

The Impact of EU Enlargement on the Triangular Relationship between the EU, Russia and the Baltic States

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Abstract

The inclusion of the Baltic States within the EU's enlargement strategy raised important challenges to the EU, in particular in its relations with the Russian Federation. The integration of large Russian-speaking minorities in Estonia and Latvia, unresolved border questions and the peculiar situation of Kaliningrad turned out to be the most pressing of these. This paper analyses the position of the EU on these issues in order to assess the impact of the EU on the development of the bilateral relations between the Baltic States and Russia. In addition, the paper studies the impact of the Baltic States' EU accession on the development of EU-Russia relations.

Key Words:

EU Enlargement, Baltic States, Russia, Kaliningrad, Common Spaces, Northern Dimension

Introduction

The development of relations between the Baltic States and the Russian Federation has been described in the early 1990s as ‘a test for the potential of European institutions to identify and solve conflicts before they develop into major problems’.¹ Almost fifteen years after the disintegration of the Soviet Union, it is obvious that the European Union has played a considerable role in this process. The first manifestation of the EU’s involvement was the adoption of a ‘joint action’ convening the inaugural conference on the Pact on Stability in Europe.² This exercise in preventive diplomacy brought together officials from the Russian Federation and the Baltic states in a ‘Baltic Round Table’ to discuss border questions and the situation of the Russian-speaking minorities. Whereas this initiative, which was handed over to the OSCE in 1995, failed to solve the outstanding issues, it has been characterised as a first ‘confidence building measure’ between the EU, Russia and the Baltic countries.³ A more fundamental indication of the EU’s ambition to become actively involved in the Baltic region came with the publication of a Commission Communication on ‘Orientations for a Union Approach towards the Baltic Sea Region’⁴ and the adoption of operational guidelines from the Council on the EU’s relations with the Baltic States.⁵ Both documents identified the stabilisation of Russo-Baltic relations as a long-term objective for the EU. The key feature of the EU’s strategy has been the inclusion of the Baltic States within the EU’s enlargement project on the same footing as the other Central and East European countries.

A number of geopolitical motivations seem to have motivated this decision. First, the option of enlargement avoided that the Baltic States would remain in a ‘grey zone’ between Russia and the EU. Given Russia’s fierce opposition against Baltic membership in NATO, the prospect of EU accession signified a viable alternative to a classical security dilemma. Second, the inclusion of the Baltic States into the EU’s pre-accession process significantly enhanced the EU’s leverage to influence domestic evolutions in these countries. Finally, EU enlargement created a form of linkage between Russia’s behaviour towards the Baltic States and the EU’s overall relations with Russia. At the same time, however, this strategy involved a number of important challenges. As the Council observed in its operational guidelines, ‘it is important that the Baltic States do not regard integration into the European institutions as a substitute for the establishment of good-neighbour relations with Russia’.⁶ In this respect, the inclusion of ‘good neighbourliness’ as an explicit criterion for accession in the 1994 Essen European Council conclusions formed an important point of reference.⁷ Within this framework, questions of border delimitation, the status of Russian-speaking minorities as well as the future of the Russian enclave Kaliningrad formed crucial challenges to be tackled within the pre-accession strategy in order to avoid negative spill-over effects for EU-Russia relations. This paper tries to assess how the EU has responded to these challenges and to what extent the accession of the Baltic States has influenced the EU’s relations with Russia.

1. Challenges of EU Enlargement: the Case of the Baltic States

1.1. The Integration of Russian-speaking Minorities

From the outset, Russia has criticised Estonia’s and Latvia’s controversial citizenship and language legislation within various international organisations. The pre-accession condition of ‘respect for and protection of minorities’ provided the EU with a crucial instrument to get involved in this discussion. The main problem for the EU, however, has been the absence of clear internal standards or benchmarks to measure compliance with this criterion.⁸ As a result,

the Commission assessments essentially relied on documents of external bodies, such as the OSCE and the Council of Europe. For instance, all Commission reports refer to the Council of Europe Framework Convention on National Minorities. The observation that several EU Member States have not ratified this Convention,⁹ in combination with the weakly developed *acquis* in the field of minority protection, necessarily undermined the legitimacy of the Commission's work. The lack of transparency in the compilation of the reports created a perception of 'double standards' and raised questions about the impact of political rather than objective motivations.¹⁰

In spite of these important drawbacks in the EU's political conditionality approach, it cannot be denied that the European Commission recommendations have contributed to important changes in Estonia's and Latvia's citizenship and language legislation. In 1998, for instance, Latvia abolished the so-called 'window system'¹¹ and granted, upon request of their parents, citizenship to stateless children born in Latvia after 21 August 1991. Furthermore, the Latvian government eliminated restrictions preventing non-citizens from working as fire-fighters, airline staff, and pharmacists. Non-citizens could receive unemployment benefits without presenting certificates of Latvian language knowledge and the naturalisation procedures for people over the age of 65 and disabled persons were simplified.¹² Similar amendments could be observed in Estonia. There is, therefore, little doubt that the process of EU accession has been a force for improvement. It would, however, be a grave exaggeration to suggest that the Baltic States' accession to the EU automatically solved the problems of integration of the Russian-speaking population. Conclusions of the UN Human Rights Committee¹³ and the Council of Europe¹⁴ reveal the continued existence of numerous problems such as the slow naturalization process and its consequences in terms of the enjoyment of political rights and the possibility to occupy certain positions in the public and private sector.

In addition, the Baltic States' EU accession has introduced a new differentiation between Estonian and Latvian citizens, on the one hand, and the non-citizen population on the other. Whereas the former can rely on the rights connected to their status of EU citizens and the extensive case law of the European Court of Justice in this respect, non-citizens are treated as third country nationals under EU law. This difference in legal status has important consequences in terms of free movement rights. According to the ECJ's established case law, third country nationals – including stateless persons – cannot autonomously rely on the provisions concerning free movement of persons.¹⁵ All rights they have in this area depend on a family relationship with a migrant national of an EU Member State¹⁶ or an employment contract with an in an EU Member State established enterprise providing services in another Member State.¹⁷

On the basis of Article 63 (4) EC, and in the light of the October 1999 Tampere European Council conclusions, the Council has adopted the important Directive 2003/109 concerning the status of third-country nationals who are long-term residents.¹⁸ The EC long-term resident status entails some important provisions protecting the rights of third-country nationals such as a right of equal treatment with the citizens of the Member State, a right of residence in other Member States and enhanced protection against expulsion. Directive 2003/19 introduces the possibility for non-citizens to acquire an EC residence permit after five years of legal residence and on the condition that they have a sickness insurance as well as stable and sufficient resources in order not to become a burden on the social security system of their Member State of residence. Importantly, Article 5 (2) of the Directive further states that 'Member States may require third-country nationals to comply with integration conditions, in accordance with national law'. This provision, which was not included in the Commission

proposal, seems to undermine the requirement contained in the initial document that ‘for the sake of legal certainty, it is essential that the acquisition of the status should not be left to Member States’ discretion where the conditions are actually met.’¹⁹ The Directive does not contain any specifications concerning the permissible national integration conditions. Consequently, it seems that the Member States retain a large freedom of appraisal. In Latvia, applicants for the EC long-term resident status have to pass a test in order to prove a basic knowledge of the Latvian language.²⁰ The Estonian Parliament decided to introduce a similar language requirement only from June 2007 onwards. Accordingly, this condition is primarily targeted at new immigrants whereas non-citizens who have lived in Estonia for a long time and already hold an Estonian long-term resident permit are able to apply for an EC long-term resident permit without additional integration requirements.²¹

Apart from the conditions and restrictions in the Council Directive, the procedure for acquiring the long-term resident status might hamper the potential effects of this new legislation upon the legal situation of non-citizens in Estonia and Latvia. To acquire this status, the long-term resident has to take the initiative. He/she should lodge an application to the competent authorities of the Member State of residence accompanied by documentary evidence that the necessary conditions of residence duration, stable and regular income, sickness insurance and, eventually, integration into the local community are met (Art. 7). Taking into account the existing problems in the process of naturalisation in Estonia and Latvia, which are partly due to a lack of information and motivation, it seems rather unlikely that the new Directive will seriously affect the situation of the non-citizen population. Only a small group of well-informed non-citizens can be expected to apply for this status whereas a large majority of stateless residents might remain outside the new framework.

In the shadow of the adoption of Directive 2003/109, it is noteworthy that the European Commission has issued an important Communication on immigration, integration and employment, which not only called upon the Member States to facilitate their nationality laws but also promoted the idea of ‘civic citizenship’.²² This concept entails the granting of ‘certain core rights and obligations to immigrants which they would acquire over a period of years, so that they are treated in the same way as nationals of their host state, even if they are not naturalised.’²³ A consequence of this principle could be the granting of voting rights in local and European elections for long-term resident third country nationals. This option, which would have important consequences for Latvia and – to a lesser extent – Estonia, is not included in Directive 2003/109. The proposal to link the rights of EU citizenship to stable residence in the Union rather than to the nationality of a Member State has also not been withheld in the envisaged Constitutional Treaty but remains an interesting mindset.²⁴

The discussions surrounding the legal status of long-term resident third country nationals inside the EU are important for the integration of Estonia’s and Latvia’s Russian-speaking population, which is clearly one of the remaining challenges for the enlarged EU. Given Russia’s ambition to promote the rights of Russian-speaking minorities in the Baltic States as one of its key foreign policy priorities, this issue has an important external dimension. This became obvious in the light of Russia’s reluctance to extend the Partnership and Co-operation Agreement to the new EU Member States (cf. *infra*). One of the main obstacles was Russia’s insistence on firm commitments regarding the ‘social integration’ of Russian-speaking minorities in Estonia and Latvia after EU enlargement. The EU, however, refused the introduction of explicit references to specific countries or minorities. Accordingly, the ‘Joint Statement on EU Enlargement and EU-Russia relations’, which supplemented the legal Protocol on extension of the PCA, proclaims in rather general terms that:

'The EU and the Russian Federation welcome EU membership as a firm guarantee for the protection of human rights and the protection of persons belonging to minorities. Both sides underline their commitment to the protection of human rights and the protection of persons belonging to minorities'.²⁵

A concrete consequence of this commitment has been the establishment of a regular EU-Russia human rights dialogue after the November 2004 EU-Russia summit in The Hague and the recognition that respect for human rights, including the rights of persons belonging to minorities, constitutes a basic principle of EU-Russia co-operation in the field of freedom, security and justice.²⁶ Accordingly, the Baltic States' EU accession has created new opportunities for the EU to discuss human rights concerns with Russia.

1.2. The Question of Border Delimitation

Another unresolved issue potentially affecting EU-Russia relations concerns the conclusion of formal border agreements between Russia and Estonia as well as Latvia. This problem reflects the different vision of both parties on the events of 1939-1940 and their consequences for the international legal status of the Baltic States.²⁷ According to the generally accepted Baltic position, the incorporation of these countries into the Soviet Union was an illegal act. As a result, the Baltic States regained their independence in 1991. This principle of state continuity is a basic characteristic of the Baltic States' constitutional orders and serves as a main guideline for internal and external lawmaking. Russia, however, denies the continued existence of the pre-war republics. This different perspective implies that Russia is not prepared to recognise the binding force of the pre-war peace treaties of Tartu and Riga, which also include arrangements on border delimitation. The fact that the boundaries mentioned in the peace treaties differ from the administrative borders between the former Estonian or Latvian and Russian Soviet Republics explains the original problems in finding a mutually acceptable solution. Even after Estonia and Latvia dropped any territorial claims and agreed to concentrate on a technical border agreement without references to other treaties, the conclusion of a formal agreement turned out to be impossible.

Significantly, the EU has always been very reluctant to play an active role in this discussion. Notwithstanding the remark in Agenda 2000 that 'before accession, applicants should make every effort to resolve any outstanding border dispute among themselves or involving third countries',²⁸ the Commission Opinions on Estonia, Latvia and Lithuania as well as the annual progress reports for these countries virtually ignored this issue. The EU welcomed the Baltic States' efforts on border demarcation but did not consider the implementation of formal border agreements as a precondition for the conclusion of accession negotiations in the field of Justice and Home Affairs. Obviously, the EU did not want to give Russia a veto right on the accession of the Baltic States. It was only after enlargement that the EU explicitly raised the question of border delimitation with Estonia and Latvia in its relations with Russia. On the occasion of the 14th EU-Russia summit of November 2004, the EU leaders called on Russia to sign and ratify the outstanding border agreements with Estonia and Latvia as a condition for progress towards the establishment of a Common Space of Freedom, Security and Justice in general and visa-free travel between the EU and Russia in particular.²⁹ This active engagement on the part of the EU seemed to produce effect as President Putin proposed to sign the border agreements with Latvia and Estonia on 10 May 2005, in combination with political declarations on the foundations of relations between the Russian Federation and the

two Baltic republics. Russia's original drafts remained completely silent on the principle of state continuity. In a reaction, the Latvian Foreign Ministry presented its own proposal, which explicitly confirmed the importance of the 1920 Riga Peace Treaty 'as a legally binding document [... which ...] has not lost its validity also today'.³⁰ Moscow immediately responded that 'it is known that the 1920 Peace Treaty became invalid upon Latvia's joining the Soviet Union in August 1940'.³¹ Eventually, the divergent visions on the consequences of the state continuity principle prevented the conclusion of border agreements with Latvia. With Estonia, which did not claim the inclusion of similar explicit statements, border agreements were finally signed on 18 May 2005.³² The discussion, however, continued after a majority of Estonian MPs decided to add an introductory declaration to the treaties' act of ratification including clear references to the Tartu Peace Treaty and 'the legal continuity of the Republic of Estonia proclaimed on 24 February 1918'.³³ Russian government representatives immediately suspended the ratification process and demanded new negotiations.³⁴ In legal terms, the Russian government initiated a procedure of 'withdrawal of signature' of the Estonian-Russian border treaty.³⁵ As a result, Estonia and Latvia do still not have any border agreements with Russia. The problem has been included in the road map for the Common Space of Freedom, Security and Justice (cf. *infra*). It remains high on the agenda because the final conclusion and ratification of border agreements is important for Estonia and Latvia, in terms of their envisaged full entry in the Schengen area, and for Russia, in the light of further steps towards visa facilitation arrangements. This example clearly illustrates how the EU can play a significant role in this long-standing dispute. Inspiration could perhaps be found in the 1994 Treaty on Friendly Relations and Good Neighbourly Co-operation of the Republic of Lithuania and the Republic of Poland in which both sides formally accepted 'the integrity of their current territories, with capitals in Vilnius and Warsaw, not taking into account how the borders were formed in the past'.³⁶

1.3. The Kaliningrad Puzzle

The most obvious example of how the Baltic States' EU accession influences EU-Russia relations concerns the question of transit between the Russian enclave Kaliningrad and mainland Russia. Proceeding from the *acquis communautaire*, the EU insisted on the introduction of Schengen visa for the movement of persons through EU territory and the application of a customs transit regime for the movement of goods between Russia and Kaliningrad. Russia, for its part, proposed visa free corridors and the abolition of all transit formalities. Confronted with Russia's reaction, the European Commission issued an important staff working paper announcing that discussions with Russia on the Kaliningrad transition question would proceed within the context of the PCA institutional framework, in parallel to the accession negotiations on the JHA chapter.³⁷ Significantly, Lithuania managed to conclude the accession negotiations on this chapter in April 2002, i.e. before a compromise on Kaliningrad was found with Russia. This course of events clearly put further pressure on Russia and reflected the EU's position that only a flexible solution within the limits of the *acquis* would be acceptable. Proceeding from this perspective, a political compromise could be reached at the 11 November 2002 EU-Russia Summit.

The central provision of the Kaliningrad package deal is certainly Russia's acceptance that transit of Russian citizens by land will only be possible on condition of a Facilitated Transit Document (FTD) scheme. In comparison to previous proposals, the Joint Statement distinguishes between two types of FTD to be issued to Russian citizens. For transit by cars or buses, a multi-entry FTD can be obtained on the basis of an application to a Lithuanian consulate, subject to necessary checks and controls. Obviously, this document resembles the

features of a visa. A more innovative solution has been introduced for Russian citizens intending to make single return trips by train through the territory of Lithuania. In this circumstance, a Facilitated Rail Transit Document (FRTD) can be obtained at the moment of purchasing a railway ticket. Two Council Regulations lay down the concrete application procedure and specify further technical details of the facilitated transit arrangement.³⁸ Accordingly, the cost for a FTD has been fixed at 5 Euro. This document is valid for a maximum period of up to three years and can be used for multiple entries within a transit time of maximum 24 hours. The FRTD is free of charge, can be used for a maximum period of up to three months and allows for a single entry and return by rail with a transit time of maximum 6 hours.³⁹

The FRTD scheme seems to function quite well. It is noteworthy that the agreed regime is temporary and might be abolished when Lithuania joins the Schengen area. In this respect, Article 3 of Protocol No. 5 to the Treaty of Accession stipulates that any further decisions concerning the transit of persons between Kaliningrad and other parts of Russia can only be taken on the basis of a unanimous Council decision on a proposal from the Commission.⁴⁰ Clearly, changes to the current arrangement might provoke important legal and political discussions within the enlarged European Union. In addition, the November 2002 compromise left open the question of transit of goods between Kaliningrad and mainland Russia. On this issue, the Joint Statement only observed that 'the Russian Federation and the European Union agree to continue discussions within the PCA framework on the appropriate technical modalities for the transit of goods'.⁴¹ The harmonisation of Lithuania's legislation with the principles of the Common Transit Procedure of the EU involved increased costs for Russian carriers as a result of veterinary and phyto-sanitary controls, the requirement to have a financial guarantee issued by an insurance company registered in an EU Member States and fees for services rendered by Lithuanian customs brokers.⁴² Russia's insistence on a special arrangement without transit formalities was unacceptable for the EU because this would open the door to tax evasion and fraud. As a result, the facilitation of Kaliningrad cargo transit remains high on the agenda. The introduction of a new computerised transit system at the end of 2005 forms an important step towards the reduction of transit costs. It is obvious, however, that the future development of Kaliningrad remains one of the most important challenges for the enlarged EU and its relations with Russia.

2. The Baltic States as EU Member States: Consequences for EU-Russia relations

2.1. From Common Strategy to Common Spaces

The bilateral Partnership and Co-operation Agreement (PCA), signed in Corfu on 24 June 1994 and operational since 1 December 1997, remains the cornerstone for EU-Russia relations.⁴³ It soon became clear, however, that the PCA *as such* was inadequate as an instrument to handle the external consequences of EU enlargement. Already in May 1998, the European Parliament considered that the Union should develop special links with Russia 'going beyond the Partnership and Co-operation Agreement'.⁴⁴ The Amsterdam Treaty, which entered into force 1 May 1999, provided for a new instrument to strengthen the bilateral EU-Russia relationship. According to the new Article 13 TEU, 'the European Council can decide on Common Strategies to be implemented by the Union in areas where the Member States have important interests in common.' In the aftermath of the massive devaluation of rouble in August 1998, there was an understanding that the first Common Strategy would be on Russia.⁴⁵ After the development of a comprehensive policy on Russia was discussed at the December 1998 Vienna European Council, the Common Strategy was adopted by the

Cologne European Council of June 1999. The latter document, which expired in 2004, aimed at the development of a 'Strategic Partnership based on common values'.⁴⁶ This ill-defined concept scarcely concealed the lack of strategic vision on the part of the Union. Perhaps the most astonishing feature of the EU's external relations *vis à vis* Russia has been the virtual absence of the enlargement dimension.⁴⁷ The position of the EU has always been that enlargement is an internal matter between the Member States and the candidate countries and that Russia had no power or right to interfere in that process. Accordingly, Russian attempts to start consultations on the possible negative impact of the Union's eastward expansion have always been dispelled by the axiomatic statement that both Russia and the EU would benefit from enlargement.⁴⁸ The limits of this policy became obvious in the political and legal discussions surrounding the extension of the Partnership and Co-operation Agreement (PCA) to the new Member States. For the EU, the conclusion of a protocol to the PCA providing for such an adaptation was seen as a technical and automatic operation. Russia, however, claimed compensation for the alleged negative consequences of enlargement and proceeded from the assumption that extending the PCA to the new Member States was a good opportunity to negotiate this question. In this respect, Moscow presented to the EU in January 2004 a list of fourteen concerns, mainly of an economic nature but also including the politically sensitive issue of protection of the sizeable Russian-speaking minorities in Estonia and Latvia.⁴⁹ Remarkably, a similar list was submitted to the Commission already in 1999.⁵⁰ In addition, Russia's 1999 Medium-Term Strategy on Relations with the EU, i.e. Russia's official response to the Union's unilateral Common Strategy, included a specific chapter on 'securing the Russian interests in an expanded European Union', which *inter alia* referred to a possible refusal to extend the PCA.⁵¹ In spite of these clear requests from the Russian side to proactively discuss the consequences of enlargement in the framework of the 'Strategic Partnership', the EU preferred a 'wait and see' approach, which led to a crisis in the bilateral relations. Only few days before the accession of the new Member States both parties managed to find a mutually acceptable solution in the form of a Joint Statement on 'EU enlargement and EU-Russia relations', which paved the way for the signature of the long-awaited Protocol on extension of the PCA.⁵²

The adoption of both documents signals the official start of a new chapter in EU-Russia relations. Proceeding from the 'the opportunities to further strengthen their Strategic Partnership offered by the enlargement of the EU', both partners confirmed their commitment to the establishment of four Common Spaces agreed at the May 2003 St. Petersburg Summit.⁵³ The aim of creating a Common Economic Space, a Common Space of Freedom, Security and Justice, a Common Space of External Security and a Common Space of Research, Education and Culture constitutes the EU's answer to the challenge of enlargement for its relations with the Russian Federation. It is impossible to give a detailed account of the Common Spaces concept in this contribution. It is important, however, to note that the May 2005 Moscow EU-Russia Summit translated the rather general policy objectives into a series of specific road maps, including 400 points for regulatory co-operation to be implemented within the framework of the PCA. Importantly, this agreement expires at the end of 2007, with an option of automatic renewal (Art. 106 PCA). Taking into account the different context in comparison to the time of negotiation of the PCA, the conclusion of a new bilateral framework agreement seems recommendable. At this point, the impact of enlargement comes into play. The drafting of agreements requiring unanimity in the Council has obviously been complicated. Moreover, the historically strained relations between Russia and the new Central and Eastern European Member States, in particular the Baltic states, affect the tone if not the substance of the EU's policy towards Russia. Already in 2002, former Estonian Foreign Minister and currently Member of European Parliament Toomas Hendrik Ilves announced a

'less naïve' policy in comparison to the old Member States.⁵⁴ In this respect, the Estonian Government's EU policy document for 2004-2006 emphasizes that 'the partnership between the European Union and Russia must be based on common values'.⁵⁵ The development of the rule of law and democracy in Russia, respect for human rights in Chechnya and an effective immigration and asylum policy at the EU's external borders are identified as key concerns. This position clearly reveals a preference for a strict, conditionality-based approach opposing the often pragmatic and economically motivated position of the European Commission and major old Member States such as Germany, France and Italy.

The first documents and reports of internal discussions on the future of EU-Russia relations released after 1 May 2004 clearly illustrate the potential tensions between both options. During the discussion of a European Parliament Report on this question, several Polish and Baltic representatives insisted on Russia's recognition of the occupation of the Baltic States.⁵⁶ The response of Commissioner Ferrero-Waldner that it is up to historians to clarify the past and that the EU's priority must be to look to the future illustrates the understanding that raising these questions as a condition for co-operation might paralyse the entire Strategic Partnership.⁵⁷ Accordingly, it might be concluded that, more than ever, the EU faces the challenge to speak with one voice in its relations with the Russian Federation. The discussions surrounding the Russian-German bilateral agreement on the construction of a gas pipeline under the Baltic Sea dissatisfying the Baltic States and Poland, which fear the political, environmental and economic costs of this project, clearly illustrates this point. In this respect, the ambition to develop a 'common external policy approach in support of energy policy objectives' – as part of the 'Energy Policy for Europe' (EPE), launched at the 23-24 March 2006 European Council – is highly relevant.⁵⁸ Taking into account the importance of energy supply for the Russian and EU economies, it seems obvious that the energy chapter will be a central issue of future EU-Russia relations. Importantly, the EU-Russia energy dialogue cannot be limited to the bilateral level but also has to be addressed within the regional context of the Northern Dimension (ND), which faces a reorientation as a result of enlargement.

2.2. The Future of the Northern Dimension

The ND, officially launched in 1999 on the initiative of the Finnish Council Presidency, entered the EU's institutional setting as a 'policy framework' aiming at 'better co-ordination' and 'synergies' between existing co-operation programmes in the North of Europe.⁵⁹ As a forum for cross-border co-operation between EU Member States, candidate countries and external partners, the ND formed a worthwhile attempt to overcome the severe distinction between the EU's enlargement and external relations policy. The EU accession of Poland, Estonia, Latvia and Lithuania on 1 May 2004 necessarily involves a reorientation of the ND agenda. The Council guidelines for the ND policy from 2007 clearly indicate that Russia will be, more than ever, the target country of this initiative.⁶⁰ Accordingly, the post-enlargement ND tends to become the regional pillar of the EU-Russia Partnership, complementary to the Common Spaces programme and the PCA or its successor.

Taking into account the comprehensive nature of the four Common Spaces and the relatively limited financial resources available, it is of crucial importance that the ND shall focus on a realistic number of themes to be decided jointly among all partners and where a regional approach brings clear added value. In this regard, the identification of a limited number of specific partnerships along the lines of the Northern Dimension Environmental Partnership (NDEP) and the Northern Dimension Partnership on Public Health and Social Well-being (NDPHS) seems crucial. As such, the ND could operate as an important instrument to

overcome the remaining challenges in EU-Russia relations. The further development of transport and transit facilities, with specific attention to the situation of Kaliningrad, could be one of the future priorities to be defined in the new ND framework document. In addition, the strategic importance of the energy question as well as the presence of the two most important suppliers in Europe, Russia and Norway, implies that energy can be expected to be another key priority for the future ND. Finally, the facilitation of people-to-people contacts, including cross-border traffic, forms an important issue in order to ensure that the new external borders of the Union will not become a barrier to trade, social and cultural interaction or regional co-operation. The ND certainly has the potential to play a crucial role in this respect.

Conclusion

The EU accession of the Baltic States did not automatically solve all problems with Russia. The absence of formal border agreements with Estonia and Latvia, the integration problems of Russian-speaking minorities in the latter countries as well as practical problems concerning the transit of goods through Kaliningrad are still on the agenda. The EU has always been rather hesitant to discuss these issues with Russia during the pre-accession period, particularly because it did not want to give Moscow a veto right on the question of enlargement. In the new context after 1 May 2004, the solution of the outstanding issues is a key priority for the further development of EU-Russia relations.

The road maps for the establishment of four Common Spaces form the new agenda for EU-Russia co-operation. To a certain extent, the road maps reorganise existing objectives in a new framework. It is significant that the relations between Russia and the Baltic states are not mentioned *as such*. The objective to ‘demarcate borders between the EU Member States and Russia [...] following signing and ratification of pending border agreements’, however, clearly relates to Russia’s borders with Estonia and Latvia whereas the multiple references to minority protection are connected to the Russian-speaking population in the Baltic countries. Somewhat surprisingly, Kaliningrad is not mentioned in the road maps but numerous provisions on transit and free movement cannot be disconnected from this specific area. It can, therefore, be concluded that the successful implementation of the Common Spaces road maps is crucial for the further stabilisation of Russo-Baltic relations after enlargement.

The action points identified in the road maps open up new opportunities for pragmatic co-operation and progress. Steps towards further visa facilitation with Russia could, for instance, be linked to the formal conclusion of border agreements with Estonia and Latvia. Moreover, the road maps include numerous practical areas where Russia and the Baltic states have clear common interests (transit, energy, the promotion of ‘people to people contacts’, education and culture,...). On the other hand, however, the uncertain legal future of the PCA as well as Russia’s refusal to recognise the Soviet occupation of the Baltic States might complicate the implementation of this ambitious agenda. Finally, the EU’s ability to speak with one voice in order to send clear and unambiguous messages to Russia seems to be a crucial determinant for developing a genuine Strategic Partnership.

Notes

- ¹ BILDT, C., 'Watch Russia's Baltic 'Near Abroad', *International Herald Tribune*, 27 Jul. 1993. See also: BILDT, C., 'The Baltic Litmus Test' 73 *Foreign Affairs* 5 (1994), pp.72-85.
- ² Council Decision 93/728/CFSP of 20 December 1993, OJ (1993) L 339/1.
- ³ ARNSWALD, S., 'The Politics of Integrating the Baltic States into the EU – Phases and Instruments', in: JOPP, M., ARNSWALD, S. (eds.), *The European Union and the Baltic States. Visions, Interests and Strategies for the Baltic Sea Region*, Helsinki, UPI, 1998, p. 32.
- ⁴ Communication from the Commission to the Council, *Orientations for a Union Approach towards the Baltic Sea Region*, SEC(94) 1747 final, Brussels, 25 Oct. 1994.
- ⁵ Council of the European Union, 'Union Policy towards the Baltic Sea region and the Baltic States', 7300/95, Brussels, 18 May 1995.
- ⁶ Ibid.
- ⁷ Presidency Conclusions Essen European Council, (9-10 December 1994), *Bull. EU* 12 (1994), I.54.
- ⁸ HUGHES, J., SASSE, G., 'Monitoring the Monitors: EU Enlargement Conditionality and Minority Protection in the CEECs', *JEMIE* (2003), at http://www.ecmi.de/jemie/download/Focus1-2003_Hughes_Sasse.pdf.
- ⁹ Of the 'old' Member States, Belgium, Greece, Luxembourg and the Netherlands had not ratified this Convention on 1 May 2004 whereas France had not even signed the document. Of the acceding countries, only Latvia had failed to ratify the Convention before its accession to the EU. See: http://www.coe.int/T/E/human_rights/minorities/.
- ¹⁰ SMITH, K., 'The Evolution and Application of EU Membership Conditionality', in: CREMONA, M. (ed.), *The Enlargement of the European Union*, Oxford, Oxford University Press, 2003, p. 132.
- ¹¹ Within this system, potential candidates for Latvian citizenship were divided into groups according to age and status. The right to apply for citizenship was spread over seven years, beginning with the youngest age group (persons aged 16-20) in 1996. In practice, this implied that numerous non-citizens would never have a chance to apply for citizenship.
- ¹² GELAZIS, N., 'The Effects of EU Conditionality on Citizenship Policies and Protection of National Minorities in the Baltic States', in: PETTAI, V., ZIELONKA, J., (eds.), *The Road to the European Union (Vol. 2). Estonia, Latvia and Lithuania*, Manchester, Manchester University Press, 2003, p.67.
- ¹³ Concluding observations of the Human Rights Committee: Latvia, CCPR/CO/79/LVA, 6 Nov. 2003; Concluding observations of the Human Rights Committee: Estonia, CCPR/CO/77/EST, 15 Apr. 2003.
- ¹⁴ Report of the Advisory Committee on the Framework Convention for the Protection of National Minorities, ACFC/INF/OP/II(2005)001, Strasbourg, 22 July 2005.
- ¹⁵ ECJ, case 238/83, *Meade*, judgment of 5 July 1984, [1984] ECR 2631, para. 7.
- ¹⁶ See Art. 10 of Regulation 1612/68 on freedom of movement for workers within the Community, OJ, 1968, L257/2; Art. 1 of Council Directive 73/148 EEC on the abolition of restrictions on movement and residence within the Community for nationals of Member States with regard to establishment and the provision of services, OJ, 1973, L172/14 and Art. 2 of Council Directive 90/364 EEC on the right of residence, OJ, 1990, L180/26.
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- ¹⁹ COM (2001)127 final, 7.
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