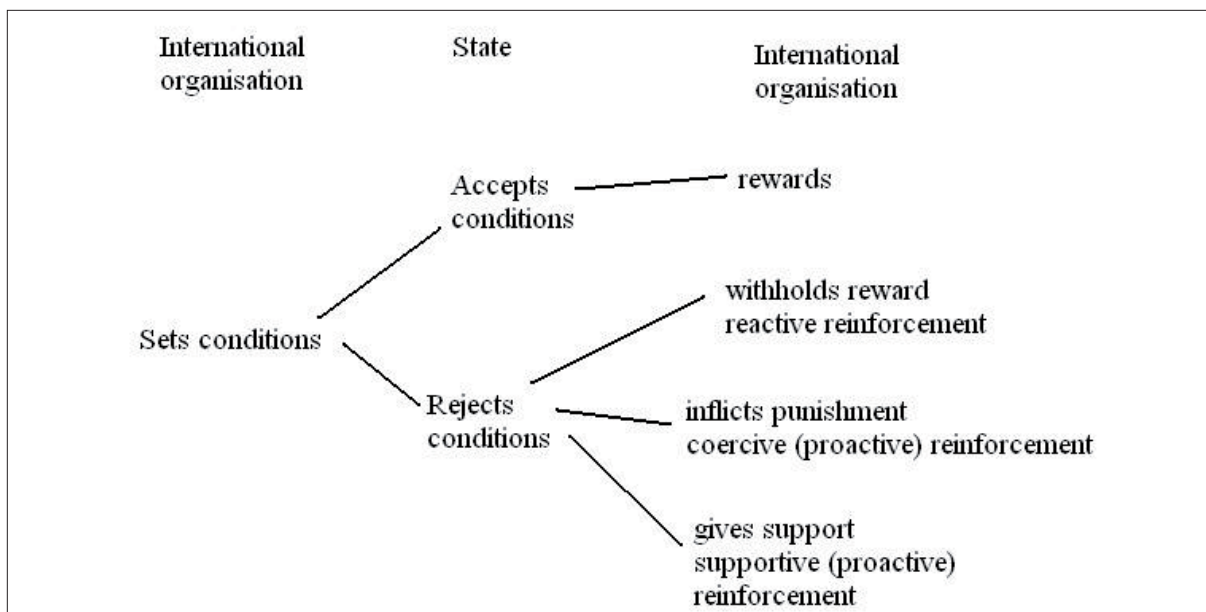


Figure 1. Strategies of Conditionality (Schimmelfennig et al. 2002)

of their relationship and to the progress registered in areas where the EU requires changes. There is no doubt that enlargement is considered the most powerful incentive for pursuing reforms. This is the reason why “enlargement is often called the most successful foreign policy of the European Union” (Schimmelfennig/Scholtz 2007: 2). The membership perspective is considered to be the best instrument for inducing states to accept conditions, due to the size of the reward and its credibility. Alongside membership, there are strict rules established for the accession process, which in the past have “vested the EU with considerable transformative power and contributed significantly to economic recovery, peace and stability as well as democratisation” in the transition countries of Central and Eastern Europe (Scholtz/Schimmelfennig 2007: 3). More than this, the EU’s “pre-accession instruments highlight the involvement and active role of the EU as an authoritative external actor” (Lippert/Umbach 2005: 43). For countries without a membership perspective, however, conditionality is different in both its character and consistency.

After the EU enlargement of 2004, the ENP was created with “the objective of avoiding the emergence of new dividing lines between the enlarged EU and its neighbours” (Maron 2007: 1). It is aimed at transforming the target countries

through political dialogue, export of the *acquis* and economic assistance, “though all in reduced doses” (Popescu 2009b), in comparison with the enlargement policy. The ENP, together with the recently launched Eastern Partnership<sup>7</sup> (EaP) is perceived as an alternative to the accession process. At the same time however, the instruments used by the EU in the eastern neighbourhood are not able to produce such high-quality results as those achieved in the case of enlargement, in part, because the conditions are unclear and the deadlines are not enforced (Chirila 2009a).

Before evaluating the features of the (democratic, economic or social) conditionality that is being applied to Moldova by the EU, it is important to mention that the success of conditionality depends very much on the local political elite of the country subjected to conditions (Schimmelfennig 2007). If authorities in a given state are not willing to implement the policies recommended by the EU, then the implementation of conditionality will fail from the very beginning and democratic change will not take place. As Benita Ferrero-Waldner pointed out, “democracy can never be imposed from outside: genuine democratic transition must always come from within” (Ferrero-Waldner 2006: 3).

7 For the southern countries, the EU boosted its engagement by creating the ‘Union of the Mediterranean’.

While the EU is establishing the conditions under which certain states will receive their rewards, these states are usually calculating the costs and benefits of the reform before initiating its implementation. Consequently, the implementation of reforms requested by the EU turns into an exercise in cost-benefit calculation by the target state. As a result, the general rule is that “the positive impact of the EU on democracy in outsider states increases with the size and the credibility of the EU’s conditional incentives” (Scholtz/Schimmelfennig 2007: 6). In other words, the larger and more credible the reward, the more likely it is that the state will comply with the established conditions.

As mentioned before, until now, the most credible and functional reward was the promise of membership, which is considered to be a “*mega-incentive*” (Emerson/Noutcheva 2005: 13, emphasis in original) and the Moldovan political class still perceives the membership perspective as its own biggest incentive (Leanca 2010). In the same context, interdependence is often asymmetrical in favour of the EU. This is the case for instance, when a country subjected to conditionality requires the EU as export market or is reliant on receiving European aid, but the EU is not, in principle, dependent on the goods, which are being produced in that country. The dependence of the said country on its exports to the EU makes its relationship highly asymmetrical in favour of the EU. There are some exceptions to this, for example in the case of big countries like Ukraine. The gas crises from January 2009 showed very well that in some cases there might be a mutual dependence.

## II. EU policy instruments in the case of Moldova: democratic and economic conditionality and socialisation

Academics argue that the nature of conditionality in the case of the EU is very fluid (Sasse 2008, Chirila 2009b, Davalga 2009). There are many inconsistencies in its application (by both the European Commission and by the EU in general) over time and no clear-cut causal relationship between the application of conditionality and reforms in the ENP countries, including Moldova. On the one hand, all instruments used by the EU in its Eastern neighbourhood are instruments of conditionality. When Moldova is not doing something required or advised by the EU, it can lead to a tougher EU position towards Moldova. On the other hand, these processes are usually very difficult to trace and to prove because of the absence of clear cause-effect links.<sup>8</sup> As a result, a brief analysis of official documents signed between Moldova and the EU will be beneficial.

The EU uses many policies and mechanisms that could be considered instruments of positive conditionality. Important policies relevant to the case of Moldova are the ENP and the EaP, while significant agreements include the PCA, the EU–Republic of Moldova Action Plan and Visa Facilitation and Readmission Agreements. In addition, the instruments of positive conditionality include the European Neighbourhood and Partnership Instrument (ENPI), Progress Reports, the monitoring of elections and other “linkages” that form the chain of EU-Moldova relations and will be emphasised in the following overview.

Officially, the EU established its relationship with Moldova through the PCA that was negotiated and signed in 1994 and entered into force on 1 July, 1998. The PCA has become the basic and most important document establishing

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<sup>8</sup> Adomas Davalga, researcher at the Institute of International Relations and Political Science, Vilnius University, interview by author, 27 July, 2009, Chisinau, Moldova.

<sup>9</sup> Trans-national relations, cross-border cooperation and exchange that are influencing the domestic situation (Scholtz/Schimmelfennig 2007).

the relationship between the EU and Moldova. It is a rather general document and is designed more as a register of areas in which both parties could eventually cooperate. The PCA was inspired by the European Agreement, however, with a different *finalité*: it establishes the institutional framework, while the European Agreement gave a clear perspective for association to the EU (Serebriian 2005).

It can be argued that the PCA signed between the EU and Moldova is not employing EU conditionality. The document shows a general commitment to democracy and market economy principles and is not focused on concrete obligations. However, there are some signs of conditionality, for example, art. 49 of the PCA states that Moldova should protect intellectual property rights and should adhere to multilateral conventions in this area within not more than five years (European Community 1994: 12). This is an example of an economic issue that does not touch the main problematic areas of Moldova in the areas of human rights, freedom of speech, independence of the judiciary, etc. Moreover, it is not clear what happens if Moldova does not comply.

The ENP could be considered a strategy that embodies a form of “conditionality light” because the most important components of conditionality (clear incentives and enforcement structures) “are vague for both the EU and its neighbouring countries” (Sasse 2008: 3). The ENP generally resembles something between partnership and membership, being called the “politics of the half-open door” (Timmerman 2003: 8). However, the most sizeable and attractive aspect of the ENP is the provision that it has been designed to allow the target countries to benefit from a variety of incentives. This refers especially to the four freedoms (free movement of services, goods, capital and persons), following the model “everything but institutions” (Prodi 2002) as described by Romano Prodi, then President of the European Commission. Nevertheless, “the reference to the freedom of persons has disappeared from Council documents – it has been replaced by references to visa agreements” (Sasse 2008: 8).

The most recent policy initiative that was

adopted between the EU and its eastern neighbours is the EaP. This Swedish-Polish initiative was initiated to make a distinction between those countries to the east and those to the south of the EU. While it was made clear that Morocco<sup>10</sup> cannot join the EU, due to its geographical location, Moldova and other EaP countries do not face this impediment. The relations between the EU and all six countries<sup>11</sup> included in this project are at a different level of development. All countries, except Belarus, are in the same institutional framework – PCA and ENP. Initially, Moldova (and Ukraine) adopted a critical approach to this initiative, which was characterised by the former President of Moldova, Vladimir Voronin, as an attempt to create an EU-launched Commonwealth of Independent States (CIS) (Voronin 2009). Such statements, however, ignore the fact that the EU does not simply make promises but also offers financial support. Neither Moldova nor Ukraine appear to be satisfied with this EU proposal (Meister/May 2009), claiming that there should be a clear perspective for integration in the EU. Russia considered the EaP as interference in its sphere of influence (Popescu/Wilson 2009), but partially accepted the project after the EU-Russia summit held in Khabarovsk on 21-22 May, 2009. The EaP multilateral platforms deepen and strengthen measures for a better sectoral integration of the eastern countries. In fact, the EU’s attempts to renew its neighbourhood policy on an almost annual basis (ENP, New Ostpolitik, Black Sea Synergy, EaP) give proof of a lingering dissatisfaction on both sides as to how things stand (Popescu 2009b). Having outlined the general strategies and policy framework, the next subsections will discuss economic conditionality, socialisation and democratic conditionality.

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10 Morocco applied to join the EU in 1987 and was rejected on the grounds that it is not (geographically) a European country.

11 These countries are Moldova, Ukraine, Georgia, Azerbaijan, Armenia and Belarus.

### **Economic conditionality**

The most obvious conditionality is present in concrete documents that offer tangible incentives. Probably the most relevant of these is the Agreement of Autonomous Trade Preferences (ATP), which sets several conditions under which Moldova can sell its goods on the European market: a) certify the origin of goods, b) respect methods of administrative cooperation with the EU set out in the Agreement, c) cooperate to prevent any risk of fraud, d) non-application of any restrictions for goods imported from the EU, e) implement the priorities from the EU-Moldova Action Plan, especially those chapters related to economic reforms and, f) engagement to comply with conventions signed by Moldova (European Council 2008). Certainly, the EU is expecting a sort of spill-over from the economic to the political dimension in order to shape a situation in which Moldova would be 'forced' to cooperate due to economic dependence on the EU. Consequently, there would be a transfer of EU practices and standards. In the same context, another relevant example is the Macro Financial Assistance (MFA) offered to Moldova by the EU. Since 1991, the EU has given €87 million and the current grant of €15 million has been conditioned, requiring from Moldova certain reforms before disbursement. The main conditions required that Moldova strengthen its fiscal position, adopt a fiscal policy, which would lead to a reduction in the debt-to-GDP ratio, enhance transparency and management of public funds, improve the business climate and create better conditions for private sector development (European Commission 2009). From these two examples, two conclusions can be drawn: the ATP conditionality is working well and is mostly generating the anticipated results. Moldova started to use the possibilities offered by the ATP and increased its exports to the EU to 54% in 2009 (National Bureau of Statistics 2009). The MFA conditionality is, however, only partially effective. Whereas the business climate in Moldova appears to have improved (World Bank Group 2009), the internal debt-to-GDP ratio has grown (Vocea Basarabiei 2009) and the fiscal system has worsened. Besides this, and because of the elections and quest for power, the effects

of MFA conditionality were outweighed by the internal mega-reward 'electoral victory'.

The possibility to prove the effects of conditionality depends on clear conditions; as compliance with such conditions can be more easily observed and measured (Reinhard 2008). To illustrate this, one can consider the case of the Visa Facilitation Agreement. In order to facilitate the issuing of visas for certain categories of citizens, such as students, journalists, officials and businessmen, and to grant free visas for certain other professionals and freelance categories (European Commission 2007a), Moldova had to sign the Readmission Agreement, which is designed to counter illegal migration and to oblige Moldova to readmit all persons not fulfilling the conditions of stay of a given EU state (European Commission 2007b). Thus, in small but important areas, the effect of conditionality can be observed.

The ENPI is considered the instrument with the strongest conditionality and is applied on an annual basis. This perception of the ENPI is due to the funds offered to the Moldovan government as budgetary support within the framework of the Food Security Programme (FSD). These finances are offered in tranches and according to the recorded economic progress, making the FSD the "single financial instrument with a strong governmental conditionality".<sup>12</sup> In order to receive this budgetary support, Moldova has to comply with the conditions set in the FSD, which bind the government to spend the money on social assistance, poverty reduction and compensation for energy prices (European Commission 2009). In this context, it is noteworthy that the ENPI focuses on three priorities: 1) support for democratic development and good governance, 2) support for regulatory reform and administrative capacity building and 3) support for poverty reduction and economic growth (European Neighbourhood and Partnership Instrument 2007). So far, compliance with the ENPI has been deficient, due to the limited capacity of Moldova to absorb funds from the EU (Munteanu et al. 2009). This is despite the

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12 Dr. Igor Munteanu, Executive Director of the Institute for Development and Social Initiatives "Viitorul", interview by author, 26 July, 2009, Chisinau, Moldova.

fact that good progress has been observed in the fulfilment of activities related to compensation of energy prices and social benefits and is explained by the fact that this is one of the easiest parts to comply with.

### **Socialisation**

Socialisation is a mechanism used by the EU, which positions the target country on the *Europeanisation* track and is defined as “a process of including behavioural and identity change through interaction with the [European] partner at any or all levels (e.g. government, business, civil society and students), which results in social learning, model emulation, lessons drawn, etc.” (Emerson/Noutcheva 2005: 13). Today, the largest share of European assistance to Moldova is being offered under the ENPI, approved for the timeframe 2007-2013, and which contains budget support and technical assistance that indirectly boost the socialisation process among different professional groups. From 1991 to 2006, the European Community provided about €320 million (European Commission 2006), mainly using the Technical Assistance to the Commonwealth of Independent States (TACIS) Programme and through aid programmes. According to the evaluation of TACIS, the programme achieved “good results at the project level but had less impact at sector and national policy level partly due to a lack of continuity and coherent long-term sector planning” (European Commission 2007: 12). In many cases, this is due to the limited administrative and absorption capacity of Moldova.

In the same vein, the EU is currently using programmes such as Twinning<sup>13</sup> and TAIEX<sup>14</sup> to support the implementation of the Action Plan. These programmes are designed to support national authorities in preparing coherent sector strategies

and teach the employees who are working with such issues in the field. However, Moldova has made little progress in winning Twinning projects. As an example, one may consider the latest data for 2009, which shows that Moldova has a mere 8 projects (2 launched/ongoing and 6 under preparation/identification), falling behind countries with less rhetoric on European integration and no demands on a membership perspective (except Ukraine): Morocco-32, Egypt-32, Ukraine-32, Tunisia-23, Azerbaijan-21, Georgia-13 and Jordan-10 (Vanhoeacker 2009). As for TAIEX, the results for Moldova are much better (88 projects), being overrun only by Ukraine (129 projects) (Vanhoeacker 2009). Although Twinning and TAIEX projects could easily be included under economic conditionality, the fact that most of these programmes generate a positive environment for socialisation through exchange and social learning, justify the inclusion of these instruments in considerations of the socialisation process.

Even though, as a country, it is still relatively unknown amongst European students and institutions, Moldova did not make use of the Tempus IV and Erasmus Mundus programmes to their full extent. For example, the Progress Report on implementation of the ENP in 2008 shows that, for the academic year 2008-2009, 9 projects were won by Moldovan universities within Tempus IV and only 6 students received scholarships under the Erasmus Mundus programme (European Commission 2009). This reveals a deficient dissemination of information about these programmes and an experience deficit among Moldovan students in dealing with study and research opportunities in the EU.

Last but not least, civil society plays an equally important role in the transformation of Moldova. The EU could rely on civil society as a credible partner, due to the latter’s potential to make demands and persuade the government to run more democratic reforms and deeper economic transformation. But, so far, the EU has poorly financed Moldova’s non-governmental organisations (NGOs), showing interest mainly in electoral campaigns and some issues related to human rights and the environment (Munteanu et al. 2009). Thus, the top-down approach should be complemented with a bottom-up concept that could essentially raise the government’s

13 Pre-Accession Assistance for Institution Building – Twinning – is a programme launched in 1998 to help beneficiary countries in the development of modern and efficient administrations, with the structures, human resources and management skills needed to implement the *acquis communautaire* (European Commission 2009).

14 The Technical Assistance and Information Exchange Programme (TAIEX) is an institution-building instrument for short-term assistance in the adoption, application and enforcement of the Community *acquis* which has been operational since 1996. The programme is available for candidate countries, ENP countries and Russia (European Commission 2009).

accountability as well as society's awareness, as the assessment reports show that the EU is likely to fund more on government budget support than direct assistance to NGOs (2008 NGO Sustainability Index, 2009; 2009 NGO Sustainability Index, 2010; Munteanu et al. 2009).

A general assertion is that many organisations and institutions in Moldova do not know how to apply and use European funds to their full extent. The ENPI has a symbolic political aspect, because within the ENPI there are also programmes, which were previously available for accession countries. In this regard, Moldova and other ENP countries are being treated like accession countries. The ENPI financing is based on a system of earmarking of EU funds, which, however, results in more difficult access to EU funds. As a result, a political upgrade may become an economic downgrade. In this context, a viable solution would be the establishment of a joint EU-Moldova Application Unit in which EU experts would share their experience and teach others how to submit a successful application, which would lead to a greater degree of socialisation, as socialisation is done mostly within different exchange and twinning programmes.

### **Democratic conditionality**

In 2008, the PCA expired and was automatically extended by one year, due to its special provisions. The European Commission received a mandate to negotiate the new PCA in December 2008. However, the European Commission placed conditions on the negotiation of a new agreement by stating that the level and the quality of the future agreement would depend on the extent to which Moldova assured free and fair elections. However, the conditionality used by the EU has not served its purpose. The elections, held on 5 April, 2009, were only partially free and fair and were followed by violent protests (OSCE 2009). More compliance could be seen on the occasion of the early parliamentary elections (29 July, 2009), which were organised after the dissolution of the previously elected parliament. Although an improvement in the standard of elections was observed, they still remain in deficit.

In February 2005, following the ENP framework, the EU and Moldova signed the EU –

Republic of Moldova Action Plan<sup>15</sup>. The document is “consistent” (Buscaneanu 2007), having 80 objectives, 294 actions and 7 areas of cooperation. The vast majority of these actions and objectives were to be implemented by Moldova, with only 14 of these referring explicitly to the EU and 40 concerning both. As such, the document illustrates an asymmetric volume of tasks and responsibilities following the “centre-periphery” model (Buscaneanu 2007). In general, the Action Plan resembles the Accession Partnership for candidate countries. The Commission's ENP Country Reports are similar to the Commission's opinions for the candidate countries and the ENP Progress Reports are comparable to the Commission Regular Reports for the candidates. However, the documents relating to ENP countries contain fewer details on the reform progress (Sasse 2008). The monitoring process is “reminiscent of the formalism, generalities and absence of clear benchmarks that characterised the regular reports on the candidate countries during the Eastern enlargement” (Sasse 2006: 1).

Generally, the EU–Moldova Action Plan is monitored quite attentively. However, the statements on the non-implemented chapters remain very cautious and usually no punishments or consequences are mentioned. Even if, according to official reports, only 2 of 147 actions have experienced backsliding, the EU observes limited or minor progress among the remainder.<sup>16</sup> The EU's policy of engagement through dialogue with Moldova has been characterised as “keeping the issue of democracy and human rights high on the agenda, but not really punishing the undemocratic practices” (Kwarciak/Panainte 2006: 34). The reason for such behaviour is the EU's desire to keep Moldova at least partly cooperative<sup>17</sup> (Youngs 2008). Otherwise, if the EU punished Moldova, the latter might cooperate with Russia and put a stop

15 EU-Moldova Action Plan, [http://ec.europa.eu/world/enp/pdf/action\\_plans/moldova\\_enp\\_ap\\_final\\_en.pdf](http://ec.europa.eu/world/enp/pdf/action_plans/moldova_enp_ap_final_en.pdf), accessed 2 August, 2010.

16 Dr. Igor Munteanu, Director of the Institute for Development and Social Initiatives “Viitorul”, interview by author, 26 July, 2009, Chisinau, Moldova.

17 Harald Berwanger, Expert of the German Social Democratic Party (SPD) on Eastern Europe, interview by author, 11 August, 2009, Berlin, Germany.



to ongoing reforms. On the other hand, it may be argued that this is unlikely to happen, given that the majority of Moldova's exports go to the EU.<sup>18</sup>

Following the objectives of the Action Plan, the EU has appointed the European Union Special Representative (EUSR), who formerly represented Javier Solana and now represents Catherine Ashton<sup>19</sup> and the Council of the EU. The EUSR deals mainly with the promotion of the EU-Moldova political dialogue and the Transnistrian conflict. So far, the EUSR has not substantially influenced EU-Moldova relations. This is mainly due to a systemic gap. The European Union Delegation has funds and instruments and does not appear to be very active, whereas the EUSR has no money or instruments but is publicly visible and trying to promote the EU's

messages.<sup>20</sup>

Nevertheless, Moldova has done better than most ENP countries in complying with EU conditionality.<sup>21</sup> For example, Moldova is the only country from the CIS, in which a change of government occurred through elections and constitutional transfer of power in the last decade (Popescu 2009a). Thus, Moldova was rewarded in 2008 with the Governance Facility Programme, which allocated €16,6 million for good governance (European Commission 2009: 22) and for endorsing democratic change in the future. As the analysis of the democratic and economic conditionality has shown, their effectiveness should be treated separately, as they produced different results. Table I shows the main results of the above analysis.

	<b>Instruments</b>	<b>Assessment</b>
Economic Conditionality	Autonomous Trade Preferences	Mostly successful implementation and almost full compliance
	Budgetary Support	Almost full compliance and targeted spending
	Visa Facilitation	Moldova signed the Readmission Agreement and is fully compliant, but public opinion requests less documents for visa processing and extended categories of beneficiaries
	Macro Financial Assistance	Partially effective, half of the conditions were not met
Socialisation	Twinning	Minimally effective due to small absorption capacity
	TAIEX	Highly effective (second country within ENP)
	Civil Society Support	Moderately effective due to a top-down approach and insufficient interest of the EU
	Erasmus Mundus / Tempus	Moderately effective for Tempus and moderately/minimally effective for Erasmus Mundus
	EUBAM	Effective/moderately effective in decreasing smuggling and increasing transparency (see chapter III for full description)
	Advisors	As the EU advisory mission was deployed in spring 2010, there are no evaluation results so far
Democratic Conditionality	Action Plan	Moderately/minimally effective in terms of democracy issues, moderately/highly effective in terms of economic issues and moderately effective in terms of social issues
	Election supervision	Moderately/highly effective (mainly with regard to elections from 29 July, 2009)
	EU Special Representative	Moderately effective
	Statements of EU's Ambassadors to Moldova	Minimally effective/moderately effective

*Table I. The impact of EU conditionality in Moldova 2001-2009*

18 Victor Chirila, Executive Director of Foreign Policy Association, interview by author, 11 June, 2009, Chisinau, Moldova.

19 The EU High Representative of the Union for Foreign Affairs and Security Policy and Vice President of the European Commission (changes made after the adoption of the Lisbon Treaty).

20 Dr. Andrew Wilson, Senior Policy Fellow at the European Council on Foreign Relations, interview by author, 18 August, 2009, London, United Kingdom.

21 Dr. Nicu Popescu, Policy Fellow at the European Council on Foreign Relations, interview by author, 18 August, 2009, London, United Kingdom.

### III. The impact of EU conditionality in Moldova: Analysing intervening variables

Evaluating the impact of EU conditionality in Moldova is fraught with challenges due to overlaps that could appear while assessing the implemented reforms in Moldova. These difficulties might result from the fact that one cannot precisely distinguish whether the government of Moldova is compliant with the requests of the EU due to an intrinsic motivation or because of globalisation trends. For a complete conditionality assessment one should analyse the factors that are intervening and changing the impact of the EU's transformative power. These factors are (1) Russia; (2) Transnistria; (3) internal political struggles; and (4) EU hesitance because of Russia.

#### Russia

The Russian Federation, as an historical and traditional player in this area, knows better than the EU how to employ conditionality and other instruments to achieve its interests and reduce the influence of the EU. Even if Moldova declared that its strategic priority was European integration, the current Moldovan government (and all previous

governments) is still manipulated by Russia through key mechanisms where the EU is weak and has no tools to influence. The Transnistrian conflict, the Russian minority, the control of many media companies by Russian capital, Transnistria's gas debt<sup>22</sup> to Russia, the energy dependence on Russian energy resources, and the pro-Russian political parties are only a few examples where Russia is consistently outrunning the EU.

In this context, the government regularly does not implement reforms due to the influence exerted by Russia. Some of these reforms are political or historical in nature (problem of Soviet occupation)<sup>23</sup> and usually do not take place because Russia uses direct economic tools such as embargoes on different products. Other reforms are related to Moldova's foreign policy priorities that Russia is trying to influence by its powerful media that is largely popular and broadcast in Moldova.

Table II gives a comparative overview of the EU's and Russia's use of soft power in the Eastern Partnership countries.

Russia	European Union
<ul style="list-style-type: none"> <li>• Rhetoric of fraternity</li> <li>• Multilateral institutions with membership benefits</li> <li>• Strategic investments</li> <li>• Visa-free regime and open labour market</li> <li>• Protects authoritarian regimes</li> <li>• The "sovereign democracy" model</li> <li>• Sets the media narrative</li> </ul>	<ul style="list-style-type: none"> <li>• EU information centres</li> <li>• Lingering accession hopes</li> <li>• Biggest trading partner</li> <li>• Economic opportunities</li> <li>• Aid to governments and civil society</li> <li>• Supports democracy</li> </ul>

Table II. Russia's and EU's use of soft power in the Eastern Partnership countries (Popescu/Wilson 2009: 38)

22      Insofar as Moldova does not recognise the breakaway region of Transnistria, the \$US1.8 billion debt of Transnistria becomes Moldova's debt.

23      For a detailed explanation see Miler (2010).

## Internal struggles

The principles of the ENP, such as differentiation, socialisation and conditionality, cannot be clearly observed in Moldova, due to too small incentives offered by the EU. The biggest problem among Moldova's elites is their calculation that the rewards are smaller than the cost of the reforms. Here appears the usual and simple question the Moldovan government poses: why should costly economic reforms be implemented if membership is not forecast? While starting many reforms, Moldova's government needs to justify its decisions and the argument that the 'EU requires this' is not enough to proceed with implementation. Often, the reforms requested by the EU are not popular among citizens, like ENP reforms such as the "removal of state aid and subsidies" in order to improve market efficiency (Kratochvil/Lippert 2008: 6). Many of the state-owned companies are still receiving financial aid from the state and the reforms requested by the EU might generate a wave of criticism. In general, the assurance of receiving a *consistent* reward might work as a catalyst for transformation. Nevertheless, even when the reward is attractive in principle, the governing party sometimes refuses to implement a particular reform arguing that the reward is in fact too small. A closer look, however, reveals that other reasons (e.g. the desire of the political leadership to consolidate its power base) account for this reluctance to implement the requested reform.

Some authors argue that these mechanisms offer many opportunities to "deepen the rhetoric rather than the substance of the relationship" (Sasse 2008: 4). It seems a joke when "we (ENP countries) pretend to be converging on common European values and they (the EU) pretend to be helping us do so" (Emerson 2005: 1).

Although the results of the EU's policy towards Moldova have not met the expectations that the EU had when it initially set up the ENP, there has been some progress. Compared with the Central Eastern European countries that joined the EU in 2004 and 2007, conditionality is of course significantly weaker because of the lack of the accession incentive. It remains unclear to what extent lessons drawn from these examples could simply

be transferred to Moldova with regards to the country's different political, economic and social situation. Conditionality is also weaker because the assistance provided within the framework of the ENPI is comparatively small<sup>24</sup> as compared to countries with an explicit accession perspective; and this also applies to instruments designed specifically to reward political reforms, such as the Governance Facility. Trade preferences, or even a future free trade agreement, offer considerable advantages. But, in the case of Moldova, they have been, or are likely to be, granted for economic or other political reasons and not only as rewards for progress; and once granted, they are not likely to be withdrawn even if the conditions are not fulfilled. In such cases, one could always calculate that the EU would prefer political dialogue over sanctions.

One particular problem is that Moldovan authorities have adopted legislation to a number of requirements outlined in the EU-Moldova Action Plan, but fell short with their actual implementation (European Commission 2008b: 2-8) due to the fact that reforms would generate uncomfortable democratic developments for some economic or political groups. This is another dissimilarity between Moldova and other Central Eastern European countries where the political leadership of the latter usually wanted faster and more decisive reforms for the modernisation of their countries themselves. In Moldova, reforms required within the framework of EU-Moldova relations have nearly always fallen short when they seemed to endanger the power base of the government. In conclusion, Moldovan ruling elites engage only in partial and rather careful reforms, while the EU has failed to provide enough attention and incentives that could significantly alter the domestic balance between those interested in favour and those against reforms within Moldova.<sup>25</sup>

The new government of Moldova that took

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24 For the period 2008-2012 Moldova will receive approximately €317 million from the EU (author's calculations from different sources).

25 Dr. Martin Sieg, Foreign Policy and Security Adviser at the German Christian Democratic Union (CDU), interview by author, 29 July, 2009, Chisinau, Moldova.

office after the July elections in 2009 met some difficulties with the transfer of power from the communist party. The Alliance for European Integration, formed by four democratic parties, might have more chances to boost democratic reforms and to bring Moldova closer to the EU. The new government is asking for Moldova's inclusion in the 'Balkan package', but at the same time, many EU members<sup>26</sup> recommend enhancing the cooperation within EaP. The EU's openness towards the new government represents unprecedented levels of cooperation in a situation where Moldova finds itself in an economic crisis. The former government left behind a terrible financial situation and massive disorder in the judicial system that is causing significant difficulties in dealing with the government's attempts to reform many sectors.

### Transnistria

A good example of the EU's partial success in Moldova is related to the Transnistrian conflict. Moldova's refusal of the Russian federalisation plan "Kozak"<sup>27</sup> is the outcome of EU and US efforts. On the same issue, in 2006 the EU established the European Union Border Assistance Mission (EUBAM) on the Moldova – Ukraine border in the perimeter of the Transnistria breakaway region<sup>28</sup>, an idea which Russia vehemently opposed. Even if the EU remains only as an observer, it is at least connected to the problems of Moldova's territorial integrity. The EU's interest in the Transnistrian issue significantly rose<sup>29</sup> after the Russian-Georgian war (Grund/Sieg 2008), because the

“war in Georgia demonstrated that the Russian pressure – economically, politically and ideologically – had failed. What is more, while Russian embargoes,

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26 Germany, Poland, Romania, Lithuania and Sweden.

27 The “Kozak” plan (officially Russian Draft Memorandum on the Basic Principles of the State Structure of a United State in Moldova) was a federalisation plan proposed by Russia in 2003 and rejected in the last moment by President Voronin due to the influence of many international organisations and diplomats.

28 The inclusion of the EU in the negotiation format (5+2) of the Transnistrian settlement should also be emphasised in this regard.

29 The mandate of EUBAM has been prolonged until December 2011.

blockades and energy cuts may advance Russian interests in the short run, in the long term they actually diminish Russian leverage by driving target states to diversify their economies or export markets” (Popescu/Wilson 2009: 45).

The EU became more engaged in order to assure that there would be no such developments as in Georgia in August 2008. The EUBAM represents a sort of conditionality instrument, but nevertheless, the EUBAM also brings transparency and more security to the border.<sup>30</sup> Since Russia is supporting the conflict settlement in Transnistria at a declarative level, it does not openly criticise the EUBAM or other EU instruments that are used to deal with the Transnistria issue. However, Russia influences the process through so-called ‘Transnistrian leaders’ like Igor Smirnov who usually express the unofficial point of view of Russia.

### EU hesitance

The new PCA or the New Association Agreement (without a membership perspective) represents an important tool of influence. The EU agreed to negotiate the new agreement only after the Moldovan elections in April 2009 and July 2009 (Botan et al. 2009). The problem is that, in the last four years, Brussels admonished that Moldova had not implemented a series of chapters from the EU-Moldova Action Plan mainly related to human rights, freedom of the media, independence of the judiciary and the fight against corruption (Prohntchi et al. 2008). The EU's claims, as voiced by European officials, were almost completely ignored by Moldovan representatives. Despite this fact, the EU has continued to tolerate the way in which Moldova pretends to implement democratic reforms, being ‘appreciative’ of the pro-European rhetoric of the Moldovan government. Empty promises not backed up by any concrete action became almost a “dèjà-vu” for European officials (Chirila 2009a). There is some evidence that the EU has geopolitical reasons for having very cautious and soft attitudes towards Moldova and other countries in the region, in order to avoid incurring Russia's irritation (Chirila 2009c; Munteanu 2009; Ciurea 2009). Thus, it is

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30 Elena Gnedina, Visiting Research Fellow at the Centre for European Policy Studies, interview by author, 18 August, 2009, London, United Kingdom.

argued that as long as the EU is perceived to be a normative actor, playing the geopolitical game to the detriment of democracy promotion in some of the eastern countries – due to its unwillingness to irritate Russia – might result in a lack of credibility (Chirila 2009a). Among the factors impeding the implementation of the EU's recommendations we can include the lack of political will within the former Moldovan government (2001-2009) to start a real political dialogue at the elite's expense, the fear that Russia might punish Moldova for more openness towards the EU and for non-compliance with Russian 'advice', as the case of embargoes imposed on wine illustrated (Kratochvil/Lippert 2008).

The EU mainly failed to implement its policy in Moldova in the 2001-2009 period, particularly in the political sphere. The ENP and EaP might suffer the same destiny if the EU does not add clear components of European integration to these strategies, including a deep and comprehensive free trade agreement and visa liberalisation regime, both of which have already appeared on the EU-Moldova agenda. One might say that the EaP is offering both integration components (a visa liberalisation regime and free-trade) (European Commission 2008a), but these incentives should be strictly conditioned by timely and qualitative implementation of committed reforms, which is most likely to happen. The same can also be said for other policy areas, such as human rights and good governance (Chirila 2009b). In this context, a contributing factor to the EU policy's failure is the EU's limited knowledge about Moldova and Moldova's dissatisfaction with the EU's offered privileges<sup>31</sup>, especially those related to the visa regime.<sup>32</sup>

Since the Alliance for European Integration has come into power, there have been many meetings with EU officials. The most significant aspect of these meetings was the promise of a €100 million credit from the EU, which was disbursed

after Moldova received \$US580 million from the International Monetary Fund (signed in late October 2009). It is also noteworthy to mention the €2 billion, which will be spent by development partners to reform the most important sectors within the "Re-Think Moldova" programme<sup>33</sup>. In contrast to Russia, the EU pays almost no attention to the colour of the governing party when giving financial support. The \$US500 million worth of credit from the Russian Federation promised before the 29 July, 2009 parliamentary elections (Infotag 2009) was a clear signal of its support for the former government. After the Alliance of European Integration took office, the Russian government limited the credit to \$US200 million and, in the end, revoked the availability of funds for Moldova.

The new Moldovan government should pursue a comprehensive reform path and involve society in the implementation of these reforms. In regard to a EU membership perspective, Moldova should focus on fulfilling the Copenhagen Criteria and stop demanding a concrete membership perspective as a mandatory prerequisite for continuing the reform process. As this analysis has shown, there are many other reasons for the stagnation of Moldova's reform process and the membership perspective will appear on the agenda as soon as reforms are carried out.

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31 Dr. Anneli Ute Gabanyi, German Institute for International and Security Affairs, interview by author, 24 August, 2009, Berlin, Germany.

32 Dr. Nicu Popescu, Policy Fellow at the European Council on Foreign Relations, interview by author, 18 August, 2009, London, United Kingdom.

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33 Government of Moldova, Rethink Moldova, Priorities for Medium Term Development, 2010, <http://siteresources.worldbank.org/INTMOLDOVA/Resources/Rethink-Moldova-2010-2013-Final-edit-110310.pdf>, accessed 30 March, 2010.

## Conclusions and recommendations

This research has shown that the impact of the EU's conditionality is modest in Moldova and that conditionality has not been able to produce high quality results as in the case of the accession countries. Its impact in the political and economic fields should be considered separately.

It is obvious that Moldova would like to join the EU, but is not being encouraged by the rhetoric of the EU or by the partnership framework. The absence of the mega-incentive of membership makes the EU's current incentives insufficient to induce Moldova's compliance, given that the costs of the required reforms are bigger than the announced rewards. This also reduces the quality of the reforms; many of which have been adopted in legislation, but fallen short in implementation. Moreover, a lack of a clear-cut cause-effect links between conditionality and outcomes has had a deleterious effect. In many cases, reforms are implemented at the governments' own initiative for adjusting to world economic trends and not as a result of European influence.

To advance its relationship with the EU, Moldova has to do its 'homework' by underpinning its rhetoric with some facts and filling its requests with some substance. Nevertheless, the EU continues to apply positive conditionality, even though Moldova is not fully complying. In this context, the EU does not inflict punishment for non-compliance, trying to engage with Moldova and create linkages, which might later become a point of leverage to influence Moldova and to apply stronger conditionality. However, a comprehensive analysis should be undertaken by the EU to determine where pressure could be most effective. Keeping Moldova cooperative with the EU is another reason for non-punishment. Otherwise, punishment may induce Moldova to cooperate more with Russia and to quit the reform path.

In line with the conditionality applied to the government, there should be a bottom-up approach with substantial support for NGOs in fields where Moldova still suffers from deficiencies, such as human rights, freedom of speech, social issues

and other related concerns. Currently, Moldova's society is not aware of many reforms and the top-down approach is not able to produce high-quality results without civil society support, which is still modest and poorly financed.

Alongside Moldova, the EU has its own shortcomings. The ENP lacks instruments for political change, although it has leverage over economic development, the Autonomous Trade Preferences being a relevant example. In line with this instrument, the EU is expecting a spill-over from economic to political dialogue, which might occur in the coming years if the EU remains Moldova's biggest trade partner.

Finally, one of the main factors that are contributing to the failure of some policies in Moldova, but also in the whole eastern neighbourhood, is the Russian factor. Russia has a vital interest in keeping its influence in this area for reasons of geographical proximity and other benefits. The Russian Federation is successfully counterbalancing and often outrunning the EU in Moldova by using its hard power tactics, like blackmail, fuelling the Transnistrian conflict, energy resources, embargoes and soft power like media control, free-visa regime, strategic investments or Russian minorities. This makes the objective of keeping Moldova on the European integration path a challenging policy goal, which is nevertheless achievable.

As for my recommendations, there are several actions that could improve the ongoing reform process. The EU should:

- boost its socialisation strategies by engaging Moldova in more official frameworks (as suggested in the EaP),
- create an EU-Moldova Application Unit for the earmarking EU funds,
- increase the incentives for reforms, especially along the political dimension,
- create a link between political progress and economic incentives by granting larger economic incentives for political reforms and compliance,
- increase its involvement in the Transnistrian conflict and continue to support EUBAM and

Moldova's integrity,

- adapt its policies to the specific situation in Moldova, meaning co-ownership of partnership and individualisation,
- offer a better visa regime for circular migration until the visa liberalisation process is achieved,
- intensify the political dialogue by offering multilateral institutional membership/participation to/of Moldova, which would lead to a deeper relationship with the EU,
- condition the amount of macro-economic assistance (especially the budgetary support) upon the implementation (not only adoption) of laws,
- monitor closely the implementation of the EU-Moldova Action Plan.

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