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**EU Conditionality in Non-candidate Countries
of Eastern Partnership.
Case in Point Moldova**

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Abstract

A number of recent studies suggest that EU conditionality is a weak mechanism for democracy promotion to third countries if EU does not offer the reward of membership. EU democratic conditionality has been criticized for many shortcomings even in the context of enlargement, especially for unclear demands, vague benchmarking, moving targets, and politicized decision-making. Present thesis discusses whether the view that conditionality has exhausted its potential for democracy promotion still holds true in one country of Eastern Partnership, Moldova. The EU explicitly offers only carrots short of membership. I find that, among these, visa free regime is the most rewarding. But while visa liberalization coupled with tactics of “half opened, half closed doors” seems potent enough to drive democratic change and consolidation, it is evident that EU did little to address the shortcomings of democratic conditionality of 2004-2007 enlargement. The pattern of ill specified demands and unclear benchmarking perpetuates and is a major source of disappointment.

Keywords:

European Union, Moldova, conditionality, Eastern Partnership, visa liberalization.

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Declaration of Authorship

1. The author hereby declares that he compiled this thesis independently, using only the listed resources and literature.
2. The author hereby declares that all the sources and literature used have been properly cited.
3. The author hereby declares that the thesis has not been used to obtain a different or the same degree.

Prague, May 14, 2013

Alexandru Eftode

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Acronyms

EaPIC - Eastern Partnership Integration and Cooperation Programme

ECRI - European Commission against Racism and Intolerance

ENP – European Neighborhood Policy

EU – European Union

EUBAM - European Union Border Assistance Mission to Moldova and Ukraine

EUMAP – European Union – Moldova Action Plan

ICAO - International Civil Aviation Organization

MIC - Civil Protection Mechanism

ODIHR - Office for Democratic Institutions and Human Rights

OSCE - Organization for Security and Co-Operation in Europe

PCA - Partnership and Cooperation Agreement

VLAP – Visa Liberalization Action Plan

UN – United Nations

Introduction

A number of recent studies suggest that democratic conditionality - a top down strategy in which European Union (EU) targets third-country governments with the aim of inducing them to introduce democratic change in state institution and behavior - is a weak mechanism for democracy promotion to third countries if the EU does not offer the reward of membership¹.

The EU conditionality was mainly examined in the context of enlargement. The literature distinguishes between EU *democratic conditionality* which is focused on transforming targeted countries into liberal democracies, and *acquis conditionality* which is focused on adoption of the EU acquis by the candidate states².

While most of the authors agree that acquis conditionality was fairly effective in persuading targeted governments to adopt EU specific rules, there are many disagreements about the effectiveness of democratic conditionality, which is mainly criticized for unclear demands, vague benchmarking, moving targets, politicized decision-making³.

In the context of European Neighborhood Policy (ENP) the attention of many researchers shifted away from conditionality⁴. Because the EU can no longer credibly promise to enlarge to the targeted countries due to enlargement fatigue, it is argued that conditionality has lost the relevance and lacks traction.

¹ Schimmelfennig, and Scholtz 187–215, Lavenex, and Schimmelfennig 885-909

² Schimmelfennig, and Sedelmeier 88-101 (2006)

³ De Ridder, and Kochenov 589–605

⁴ Freyburg, Lavenex, Schimmelfennig, Skripka, and Wetzel 916 - 934 argue that Governance becomes a more appropriate model of democracy promotion in the context of ENP.

However, as researchers are looking for better mechanisms and models of EU democracy promotion to third countries, the practitioners at European Commission (further Commission) and European External Action Service are continuing to deploy conditionality in two countries of the Eastern Partnership, Moldova and Ukraine, which expressed a strong interest for European integration.

Launched by the EU in May 2009 in the framework of ENP, the Eastern Partnership includes six former soviet republics and aims at bringing these countries closer to the EU⁵. The prize of membership was never explicitly put on the table. But the Commission is playing the vague tactics of “half opened doors” in the case of Moldova and Ukraine, acknowledging their “European aspirations and the European choice” and “their commitment to build deep and sustainable democracy”⁶.

Conditionality is one of three guiding principles (the other two being joint ownership and differentiation⁷) of the Eastern Partnership. The “Roadmap to the autumn 2013 Summit” of the Eastern Partnership prepared by the Commission mentions conditionality explicitly and lists three rewards: “political association” on the basis of shared values; “economic integration” through Deep and Comprehensive Free Trade Areas which should lead to “convergence with EU laws and standards”; and “visa liberalization” provided that specially designed Action Plans for Visa Liberalization (VLAPs) are implemented first⁸.

From the target countries is expected to tackle their “unfinished transformation” and “accomplish their transition towards democracy”. But, if EU’s efforts to promote democratic

⁵ These are: Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine.

⁶ See "Joint Communication to the European Parliament, The Council, The European Economic and Social Committee and the Committee of the Regions, "Eastern Partnership: A Roadmap to the autumn 2013 Summit." Pp.3

⁷ Ibid. pp.2

⁸ Ibid. pp.3

change and consolidation through conditionality had produced only mixed results even in the context of enlargement, then how can it be expected that democratic conditionality can work effectively beyond enlargement, where it lacks its main driving force, the reward of membership?

This thesis proceeds from the hypothesis *that a reward compelling enough to drive democratic change and consolidation in Eastern Partnership should have emerged. This is likely to be the promise of visa liberalization.* Abolishing visas is straightforward, palpable and easy to understand. Every citizen of given targeted country can benefit directly and personally if the government implements the conditions for visa liberalization. The gain for the government is also clear: by obtaining visa free regime, it immediately increases its chances for being reelected. Last but not least, visas can be reintroduced at little cost for the EU, if the target government backslides on the commitments.

A second hypothesis is that the *Commission should have addressed the shortcomings of the enlargement era conditionality and should have improved the strength and the determinacy of democratic conditions*⁹.

This thesis brings together a theoretical discussion on whether visa liberalization can be a compelling reward and an analysis of the conditions stipulated by the Visa Liberalization Action Plan using one of the Eastern Partnership countries, Moldova, as a case study.

Moldova was selected for good reasons. Rather a neglected case in the past, the country became a leader among EU's Eastern neighbors after 2009, when the center-right Alliance for European Integration rose to power following violent street protest against the allegedly forged elections by the incumbent Party of Communists.

⁹ The strength depends on whether the EU explicitly and consistently links specific conditions to specific rewards. The determinacy refers among others to the clarity of benchmarks, the ownership of the conditions, and presence of a timetable for their implementation. This will be thoroughly explained in subchapters 3.3. and 4.2.

For the last almost four years, from late 2009 to 2013, many European officials referred to Moldova as to a "potential success story". Moldova is the most advanced country in fulfilling the VLAP¹⁰. However, a political crisis which has erupted in first months of 2013 has caused "strong concerns" among the same European officials about "Moldova's further democratic development and stable rule of law"¹¹. EU intervened promptly, warning Moldovan leaders that "a worrying new pattern of decision-making in Moldova" could damage its integration prospects. But is EU's leverage in Moldova strong enough to put it back on a path towards a consolidated liberal democracy?

A review of the most important developments in the relationship between EU and Moldova will help better understand the power of EU leverage and its limits.

Moldova has many reasons to seek closer relations with the EU, which is its biggest trade partner and assistance donor. The country is heavily dependent on remittances from its migrant workers in the EU. Moldovans have the option to apply for and obtain with relative ease Romanian passports, which gives them the possibility of visa-free travel to and within the EU. But Moldovan leadership views the EU visa liberalization as way to stop the 'loyalty drain' of its citizens towards Romanian government. Therefore EU visa free regime becomes a question of security of the state. Also, the main parts of Moldovan political elite sees European integration as a way to increase the security in the face of a bullying Russia which

¹⁰ The plan consists of two phases: adoption of the legislation and implementation. Just one more country, Ukraine, has received the VLAP so far. But Moldova is the only country that was advanced to the second phase, in November 2012, by the decision of the Foreign Affairs Council of the EU. See "Council conclusions on the Republic of Moldova - Action Plan on Visa Liberalisation"

¹¹ See "Joint Statement by EU High Representative, Catherine Ashton, and Commissioner Stefan Füle on recent developments in the Republic of Moldova".

uses energy prices and military presence in the breakaway region of Transnistria to reassert its influence on Moldova as whole.

For all these reasons, EU enjoys a considerable leverage in Moldova. Moreover, Moldovan political leaders who rose to power in 2009 put themselves in a position of "rhetorical entrapment" by giving their governing coalition the name of Alliance for European Integration and promising their population quick benefits from this integration and greatly exposing themselves to the EU conditionality.

Thus, Moldova can be a litmus test for EU democratic conditionality beyond the enlargement. If this mechanism of democracy promotion is to work beyond the enlargement, today's Moldova is the best testing ground. On the other hand, if conditionality fails here and now, it is difficult to imagine that it will work anywhere else in Eastern Partnership countries.

This thesis proceeds as follows:

- A literature review is done first to outline the general propositions of EU conditionality and its effectiveness in the context of enlargement and beyond it, where the domestic environment is thought to be of particular importance.
- An overview of Moldova and its relationship with the EU is then carried out, to discuss the scope and limits of EU leverage in Moldova, to map the way in which EU democratic conditionality has unfolded and to explore the characteristics of internal political life that could potentially affect the effectiveness of conditionality.
- A discussion on characteristics of EU conditionality as one of the main principles of Eastern Partnership policy as well as a discussion on whether visa liberalization as a compelling reward to drive democratic change and consolidation will follow suit.

- A tool for measuring the strength and determinacy of the EU conditions in the VLAP is then developed. It uses 5 criteria which refer to: the *linkage* between conditions and rewards, the *clarity* of conditions, their *formality*, the *ownership* of conditions and *timetable* for their fulfillment.
- The VLAP is then examined against these criteria and an assessment of the strength and determinacy of democratic conditions is made.
- Finally, the findings are presented and discussed.

One set of conclusions refers to the domestic context in Moldova and implications for the effectiveness of EU conditionality. Another conclusion is relevant for the potential of EU conditionality based on visa liberalization promise to drive democratic change and consolidation beyond enlargement. Yet another conclusion deals with the strength and determinacy of the democratic conditions in the VLAP compared to the enlargement era conditionality.

1. EU conditionality in the context of enlargement and beyond

1.1. Chapter Abstract

The biggest puzzle of EU conditionality refers to its effectiveness in general and its effectiveness beyond enlargement in special. This chapter offers a literature review on EU conditionality in both contexts. The general picture suggested by literature is that EU conditionality based on anything short of membership has little potential to produce strong results for democracy promotion. However, the literature is over-preoccupied with the size of reward, and does little to assess to what extent the success or failure of conditionality to

promote democratic change and consolidation are determined by other factors, such as the strength of the link between the conditions and the reward, the clarity of conditions, or domestic context. In the case of ENP, the literature does little to assess the real needs and expectations of the target countries, limiting to a mere suggestion that, when membership offer is absent, domestic context plays a critical role. The chapter begins with highlighting various strands of relevant literature on EU conditionality to be reviewed, before going into deeper analysis.

1.2. Strands of literature reviewed

The literature makes conditionality - a policy in which an organization promises financial or other rewards on the condition that the target states fulfill one or more conditions - the central focus of studying the impact of the European Union (EU) on domestic changes in the former communist countries in East.

But studies disagree, first, about the effectiveness of EU democratic conditionality and second, about the merits of conditionality beyond the enlargement process.

There is an extensive bunch of literature which describes the conditionality as the most important mechanism of democracy promotion and Europeanization in third countries¹² in the context of EU eastern enlargement. This literature points out, for instance, that whereas conditionality alone is not sufficient to bring about democratic change and consolidation in targeted countries, there is no evidence for EU effectiveness in its absence¹³.

¹² Schimmelfennig and Sedelmeier (2005), Schimmelfennig, and Sedelmeier 88-101 (2006), Vachudova (2005)

¹³ Freyburg, Lavenex, Schimmelfennig, Skripka, and Wetzel 916 - 934. .

Most of the studies link the success of EU conditionality to the presence of membership offer to the targeted countries¹⁴. It is argued that conditionality has strong effects in consolidating democracy only if the EU offers a credible and tangible membership perspective in return for democratic reforms. Domestic conditions are an important factor that stands in the way off effective conditionality¹⁵, but the presence or absence of the membership perspective is crucial. Where the membership offer is absent the EU incentives such as partnership and cooperation do not reliably promote democratic change¹⁶. This is the case of European Neighborhood Policy (ENP) which seeks to promote democracy in the neighborhood countries as well as their approximation to the EU's system of rules below the threshold of membership.

Another, less numerous strand of studies question the assumption that conditionality was a workable mechanism for democracy promotion even in the case of Eastern enlargement. Less numerous than the first strand, this somehow dissident group of studies argue that it was wrong to expect conditionality to work because during the pre-accession process the candidate countries were never presented with a clear set of standards about what exactly was expected of them in the field of democracy, human rights, and the rule of law¹⁷.

The criticism is mainly directed against European Commission for failing to develop the Copenhagen political criteria into a workable mechanism of democracy promotion. The Copenhagen criteria made democracy adoption by the countries in the East a threshold for being recognized as candidates to membership and begin membership negotiations. But the

¹⁴ Vachudova 2005; Schimmelfennig, and Scholtz 187–215, Lavenex, and Schimmelfennig 885-909

¹⁵ Lavenex, and Schimmelfennig 885-909

¹⁶ Schimmelfennig and Scholtz 2008

¹⁷ Kochenov 2008, De Ridder, and Kochenov 589–605

Commission, it is argued, recommended the start of negotiations without properly evaluating the democracy adoption and implementation by the targeted countries. In other words, EU did not actually apply democratic conditionality in acceding countries in the East at all.

It would follow that it makes no sense to mechanically extend the same approach to the ENP. It would be naive to expect this policy to deliver meaningful results in the ENP partner countries¹⁸.

Nevertheless, there is yet another strand of studies which finds merit and opportunities in the ENP so called conditionality-lite. This literature offers an alternative understanding of ENP conditionality. It is described as a socialization process in which the actors in ENP countries chose to approach the EU gradually and selectively, rather than as a rationalist causal mechanism.

Either way, the attention of academics seems to shift away in the recent years from EU conditionality as one of more effective mechanisms of external democracy promotion. The slowdown of EU enlargement and the failure to implement conditionality consistently beyond the circle of candidate countries have stimulated a quest for better models in the context of new association policies below the threshold of membership¹⁹.

In the following, the mentioned strands of literature will be analyzed in more depth with the goal to outline the theoretical assumptions about the conditionality as a mechanism of democracy promotion and its effectiveness.

¹⁸ Kochenov 2008

¹⁹ Lavenex, and Schimmelfennig 885-909

1.3. EU political conditionality

The EU conditionality is conceptualized as a top-down strategy targeting third-country governments with the aim of inducing them to introduce democratic change in state institutions and behavior.

According to Schimmelfennig and Sedelmeier (2005) it is a bargaining process between the democracy promoting agency and a target state. The outcome of the bargaining process depends on the relative bargaining power of the actors, or leverage. Those actors who are least in need of a specific agreement are best able to threaten the others with non-cooperation and thereby force them to make concessions.

In the context of enlargement, the leverage stems from the attractiveness of membership for the targeted countries and the cost of exclusion. This creates a highly asymmetrical interdependence in favor of the EU. Moravcsik and Vachudova²⁰ point out that neighboring countries were of only marginal importance to the EU economy, but they were often heavily dependent on the EU market and will benefit much more strongly from their association and accession than the EU member states.

Vachudova distinguishes between passive and active EU leverage. Passive leverage means the traction that the EU has on the domestic politics of credible candidate states merely by virtue of its existence and its usual conduct. This includes the political and economic benefits from membership, the costs of exclusion and the “not so nice” way in which the EU usually treats the non-member states.

²⁰ Moravcsik, and Vachudova 198–212

When the EU starts moving towards enlargement, the passive leverage became active leverage. It means the deliberate policies of the EU toward candidate states and the fact that tremendous benefits of EU membership creates incentives for states to satisfy the enormous entry requirements, setting the stage for the effectiveness of conditionality. It mediates the costs and benefits of satisfying EU membership criteria in such a way as to make compliance attractive — and noncompliance visible and costly.

Vachudova concludes that while the EU active leverage is crucial, its effectiveness stems from EU's passive leverage, from the benefits of membership and costs of exclusion. If the equation is changed, the behavior of aspiring countries changes as well. The reward of membership (coupled with the huge costs of exclusions) represents the single strongest motivation for the target countries to comply with the EU democratic conditionality, thus embarking on a road of liberal democracies and Europeanization.

In the leverage model of democracy promotion to third countries, the EU uses political conditionality to produce institutional reform. Schimmelfennig and Sedelmeier (2006) differentiate between two categories of conditionality: democratic conditionality and *acquis* conditionality. In general, democracy means a loss of autonomy and power for the target governments, who have to respect the free and fair elections, the competences of courts and parliaments, the rights of the opposition and national minorities, and the freedom of the media. The EU democratic conditionality focuses on the adoption of the democratic standards in such a way that in minimizes these costs for the target governments in the pre-accession process and then switches to *acquis* conditionality which focuses on the transfer of the EU rules.

In both cases of democratic and *acquis* conditionality, the most important factor influencing cost/benefit calculation of the targeted governments is the credibility of the promise that the EU will reward the adoption with membership.

In the context of eastern enlargement, EU influence has been pervasive with regard to the *acquis communautaire* adoption, while the EU's ability to promote democracy in the candidate countries through conditionality is much more limited.

It is argued for instance that those candidate countries (today member states) which successfully adopted and implemented liberal democracy, human rights and rule of law did not do it as a response to the EU's conditionality. In the democratic frontrunners, the EU conditionality was unnecessary or redundant for democratization because liberal democracy was already a domestic equilibrium or adoption costs were small.

On the other hand, Schimmelfennig and Sedelmeier (2006) stress that democratic conditionality did not produce any results in the case of non-democratic countries governed by authoritarian and nationalistic governments where compliance would imply prohibitive costs. Finally, democratic conditionality it is considered to be most effective in countries in between, where it strengthened the fragile democracy. Vachudova defines these "countries in between" as illiberal democracies. She argues that EU leverage was paramount for illiberal (electoral) democracies where the prospect of EU membership weakened illiberal governments and helped liberal opposition to come to power and to join the accession process.

One of the key problems identified here is that once the candidates have joined the EU, they have already reaped the benefits of membership and cannot be further induced to comply with EU rules by conditional incentives. While Schimmelfennig and Sedelmeier (2006) suggest that the question of whether the stalls or even reverse Europeanization process is open for further research, they point out that there are many good reasons for concern. Chief among them is so called "Potemkin compliance", meaning that many EU rules or democratic institutions are only formally transported, but not reliably implemented.

Undoing the membership or threatening to do so is not conceivable or at least was not seriously considered so far. In this context, it is worth pointing out that in our model where the visa free regime, not membership is the main reward for compliance, the costs for the EU of the benefit withdrawal may be much smaller. Thus, the EU can credibly threaten to withdraw visa free regime if the targeted country is found to backslide from democracy.

Further criticism against merits of the EU democratic conditionality for democracy promotion in the context of enlargement is brought by De Ridder and Kochenov²¹. They question the assumption that conditionality was a workable mechanism for democracy promotion in the case of enlargement as well. They proceed from the idea that Copenhagen criteria - the accession criteria established in 1993 - are very general and vague, especially in the case of democracy, the rule of law, the protection of human rights, and the respect for and protection of minorities. They argue that "while the EU was in possession of a potentially functional system of the Copenhagen-related documents" in practice the system "was never actually filled with any workable substantive idea of democracy to be promoted"²².

According to De Ridder and Kochenov and, this did not happen because the EU has never reached any conceptual clarity on what constitutes a consolidated democracy. Therefore, democracy promotion by the EU was not based on any standard of democracy and was lacking in substance and clarity of vision and drawing on ad hoc sporadic approaches. Vagueness and inconsistencies constitute the general picture of EU's application of democratic conditionality, even though it had a potentially workable conditions set in the Copenhagen political criteria laid down in 1993²³. The main criticism is directed against

²¹ De Ridder, and Kochenov 589–605

²² Ibid. pp 596

²³ Membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities, the existence of a functioning market economy as well as the capacity to cope

European Commission mostly for the lack of clarity as to what was expected of the candidates willing to accede. This allegedly sent random and ad hoc demands around asking the candidate countries to comply with the unknown. At the same time, different countries were asked to do different things despite the proclaimed idea of candidate countries having to join the EU on the basis of the same criteria and on equal footing.

This particular criticism is not relevant, however, in the case of ENP where “differentiation” is a fundamental principle.

1.4. EU political conditionality beyond the enlargement

A number of recent studies find that where the membership offer is absent, EU incentives such as partnership and cooperation do not reliably promote democratic change. Schimmelfennig and Scholtz analyzed in a panel study 36 countries of the East European and Mediterranean neighborhood of the EU for the years 1988–2004. Their analysis shows robust and strong effects of EU political conditionality on democracy in the neighboring countries if the EU offers a membership perspective in return for political reform. Short of a membership perspective, conditionality did not perform consistently better than no or weak conditionality. Although political conditionality remains an important declaratory policy in the ENP, its practical relevance has always been limited outside the enlargement context. According to Schimmelfennig²⁴, inconsistency and ineffectiveness is the general picture in the ENP.

Besides the lack of membership offer, another central idea in the literature is that the power of EU conditionality outside the context of enlargement is diminished by the existence

with competitive pressure and market forces within the Union. Membership presupposes the candidate’s ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union.

²⁴ Schimmelfennig 2012

of an alternative, particularly in former Soviet republics. Gordon and Sasse²⁵ use a comparison with the Central and East European Countries which acceded to the Union in 2004 and 2007 to highlight the point. For these countries, the EU "was the only game in town" economically, politically and from a geo-strategic perspective²⁶. The situation is allegedly different for Eastern neighborhood countries, especially in the Southern Caucasus, but also for Ukraine and Moldova. They have complex post-Soviet relationships with Russia which is also factored into governments' calculations, but also in the EU's. Gordon and Sasse conclude that "domestic context is critical" for the EU relationship with Eastern neighbors. Where there is commitment on part of important elements of government elites, the conditionality can still play an important part for furthering change in terms of institutional and democratic norm alignment.

In the absence of membership offer, the EU expects only for partial and progressive alignment with its legal norms and democracy. Sedelmeier²⁷ notes that the EU puts a much stronger emphasis on 'soft' and participatory mechanisms involving the ENP partners through common Action Plans. Unlike enlargement conditionality which is unilaterally imposed by the EU, the Action Plans are based on "joint ownership" which is considered to undermine the effectiveness of conditionality. But joint ownership reduces the likelihood that bilateral Action Plans reflect the EU's objective precisely. It allows governments that do not share the EU's democracy and human rights agenda to minimize the role of political conditionality in their Action Plans.

²⁵ Gordon, and Sasse

²⁶ Ibid, pp. 6

²⁷ Sedelmeier 195–208

Thus, Sasse²⁸ points out that, rather than regarding the ENP's "conditionality-lite" as a clear cut causal variable, it should be seen as a socialization process. The vagueness of conditions and incentives should make it easier for "traditionally Euro-skeptic" governments in ENP countries "to approach the EU gradually and selectively" (pp. 298). At the same time, she argues that ENP's conditionality-lite tries to prevent a repeat of the EU's 'rhetorical entrapment' in further eastward enlargement. However, this view may be troubling for the ENP partners which seek more than just a partial and progressive alignment with EU's legal norms.

1.5. General propositions about the effectiveness of EU conditionality

The conditionality is conceived as a bargaining process in which the EU promises rewards if the target country fulfills the condition of adopting democratic institutions and practices. To be effective, the benefits of the EU rewards should exceed the adoption costs for the targeted governments. This is, in the nutshell, the main proposition of EU conditionality.

Lavenex and Schimmelfennig have advanced a package of criteria about the effectiveness of conditionality²⁹ with the aim to highlight its limits as a mechanism of democracy promotion by the EU in third countries. The first holds that "tangible rewards are a necessary condition of effective leverage". The authors proceed from the assumption widely shared by researchers that socialization efforts by international organizations have not been sufficient for the reform of ethnic politics in Central and Eastern Europe and that

²⁸ Sasse 295 – 316

²⁹ See pp. 893-895. These hypotheses form the bases for a number of criteria against which I will measure the effectiveness of conditionality in the Action Plans on Visa Liberalization with Moldova.

international organizations unable to provide material incentives have generally been unable to produce democratic change in the region.

Secondly, “the effectiveness of tangible rewards increases with their size”, meaning, for instance, that the promise of membership should be more powerful than association or assistance.

Thirdly, the effectiveness of rewards “increases with their credibility”. It means that the EU should be both capable and willing to pay or withhold the reward, but also that the credibility of the promise is weakened when the payment of the reward is distant. Target governments tend to fulfill costly conditions when are rewarded instantly. On the contrary, the credibility decreases if the EU’s costs of rewarding, internal disagreements, and the time until the payment of the reward increase.

A fourth criteria refers to the nature of conditions. It holds that “the effectiveness of EU leverage increases with the strength and determinacy of its conditions”. The strength depends on how consistently and explicitly the organization links rewards to the fulfillment of conditions, while determinacy refers both to the clarity and formality of a rule.

A fifth proposition highlights the domestic conditions and holds that “the effectiveness of EU leverage depends on the political costs of democratic reform for the target governments”. This means that autocratic regimes will not respond to the EU conditionality because this will imply for them losing the power. On the contrary, democratic conditionality will be most effective if meeting EU conditions will enhance the chance of a targeted government to hold on or regain power.

Summing up, the authors come to an aggregate conclusion that the leverage model of EU democracy promotion is likely to be most effective in the situation if: *“the EU sets strong and determinate conditions for quick and credible accession to full membership, if interdependence between the EU and the target state is asymmetrically favoring the EU, and*

*if the domestic power costs of fulfilling these conditions are low for the target state government*³⁰.

This conclusion by Lavenex and Schimmelfennig can be somehow discouraging for the students of EU democracy promotion beyond the enlargement because it makes the presence of membership the single most important condition for the EU conditionality to work effectively. However, we can make the observation that, while the authors were pursuing the explicit aim of highlighting the limits of EU conditionality as a mechanism of democracy promotion to third countries, they also achieved the opposite. Their conclusion shows that membership is not the sole factor which determines the effectiveness of the conditionality, neither is it a condition sine qua non. I will return to this observation.

1.6. Chapter Conclusions

In conditionality mode, the EU targets governments in a top-down strategy, using its enormous leverage, in order to induce them to introduce reforms in the behavior of state and institutions. The leverage stems from the highly asymmetrical interdependence in favor of the EU and it allows it to effectively deploy political conditionality in such a way as to upset cost/benefit calculations of the targeted governments in favor of introducing democratic changes. Unlike *acqui* conditionality, the EU democratic conditionality is much more limited. The biggest puzzle of EU conditionality refers to its effectiveness in general and its effectiveness beyond enlargement in special. The literature makes the presence of membership offer the most reliable guarantee that conditionality is effective. However, the membership is not the sole factor which determines the effectiveness of the conditionality, neither is it a condition sine qua non. The literature is over-focused on the size of the prize,

³⁰ See Lavenex, and Schimmelfennig 885-909, pp. 895

and does little to assess to what extent the success or failure of conditionality to promote democratic change and consolidation are determined by other factors, such as the strength of the link between the conditions and the reward, the clarity of conditions, or domestic context. In the case of ENP, the literature does little to assess the real needs and expectations of the target countries, limiting to a mere suggestion that, when membership offer is absent, domestic context plays a critical role. Where a proper context exists, the conditionality can still play an important part for furthering change in terms of institutional and democratic norm alignment. The next chapter is dedicated to a thorough examination of the specific context in Moldova.

2. The case study – Moldova

2.1. Chapter Abstract

This chapter discusses the scope and limits of EU passive leverage in Moldova, maps out the way in which the EU democratic conditionality has unfolded and points to particular characteristics of Moldova's political life that potentially affects the effectiveness of conditionality. The chapter begins with the explanation of case study choice. I argue that Moldova can be a litmus test for the effectiveness of EU democratic conditionality beyond the enlargement. I explore these particularities one by one.

2.2. Test case selection

Rather a neglected case in the past, Moldova became a leader among EU's Eastern neighbors in recent years, after the change of government in 2009 which brought to power the center-right Alliance for European Integration. For the last almost four years, many European

officials referred to Moldova as to a "potential success story". Also, Moldova is the first Eastern partner to advance to the second, implementation phase of the Action Plans on Visa Liberalization, in November 2012³¹.

But there are more fundamental factors rather than mere speed of conditions adoption which make Moldova a relevant test case to assess whether EU democratic conditionality can still work beyond the context of enlargement.

The European integration is a way for Moldova to increase its security in the face of a bullying Russia who uses energy prices and military presence in the breakaway Russian speaking region of Transnistria to reassert its influence on Moldova as a whole.

Moldova is the poorest country in Europe, while EU is its biggest development aid donor. It is heavily dependent on remittances from Moldovan migrant workers who choose EU countries as one of their main destinations. EU is the biggest trade partner of Moldova and the biggest development aid donor.

Moldovans have close kinship relations with the one of the EU member states, the neighboring Romania of which today's Republic of Moldova used to be part of in the interwar period. On the other hand, visa liberalization is of a key importance for at least a part of Moldovan elite, many of whom see visa free regime with EU as a way to stop the mass applications for Romanian citizenship which arguably threaten Moldova's statehood.

In 2005, all major political forces in Moldova, including the dominant Party of Communists jointly declared European integration as their main priority. A coalition of center-right parties, the "Alliance for European Integration" took power in 2009 with the

³¹ See "Council conclusions on the Republic of Moldova - Action Plan on Visa Liberalisation"

promise to bring Moldova closer to European Union and particularly to obtain abolition of European visas.

For all these reasons, EU enjoys an immense leverage in Moldova. If EU democratic conditionality is to work beyond the enlargement, Moldova is arguably the best testing ground. On the other hand, if conditionality fails here, it is difficult to imagine that it will work anywhere else in Eastern Partnership countries.

Against all this stands the argument that Moldova like other former soviet republics has an alternative to European integration. That is a closer relation with Russia³². It implies that Moldova, which almost entirely relies on imports to cover its energy needs, could accept being part of Russia's sphere of influence in exchange for cheap energy. This is a powerful argument.

In the remainder of this chapter, I take the above mentioned arguments one by one and discuss them in a more detailed fashion.

2.3. Moldova, a short overview of 22 years of independence

When Republic of Moldova gained its independence during the disintegration of the Soviet Union in 1991, its elites faced a choice of whether to embrace the path towards European and Euro Atlantic integration on the example of the Baltic states, or join Russian led Community of Independent States (CIS).

³² Gordon and Sasse for instance draw a comparison with Central and East European Countries arguing that for them, economically, politically and from a geo-strategic perspective, EU was the only game in town but that the situation is different for the Eastern neighborhood countries, which have complex post-Soviet relationships with Russia

It wasn't an obvious choice. The first Moldovan president Mircea Snegur has admitted in his memoirs³³ that Moldovan elites hardly understood what independence meant and had no common vision or, indeed, any vision for the future. Snegur's opposition to immediate reunification with Romania led to the signature of CIS agreements in 1991 and their ratification in 1994³⁴. But, in fact, Moldova had swung between the two poles for some 15 years³⁵. This has historic explanations.

The Republic of Moldova had no previous meaningful experience as an independent state and failed so far to develop any substantial idea of national identity which would keep together a society divided along ethnic and political lines. Today's Moldova has a population of 3.38 million³⁶ living on the territory controlled by internationally recognized authorities in Chisinau, according to the most recent census taken in 2004³⁷. 75.8 percent of the population described themselves as Moldovans, 8.4 percent as Ukrainians, 5.9 percent as Russians, 4.4 as Gagauz, 2.2 percent as Romanians, 1.9 as Bulgarians.

Ethnic divisions between a majority of Romanian speaking population which sees themselves either as Romanians or Moldovans and a strong Russian speaking minority composed of Russians, Ukrainians, Bulgarians are overlapping the political and generational division between older generation who shares many nostalgic sentiments after the Soviet

33 See Snegur 2007

34 Teague 13-24.

35 Gordon and Sasse , pp. 26

36 See "2004 Population Census".

37 The census was not taken in the breakaway region of Transnistria situated on the left bank of Dniester, where are living 300 hundred thousand and 700 hundred thousand people evenly divided into three main ethnic groups – Russians, Ukrainians, Moldovans – with first two groups using Russian as their language. The exact number of population is uncertain. Local officials are suspected of exaggerating the numbers out of electoral calculations.

style welfare and security and the majority of the younger generation who sees Moldova's future in an integrated Europe³⁸.

In the course of the last two hundred years, what is today Republic of Moldova changed hands several times, and not always voluntarily. In 1812, the land between the Prut and Dniester rivers known as Bessarabia was annexed by the Tsarist Russia and thus for the first time separated from the Principality of Moldova (the latter joined Walachia in 1859 to form the precursor of modern Romanian state and build a Romanian identity). The year 1918 is another landmark. One year after the Bolshevik revolution in Russia in 1917, the local Parliament (Sfatul Tarii) proclaimed the independence of Bessarabia and few months later voted to join the Kingdom of Romania.

Stalin's USSR did not recognize the loss of the former imperial territory and created on a tiny strip of land on the left bank of Dniester in 1924 the Moldavian Autonomous Soviet Socialist Republic (MASSR or today's Transnistria) as an expression of its claims³⁹. When Soviet troops occupied Bessarabia in 1940 under the Molotov-Ribbentrop pact, Stalin joined most of its territory to MASSR, which became Moldovan Soviet Socialist Republic (MSSR) with the capital in Chisinau.

3.3.1. Transnistria and Russia

There is an extensive literature discussing the institutionalized multi-nationality in the Soviet Union, characterized by the creation and existence of more or less arbitrary

38 In his 1999 book "The Moldovans", American researcher Charles King argues that the project of identity construction in Moldova succeeded in creating a state but failed to make an independent nation. See King (2000).

³⁹ See Teague 13-24. Pp.19

autonomous republics inside the union republics⁴⁰. Owing their creation to Stalin, Abkhazia and South Ossetia, Nagorno-Karabakh and Transnistria were facing before the collapse of the USSR the perspective of becoming parts of the newly independent and nationalizing states of Georgia, Azerbaijan and Moldova, with no internationally validated legal rights to secede.

In September 1990, in a preemptive move, Transnistria, or Moldovan Dniester Republic had declared its independence from Chisinau out of alleged fear that freshly sovereign Republic of Moldova will reunite with Romania. A war has erupted in 1992, with Russian 14th army joining the separatist fighters. The conflict is still unresolved. Transnistria is a de facto separate state, though it is not recognized internationally. Republic of Moldova is pursuing the goal of regaining control over Transnistria through internationally mediated negotiations, while Russia is maintaining troops and military equipment in the region. Officially and formally, Russia recognizes the independence and territorial integrity of the Republic of Moldova.

Ukraine played a limited role so far in Transnistrian conflict, though geography suggests that it should have been much bigger. The problem seems to be that Ukraine has been facing identity and foreign policy problems of its own to be able to make any meaningful effort in Transnistria. Ukraine has the potential to become a key player not only in deciding how Transnistrian issue will play out, but also in which way Moldova as a whole will go. Hundreds and hundreds of kilometers of Ukrainian plains separate Moldova from Russia proper. If Ukrainian drive towards European takes speed and Ukraine escapes Russia's offers to reintegrate and form an Eurasian Union, Moldova has little choice, but to do the same.

Many researchers agree that Moscow uses Transnistria as a tool to project its imperial style claims on the entire Republic of Moldova and will accept the reunification only if this

⁴⁰ See for instance Brubakers 1996.

proceeds in a way which will give Moscow direct leverage on the Moldovan foreign policy⁴¹. The latest attempt of Russia to try to solve the conflict dates back to November 2003. It almost persuaded Moldovan president Vladimir Voronin to accept the so called Kozak memorandum, a plan for a constitutional settlement would give the Transnistrian side a de facto veto on constitutional changes in Moldova and a tool for Moscow to determine Moldovan foreign policy⁴².

The intervention of the United States and the European Union, personally by the EU's High Representative for Common Foreign and Security Policy, Javier Solana was crucial. Solana persuaded Moldovan president Voronin to reject the Kozak memorandum, which would also open the door for the legalization of the Russian troops in Transnistria. The close contacts during between Solana and Chisinau in 2003 paved the way for a greater EU implication in solving the conflict. The EU joined the mediation process as observer (together with the USA) in October 2005, when talks in the so-called 5+2 format (Moldova, Transnistria, OSCE, Russia, Ukraine plus the EU and the USA as observers) were held for the first time. Some researcher began to talk about the "Europeanization" of the Transnistrian conflict⁴³.

The military conflict in Transnistria prevented Moldova from embarking on a clear path towards West at the beginning of its independence. But it also made closer relations with the West the only alternative for Moldova. Staying in Russia's sphere of influence would mean either a permanent loss of territory or a power sharing deal, in a reunited country, with pro-Russian separatists. They would have veto powers on Moldova's foreign policy, would

41 An American scholar Stuart J. Kaufman specialized in ethnic conflicts depicts the war in Transnistria as an ethnic conflict even though he recognizes himself that this is highly problematic. For more see Kaufman (2001)

42 See Vahl (200)

43 Ibid.

be an irritant for the Romanian speaking population on the right bank of Dniester and be a permanent source of instability.

Thus, the view that EU's Eastern neighbors see rapprochement with Russia as a possible alternative to European integration is not in Moldova's case as straightforward as it was presented so far in the literature. Moldova rather has a strong interest for European integration as means to increase, among others, its security, including energy security.

Russia has been trying to use energy prices to put pressure on Moldova as it moved away from Russian sphere of influence, but not directly and not openly. The price for natural gas has dramatically increases in recent years, but they are not bigger than the price paid by Ukraine or EU member Romania. Instead, Russia subsidized the natural gas consumption in Transnistria to hint to Moldova that it can enjoy better prices if it also accepts being part of Russia's sphere of influence. This is a powerful argument for Moldova to consider. More recently, Russia has also hinted to the possibility of cheap gas prices if Moldova as well as Ukraine accepts taking part in the Moscow led project of an Eurasian Union outlined by Russia's Vladimir Putin.

Paradoxically, perhaps, moving closer to the EU and becoming part of the common market may help Moldova to improve its energy security on the long run. Meanwhile, Moldova builds an interconnection pipeline to the Romanian gas system as an alternative supply source in case of pressures from Russia. The relationship with Romania is crucial in many other respects.

3.3.2. Romania

Relations with Romania were always a delicate matter. Even though Romania was the first country to recognize the independence and sovereignty of Republic of Moldova after the

fall of USSR, Moscow actively accredited the idea during the conflict in Transnistria that Romania was preparing an annexation.

In the years leading to the fall of the Soviet Union, a robust movement for national emancipation started to grow partly thanks to Mikhail Gorbachev's perestroika and in part thanks to an increasingly dissident „intelligentsia”⁴⁴. The Supreme Soviet (or Parliament) of the MSSR has passed as early as in 1989 a law on the functioning of the languages which declared Moldovan on the basis of Latin script as the republic's official language, specifying that it is similar to Romanian.

But the first three years after the fall of URSS marked a reverse policy. A national identity building (a Moldovan identity seen as different from Romanian) has started. This culminated in 1994 with the passing of the Constitution which stated Moldovan rather than Romanian as the official language of the country⁴⁵.

But this official process of national identity building was accompanied in practice by a surge of applications for Romanian citizenship by Moldovans. A Romanian law adopted in 1991 granted the right to regain citizenship to those who lost it after the WWII “against their will”, as well as their descendants up to second generation (this was extended to descendants up to the third generation in 2009).

The most recent estimates put to some 400 hundred thousands the number of Moldovans who received Romanian citizenship (and passports) between 1991 and 2012.

44 For a comprehensive view from Chisinau at Gorbachev's perestroika see “The treaty of the Soviet Union” (2005) by the Moldovan historian Gheorghe Cojocaru. An account of “national awakening is given in “Perestroika and awakening of the minorities from USSR”, p. 231-263 (available in Romanian only).

45 King (2000) takes a very close look at this process. He concludes that the project of identity construction in Moldova succeeded in creating a state but failed to make an independent nation.

Some 150 hundred thousands were still waiting to receive Romanian citizenship at the end of 2012. That puts roughly to 19 thousands the number of citizenships handed to Moldovans by Romania each year⁴⁶.

The process gained scope as it was becoming increasingly clear that Romanians will soon enjoy free visa regime with EU. Between 1991 and June 2002, Romanian authorities handed some 108 000 citizenships to Moldovans⁴⁷. The process was than significantly slowed down. Official explanation was the lack of available resources to deal with huge number of requests. But there were wide speculations that Romanian government gave in to formal and informal pressures from Brussels and EU members states allegedly worried about the influx of potential migrant workers⁴⁸.

The number of applications jumped in 2003⁴⁹ when Romania was granted visa free regime with EU. But the biggest jump has registered after Romania's accession to EU, which implied that, after two decades of visa free regime, Moldovans need visas to travel to Romania. The exponential increase in applications (from 3883 in 2008 to over 94000 in 2010)⁵⁰ can be also explained by the fact that a more friendly Moldovan government which came to power in 2009 allowed Romania to increase from 1 to 4 the number of its consular offices spread throughout the Republic of Moldova.

⁴⁶ The estimates were made in a study commissioned by Soros Foundation Romania. According to the authors, the study is based on data gathered from Romanian National Authority for Citizenship, but a disclaimer warns that it is not known whether the full data was disclosed. For more see: Panainte, Nedelciuc, and Voicu (2013)

⁴⁷ Ibid.

⁴⁸ See, for instance, "The Political Dimension: One Nation, two states. A Moldova non strategy" in Kosienkowski and Schreiber.

⁴⁹ From 3126 in 2002 to almost 17000, according to estimates by Soros Foundation Romania. For more see: Panainte, Nedelciuc, and Voicu (2013)

⁵⁰ Ibid.

This tells us several things about EU leverage in Moldova. Judging by the jumps in the number of applications for Romanian citizenship, we can say that many Moldovans seek Romanian passports first of all because it gives them the freedom of movement in the EU. Thus, EU leverage on Moldova should probably decrease because visa free liberalization does not seem that much of a prize at least for Moldovan population who can obtain Romanian passport without much effort.

But we should remember that EU leverage refers to a top down mechanism, targeting governments of third countries, not their population. From this point of view, the fact that population has an alternative does not diminish, but increases EU leverage in relation with the Moldovan government. It is in the government's ultimate survival interest to be able to offer to its population what it needs and to stop the massive shift of loyalty towards a different state. It follows that Moldovan government should more easily give in to EU conditions if. This should be more so for anti-Romanian Moldovan governments who regard Romania with suspicions, than for pro-Romanian Moldovan governments, who advocate closer relationship with Romania, at least at the surface. A closer look into Moldovan party politics should help as to see how EU leverage diminishes or increases depending on who rules Moldova.

3.3.3. Party politics shaped by geopolitics

Moldova is subjected to geopolitical pressures and temptations. While the intensity of those pressures vary over time, there is a pregnant sense that Moldova's position on the borderline between two worlds, Russian and Western generates a great deal of instability and confusion among Moldovan leaders who are trying to simultaneously accommodate the country's interests to those of both giants simultaneously. Most of Moldovan major players

regard EU as a geopolitical pole (in the same way they see Russia) rather than a community of values⁵¹.

An opportunistic strategy resulted out of this. It is best summarized by a Moldovan proverb which says that the “wise calf feeds from two cows”. The strategy implies that the country swings between the two poles of attraction (in case of EU) or power (Russia) trying to reap whatever benefits there might arise out of the geopolitical rivalry, such as cheaper energy or more development aid.

So far, this resulted in the switch of direction by Moldova at every electoral cycle. This is best illustrated by the 8 year-long rule between 2001 and 2009 of the Party of Communists, led by the strongman Vladimir Voronin. The party came to power in 2001 with the declared agenda of taking Moldova into the Russia-Belarus Union. Then Communists switched direction and won the next elections in 2005 on the promise to launch the European integration process. When they lost power, in 2009, the communists were talking again about “double standards” of the West and the promises of Eurasian integration led by Russia.

The alternation in power at almost every electoral cycle gave the wrong impression that democracy takes hold in Moldova. As Vladimir Socor, a western analyst of Romanian origins and a close observer put it on of in his many articles,⁵² “in theory, and even by certain practical criteria, Moldova should qualify as Exhibit One for successful democracy promotion in non-western societies”. He points out that all elections held in Moldova from 1991 to date were internationally certified as free and fair with the opposition defeating the incumbents in most elections.

⁵¹ According to Nicu Popescu: „There seems to be a profound lack of understanding in Moldova of what the EU is and what EU integration is about. Most major domestic players see it as a geopolitical and foreign policy priority, but do not necessarily see the EU as community of values”. See Popescu

⁵² See Socor (2012)

But, in practice, the local population was associating this kind of democracy with dysfunctional state and many voted with their feet. Today, Moldova is the poorest country in Europe with 25% to 50% of its workforce (most educated) working abroad⁵³. Moldova is a constant presence in the World Bank's "Top 10 recipients of migrant remittances as a share of GDP"⁵⁴. 23 % of Moldovan GDP consists of remittances sent home by migrant workers mainly from Western Europe and Russia. Migrant workers, as some Moldovans joke, are Republic of Moldova's most valuable exports.

The following table puts together the results of the parliamentary elections in Moldova from 1990 to present. It illustrates alternation in power of pro-Russian and pro-Western governments.

Tab. 1 Parliamentary elections in Moldova, 1990 - 2013

Year	Seats distribution	Government
February-March 1990	Popular Front of Moldova Independents Communist Party of Moldova	Anti-Soviet coalition of Moldovan/Romanian nationalists and moderate communists elected in rural areas.
February 27, 1994, Early Parliamentary Elections	Agrarian Democratic Party – 56 "Socialist Party and Unitate-Edinstvo (Unity)" Electoral Bloc – 28 Peasant's and Intellectual's Bloc" Electoral Bloc – 11 "Alliance of the Christian-Democratic People's Front" Electoral Bloc - 9	Pro- Russian
March 22, 1998	Party of Communists – 40 "Democratic Convention of Moldova" Electoral Bloc – 26 "For a democratic and Prosperous Moldova" Electoral Bloc – 24	Pro-Western (Pro-EU)

⁵³ The estimates are based on the data provided by the National Bureau of Statistics. More can be found here:

<http://statbank.statistica.md/pxweb/Database/EN/03%20MUN/MUN07/MUN07.asp>

⁵⁴ See for example the ("Remittance flows in 2011 – an update")

	Party of Democratic Forces – 11	
<u>February 25, 2001</u> , Early Parliamentary Elections	Party of Communists – 71 “Braghis Alliance” Electoral Bloc – 19 Christian Democratic People’s Party – 11	Pro-Russian first half of the mandate then, switched direction towards EU
<u>March 6, 2005</u>	Party of Communists – 56 Moldova Democrata (Democratic Moldova) Electoral Bloc – 34 Christian Democratic People’s Party – 11	Pro-EU first half of the mandate, then Eurosceptic
<u>April 5, 2009</u>	Party of Communists – 60 Liberal Party – 15 Liberal Democratic Party of Moldova – 15 “Moldova Noastra (Our Moldova)” Alliance - 11	Eurosceptic
<u>July 29, 2009</u> , Early Parliamentary Elections	Party of Communists – 48 Liberal Democratic Party of Moldova – 18 Liberal Party – 15 Democratic Party of Moldova – 13 “Moldova Noastra (Our Moldova)” Alliance - 7	Strongly Pro- Western/EU
<u>November 28,</u> <u>2010</u> , Early Parliamentary Elections	Party of Communists – 42 Liberal Democratic Party of Moldova – 32 Liberal Party – 12 Democratic Party of Moldova – 15	Strongly Pro- Western/EU

Source: This table uses data published by Moldovan Association for Participatory Democracy <http://www.e-democracy.md/en/> . For the first partially free elections held in February – March 1990, before the collapse of USSR, see Cașu, Igor, and Igor Șarov. *The Republic of Moldova, From Perestroika to Independence, 1989-1991, Secret Documents from the Archive of CC of PCM*. Chisinau: Cartdidact , 2011.

This table suggests that, if pattern of alternation of pro-European and pro-Russian governments continue, than periods when EU will be able to deploy its democratic conditionality more effectively will alternate with the periods when conditionality will work less effectively to the extent that the previous achievements may be lost. Pro-Russian governments tend to be less democratic as they do not strive to join the club of liberal democracies of the EU. To recall one point that has been made in the literature review, democratic conditionality does not produce results in the case of non-democratic countries governed by authoritarian and nationalistic governments where compliance implies prohibitive costs.

So far Moldova has oscillated between a more pro-Russian and a pro-European orientation in its foreign policy ever since obtaining independence in 1991. But, essentially, the country did not move either way. Instead, it was prone to internal political instability and repeated crises due to powerful geopolitical pressures. Will an irreversible turning point ever occur?

One of the first attempts to break the status quo was made in 1999 by the short lived center-right Sturza coalition government. It attempted to bring Moldova into the group of prospective candidate countries through the “Stability Pact for South-Eastern Europe”. But Sturza government’s dismissal made the priority of European integration quickly slip down from the top of the political agenda.

The Sturza government was voted down amid a political crisis caused by a power struggle between the president and the parliament over competences in a semi-presidential/semi-parliamentarian constitutional system. It resulted in an amended Constitution which abolished, in 2000, the election of the president by popular vote and provided that the president is elected by parliament.

The Party of Communists gained a constitutional majority in early parliamentary elections which followed in 2001. Three previous years of parliamentary chaos played into the Communists’ hands. The new parliament elected communist leader Vladimir Voronin as the head of state. He inherited a parliamentary republic but, as the chairman of the Party of Communists, operated it de facto as a presidential republic until 2009.

The establishment of the National Commission for European Integration by Voronin in November 2002 marked a new departure in Moldova’s positioning of European integration in its foreign policy agenda. But it was not a priority as high as solving the Transnistrian conflict.

After a series of bilateral talks between Voronin and Russia's strongman Vladimir Putin, Russia proposed a draft constitution for a Federal Republic of Moldova to solve the conflict.

The failure of the Kozak plan to which we referred in the previous subchapter took place in a dramatic atmosphere. On November 24, 2003, Vladimir Putin was about to embark on his flight to Chisinau to sign the agreement, when Voronin, pressured by EU's Solana made a U turn. He turned down Putin's initiative hours before Putin's planned trip to Chisinau.

Voronin was left with little options, but to strengthen relationship with the EU. His Party of Communists which came to power in 2001 with a pro-Russian agenda, won the 2005 elections on a pro-European platform. The Communists lost the three fifths majority in parliament needed to elect the president. But they manage to form a coalition with other two pro-European opposition parties and Voronin was reelected as country's president for his second term.

The communists scored a new victory during parliamentary elections in April 2009. But, faithfully to the pattern that we described earlier, they did so by changing direction again. During the campaign, the communist were increasingly talking about "double standards" of the West and about the advantages of Euro Asiatic integration led by Russia.

The elections were described by western observers as meeting most democratic standards. But protests led by the twitter-mobilized youth have erupted. The lack of trust in the elections results prompted tens of thousands to take the streets in protests against Communists' victory. Violence was not avoided. While small group of protesters destroyed and set fire to the buildings of Parliament and Presidency on April 7, police launched a

manhunt the next day, arresting and scores of people subjected to beatings and torture⁵⁵.

Romania was singled out by the communist government as the force behind the protests, a claim which was never supported by any proves, but which severely strained the bilateral relations for several months.

Despite their electoral victory, Communists gained only 60 parliamentary seats and felt short just one seat out of the minimum required to elect the new head of state. The protests in April consolidated the three main anti-communist parties and ensured that communists will fail to secure the missing one vote. This was the first step into a 900 days long constitutional and political crisis.

This crisis saw the Communists slipping into opposition. A center-right Alliance for European Integration took over in July 2009. Since then, Moldova moved closer to the EU at an unprecedented speed. But the crisis also raised serious doubts on whether Moldova will live up to its credentials of the "success story" of EU's Eastern Partnership. The deadlock has ended in March 2012 with the election of a new president. But the imperfect constitutional set up which caused the crisis was not eliminated and can manifest itself again soon.

3.3.4. From Constitutional crisis of 2009 to political crisis of 2013

The constitution, which turned Moldova into parliamentary republic in 2000, stipulates (art. 78) that the head of state is elected by parliament with the votes of at least 61 deputies, out of 101. This high requirement is coupled with automatic dissolution of the parliament after two failed attempts to elect the president. Such procedure suited the interests

⁵⁵ This was captured in the report to European Parliament by Marianne Mikko, the chair of the Ad Hoc Delegation to the Republic of Moldova that took place on 26-29 April 2009. The report was approved by the Parliament on May 07, 2009. See Mikko (2009)

of top party leaders in the chaotic parliament at the time of adoption. It guaranteed leverage for each of them over the presidential candidates, the elected president, and indeed over their own rank-and-file parliamentarians. But first of all it suited communists who correctly assumed that they will remain the biggest party for years to come because of many nostalgic voters for the soviet style wellbeing and because of their charismatic, strong handed leader.

The communists inherited that procedure for electing the president. This worked smoothly in 2001, when the communists elected the president on their own strength; and less smoothly in 2005, when the president's re-election necessitated hard-won deals with two small parliamentary groups. But the procedure collapsed in 2009.

After April 2009 elections, the opposition refused to cooperate, forcing the parliament's dissolution and new elections in July that year. The communists won most votes again, but not enough to form the government. The Alliance of European Integration (AEI) of four parties collectively outvoted the Communists Party and formed a new government in September 2009 lead by the liberal-democrat prime-minister, Vlad Filat.

The AEI was initially formed in August 2009 by the Liberal Democratic Party (PLDM) of Vlad Filat, the Democratic Party (PD) of Marian Lupu, the Our Moldova Party of Serafim Urechean and Liberal Party (PL) of Mihai Ghimpu⁵⁶.

However, AEI was initially short of some 6 votes to elect the new head of state. Since April 2009, Moldova has held three parliamentary elections (in each of which AEI was increasing the number of its seats), seven presidential election attempts that failed short of the necessary majority in parliament, and a constitutional referendum to return to direct presidential elections, which failed due to insufficient voter turnout.

⁵⁶ The Our Moldova Party latter dissolved with much of it being absorbed into Liberal Democratic Party of Vlad Filat.

On March 16, 2012, the parliament undertook the eighth attempt in less than three years to elect the head of state, and succeeded thanks to several fugitive deputies, who left the Party of Communists and switched sides.

Among those who left the Party of Communists as early as 2009 in the wake of April 7 protests was the former communist speaker of Parliament, Marian Lupu. The price he asked the AEI to pay for giving a hard felted blow to the communists was to elect him president. It was partly his insistence that caused the failed attempts to elect the head of state. Somebody else was finally elected just after Lupu dropped his ambition.

The political and constitutional crisis unfolded under the eyes of European Union which was pushing for dialogue and compromise between AEI and the Party of Communists to elect the president under the conditions of the current constitution and persuaded AEI to avoid changing the rules of the game during the game. The Council of Europe was also involved through its Commission for Democracy through Law (Venice Commission).

The head of the Venice Commission, Gianni Buquicchio, congratulated in March 2012 the new president elect Nicolae Timofti, a 64-years-old judge with no declared political allegiances. Buquicchio welcomed the overcoming of the deadlock, but warned that the Constitution should be amended to avoid similar crises in the future. His warning was echoed on December 20, 2012, in Chisinau by Jean-Claude Mignon, the president of the Parliamentary Assembly of the Council of Europe, who delivered a speech in Moldovan Parliament.

Changing the constitution to avoid further deadlocks and rivalry between parliament and head of state is written into the program of the AEI three parties coalition government since November 2010 elections. This goal should be met by the next regular elections expected to take place in early 2015. But the coalition partners did not agree on the principles of the constitutional reform, let alone the concrete steps to pass the new constitution.

Instead, a smoldering internal power struggle erupted, leading to the breakup of the AEI and dismissal of Filat government on March 8, 2013.

It started in December 2012, when a man was shot and killed during a hunting party attended by senior members of Moldova's judiciary elite, many of whom are alleged to have close links to the Democratic Party and its deputy chair Vlad Plahotniuc, a rich businessman. The hunting exposed intimate relations between Moldova's judges, prosecutors, politicians and businessmen at a time when Moldova was supposed to fight nepotism and corruption to advance in the relationship with the EU. An attempt to cover up this incident by the country's general prosecutor (a PD appointee who was present at the hunt) was subsequently exposed, leading to his resignation at the insistence of prime-minister Filat. But Filat went further, accusing Plahotniuc on February 13 of trying to "sacrifice Moldova's interest for his owns". Filat's party withdrew from the coalition and proposed negotiations on a new coalition agreement, including steps to de-politicize the country's legal institutions allegedly controlled by Plahotniuc. This includes National Anti-Corruption Centre which opened several corruption cases against ministers from Filat's party in the coalition government.

Filat's party subsequently joined forces with the Communist opposition to sack Plahotniuc from the position of prime-vice chairman of the Parliament. In a tit for tat response, Plahotniuc's PD joined forces with the Communists on March 5, 2013 to approve a non-confidence motion against Filat government, which was dismissed three days later as the result. The non-confidence motion accused Filat of corruption and abuse of power based on apparently illegal phone intercepts involving the head of the tax office, the minister of interior and the prime minister.

The dismissal of Filat government was followed by attempts to negotiate a new Alliance for European Integration between the same parties PLDM, PD and PL. In an "alert issue" on Moldovan political crises published on March 26, the EU Institute for Security

Studies found that “after a period of relative stability and significant progress in its reform efforts, Moldovan politics has (re)entered a phase of instability, creating uncertainty about its future direction and its relationship with the EU”⁵⁷.

The authors notice that the new crisis “has caused serious concern in the EU, which has invested significant time, effort and financial resources into Moldova”, but that, despite the ongoing political tensions, “Moldova potentially remains the best example of a successful transformation under the Union’s Eastern Partnership”. It recommends to EU “to continue its discreet support for a rebooted pro-European coalition”, but adds that this efforts “probably needs to go hand in hand with a strong pro-reform message, particularly in relation to the judicial system, the ‘de-politicization’ of state institutions, and the fight against corruption”.

As political crisis deepened, an entire chorus of European officials, from EU High Representative for Foreign Affairs and Security Policy and Commissioner for Enlargement and European Neighbourhood Policy to representatives of European Parliament and member states have expressed “strong concerns” about “Moldova's further democratic development and stable rule of law”⁵⁸. EU intervened promptly, warning Moldovan leaders that “a worrying new pattern of decision-making in Moldova” could damage its integration prospects. The warning comes ahead the Eastern Partnership Summit planned for November 2013 in Vilnius where Moldova was hoping to initialle with EU at the summit the Association Agreement, including free trade agreement and receive a clear sign as to when it will be granted visa free regime.

The outcome of the crisis is not clear yet at the moment of the writing of this thesis. But the EU reaction indicates that it is willing to intimately engage in Moldova, going all the

⁵⁷ See: “Moldova’s political crisis” (2013)

⁵⁸ See "Joint Statement by EU High Representative, Catherine Ashton, and Commissioner Stefan Füle on recent developments in the Republic of Moldova".

way down into the domain of Moldovan party politics. EU attitude came a long way in the last just over a decade.

But the emergence of the crisis also indicates to the two troubling aspects. First, even though EU has proved willing to intervene, it may lack proper understanding of Moldovan politics, since it could not see, anticipate and preempt the tensions among governing coalition patterns.

The second aspect has deeper implications. Moldovan political leaders who rose to power in 2009 and formed the governing Alliance for European Integration put themselves in a position of "rhetorical entrapment" by promising to their population quick benefits of European integration. The failure to continue the pro-European reforms and thus meet the promises may prove costly to the governing politicians during next elections. But this scary perspective did not stop their quarrel. On the other hand this may be a good indication that for all governing parties or for some of them the costs implied by the EU conditions are higher than the rewards.

2.4. The relations between EU and Moldova

It is a well-known fact that Moldova was not high on the EU's agenda during 1990s. A standard Partnership and Cooperation Agreement (PCA) was signed in 1994. But it entered into force only in July 1998, several months after a short-lived Sturza government of the Alliance for Democracy and Reforms replaced the left wing, pro-Russian agrarians. With a bit of luck, Moldova was included in the wider "Stability Pact for South-Eastern Europe" in 2001. The Sturza government which has been requested it since 1999, was regarding the acceptance of Moldova into the grouping as a step toward the prospect of membership. EU membership was adopted as a strategic objective for Moldova in the Foreign Policy

Guidelines for 1998-2002 which called for upgraded contractual relations through an Association Agreement to be concluded in the middle term⁵⁹.

The EU, however, was far from viewing Moldova as part of Stabilization and Association process together with Balkan states. The country's place has always been among the former soviet republics alongside Ukraine and Belarus⁶⁰.

The establishment of the National Commission for European Integration by the communist president Vladimir Voronin in November 2002 marked a new departure in Moldova's positioning of European integration in its foreign policy agenda. It is worth noting, however, that the "wider Europe" initiative being examined by the Commission around the same time and released in March 2003 included Russia as well, which explains why Voronin's decision did not cause a rift in his relations with Russia at that time. As already mentioned, the Kozak plan failure in November 2003 was the real point of reorientation of Voronin's policy away from Russia and towards EU.

On the other hand, the way in which EU regarded Moldova has also evolved, especially in the light of Romania's expected accession and the unresolved Transnistrian conflict which posed a security concern for the EU. A number of steps were taken to increase EU's involvement, culminating in 2005 with the inclusion of the EU as an observer to the 5+2 format of the negotiation on Transnistrian settlement.

The relations between EU and Moldova were upgraded in February 2005 with the signature of the EU-Moldova Action Plan (EUMAP), initially for 3 years. The accession to power of a fresh coalition government lead by the Party of Communists in March 2005 further reinforced the pro-European foreign policy orientation. The new government came to

⁵⁹ Vahl 171 - 182, pp. 173-174.

⁶⁰ Lewis 219 – 227, pp.225

power with the country's integration into the EU as its top priority, endorsed by a joint declaration of all parliamentary parties. A number of steps have followed.

At the request of Moldovan and Ukrainian presidents, in December 2005, the EUBAM mission was launched along the 1,222km-long of the Ukrainian-Moldovan border, including its 450 kilometer long Transnistrian part to assist in countering smuggling and other criminal activities⁶¹. This came on the top of other actions by the EU in the direction of conflict resolution stipulated by the EUMAP.

Within the framework PCA and EUMAP, in May 2008, the EU and Moldova launched a Mobility Partnership based on reciprocity with the purpose of facilitating legal migration and preventing and combating illegal immigration, trafficking in and smuggling of human beings⁶².

The main developments in EU-Moldova relations from 1998 until 2010 are described in the Table 2.

Table 2 Time Line EU-Moldova

1998	Entry into force of the EU-Moldova Partnership and Cooperation Agreement.
February 2003	EU instituted a visa ban on the Transnistrian leadership (renewed every year until 2010 inclusively and expanded to include new names).
March 2003	EU initiated and mediated negotiations between Moldova and Ukraine on customs and border agreements.
November 2003	EU High Representative Javier Solana intervened to advise the Moldovan government against accepting the so-called 'Kozak

⁶¹ "Remarks of Javier Solana, EU High Representative for the CFSP, At The Launch Of The EU Border Mission For Moldova – Ukraine"

⁶² "Joint Declaration on a Mobility Partnerships between the European Union and the Republic of Moldova".

	memorandum’.
From late 2003 to autumn 2004	EU consulted and then negotiated a bilateral Action Plan with Moldova, as part of the European Neighborhood Policy (ENP).
February 2005	Approval of the EU-Moldova ENP Action Plan.
March 2005	Establishment of EU Special Representative for Moldova (Under auspices of Council).
Autumn 2005	European Commission delegation was established in Chisinau.
October 2005	EU joins the so-called 5+2 negotiations format for Transnistrian settlement (Moldova, Transnistria, OSCE, Russia, Ukraine plus the EU and the USA as observers).
November 2005	Establishment of EUBAM (European Union Border Assistance Mission to Moldova and Ukraine).
April 2007	Opening of visa facilitation center in Chisinau.
January 2008	Entry into force of the Visa facilitation and readmission agreements. Signature of a pilot Mobility Partnership to strengthen legal migration opportunities and to strengthen capacities for managing migration and fighting illegal migration.
February 2008	EU-Moldova agreement to keep Action Plan in place.
March 2008	Comprehensive Autonomous Trade Preferences, which give Moldova duty-free and quota-free access to EU markets for nearly all products, were granted to Moldova.
2008 and 2009	The EU’s Civil Protection Mechanism (MIC) was mobilised to support Moldova in assessing the flooding of the Nistru (Dniester) and the Prut rivers, and in alleviating the consequences of the Ukraine/Russia gas crisis.
May 2009	EU Eastern Partnership is launched. Moldova becomes one of the 6 partners.
July 2009	The Working Arrangement between the European Aviation Safety Agency and the civil aviation authorities of Moldova was signed.
December 2009	Ministerial meeting of the Energy Community approves the accession of Moldova.
January 2010	EU and Moldova started negotiations on Association Agreement.
June 2010	EU-Republic of Moldova Visa Dialogue examining the conditions

	for visa-free travel for citizens of the Republic of Moldova to the EU was launched.
2011	The EU Autonomous Trade Preferences are prolonged until 2015.
January 2011	The Action Plan on Visa Liberalization (VLAP) was presented to the Moldovan authorities by the Commission.
September 2011	The First Progress Report on the implementation by the Republic of Moldova of the Action Plan on Visa Liberalization was presented.
October 2011	Moldova and EU have initialed a comprehensive air services agreement to gradually open up and integrate the respective markets, and develop a "common aviation area".
December 2011	Launch of negotiations on establishing a Deep and Comprehensive Free Trade Area (DCFTA) in the framework of the negotiations of an Association Agreement.
June 2012	Moldova and EU have signed the "common aviation area" agreement. No date for entering into force of the agreement was advanced.
June 2012	Moldova hosts the launching conference of the informal Eastern Partnership dialogue
September 2012	The Second Progress Report on the implementation by the Republic of Moldova of the Action Plan on Visa Liberalization was presented.
November 2012	Commission president, Jose Manuel Barroso visited Chisinau delivering the speech: "European Union and Moldova: a journey to share".
November 2012	Moldova becomes the first Eastern Partner to advance to the second, implementation phase of the Action Plans on Visa Liberalization.
December 2012	A bilateral agreement on the protection of geographical indications for agricultural products and foodstuffs was ratified by Moldova and concluded by the EU.
March 2013	ENP Country Progress Report 2012 – Republic of Moldova was presented.

Source: This table was compiled from the data published by EEAS on its webpage at http://eeas.europa.eu/moldova/news/index_en.htm#top

3.4.1. EU-Moldova Action Plan (EUMAP)

The EUMAP remains one of the key documents governing EU-Moldova relationship. Gordon and Sasse⁶³ analyses EUMAP in the context of the evolution of ENP with the aim to explore the perception and operation of ENP from the perspective of the targeted countries themselves. They found, first, that EUMAP devotes more attention to the political issues, including democracy and human rights as compared to the PCA, which focused mainly on trade and economic cooperation.

The Action Plan was based on the joint ownership principle, meaning that it was negotiated between the European Commission and Moldovan government. It allowed Moldovan authorities to minimize the role of political conditionality. Nevertheless, seven out of the ten priority areas in the Action Plan relate to the political dimension of cooperation⁶⁴. These range from ensuring the correct functioning of parliament and the conduct of parliamentary elections in accordance with proposals made by the Council of Europe and recommendations of OSCE/ODHIR to ensuring effective protection of person belonging to national minorities.

A particular concern of the EUMAP was potential cooperation in the settlement of the Transnistrian conflict and border management. The EUMAP contain reference to advancing conflict resolution. But Gordon and Sasse outline that EU commitments are “often vague, declaratory and rather piecemeal”⁶⁵.

Initially, there were hopes among Moldovan governing circles about what the EUMAP might be able to deliver in terms of increased market access, a visa-free travel

⁶³ Gordon and Sasse, pp. 25-30

⁶⁴ Buscaneanu 33-34

⁶⁵ Gordon and Sasse, pp. 36.

regime and increased direct EU participation in the conflict settlement process in Transnistria. But, the long list of actions on the Moldovan side, was not matched by the offer on the EU side. Thus, Gordon and Sasse argue that the EU offer was characterized by the lack of specificity in two key areas of particular concern to the country's ruling elites -- how the EU proposes to participate in the resolution of the Transnistrian conflict and in whether the asymmetric trade preferences will include textile or agricultural products that are of primary importance to Moldova but also very sensitive to the EU.

Also, EU offered a series of steps towards visa free regime, although it was characterized as "long term" objective. In shorter term, EU proposed steps to facilitate visa regime.

All in all, Gordon and Sasse conclude that, in case of Moldova, seemingly endless list of often ill-specified demands in the EUMAP were not met with substantive reciprocity from the EU side. The lack of membership perspective for Moldova and the limited funds on offer mean that both the short-term and long-term benefits have not been that apparent to Moldova. In other words, the potential rewards for meeting the conditions were simply not attractive enough. The conditionality trade-off was neither attractive enough nor credible enough. The EU have assessed that EUMAP which was initially signed for three years did not fully deliver in that period. In 2008, it was prolonged indefinitely.

The Commission seized on the new opportunity which presented itself by the change of government in Moldova in 2009. In January 2010, the Commission had presented Moldova with the VLAP. In November 2012, Moldova became the first Eastern partnership country to fulfill all the benchmarks under the first phase of the action plan, legislation and planning and advance to the second phase, effective and sustainable implementation. The VLAP will be analyzed in detail the next Chapter of this thesis.

3.4.2. Trade and development Aid

The EU is Moldova's main development aid donor accounting to a total of EUR 122 million in 2012. EU is also Moldova's main trading partner accounting for more than 50% of its trade volume in 2012.

EU imports from Moldova consisted mainly of electrical machinery and equipment, clothing and animal and vegetal fats and oils. Trade flows were constantly increasing in the last decade and during the first eleven months of 2012 amounted to EUR 2.7 billion.

Since 2008, exports from Moldova to the EU benefit from the autonomous trade preferences which offer free access to the EU market for nearly all products originating in Moldova, except for certain agricultural products for which limited concessions have been given. The agricultural products, foodstuff and alcoholic beverages are Moldovan main export categories amounting to some 35 % of its exports in 2011⁶⁶.

The Deep and Comprehensive Free Trade Area negotiations were launched in February 2012. The agreement will replace the autonomous trade preferences currently extended to 2015.

Moldova's heavy dependence on EU market for its exports gives the EU a formidable leverage on Moldova's government. The debt crisis and the recession in EU acted as one of the main factors that brought to a halt the country's economic recovery in 2012⁶⁷. The crisis exposed the risks of Moldovan economy relying too much on the EU market.

For the effectiveness of the conditionality, EU's development aid is a more powerful instrument. Unlike trade which can be regulated but not controlled administratively, the

⁶⁶ "External trade of the Republic of Moldova (1997-2011)"

⁶⁷ "Implementation of the European Neighborhood Policy in Republic of Moldova. Progress in 2012 and recommendations for action."

development aid totally under the control of the EU institutions, which can easily increase or decrease it as it finds necessary. The Tab. 3 tracks the financial support that Moldova received from the EU over the last 6 years.

Tab. 3 EU's Development aid for Moldova

Year	Projects
2007-2010	The ENP envelope for Moldova stands at EUR 209.7 million, with an additional allocation of EUR 16.6 million through the Governance Facility.
2008-2010	The Neighbourhood Investment Facility commits nearly EUR 35 million to seven projects in Moldova in the social, transport and private sectors. Moldova benefited also from four NIF regional projects (total EUR 39 million in support of the energy and the private sectors, including small and medium enterprises).
2011-2013	The new National Indicative Programme (NIP) for Moldova was adopted in May 2010 and has a budget of EUR 273.1 million. The programme is geared towards supporting the achievement of key policy objectives as outlined in the EU-Moldova Action Plan and pursues three priorities: (1) good governance, rule of law and fundamental freedoms; (2) social and human development; and (3) trade and sustainable development.
26 June 2012	Applying the 'more for more' principle: EU decides on additional €28 million under the Eastern Partnership Integration and Cooperation Programme (EaPIC) to support Moldova's reforms, in particular that of the justice system; the development of rural areas; and the upgrade of the health system. This increased by 30% EU bilateral grant support to Moldova in 2012, to a total of €122 million.

Source: the data in this table comes from two EU's National Indicative Programmes (2007-2010, and 2011-2013), as well as from EU announcement published by EEAS on its webpage at http://eeas.europa.eu/moldova/news/index_en.htm#top

The figures in the Tab. 3 shows that EU's financial support for Moldova has increased by five times in six years, from EUR 25 million in 2006 to € 122 million in 2012. Adding all EU assistance funds the figures stand at EUR 41 per capita, the highest level of support in the European Neighborhood⁶⁸.

⁶⁸ This was highlighted by the president of European Commission, Jose Manuel Barroso in a speech given in Chisinau in November 2012. See Barroso (2012)

2.5. Chapter Conclusions

Even though the EU did not offer the membership perspective, it still enjoys a considerable leverage in Moldova. As we could see, Moldova considers European integration as a way to increase its security in the face of a bullying Russia who uses energy prices and military presence in the breakaway Russian speaking region of Transnistria to reassert its influence on Moldova as a whole. As a poorest country in Europe, Moldova relies on the EU development aid and sees in a closer economic integration with the EU a source of increasing prosperity. Moldova has close kinship relations with EU member Romania which has a policy of granting citizenship to Moldovans. But important parts in Moldovan leadership and political forces see visa free regime with EU as a way to stop the mass applications for Romanian citizenship and loyalty drain to Romania. All major political forces in Moldova consider European integration as main foreign policy priority, though the Party of Communists proved more reluctant and capricious. Since 2009, the governing coalition named “Alliance for European Integration” made closer relationship with the EU a necessary condition for modernizing the country, thus putting itself in a position of rhetorical entrapment vis-à-vis the EU.

On the negative side, Moldova is exposed to temptation of cheaper gas prices from Russia and immense geopolitical systemic forces which shape not only its foreign policy but also the entire internal political context. I find that this context in Moldova revolves from being favorable for effectiveness of EU conditionality, to unfavorable and back. A cyclical

pattern is emerging over time. The Commission and the emerging EU diplomacy may have difficulties to properly understand the domestic context in Moldova and act decisively to try to break the pattern, even though they are willing to do so. The way in which the current political crises will go will be also indicative as to whether even for pro-European governments the costs implied by the EU conditions are higher than the benefits of the rewards.

All in all, however, EU democratic conditionality driven by the visa liberalization perspective has a great potential to deliver in Moldova. If conditionality fails there, it is difficult to imagine that it will work anywhere else in Eastern Partnership countries.

In this chapter we have also seen that, while domestic specific context is crucial for the effectiveness of conditionality outside enlargement, the ENP in general and EU Action Plan in special was marred by the lack of specificity, endless list of often ill-specified demands from the part of EU and the absence of clear, credible and tangible rewards for compliance. In the next chapter we will analyze whether the determinacy and strength of conditionality has improved with the VLAP which was presented to the Moldovan authorities by the Commission in January 2011.

3. The promise of visa liberalization and democratic conditionality

3.1. Chapter Abstract

The conditionality is conceived as a bargaining process in which the EU promises rewards if the target country fulfills the condition of adopting democratic institutions and practices. To be effective, the benefits of the EU rewards should exceed the adoption costs for the targeted governments. The most compelling reward is quick and credible accession to membership.

However, the membership is not the sole factor which determines the effectiveness of the conditionality, neither is it a condition sine qua non. The latter assumption lies at the core of this research and is also this chapter in which I discuss whether the reward of visa liberalization is sufficiently potent to drive democratic change and consolidation beyond the enlargement. I then develop a tool for assessing the strength and determinacy of conditionality and use it to analyze the VLAP for Moldova. But the chapter is introduced by a discussion on particularities of conditionality in Eastern Partnership.

3.2. EU Conditionality in Eastern Partnership

The Commission states that conditionality is a guiding principle at the core of EU relationship with its Eastern partners. Other two principles are joint ownership and differentiation⁶⁹. Differentiation stands for different approaches for different countries. This approach opposite to that used in the case of enlargement where, at least on paper, all acceding countries are supposed to have been treated in the same way.

Differentiation does not pose any problems for conditionality, but joint ownership does. As already mentioned in the literature review in the first chapter of this thesis, “joint ownership” undermines the effectiveness of conditionality. It reduces the likelihood that conditions reflect the EU’s objective precisely. It allows governments that do not share the EU’s democracy and human rights agenda to minimize the conditions through negotiations.

On the other hand, however, joint ownership allows for the Commission’s participation at every stage of the implementation of a joint policy. This means, for instance,

⁶⁹ Conditionality is one of three guiding principles on which Eastern Partnership is based. The other two are joint ownership and differentiation. See: “Joint Communication to the European Parliament, The Council, The European Economic and Social Committee and the Committee of the Regions, ”Eastern Partnership: A Roadmap to the autumn 2013 Summit.”, pp. 2

that Commission can deliberately introduce vague and general benchmarks in early stages and documents formally agreed. The vague benchmarks are easier to accept by target governments who calculate that they will be able to manipulate the unclear rules to their advantage or avoid adopting them at all.

For better understanding I will give an example. The formally agreed benchmark could look like this: “adoption of antidiscrimination legislation”. At a more advanced stage, however, Commission specifies either formally or informally that this means among others the “adoption of a law that prohibits discrimination on the grounds of sexual orientation”.

As we will see later when examining the VLAP for Moldova, this is more difficult to accept for the governments because it implies higher costs including electoral costs due to the controversial nature of the condition. But here a fourth principle of Eastern Partnership policy kicks in to alter the costs benefit calculations of the governments. This is the “more for more” principle. Introduced way after the actual launch of the Eastern Partnership policy, it holds that more a partner country makes progress, the more support, including financial it will receive from the EU principle⁷⁰. “More for more” also helps in that sense that EU assumes at least in part some of the administrative costs which arise from ample reforms such as the reform of judiciary and law enforcement agencies.

“More for more” which also implies “less for less” may also compensate for the absence of membership offer, which remains the biggest hurdle for conditionality beyond enlargement.

Because the membership offer is not on the table for these countries, the Commission encourages them not to focus on the “destination” which is uncertain, but on the “common

⁷⁰ Ibid., pp. 4

journey". It recommends concentrating the efforts "on the next step that needs to be taken, the next curve where you need to turn, the next crossing where you need to pass through"⁷¹.

Such an approach resembles the attitudes within EU towards the European integration itself as an open ended project whose final end point is surrounded in uncertainty. This approach essentially says that focusing on the destination, but at the same time disagreeing about what the destination should be (a federal state, or just a closer intergovernmental union, for instance) can stall the whole process. The alternative approach recommends concentrating on the smaller goals and stages. This helps to advance the integration further while leaving the big debate for a later time.

While the membership is not on the table for the Eastern Partnership countries, it is neither explicitly off the table. The Commission is playing the vague tactics of "half opened doors" in the case of Moldova and Ukraine, acknowledging their "European aspirations and the European choice" and "their commitment to build deep and sustainable democracy"⁷².

The article 49 of the Treaty on European Union which describes the possibility for European countries to join the EU is often invoked, for instance, by Štefan Füle, the European Commissioner for Enlargement and Neighbourhood Policy when he speaks about the future relationship with Eastern Partnership countries⁷³.

⁷¹ Barroso (2012)

⁷² "Joint Communication to the European Parliament, The Council, The European Economic and Social Committee and the Committee of the Regions, "Eastern Partnership: A Roadmap to the autumn 2013 Summit.""

⁷³ See for instance Füle (2013)

3.3. Hypotheses of democratic conditionality based on visa liberalization

I return here to the conclusion by Lavenex and Schimmelfennig outlined in the first chapter about the effectiveness of conditionality. It holds that the leverage model of EU democracy promotion is likely to be *most effective* in the situation if: *“the EU sets strong and determinate conditions for quick and credible accession to full membership, if interdependence between the EU and the target state is asymmetrically favoring the EU, and if the domestic power costs of fulfilling these conditions are low for the target state government”*⁷⁴.

It follows that EU conditionality is likely to be *least effective* if: *the EU sets weak and vague conditions in return for a distant and uncertain reward short of membership, if interdependence between the EU and the targeted state is asymmetrically favoring that state, and if the domestic power costs of fulfilling these conditions are high for the target state government.*

Is this description true for conditionality that EU applies in Eastern Partnership countries? It will be fairly uncontroversial to say that it is not entirely true.

We already know that EU offers three rewards to the partner countries: “political association” short of membership, “economic integration” through Deep and Comprehensive Free Trade Areas and “visa liberalization”. The rewards on the offer are short of membership and, according to literature, they are less attractive. But the real question is, are they attractive enough for the target government relative to the conditions and the costs of fulfillment of the conditions?

Let’s discuss the rewards on the offer one by one. Can any of them rival the membership offer as the most compelling reward? The political association does not come

⁷⁴ Lavenex, and Schimmelfennig 885-909, pp. 895

close. First, the term it is pretty vague. It is not clear to what extent if any this political association implies the involvement of the partner country in EU institutions and decision making. Political association should be consecrated by the signature of Association Agreements. No such agreement was signed yet. The EU only initialled the agreement with Ukraine. Its content was not made publicly available. But, in a hand-out published on its website, the EU hints that political association means cooperation and dialogue and lists such common institutions as EU-Ukraine Summit and Association Council⁷⁵. At this point, political association this could be best described as a reward of reputational and ideational nature, which is generally considered in the literature less compelling than the material rewards⁷⁶.

The liberalization of trade in a form of Deep and Comprehensive Free Trade Areas is described as an integral part of the Association Agreement. Free trade can, presumably, bring more palpable gains. But it is difficult to estimate how big the gains are and who gains the most from trade liberalization. On one hand, such agreements usually keep in place at least for a certain period the barriers against sensitive products for EU market such as agricultural products, which are an important export category for the partner countries. On the other hand, the debt crisis and the recession in European Union in recent years have exposed the risks for third economies of relying too much on the EU market. The latest ENP Country Report for Moldova, for instance, cites the weakening EU economy as one of the main factors which brought to a halt Moldova's economic recovery in 2012⁷⁷. Furthermore, trade liberalization is the general trend in today's globalized world and it can be arguable achieved alternatively

⁷⁵ "EU-Ukraine Association Agreement, Guide to the Association Agreement"

⁷⁶ Schimmelfennig and Sedelmeier 2005, Vachudova

⁷⁷ "Implementation of the European Neighborhood Policy in Republic of Moldova. Progress in 2012 and recommendations for action", pp. 10

through World Trade Organization of which both the EU and targeted countries are part. The targeted countries may choose this path rather than the path of painful reforms imposed by the EU.

Out of the three rewards on the table for Eastern partners, visa free regime is the most straightforward, palpable and easy to understand by the citizens of the targeted country. Every citizen can benefit directly and personally if the government implements the condition for visa liberalization. The gain for the government is also clear: by obtaining visa free regime, it immediately increases its chances for being reelected.

Another advantage of visa liberalization is that, unlike free trade, it should be possible to be reversed at comparatively little costs for the EU. Recent events concerning visa liberalization in Balkans are suggestive. Several EU members complained to the Commission for an alleged spike in asylum claims from the region. Austria, Belgium, France, Germany, Luxembourg and the Netherlands has threaten to push for the reintroduction of visas, saying in a letter to the European Commission ahead of the Justice and Home Affairs Council in October 2012 that thousands of people from the former Western Balkan countries were delaying the system by claiming asylum with fake passports. Most fake claims were from Serbia and Former Yugoslav Republic of Macedonia⁷⁸. The General Affairs Council of the EU, in December 2012, has “urged the authorities of the Western Balkans countries concerned to take all the necessary measures against the abuse of the visa free travel regime in order to ensure its unrestricted continuation.”⁷⁹ Serbian government promised to curb the trend and even that they were ready to compensate EU countries for costs caused by fake

⁷⁸ "Justice and Home Affairs Council: 25-26 October 2012".

⁷⁹ "Council Conclusions on the Enlargement and Stabilization and Association Process".

asylumseekers⁸⁰. This episode highlights that EU will be always able to credible threaten with canceling visa free regime.

For all the reasons discussed above, visa free regime stands apart as the most compelling rewards among those offered so far by the EU to the countries of Eastern Partnership.

So, my first conclusion is that the EU possesses a potentially very appealing carrot for enabling democratic conditionality.

But how will it possibly justify attaching democratic conditions to visa liberalization, which target states prefer to regard as a matter of sectorial cooperation, without evident connection to democracy issues?

According to the hand-out to the Association Agreement initialed with Ukraine, EU had faced difficulties indeed in linking the two. As a result, the promotion of democracy ended up in the Tittle II, "Political dialogue and reform, political association, cooperation and convergence in the field of foreign and security policy". Visa liberalization is mentioned only in Tittle III, "Justice, Freedom and Security" which makes no reference to democracy promotion as such, and refers only to "issues concerning the rule of law and respect for human rights; protection of personal data; cooperation on migration, asylum and border management; treatment of workers; mobility of workers; movement of persons; money laundering and terrorism financing; cooperation on the fight against illicit drugs; the fight against crime and corruption; cooperation in fighting terrorism and legal cooperation"⁸¹. It is plausible to suppose that the same will happen in negotiations with other countries.

⁸⁰ Bazán

⁸¹ "EU-Ukraine Association Agreement, Guide to the Association Agreement".

However, having at its disposal such a powerful incentive as visa liberalization, EU should use it. Consequently, I hypothesize that *EU is likely to successfully try to introduce tough democratic benchmarks in VLAP, even though the target states prefer to regard it as a matter limited to sectorial cooperation.*

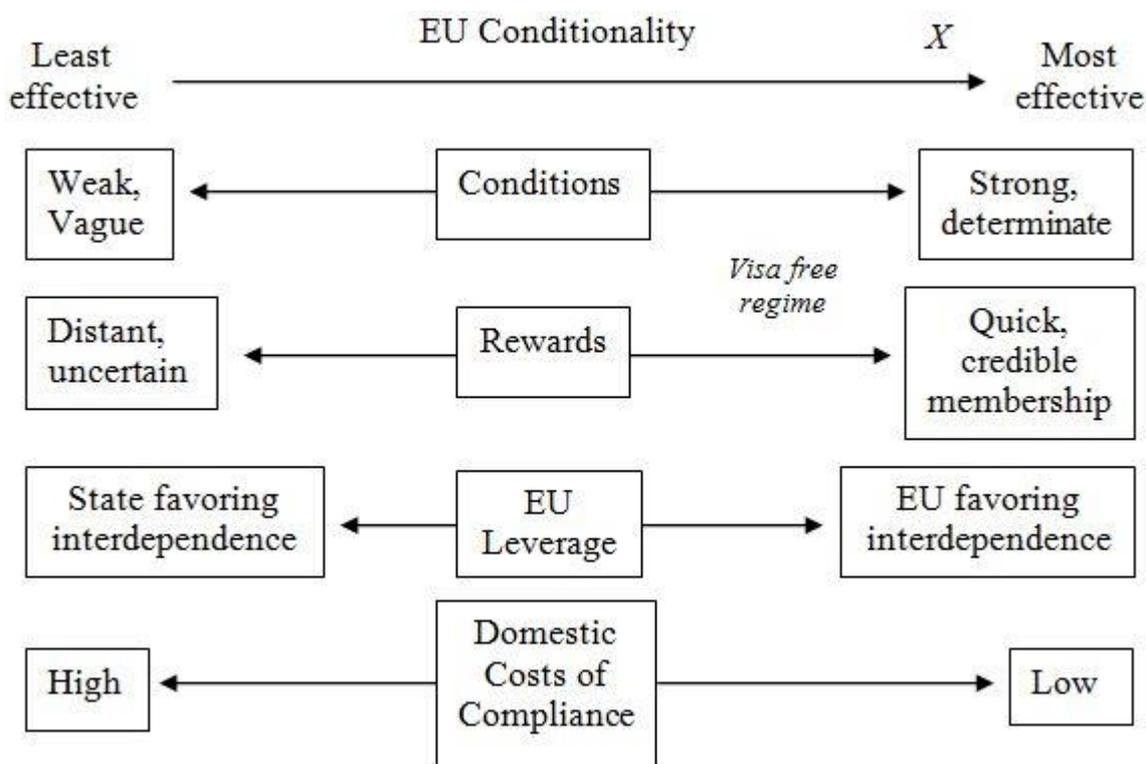
As we have seen, the literature questions the effectiveness of democratic conditionality even in the enlargement context on the grounds of unclear demands, vague benchmarking, moving targets. The criticism is directed mainly against the Commission. The question asked is: if EU's efforts to promote democratic change and consolidation through conditionality had produced only mixed results even in the context of enlargement, then how can it be expected that democratic conditionality can work effectively beyond enlargement, where it lacks its main driving force, the reward of membership? Hence, a second hypothesis is that *Commission is likely to have addressed the shortcomings admitted during the enlargement and tried to improve the strength and determinacy of conditions.*

The hypotheses will be tested by analyzing the VLAP with the help of a tool which I derive from the Lavenex and Schimmelfennig's findings on the effectiveness of conditionality.

3.4. Tools

At the beginning of this chapter, I have reversed the Lavenex and Schimmelfennig's findings on what is likely to be the *most effective* conditionality in order to establish what is likely to be the *least effective* conditionality. These are the two extremes. But there is a lot going on in between. I illustrate this in the figure 1.

Fig. 1: The axis of potential effectiveness of EU conditionality



The axis presented in figure 1 can be described as a basic tool for measuring the potential effectiveness of EU conditionality in any targeted country. It opens up a number of possibilities to developed specific tools for specific purposes. A first step is to put values points on the axis, for example from 0 (Least effective conditionality) to 10 (Most effective conditionality). Then each of variables (Conditions, Rewards, EU leverage and Domestic Costs of Compliance) can be measured separately for any given country, based on specific criteria for each variable. By adding a Y axis for time, one can calculate and graphically represent the evolvement of EU conditionality over time, for each given country. An interesting picture may emerge if these graphs are put together to give a single representation for the potential effectiveness of EU conditionality in Eastern Partnership countries. Such an undertaking would be, however, beyond the aim of this thesis.

Keeping this in mind as well as my hypotheses, I refine the tool to be able to measure the first variable which refers to the strengths and determinacy of conditions. I outline 5

indexes relevant to the strength and determinacy of EU conditions. These are: - *Linkage*; - *Clarity*; - *Formality*; - *Ownership*; - *Timetable*. I explain them one by one.

As briefly mentioned previously, Lavenex and Schimmelfennig (2008) distinguish between strong and weak conditionality depending on how consistently and explicitly the organization links rewards to the fulfillment of conditions. In other words, does EU link specific conditions, such as protection of minority rights to specific rewards, such as granting visa free regime, or just generally states that the partner country has to respect human rights? Hence, I propose a first variable for assessing the EU conditions, which I call their *linkage* with the reward.

The determinacy of conditions also matters. According to Lavenex and Schimmelfennig, the determinacy refers to the *clarity* and *formality* of conditions, which I least as the second and third variables. The clarity helps the target governments to know exactly what they have to do to get the rewards. For instance, is the EU generally asking target government to protect minority rights to obtain visa free regime, or is it asking for the adoption and implementation of a law that would protect explicitly formulated rights of explicitly listed minorities?

The formality refers to the “legal” form of the condition. In other words, are conditions embedded in some sort of official document, or just informally disseminated by the EU in a form of statements by various EU officials?

Lavenex and Schimmelfennig (2008) hold that a higher degree of determinacy is a signal to the target countries that they cannot manipulate the rule to their advantage or avoid adopting it at all. At the same time, however, it binds the EU. If a condition is determinate, it becomes more difficult for the EU to claim unjustly that it has not been fulfilled and to withhold the reward. Thus, the credibility of the reward is also increasing together of the determinacy of the conditions.

To these three variables, *linkage, clarity and formality*, which derive from Lavenex and Schimmelfennig's arguments, I am adding two more which pertain to the determinacy of conditions: the *ownership* and *timetable*. The ownership of the condition refers to whether the EU conditions were subjected to the negotiation with the target countries, or the conditions were presented by the EU in a "take it or leave it" fashion. In a joint ownership, the determinacy of the conditions is weak, because the target governments could try to soften them in their advantage. Thus conditions do not reflect the EU objective precisely.

Finally, the timetable refers to whether there is a certain period of time in which the conditions should be fulfilled by the target government in order to receive the reward. The presence of a calendar for fulfillment of the conditions gives the EU a valuable instrument to exercise additional pressure on the partner country. Its value increases if it overlaps with the election calendar in the country in such a way that the target government regards the fulfillment of the conditions and delivery of the reward as a factor that increases in reelection purposes.

Thus far, I have identified 5 indexes relevant to the strength and determinacy of EU conditions: *linkage, clarity, formality, ownership* and *timetable*. There may be others, but I consider these the most important. To each of them I assign 2 points. It follows that any given conditions should be the strongest and most determined if they accumulate the maximum of 10 points.

The benchmark to measure whether the strength and determinacy of democratic conditions have improved is the enlargement of 2004 and 2007. The benchmark is set at 5 points.

I shall recall here the findings by De Rider and Kochenov that, at that time, the EU had no conceptual clarity on what constitutes a consolidated democracy and had not clearly defined the Copenhagen criteria, while the Commission was sending random and ad hoc

demands, asking the candidate countries to comply with the unknown. Thus, both the *clarity* and *formality* receive 0 points each.

The *linkage* receives 2 points because the EU made it explicit that the fulfillment of the Copenhagen criteria is the condition to be fulfilled by the acceding countries in order to acquire the candidate status.

1 point went for *timetable*. Without going deep into details, I just recall that the Commission has set several temporal governing devices during eastern enlargement for the structuring, monitoring and steering of the policy, facilitating decision making for political actors. According to Lass-Lennecke & Werner⁸², these instruments comprised: The Medium Term Perspective, The Regular Progress Report; The Road Map; no precision by EU on accession date and the Transition Period for the implementation of the *acquis*.

The Medium Term Perspective is first time frame for the period until accession. Presented by the Commission in a formal opinion in 1996 the Medium Term Perspective set 2002 as technical working hypothesis for accession. The second instrument of interest is Regular Progress Report to assess progresses by each candidate countries. The progress reports were prepared every year and laid the ground for the European Council decisions in December.

The Road map was set in 2000 to calm down six front running candidates who feared that the extension of candidates' number to 12 will delay their accession. No definite data was set for accession out of fears of Commission that this would affect conditionality by allowing target countries to relax. The Transition Periods for the implementation of the *acquis* after the accession were time frames negotiated with each acceding country.

⁸² Lass-Lennecke, and Werner, pp.5

No instrument refers directly to democratic conditionality (compliance with Copenhagen Criteria). Only one instrument is relevant here: the yearly Regular Progress Reports that were helping countries to adjust their internal agenda to whatever goals they were interested to achieve with each consecutive European Council.

Finally, the other 2 points go for *ownership* as no future members states was implicated in setting up Copenhagen criteria.

All in all, I set the benchmark for the strength and determinacy of enlargement era democratic conditionality at 5 points. I will use the benchmark to expose any evolutions of the strength and determinacy of conditions in the VLAPs for Moldova. This will be done in the last chapter.

3.5. Chapter conclusions

In this chapter, I proceeded from the idea corroborated by the previous studies that membership offer, is of the chief importance for the effectiveness of conditionality. In Eastern Partnership countries, Commission is playing the vague tactics of “half opened doors”, especially in the case of Moldova and Ukraine. But membership offer it is not the sole factor which determines the effectiveness of democratic conditionality, neither is it a condition sine qua non. I had asked whether EU promise to abolish visa regime can be a compelling reward to induce target government to introduce democratic change and had concluded that it has a considerable potential. Visa liberalization is the best available replacement to the membership offer. This reward is straightforward, easy to understand, with immediate impact on virtually all the citizens of the target country. I also developed and explain my hypotheses that, having such an appealing carrot, the EU is likely to introduced tough democratic benchmarks in VLAP, even though there is no clear link between visa

liberalization and democracy; the Commission is likely to have addressed the shortcomings admitted during the enlargement and tried to improve the strength and determinacy of conditions in VLAP. To verify the hypotheses I now turn to the examination of VLAP, which I'm approaching with a set of 5 indexes relevant to the strength and determinacy of conditions.

4. The Action Plan on Visa Liberalization with Moldova⁸³ and EU conditionality

4.1. Chapter Abstract

Moldova is the most advanced country in fulfilling VLAP⁸⁴. In this chapter, I will analyze the VLAP for Moldova. The VLAP should contain tough democratic benchmarks in order to confirm the hypothesis that EU is using the powerful incentive of visa liberalization to promote democracy. The strength and determinacy of democratic conditionality in VLAP should also score higher than in the case of enlargement era democratic conditionality in order to confirm my second hypothesis that Commission had addressed the previous shortcomings.

4.2. The VLAP for Moldova: the strength and determinacy of conditions

I start with content analysis. The VLAP sets a list of requirements in 4 blocks:

- Document security including biometrics;
- Irregular migration including readmission;

⁸³ "EU-Republic of Moldova Visa Dialogue - Action Plan on Visa Liberalisation".

⁸⁴ "Council conclusions on the Republic of Moldova - Action Plan on Visa Liberalisation".

- Public order and security;
- External relations and fundamental rights.

Each block contains one or more sections. For example, public *order and security* is divided into as many as four sections: Preventing and fighting organised crime, terrorism and corruption; Judicial co-operation in criminal matters; Law enforcement co-operation; Data protection. All together the four blocks consist of 11 sections.

Every section contains 2 tiers of benchmarks: “preliminary benchmarks” concerning the legislation and planning, and “more specific benchmarks”, referred to as “effective and sustainable implementation of relevant measures”⁸⁵. There are 27 “preliminary benchmarks” and 31 “specific benchmarks”.

The last block, external relations and fundamental rights includes a set of conditions under the section: “Citizens’ rights including protection of minorities”. It has 4 preliminary and 2 specific benchmarks. Amounting to some 10 % of the whole number of benchmarks in the VLAP, these are the only benchmarks pertaining to democratic conditionality.

So, I can make the first conclusion that the democratic conditionality is present in VLAP, though its presence is rather reduced. Next, I turn to the *clarity* of actual benchmarks.

4.2.1. *The clarity*

The first “preliminary benchmark” is rather vague. It provides for the “Adoption of comprehensive anti-discrimination legislation, as recommended by UN and Council of Europe monitoring bodies, to ensure effective protection against discrimination”, without mentioning any specific recommendation or category of discrimination.

⁸⁵ "EU-Republic of Moldova Visa Dialogue - Action Plan on Visa Liberalisation". pp.3.

The second benchmark follows a similar pattern. It is pretty vague about the particular documents to be adopted: “Adoption of a comprehensive National Human Rights Action Plan; actively pursue in the respective National Human Rights Action Plan the specific recommendations of UN bodies, OSCE/ODIHR, the Council of Europe/ECRI and international human rights organizations notably in implementing anti-discrimination policies, protecting minorities and private life and ensuring the freedom of religion”. This benchmark hints towards one category of minorities to be protected. But it also puts the Moldovan government in the position to wonder, for example, which international human rights organizations’ recommendation should it follow.

The third benchmark is “Ratification of relevant UN and Council of Europe instruments in the fight against discrimination”. It implies that Moldova has already made steps to adopt the instruments, hence it knows what instruments, but did not ratify them yet.

The last “preliminary benchmark is “Specify conditions and circumstances for the acquisition of the citizenship of the Republic of Moldova”. It implies that Moldovan legislation about granting citizenship is vague, but does not do much to clarify in each direction should it be perfected.

But this vagueness was rather expected. Since these were only “preliminary benchmarks”, I expect more specifics from the 2 “specific benchmarks *for effective implementation*”. The first asks for “effective implementation of legislation and policies on anti-discrimination, implementation of relevant UN and Council of Europe instruments” which already have been listed rather vaguely above.

The second “specific benchmark” provides for “Effective implementation of the National Human Rights Action Plan measures on fight against discrimination (including allocation of adequate resources); general awareness raising campaigns against racism, xenophobia, anti-Semitism”. This benchmark refers to the above National Human Rights

Action Plan whose provisions are unknown and asks for backing it up with “adequate resources”, without defining what adequate means. On the other hand, the mentioning of racism, xenophobia, anti-Semitism is a second, but just a second transparent indication of what kind of minorities to be protected are implied by the title of this section.

To put this into the perspective, I’ll mention few benchmarks in other blocks. For instance a “preliminary benchmark” under the block of “Document security including biometrics” asks for much more clear “Adoption of an Action Plan containing a timeframe for the complete roll-out of ICAO-compliant biometric passports, including at Moldovan consulates abroad, and the complete phasing out of non-ICAO compliant passports”. Another “preliminary benchmark” in the block of “Public order and security”, section of “Judicial cooperation in criminal matters” asks very precisely for the “Accession to the 2nd Protocol to the European Convention on mutual legal assistance”.

All in all, the democratic conditions in VLAP is a reminder of the enlargement era conditionality criticized in the literature for unclear demands, vague benchmarking and of the EUMAP criticized for the seemingly endless list of often ill-specified demands. Nevertheless, few specific demands here and there indicate that the democratic benchmarks of the VLAP represent a movement ahead. Therefore, the first of five variables examined here, **the clarity of conditions receives 1 point out of 2 possible.**

The lack of clarity of the benchmarks plays on the hand of the target government, which tries to manipulate the unclear rules to its advantage or avoid adopting them at all. This is exactly what happened in the case of adoption of the antidiscrimination law in Moldova. Though this thesis does not use progress tracking method, I will briefly use this example for the better understanding of the importance of the clarity of conditions.

The condition of “adoption of comprehensive anti-discrimination legislation” was vague on whether sexual minorities should be listed among those protected by law against

discrimination. This specific issue was apparently supposed to be discussed in the framework of the EU - the Republic of Moldova Human Rights Dialogue. The dialogue was launched in February 2010 with regular meetings to be held at least once per year⁸⁶. Based on this dialogue, the government first approved the bill of Antidiscrimination Law in February 2011 and introduced it in the Parliament. The bill stipulated sexual minorities alongside other minorities to be protected by law against discrimination. But this specific provision was absent from the VLAP. The Parliament then spent one year and several months until the end of May 2012 to clarify whether the EU insists on this provision. Through diplomatic channels, informal meetings and press statements by European officials, most notably the members of the EU Delegation to the EU-Moldova Parliamentary Cooperation Committee, the EU made clear that this was the case. Finally, the Moldovan parliament changed the name of the bill into the Law on ensuring equality and adopted it in an amended version that only bans discrimination on the ground of sexual orientation at the employment. This determined the EU to ask for "reassurances that the law is intended to cover all grounds for discrimination in line with the international commitments of the Republic of Moldova, even though some are only implicitly mentioned". The EU also asked Moldova to issue "guidelines on the implementation of the law, which will be monitored by the EU within the existing dialogue frameworks"⁸⁷.

Next, I move to the assessment of the *ownership and formality* of the conditions.

⁸⁶ "Council conclusions on establishing the EU - the Republic of Moldova Human Rights Dialogue."

⁸⁷ ("EU and Republic of Moldova Hold Human Rights Dialogue")

4.2.2. *The formality*

Formality receives 1 point. Though the conditions were actually put in a legal form of VLAP, their meaning was specified through informal channels, as we have seen in the case of antidiscrimination legislation discussed above.

4.2.3. *The ownership*

The EU-Republic of Moldova Cooperation Council has decided on 21 December 2009 *"to strive to set up in 2010 a dialogue examining the relevant conditions for visa-free travel of Moldovan citizens to the EU as a long-term goal"*⁸⁸. *But the speed of initial steps made is impressive. The dialogue has started in June 2010. By the end of October the same year, the Council has invited the Commission "to prepare a draft Action Plan setting out all the conditions to be met by the Republic of Moldova before the possible establishment of a visa-free travel regime"*⁸⁹. Less than three months later, in January 2011, the VLAP was presented to Moldova. It was brought to Chisinau by European Commissioner for Home Affairs, Cecilia Malmström⁹⁰.

No mention is made about any negotiations with Moldova on the conditions. No rounds of dialogue are mentioned to have taken place between October and January 2011, when the plan was actually presented to Moldova. Hence, it was a "take it or leave it" plan.

⁸⁸ "EU-Republic of Moldova Visa Dialogue - Action Plan on Visa Liberalisation". pp.1.

⁸⁹ Ibid, pp.1.

⁹⁰ "Commissioner Malmström presents Action Plan on visa liberalisation with the Republic of Moldova"

But since some elements of negotiations through formal dialogue with the target government were present the *ownership* receives **1 out of maximum 2 points**.

4.2.4. *The linkage*

The VLAP repeatedly makes clear throughout all the explanatory sections – in the “Background” section, in the section of “Initial impact assessment of possible future visa liberalization” and in “Methodology” section that visa-free travel for Moldovan citizens “can only be established once the relevant conditions are put in place”⁹¹. The link between the conditions and the reward is explicit and consistent in the VLAP, which also states that its objective is “to identify all the measures to be adopted and implemented by the Republic of Moldova”⁹². Therefore, the *linkage*, **a variable that stands for the strengths of conditionality also gains 2 points**.

4.2.5. *Timetable*

The VLAP has no clear timetable for fulfillment of the conditions. But it the visa-free travel of Moldova citizens to the EU is identified as a “long term goal”, but there is no definition given. The “Methodology” section provides that “The Commission will regularly report on the Republic of Moldova’s implementation of this Action Plan to the European Parliament and to the Council, for the first time in mid-2011”. It also makes it crystal clear that “the speed of movement towards visa liberalization will depend on progress made by the

⁹¹ "EU-Republic of Moldova Visa Dialogue - Action Plan on Visa Liberalisation". pp.2.

⁹² Ibid., pp. 2.

Republic of Moldova in fulfilling the conditions set. Therefore, there will be no automaticity and progress in the fulfillment of each set of benchmarks will be closely examined and decided upon by the Commission and the Council. The complete fulfillment of the first set of benchmarks will be closely examined and verified by the Commission and the Council before a decision is taken to initiate the assessment of the second set of benchmarks”.

However vaguely formulated, the Council has concluded in November 2012 that Moldova fulfilled all the benchmarks under the first phase of the action plan, legislation and planning. The Council has decided to launch the assessment of the benchmarks set out under the second phase, effective and sustainable implementation.

The Commission should continue monitoring the implementation of the benchmarks and report regularly. Moldova's to fulfill the conditions of the second tier will have to a long long-term decision-making process in the European Commission, the Council and the European Parliament, as well as receive the initial approval of EU institutions.

The lack of a clear **timetable** for fulfilling of the conditions, but the existence of regular reports resembling the Regular Progress Reports of enlargement allows for granting **1 point** to the VLAP under this variable.

The table 4 illustrates these findings and compare them to the strength and determinacy of enlargement era democratic conditions.

Tab.4: Comparative indexes of the strength and determinacy of EU democratic conditions in VLAP and Enlargement.

Criteria	Maximum Points Possible	VLAP Points	Enlargement Points
<i>Clarity</i>	2	1	0
<i>Formality</i>	2	1	0
<i>Ownership</i>	2	1	2
<i>Linkage</i>	2	2	2
<i>Timetable</i>	2	1	1
Total	10	6	5

Summing up, after analyzing the VLAP through the prism of five indexes accounting for the strengths and determinacy of EU conditions I conclude that it scores **6 point out of 10 possible**. It received 1 point more than enlargement era democratic conditions because of improvements to clarity and formality of conditions. But the ownership decreased, while timetable performed the same.

4.3. Chapter Conclusion

In this chapter I have analyzed democratic conditionality in VLAP for Moldova. The strength and determinacy of conditions scored higher than in the enlargement era conditionality, but the difference of one point on a 10 points scale is not dramatic. The pattern of ill specified demands perpetuates and is a major source of disappointment. The findings suggests that, besides formally stated documents, conditionality is enforced through a lot of informal channels. But this is harder to verify and quantify. Thus, the result of testing the hypothesis that Commission should have addressed the previous shortcomings is inconclusive. At the

same time, the second hypothesis that EU should have tried and succeed to introduce democratic conditions in VLAP, which target states prefer to regard rather as a matter limited to sectorial cooperation, was confirmed by the analysis.

5. Conclusions and final remarks

The objective of this research was to test whether the widely shared view that EU conditionality has exhausted its potential to promote democracy to third countries still holds. According to this view, conditionality has lost its power because due to enlargement fatigue EU can no longer credibly promise target countries the reward of membership. Even in the context of enlargement democratic conditionality has been criticized for many shortcomings, especially for unclear demands, vague benchmarking, moving targets, and politicized decision-making.

But while the view about the impotence of EU conditionality beyond enlargement was gaining ground among researchers, the events unfolding in one of the Eastern Partnership countries, Moldova, where a fresh governing Alliance for European Integration rose to power in 2009 were suggesting something completely different. The country has embarked on a fast track of reforms with many European officials calling Moldova a potential “success story” of Eastern Partnership and give it as example for others.

Conditionality is one of the key principles at the core of Eastern Partnership. Was Moldova responding to it, and if yes, why? The changes in domestic context were the first place to look for possible responses. But another place was EU conditionality itself.

Had a reward other than membership which is compelling enough to drive democratic change and consolidation emerged? Did EU address and ameliorate the enlargement shortcomings of enlargement era democratic conditionality?

I argued at the beginning of this thesis and the argument rather holds that EU's offer of visa free regime to non-candidate countries such as Moldova is the most powerful incentive to induce their governments to introduce reforms. Abolishing visas is straightforward, palpable and easy to understand. Every citizen of given targeted country can benefit directly and personally if the government implements the conditions for visa liberalization. The gain for the government is also clear: by obtaining visa free regime, it immediately increases its chances for being reelected. Last but not least, visas can be reintroduced at little cost for the EU, if the target government backslides on the commitments.

But no matter how sweet, this carrot alone is not appetizing enough to put target country on irreversible path towards EU styled liberal democracy. Something else must also account for Moldova's apparent willingness to respond to conditionality. While more studies are needed, I find it plausible that the response is triggered by the policy of "half open, half closed doors" maintained by EU

In this thesis, I had also hypothesized that the Commission should have addressed the shortcomings of the enlargement era conditionality and should have improved the strength and the determinacy of democratic conditions. I had used a specially designed tool to measure these variables in the VLAP and conclude that, while they score higher than in the case of enlargement era conditionality, the difference of 2 points on a 10 points scale is not dramatic. The pattern of ill specified demands perpetuates and is a major source of disappointment. While it is evident that besides formally stated documents, conditionality is enforced through a lot of informal channels, this is difficult to verify and quantify. Thus, the results are rather inconclusive. These can constitute a good starting point for further research, for which the basic tool developed in this thesis can be also used. It is derived from a set of criteria about

the effectiveness of conditionality that was advanced by Lavenex and Schimmelfennig in 2011 in a study about the mechanisms of external democracy promotion.

Finally, this thesis contributes to a better understanding of specific context of Moldova and particularities of its relationship with the EU, confirming previous findings that domestic environment is a key factor for the effectiveness of EU conditionality beyond enlargement. Domestic context in Moldova revolves from being favorable for the effectiveness of EU conditionality, to unfavorable and back. A cyclical pattern is emerging over time. These cycles are shaped by a mix between competing geopolitical pressures on Moldova and party politics. The Commission and the emerging EU diplomacy may be having difficulties to properly understand the domestic political context in Moldova.

The EU enjoys a considerable leverage in Moldova, which makes the country a litmus test. The story of the effectiveness of EU's democratic conditionality beyond enlargement is still unfolding in that country at the moment when the last words of my thesis are written. The way which the current political crisis ends, whether the cyclical pattern of alternation of pro-European and pro-Russian governments is broken and the country is put on a firm path towards democracy or not will tell if it is a success story or a failure.

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Tab. 1 Parliamentary elections in Moldova, 1990 - 2013

Year	Seats distribution	Government
February-March 1990	Popular Front of Moldova Independents Communist Party of Moldova	Anti-Soviet coalition of Moldovan/Romanian nationalists and moderate communists elected in rural areas.
February 27, 1994, Early Parliamentary Elections	Agrarian Democratic Party – 56 “Socialist Party and Unitate-Edinstvo (Unity)” Electoral Bloc – 28 Peasant’s and Intellectual’s Bloc” Electoral Bloc – 11 “Alliance of the Christian-Democratic People’s Front” Electoral Bloc - 9	Pro- Russian
March 22, 1998	Party of Communists – 40 “Democratic Convention of Moldova” Electoral Bloc – 26 “For a democratic and Prosperous Moldova” Electoral Bloc – 24 Party of Democratic Forces – 11	Pro-Western (Pro-EU)
February 25, 2001, Early Parliamentary Elections	Party of Communists – 71 “Braghis Alliance” Electoral Bloc – 19 Christian Democratic People’s Party – 11	Pro-Russian first half of the mandate then, switched direction towards EU
<u>March 6, 2005</u>	Party of Communists – 56 Moldova Democrata (Democratic Moldova) Electoral Bloc – 34 Christian Democratic People’s Party – 11	Pro-EU first half of the mandate, then Eurosceptic
<u>April 5, 2009</u>	Party of Communists – 60 Liberal Party – 15 Liberal Democratic Party of Moldova – 15 “Moldova Noastra (Our Moldova)” Alliance - 11	Eurosceptic
<u>July 29, 2009, Early Parliamentary Elections</u>	Party of Communists – 48 Liberal Democratic Party of Moldova – 18 Liberal Party – 15 Democratic Party of Moldova – 13 “Moldova Noastra (Our Moldova)” Alliance - 7	Strongly Pro-Western/EU
<u>November 28, 2010, Early Parliamentary Elections</u>	Party of Communists – 42 Liberal Democratic Party of Moldova – 32 Liberal Party – 12 Democratic Party of Moldova – 15	Strongly Pro-Western/EU

Source: This table uses data published by Moldovan Association for Participatory Democracy

<http://www.e-democracy.md/en/> . For the first partially free elections held in February – March 1990, before the collapse of USSR, see Cașu, Igor, and Igor Șarov. *The Republic of Moldova, From Perestroika to Independence, 1989-1981, Secret Documents from the Archive of CC of PCM*. Chisinau: Cartdidact , 2011.

Table 2 Time Line EU-Moldova

1998	Entry into force of the EU-Moldova Partnership and Cooperation Agreement.
February 2003	EU instituted a visa ban on the Transnistrian leadership (renewed every year until 2010 inclusively and expanded to include new names).
March 2003	EU initiated and mediated negotiations between Moldova and Ukraine on customs and border agreements.
November 2003	EU High Representative Javier Solana intervened to advise the Moldovan government against accepting the so-called 'Kozak memorandum'.
From late 2003 to autumn 2004	EU consulted and then negotiated a bilateral Action Plan with Moldova, as part of the European Neighborhood Policy (ENP).
February 2005	Approval of the EU-Moldova ENP Action Plan.
March 2005	Establishment of EU Special Representative for Moldova (Under auspices of Council).
Autumn 2005	European Commission delegation was established in Chisinau.
October 2005	EU joins the so-called 5+2 negotiations format for Transnistrian settlement (Moldova, Transnistria, OSCE, Russia, Ukraine plus the EU and the USA as observers).
November 2005	Establishment of EUBAM (European Union Border Assistance Mission to Moldova and Ukraine).
April 2007	Opening of visa facilitation center in Chisinau.
January 2008	Entry into force of the Visa facilitation and readmission agreements. Signature of a pilot Mobility Partnership to strengthen legal migration opportunities and to strengthen capacities for managing migration and fighting illegal migration.
February 2008	EU-Moldova agreement to keep Action Plan in place.
March 2008	Comprehensive Autonomous Trade Preferences, which give Moldova duty-free and quota-free access to EU markets for nearly all products, were granted to Moldova.
2008 and 2009	The EU's Civil Protection Mechanism (MIC) was mobilised to support Moldova in assessing the flooding of the Nistru (Dniester) and the Prut rivers, and in alleviating the consequences of the

	Ukraine/Russia gas crisis.
May 2009	EU Eastern Partnership is launched. Moldova becomes one of the 6 partners.
July 2009	The Working Arrangement between the European Aviation Safety Agency and the civil aviation authorities of Moldova was signed.
December 2009	Ministerial meeting of the Energy Community approves the accession of Moldova.
January 2010	EU and Moldova started negotiations on Association Agreement.
June 2010	EU-Republic of Moldova Visa Dialogue examining the conditions for visa-free travel for citizens of the Republic of Moldova to the EU was launched.
2011	The EU Autonomous Trade Preferences are prolonged until 2015.
January 2011	The Action Plan on Visa Liberalization (VLAP) was presented to the Moldovan authorities by the Commission.
September 2011	The First Progress Report on the implementation by the Republic of Moldova of the Action Plan on Visa Liberalization was presented.
October 2011	Moldova and EU have initialed a comprehensive air services agreement to gradually open up and integrate the respective markets, and develop a "common aviation area".
December 2011	Launch of negotiations on establishing a Deep and Comprehensive Free Trade Area (DCFTA) in the framework of the negotiations of an Association Agreement.
June 2012	Moldova and EU have signed the "common aviation area" agreement. No date for entering into force of the agreement was advanced.
June 2012	Moldova hosts the launching conference of the informal Eastern Partnership dialogue
September 2012	The Second Progress Report on the implementation by the Republic of Moldova of the Action Plan on Visa Liberalization was presented.
November 2012	Commission president, Jose Manuel Barroso visited Chisinau delivering the speech: "European Union and Moldova: a journey to share".
November 2012	Moldova becomes the first Eastern Partner to advance to the second, implementation phase of the Action Plans on Visa Liberalization.

December 2012	A bilateral agreement on the protection of geographical indications for agricultural products and foodstuffs was ratified by Moldova and concluded by the EU.
March 2013	ENP Country Progress Report 2012 – Republic of Moldova was presented.

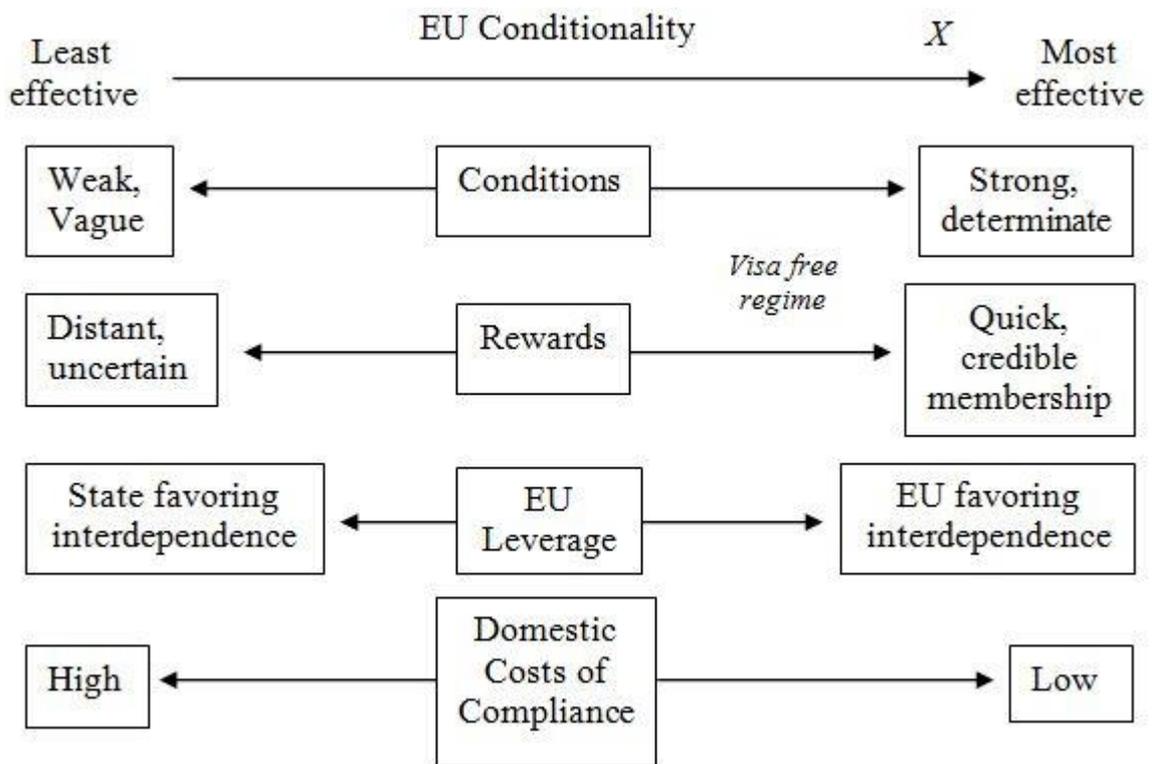
Source: This table was compiled from the data published by EEAS on its webpage at http://eeas.europa.eu/moldova/news/index_en.htm#top

Tab. 3 EU's Development aid for Moldova

Year	Projects
2007-2010	The ENP envelope for Moldova stands at EUR 209.7 million, with an additional allocation of EUR 16.6 million through the Governance Facility.
2008-2010	The Neighbourhood Investment Facility commits nearly EUR 35 million to seven projects in Moldova in the social, transport and private sectors. Moldova benefited also from four NIF regional projects (total EUR 39 million in support of the energy and the private sectors, including small and medium enterprises).
2011-2013	The new National Indicative Programme (NIP) for Moldova was adopted in May 2010 and has a budget of EUR 273.1 million. The programme is geared towards supporting the achievement of key policy objectives as outlined in the EU-Moldova Action Plan and pursues three priorities: (1) good governance, rule of law and fundamental freedoms; (2) social and human development; and (3) trade and sustainable development.
26 June 2012	Applying the 'more for more' principle: EU decides on additional €28 million under the Eastern Partnership Integration and Cooperation Programme (EaPIC) to support Moldova's reforms, in particular that of the justice system; the development of rural areas; and the upgrade of the health system. This increased by 30% EU bilateral grant support to Moldova in 2012, to a total of €122 million.

Source: the data in this table comes from two EU's National Indicative Programmes (2007-2010, and 2011-2013), as well as from EU announcement published by EEAS on its webpage at http://eeas.europa.eu/moldova/news/index_en.htm#top

Fig. 1: The axis of potential effectiveness of EU conditionality



Tab.4: Comparative indexes of the strength and determinacy of EU democratic conditions in VLAP and Enlargement.

Criteria	Maximum Points Possible	VLAP Points	Enlargement Points
<i>Clarity</i>	2	1	0
<i>Formality</i>	2	1	0
<i>Ownership</i>	2	1	2
<i>Linkage</i>	2	2	2
<i>Timetable</i>	2	1	1
Total	10	6	5