



Topic:

Why the EU keeps its door half – open for Ukraine?

Bachelor thesis

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Table of contents

1. Introduction	4
2. Problem definition and main research question: Why the EU keeps its door half – open for Ukraine.....	5
3. Methodology	7
4. Formal framework for EU-Ukraine cooperation	9
4.1 Partnership and Cooperation Agreement 1991 as base for the bilateral relations	9
4.2 The European Neighbourhood (ENP) Policy 2004.....	11
5. Hypothesis 1: Does the answer lie in Ukraine?.....	13
5.1 First criterion: democracy consolidation	13
5.1.1. Checks and balances (Tie of the government to law and Constitutional order)	14
5.1.2 Electoral regime	18
5.1.3 Political rights	20
5.2 Second criterion: market economy.....	24
5.2.1 Basic results of macro - economic development in Ukraine.....	24
5.2.2 Structural, legislative reforms and progress towards market economy.....	26
5.2. 3 Corporate law.....	27
5.2.4 Banking sector and financial services.....	28
5.2.5 Trade relations	28
5.3 Conclusions Hypothesis 1.....	30
6. Hypothesis 2: The geopolitical factor	32
6.1 The Russian – Ukrainian- EU triangle relations.....	32

6.2 Geopolitical dimension of Russian -Ukrainian- EU triangle relations..... 33

6.3 Geo-economics and the energy dimensions in the triangle36

6.3.1 The Russian –EU- Ukraine energy triangle.....38

6.4 Geopolitics and security interests.....43

6.4.1Russia, Ukraine and NATO.....44

6.4.2 Russia, Ukraine and CFSP/ESDP.....48

7. Conclusions. Answer to the main research question.....51

1. Introduction

In April 2000 the former German Foreign Minister Joschka Fischer made a statement, confusing many of EU's politicians. He pronounced the idea of fully integrated Europe, existing in the framework of European Federation, based on a Constitutional Treaty with common executive bodies and common foreign and security policy. This (for many utopistic and revolutionary) plan brought the following question on the agenda: What is Europe? Is it culturally, geographically and religiously integrative continent or rather the European Union with its 27 Member States? ¹The necessity for Brussels to answer this question emerged after the Eastward enlargement, as it brought the EU right to the borders of the former Soviet Union Republics. One of EU's "new" neighbours, concerned about the above mentioned question, is Ukraine. In the case of Ukraine the question is not only whether it is cultural, historical or geographical part of Europe, but also whether this country has realistic chance of EU – accession in the medium – and long term perspective. On the one hand, Ukraine itself claims the EU – accession as one of its top priorities: since its independence in 1991 this country established several official declarations and strategies that could bring it closer to EU – integration. Nevertheless, until today few have been done – the Ukrainian governments failed to implement the reforms necessary for pre- accession negotiations with Brussels. On the other hand, EU's support of Ukraine in achieving successful political and economical transformation was lame. The official documents for bilateral cooperation carry rather formal obligations and do not treat the issue of possible future membership. Brussels lacks a clear vision on Ukraine – until now it has avoided proposing a plan that guarantees the achievement of gradual political and economical integration of this country. In fact the EU and Ukraine have two complete different perceptions of each other: Ukraine sees an EU – membership as the end, but nothing in between the actual situation and a membership. In contrast to this goal – oriented approach, the EU is process- and governance oriented. It has the vision of a gradual, monitored development process of Ukraine to governance, based on European norms and values as democracy, rule of law and market economy. Additionally to this comes the problem of the "Russian shadow" in Ukraine. Kiev's enhanced EU - integration efforts led to its deteriorating relations with Russia and also reflected negative Moscow's attitude to Brussels. Therefore the EU has to face the problem of re – building its foreign policies with Ukraine.

¹ Pidluska, Inna: Ukraine – EU relations: Enlargement and Integration. Downloaded: <http://www.policy.hu/pidluska/EU-Ukraine.html>

2. Problem definition and main research question: Why the EU keeps its door half – open for Ukraine?

The actual deadlock in cooperation with misunderstanding and non-cooperative behavior on both sides is based on many issues. Many scientist researchers (like Mikhail Molchanov) argue that the main reason for the bilateral political deadlock is implicated in Ukraine, in its domestic political position and the lack of progress on many levels; essential for EU – accession.² Ukraine's political leaders failed to initiate and implement policies in support of the Copenhagen criteria of membership. Economic reform was inhibited by policy closely linked with the interests of the economic leaders in Ukraine (the so called oligarchs); instead of achieving market liberalization and business transparency. After Ukraine's independence in 1991 the proclaimed democracy turned into presidential authoritarianism, characterized by increased political non – transparency, restricted powers of the parliament and judiciary. Furthermore, lack of democracy was approved by several homicides of investigative and critical journalists, the systemic assault on independent media; especially freedom of press. So it is obvious that the European Union is facing the uneasy task of responding to membership aspirations from an underdeveloped country with poor liberal – democratic credentials. But is this really the only and most important reason for the current cooperation deadlock between EU and Ukraine? Ukraine is not even being considered for membership. The executive bodies of EU offer nothing but a “wider Europe” policy instead of opening membership association for this country. Why was Ukraine not encouraged to apply for membership? Geographically, there is no question that Ukraine belongs to Europe. Politically, this country is an important player, the fourth largest partner in the coalition forces in Iraq and key actor in the Post-Soviet space. Culturally, Ukraine is a Christian nation with strong western leanings. It is true, that Ukraine has many economical problems, but they are broadly comparable to the problems of Romania and Bulgaria, which are already members of the Union. These facts approve that EU's refusal to open accession negotiations with Ukraine is coped not only with the already mentioned domestic political problems of Ukraine. EU's own unwillingness for deeper cooperation is also a very important factor – Brussels position is technocratic and rhetorical, a fact that could be explained by several reasons – the fear of political, economical and social overextension (caused by eventual accession of Ukraine to the Union), but also conflict of interests with other external actors. One external reason is the EU's relation with Russia. As a

² Molchanov, Mikhail A.: Ukraine and the European Union: A perennial neighbor? P.7

former Soviet Republic Ukraine is tied to Russia in so many ways that even a Schengen border would hardly separate them. Moreover, an EU – accession of Ukraine would mean enormous political and economical loss of powers for Russia that respectively would lead to deterioration of the EU- Russian relations. These preliminary considerations, describing several issues, helped me to shape the main research question of this paper: *Why the EU keeps its door half-open for Ukraine?*

At a first glance this question seems to be not so complicated – but a deeper analysis shows that there are many and interlinked factors that could bring me to the answer of the main research question. If a bilateral relationship does not work, the cause of the problem may lie with either side, both sides, but also with actors beyond this bilateral relationship .My bachelor thesis will examine the reasons behind EU’s unwillingness of initiating pre – accession negotiations with Ukraine. In order to find a plausible answer to the main research question, I will facilitate the research with two hypotheses.

The first hypothesis includes the assumption that the current political deadlock in the EU – Ukraine relations may be the result of the domestic political issues of Ukraine. This assumption implies that an EU – accession would be possible if Ukraine has achieved enough progress in two main areas. These areas are implemented in the “Partnership and Cooperation Agreement” (the formal document for EU – Ukraine cooperation) – democracy consolidation and economic development inclusive the completion of transformation to a market economy. The preliminary conclusion implies the assumption that Hypothesis 1 gives only partly an answer to the main research question. This conclusion will be coped with critical questions perpetuating that there are some reasons beyond Ukraine’s internal issues explaining the unwillingness of EU for deeper cooperation. In order to answer the main research question I will continue the analysis with Hypothesis 2. My second hypothesis suggests that the current bilateral deadlock is explained by a “geopolitical” factor. This means that the external geopolitical environment has major impact on the constrained EU – Ukraine relations. Due to the significant influence of Russia in this bilateral relationship, I implemented Russia’s ambitions and interests in the framework of the second hypothesis.

This occurred as an analysis of the EU – Ukraine – Russia triangle in three main dimensions: geopolitical, geo-economical and security policy.

The final conclusion outlines that the answer of the main research question is answered partly by Hypothesis 1 and partly by Hypothesis 2.

3. Methodology

Each methodology represents a different approach to evaluation. The selection of methodology for my bachelor thesis depends on the type of questions (especially the main research question) that have been asked. In my case the question “why” requires an analytical and explanatory study. First, I had to decide how exploratory my study needs to be – the question “why” requires discovering factors and trends that will influence the answer of the question. Just as it is important to be clear what questions have been asked it is also important to be clear about what will count as evidence. One characteristic of evaluation methodologies is the type and range of data that are collected. The process of choosing the right data is determined by the question how objective the data gathered will be. Subjective data such as perceptions and attitudes were also of interest for the data collection; therefore critical newspaper articles were also included.

A scientific research is not limited in one single source of data - this enables to find multiple sources of evidence. One of the methods that I applied is the information gathering from already existing materials. This includes the literature search.

The literature search is expressed by the review of already available materials, relevant to the topic of the research.³ There are several books, papers and publications which are relevant to my bachelor thesis. Some of the most important are the papers of Taras Kuzio, Katinka Barysh, Sabine Fischer and Kataryna Wolczuck. Especially relevant to the course of the bachelor work are the books and scientific researches of the following authors: First of all I used the book of Volodymir Tereschenko: “Evolution der politischen Beziehungen zwischen der Ukraine und der EU 1991 – 2004“ . I implemented Tereschenko’s previous research results in the theoretical foundation of my bachelor thesis. Secondly, I used Tim Beichelt’s criteria for democracy consolidation in order to structure the arguments within the first hypothesis. For the structure and facilitation of the second hypothesis I used mainly the scientific work of Volodimir Vergun and Oleksiy Kuznetsov; as well as the paper of Vsevolod Samokhvalov.

Due to the fact that official documents and statements on different political and economical issues are usually too descriptive and neutral, I searched for a relevant data in articles of newspapers, published in the last 7 years. These articles were especially relevant for the analysis of the civil liberties in Ukraine; the gas conflicts in 2006 and 2008;

³ Varma, Om: The Case study as research method. LIS391. D.1. Research methodology, 2006

as well as the issue of Ukraine's NATO aspirations. Relevant newspaper articles were found in several important (critical and investigative) Ukrainian newspapers like „Kyiv Post” ; „RIA Novosti”, „OA news” ; as well as in internationally acknowledged newspapers like NY Times, Associated Press and the „Forbes”.

Other sources of already existing information for my research are the online – databases. An important online – database, relevant for my bachelor thesis was the web- portal of the European Union (europa.eu);which enables the access to important EU –documents, describing the normative base of the EU – Ukraine cooperation (like the Partnership and Cooperation Agreement; the European Neighborhood Policy, the CFSP and others).

Information sources, relevant for the research were the Annual reports, published by different independent research institutes or official organizations like the OSCE.

The regular monitoring reports on parliamentary and presidential elections by the Office for Democratic Institutions and Human Rights (sub – facility of the OSCE) were especially relevant for the analysis of the electoral development of Ukraine. I also used the Monthly economic monitor for Ukraine, published by the Institute for Economic Research and Policy Consulting in Ukraine. Further sources of existing data were the Annual Country reports on Human rights practices, published by the Bureau of Democracy, Human rights and labor under the USA Secretary for Democracy and Global Affairs. There were also relevant publications by independent institutes like the Institute for security studies, the Centre for European Reform and “Eurasia Home”.

After the data gathering, it was necessary to analyze it. First of all I determined key assumptions for analysis when defining the research question. The motive of research was to find an answer/address to the research question and the techniques for analyzing the data were directed to this question. The research motive was the discovery. The evidences were analyzed in order to produce analytic conclusions, answering the main research question – “why”.

The thesis was composed in a way that each case (topic) has been handled as separate chapter. The data is reported by transforming a complex issue in one that can be understood. Key features of the thesis include confirming or rejecting sub - topics, answers and comments, directly related to the main research question. Each sub – topic is developed according to the evaluated data. The bachelor thesis also includes confirming and conflicting findings from the literature reviews. The conclusion includes the answer to the main research question.⁴

⁴ **Summary: Methodology structure** Hypotheses- data analysis – findings- interpretations - conclusion

4. Formal framework for EU – Ukraine cooperation

4.1 Partnership and Cooperation Agreement (PCA) 1991 as base for the bilateral relations

EU relations with Ukraine are based on the Partnership and Cooperation Agreement.

It took four years for the European Union to ratify the Partnership and Cooperation Agreement, which was signed by the Ukrainian President Leonid Kravchuk in June 1994. This was the constructing document of the 1990 agreement between the EU and the USSR, which was reached with most of the Post – Soviet States.

According to the European Commission the PCA highlights respect for shared fundamental values as an essential element of the EU – Ukraine relationship and is a significant instrument for focusing Ukraine’s economical progress efforts on the legal framework of EU’s single market.⁵ Generally, this document represents the intentions of the EU to support Ukraine in the process of political and democratic transformation. In the case of Ukraine, this document did not envisaged a perspective for EU – accession (such kind of perspective was not even mentioned in the PCA). This political position of the European Union was in contrast with the intentions of Ukraine to achieve an association agreement, already pronounced in 1993 and in the long term perspective to become a member of the Union. It is necessary to mention that since the break –up of the USSR the EU set clear dividing lines – it treated the Central and South-eastern European states differently from the states, which were part of the former Soviet Union. Therefore the EU has constructed its formal base for cooperation in a way, which shows clearly that the Post – Soviet countries have no membership potential for the EU.

The PCA has four major goals for Ukraine: To provide a framework for political dialogue; to promote trade , economic and investment relations; to support the consolidation of democracy and transition to a market economy and to enhance cultural, economic, social , financial , civil, scientific and technological cooperation.⁶

⁵ European Commission External Relations: Ukraine: EU – Ukraine Relations, Political and Legal Foundations
http://ec.europa.eu/external_relations/ukraine/pdf/political_and_legal_foundations.pdf

⁶ Kuzio, Taras: EU and Ukraine: A turning point in 2004? Institute for security studies of the EU Occasional Papers No 47, P. 18

Despite the fact that PCA settled several cooperation aspects, the main political guideline for the EU in its relations with Ukraine after the first years of its independence was the safety policy. The Union had a significant interest to support the internal and external stability of Ukraine within the PCA framework. Additionally to this goal, the EU had the interest to prevent itself from eventual dangers, which could be the result of Ukraine's unsafe nuclear sector. With regard to Ukraine the concept of the PCA is clear – there will be support in terms of political and economic stabilization, but an accession perspective is excluded from the agenda. The EU made a clear statement – it saw the future of Ukraine outside the enlarged Union.

The restrictive position of the EU was approved once again with the establishment of the “Common strategy” for Ukraine, ratified during the Helsinki Summit in December 1999 by the European Council. The “Common strategies” were introduced after the Amsterdam Treaty in 1997 and represented important common interests of the Member-states in different areas. With regard to Ukraine the “Common strategy” had limited duration of four years. This document was a political answer to the Ukrainian “EU Integration Strategy”, ratified in 1998. Generally, the “Common strategy” approves a higher level of acceptance of Ukraine, which is no more treated as a risk factor, but as a partner of the EU. Especially relevant for this improvement is the deeper cooperation in Justice and Home affairs. With regard to the Eastward enlargement in 2004 the intensified cooperation in Justice and Home affairs was of enormous importance for the EU. The Union recognized that after becoming direct neighbour of Ukraine it will be faced with new issues like illegal immigration, criminality and dangerous diseases (Ukraine is one of the European countries with the highest HIV/AIDS rates). Therefore the Union took preventive measures within its cooperation framework with Ukraine. Even though the “Common strategy” had positive effects in some cooperation areas, it was used by the EU as a tool for slowing down the Ukrainian accession aspirations. In one of the document's articles the EU acknowledges Ukraine's “European aspirations”. At the same time the document includes the statement that EU does not accept any other political framework for cooperation different from the PCA. Furthermore, the document includes the statement, that the only way for deeper cooperation on both sides is the successful implementation of all goals, foreseen in the PCA. This clear political position approves once again EU's unwillingness to open an accession perspective for Ukraine.⁷

⁷ Tereshenko, Volodymyr: Evolution der politischen Beziehungen zwischen der Ukraine und der EU 1991 – 2004. P.138

The course of events in the EU – Ukraine relations shows the discrepancy between the official political aspirations of Ukraine and the objectives of the European Union. Ukraine proclaimed its ambition to achieve an association agreement with the EU, but at the same time the Ukrainian political leaders failed to implement political and economic reforms, essential for the development of this country. On the other hand the EU restricted its cooperation with this country on the level of the Partnership – and Cooperation Agreement. The EU lacked a strategic approach for Ukraine; its position was too technocratic and pragmatic. Practically, the PCA shifted all responsibilities with regard to Ukraine’s successful transition to this country. The result of this political approach was that the EU was not well prepared for the complex future issues, caused by the forthcoming Eastward enlargement and respectively new neighbourhood with Ukraine. Therefore the EU tried to catch up on the forthcoming events by the “Wider Europe Communication “, introduced in 2003. This concept promotes the key note “integration without accession”.⁸The concept offers Ukraine enhanced cooperation in the area of trade by introducing preferential trading relations and the opening up of the EU market, promotion of the four freedoms of movement (people, goods, services and capitals). Further aspect of the document is the support of Ukraine’s WTO accession as well as the improvement of different economic and political sectors. This concept was the preliminary outline of the “European Neighbourhood Policy”, published in May 2004.

4.2 European Neighbourhood Policy (ENP) 2004

Generally, this document shows the EU’s strategy for closer cooperation with its new neighbours. According to the European Commission this document offers privileged relationship, built upon common values – the rule of law, good governance, market economy and sustainable development. The EC stresses that the ENP goes beyond existing relationships by offering deeper cooperation, but remains distinct from the process of enlargement.⁹Within the framework of the ENP the main document for each country is the bilateral ENP Action plan agreed between the EU and each partner country. The Action Plan for Ukraine includes two long chapters – a political chapter and an economic one. In the political part the main aims are the democracy consolidation

⁸ Kuzio, Taras: EU and Ukraine: A turning point in 2004?. Institute for security studies of the EU. Occasional Papers No 47. P. 22

⁹ Official web – site of the European Union: European Commission: European Neighborhood policy, Downloaded from http://ec.europa.eu/world/enp/policy_en.htm

(including the democracy, rule of law and civil rights). Furthermore, the Action Plan includes the task of improving some aspects in the Justice and Home Affairs (especially with regard to the sensible area of cross – border policy and visa). In the economic chapter the most significant cooperation aspects are the structural reforms, economic and social perspectives and infrastructure. Especially important are the targets of diminishing state intervention on the market, and the legislative improvements in the private sector. In the case of Ukraine the ENP represents better and wider framework for cooperation compared to the PCA. It covers areas, which were not included in any previous cooperation documents. At the same time it shows once again the EU's lack of willingness for intensified relations with this country. The motto "integration without accession" approves the lack of membership perspectives for Ukraine. Despite the fact, that the ENP action plan creates a broad base for economical support and intensified cooperation in some new areas it practically keeps its relations with Ukraine at the same level since the country's independence. Furthermore, the ENP puts Ukraine in the same category as the Mediterranean States and the Middle East. This policy raises many questions and doubts about the fact that the EU applies double standards – Ukraine and the Western Balkan States, which as geographical and historical part of Europe, are put on very different levels. While the EU opened its accession door for the Western Balkans (despite the fact that there is also a long road to go) it remains half – open for Ukraine. Even the initially elaborated concept of extension of the four trade freedoms (goods, people, capitals, services) was withdrawn from the agenda. In the case of Ukraine, there was fear of enormous migrants and labour wave, therefore the EU member – states decided to "defence" their interests by excluding this cooperation aspect.¹⁰ The rejecting position of the EU raises many questions. Despite the fact that Ukraine lags behind in its overall development, it is still a country possessing more "European values" than countries like Algeria, Morocco and Israel. As an independent, nuclear weapons free and neutral country, with multi – vectoral foreign policy Ukraine has made its choice for a slow but continuous integration in the EU.¹¹ Therefore there must be some really important reasons for putting the political relations with Ukraine on the same level with North African and Middle East countries (based on the ENP).

¹⁰ Kuzio, Taras: EU and Ukraine: A turning point in 2004?. Institute for security studies of the EU. Occasional Papers No 47. P. 23

¹¹ Vergun, Volodimir: Kuznetsov, Oleksiy: EU, NATO and Ukraine: Nation – Building and Democratization between East and West

5. Hypothesis 1: Does the answer lie in Ukraine?

By looking at the official political position of the EU, it is getting obvious that the Union is shifting all responsibility for Ukraine's lacking accession potential to this country. Therefore I have decided to analyze whether the internal political and economical situations of Ukraine are the main (and only) reasons for being excluded from the "EU family". Due to the fact that democracy consolidation and market economy are the most significant cooperation aspects, put on the agenda of each EU – Ukraine document, I have decided to analyze these two aspects in the framework of the first hypothesis.

I will introduce the following hypothesis in order to find out what is or are the main reasons for EU's unwillingness to treat Ukraine as a member - aspirant. This hypothesis includes the assumption that the current political deadlock in the EU – Ukraine relations may be the result of the problems on the domestic level. This assumption implies that an EU – accession would be possible if Ukraine has achieved enough progress in two main dimensions. As a base will be used the two main criteria, mentioned in the "Partnership and Cooperation Agreement" (the formal framework for EU – Ukraine cooperation) – democracy consolidation and economic development inclusive the completion of transformation to a market economy.

5. 1 First criterion: democracy consolidation

The first criterion; democracy consolidation, will be clarified according to the theoretical approach, drafted by Timm Beichelt. According to Beichelt democratic consolidation includes three main indicators: Checks and balances (tie of the government to the law and constitutional order); Electoral regime (free and fair elections) and Political rights (Basic political rights like freedom of information, freedom of assembly , freedom of association, freedom of speech).¹²

The particular Ukrainian political system and the Ukrainian transformation society are shaping in enormous way the relations of this country with the EU. Therefore it is very important to grasp how this Post – Soviet political system works, in order to understand

¹² In Beichelt, Timm: Democracy promotion in Eastern Europe in the Context of the European Neighborhood policy. P. 26. downloaded from: <http://www.unc.edu/euce/eusa2007/papers/beichelt-t-12b.pdf>

the issues concerning the Ukrainian - EU policy. Ukraine is a relative young state – it is independent since 1991. The peaceful transformation from a Soviet Union republic into an independent state was linked with many challenges – the young state was confronted with the need to create feasible, democratic state structures and to introduce rapid political, economical and social reforms. This process of state – building was accompanied by deep social and financial crisis, continuous conflicts between the executive and legislature and the dominating “Soviet mentality” which inhibited the successful transformation of this country. All of these issues have turned Ukraine into one of the East European states with only few, declaratory in nature reforms and continuous economic decline. The building of democratic political institutions was a slow and contradictory process. After Ukraine’s independence there was lack of theoretical foundation for the creation of a new, stable and democratic political system. The result was an unsuccessful administrative reform and unclear approach for guaranteeing the national stability and welfare in political and economical aspect. The current political system in Ukraine is different from the Soviet one, but unfortunately also very different from the political systems of the EU – member states. Since Ukraine’s independence the political system is regulated by few so – called “oligarchs”, possessing enormous financial sources and respectively great influence in the Ukrainian political system. Their capital is the result of shady privatization deals after the break – up of the Soviet Union.¹³ The current political system of Ukraine could be called an “Administrative syndrome” system, created by the merger of the State’s administration and the “oligarchs”. The influence of this non – transparent and shady mechanism increased continuously. Nowadays this “administrative syndrome” mechanism regulates many political processes. Therefore the political space for eventual reforms is strongly constrained and there are only few opportunities for democratic reforms. This fact can be approved by Tim Beichelt’s three main indicators for democracy consolidation.

5.1.1 Checks and balances (tie of the government to the law and constitutional order)

Ukraine is a republic with a unicameral parliament, called the Supreme Council (Verkhovna Rada). The first Constitution of Ukraine was ratified on 28. June 1996 by the Parliament. According to the Constitution the President is the Head of State and the Chief Executive. The President is elected for a five – year term by a popular vote. The

¹³ Molchanov, Mikhail A.: Ukraine and the European Union: A perennial neighbor? P.7

Prime Minister and Deputy Prime Ministers are appointed by the President and approved by the Verkhovna Rada. The President also appoints all government ministers as well as the heads of the local territorial administration.¹⁴

The Constitution establishes a mixture between presidential and parliamentary system: this type of political system can be defined as presidential – parliamentary system.

On the one hand, this type of system is characterized by the strong political position of the President, on the other hand by the double accountability of the Government.

It is accountable both to the President and the Parliament (it can be constrained to resign after no – confidence vote by the Parliament). The strong presidential position is supported by the Local Territorial Administrations (“oblastni derszavni administratzyi”). The Chiefs of each Local Territorial Administration are appointed and dismissed by the President. This enables him to regulate the regional executive.

The presidential influence grew enormously during the first three years after the ratification of the Ukrainian Constitution. The presidency became an institution that gave power to an unpopular person – Leonid Kuchma, surrounded by “oligarchs”, concerned with their own economical interest.¹⁵ In this period of time the President had the power to draft and ratify almost all laws. The President of Ukraine possessed power of veto over the Laws, ratified by the Parliament. The Parliament was only able to overcome the Presidential veto if voting against it with qualified majority. After 1996, the presidential competencies were much more extended than foreseen in the Constitution. This can be explained partly by the fact, that the Constitution was not developed enough in order to separate clearly the competencies of the state institutions. For example, the Constitution does not include a law, regulating the case in which Presidential decrees and Parliamentary laws regulate the same things. In such cases the implementation of most normative acts occurs according to the “loyalty principle”: because of the presidential influence many local political actors prefer to implement the Presidential decrees.

During his Presidential mandate Leonid Kuchma achieved to shift the parliamentary responsibility of drafting and ratifying the State budget to the Presidential departments.

¹⁴ Commission of the European Communities: ENP – Country report: Ukraine. Commission Staff Working Papers. P. 5 downloaded from:

¹⁵ Aslund, Anders: „The Political Situation in Ukraine before the Presidential Election” . downloaded from: <http://www.carnegieendowment.org/events/?fa=eventDetail&id=690>

During Kuchma's mandate the Executive applied a so called "daily cash management" – the national expenditures were managed by the Financial ministry at its own discretion. This practice diminished further the political powers of the Parliament.

Moreover, the Ukrainian Judicial power, which is formally supposed to be independent and self – contained, was manipulated by President Kuchma in many aspects. The President had important authorities in appointing and dismissing the National Judges inclusive the Supreme Court Judges. Through his competence of appointing the State judges the President had also the power to use his influence in the Constitutional Court decisions.¹⁶The Judiciary power was also financially dependent on the Executive – the State Finances were managed by the Finance Ministry, which used the State budget at its own discretion.

One significant example for Kuchma's manipulation of the Constitutional order was a ruling, passed by the Constitutional Court in 2003, which was contrary to the Constitution. The Court decided to ratify legislative amendment, allowing President Kuchma to participate in the presidential elections for third time in a row, if he so wished.

After the 2004 Presidential elections the Constitution was hastily rewritten. The result of the Constitutional amendments was the increased powers of the Prime minister and Parliament at the expense of the presidency.¹⁷These amendments shifted the center of power from the President to the Prime Minister. This was a great chance for Ukraine to establish democracy and rule of law similar to the Western democracies. However, the aim of the constitutional reform package was not better governance, but the usurpation of power by the current regime. Despite the fact that the opposition won the elections, others remained in power. Viktor Yanukovitsch, supporter of the former regime was elected as a Prime – minister and used his increased powers. Furthermore, these constitutional amendments were linked once again with the Constitutional abuse – on 24 December 2004 vote on constitutional reform was taken in a seven- minute extraordinary session, despite the fact that the Constitutional Court had ruled in 2001 that constitutional amendments could not be discussed in an extraordinary session. However, the Court stayed silent of this violation of its own ruling.¹⁸The change of the political sys-

¹⁶ Kuzio, Taras: „Semi – Authoritarianism in Kuchma' s Ukraine’’ In : Ukraine at a crossroads P. 55-58

¹⁷ Danilova, Maria: „Ukraine's Yuschchenko seeks to change constitution to boost presidential powers’’. Associated press. March 31. 2009

¹⁸ Aslund, Anders: „The Political Situation in Ukraine before the Presidential Election’’. downloaded from: <http://www.carnegieendowment.org/events/?fa=eventDetail&id=690>

tem brought neither political stability nor improvement in the Ukrainian society. The regime was further not accountable to the law and society. With the help of non – transparent procedures Yanukovitch’s political power increased at the expense of President Yushchenko. In order to defence himself from the growing powers of Yanukovitch, the President dissolved the Parliament and called for preterm elections in April 2007, which were held in September the same year.

There was no legal or constitutional foundation that enables Yushchenko to dissolve the Parliament. Even though, the Constitutional court, which was paralyzed by the continuous political power struggle, did not block Yushchenko’s activities. The new coalition, consisting of three parties, nominated Yuliya Tymoshenko as the new Prime Minister, confirmed on December 18, 2007.¹⁹ The expected result of these political occurrences was that the “Orange revolution” allies Tymoshenko and Yushchenko would establish a good working governance, which should ensure the prevalence of democracy, and established a system that would prevent a repetition of Kuchma’s manipulation and violation of the Constitutional order. Unfortunately, this political change was expressed by a string of government shake-ups and a tug-of-war between the two former allies Tymoshenko and Yushchenko. As the economic crisis rose in Ukraine, the two political leaders were much more engaged with a power struggle, centered on the question whether early elections should be held at the end of 2008. Once again these political fights were accompanied by abuse of the Constitutional order and judiciary power.

After Yushchenko dissolved the Parliament and called early elections, Tymoshenko went to the Constitutional court to oppose the President. The court agreed with Tymoshenko and froze election preparations. In response, Yushchenko used his considerable presidential powers and simply ordered the court abolished.²⁰

The occurrences after the establishment of the Ukrainian Constitution show that the Constitutional law and order, as well as the judiciary power are manipulated and regularly abused by the political leaders, seeking to provide their own interests. On the one hand, the Constitution lacks some essential rulings about the division of powers among the different institutions. This enables particular political figures to use the Constitutional gaps and to manipulate and adjust the laws according to their own priorities. On the other hand, if the Constitution does not include rules that allow the politicians to

¹⁹ Danilova, Maria: „Ukraine’s Yushchenko seeks to change constitution to boost presidential powers”. Associated press. March 31. 2009

²⁰ Danilova, Maria: „Ukraine’s Yushchenko seeks to change constitution to boost presidential powers”. Associated press. March 31. 2009:

manipulate the political system, it is rewritten like an unimportant piece of paper. This approves the fact, that neither the Presidents of Ukraine nor the other Governmental institutions are tied to law and order, which is an essential criterion for democratic consolidation.

5.1.2 Electoral regime (free and fair elections)

The indicator “electoral regime” will be analyzed according to the OSCE democratic election commitments: universal, equal, fair, secret, free, transparent and accountable. Further election commitments of OSCE are appropriate legal and regulatory framework, good election administration and transparent election campaign (including fair media environment, voting, counting, tabulation and announcement of results).

After its independence Ukraine appeared to be following the Russian model of political development. Political parties played essentially no role in the election of President and a minimal one in local and regional elections. At the same time voting irregularities and election fraud were obvious.

The first President of Ukraine Leonid Kravchuk was elected in one tour on 1. December 1991. In 1994 the early presidential election was held together with early parliamentary election: first tour took place on 26 June 1994, and the second one on 10 July 1994.

Leonid Kuchma was a winner of the presidential elections. Generally, these elections were characterized as free and fair. However, after the first years of Ukraine’s independence this country was not a particular subject of interest for international institutions and observers.²¹ Therefore it is contentious, whether the 1994 elections were characterized as free because it was so or because they weren’t monitored enough.

The situation was different during the presidential elections in 1999. Diverse international observers monitored the electoral process and detected several electoral abuses.

Despite the fact that a Law on Elections of the President of Ukraine, increasing the accountability and clarity of the electoral process, was adopted on 25 March 1999 it could not be implemented successfully. There was selective interpretation and enforcement of legal rules at various levels of the political structure that prevented the uniform application of the law. As a consequence different candidates were not competing on the same

²¹ Myagkov, Mikhail, Ordeshook, Peter C. , Shaikin, Dmitry, Shulgin, Sergey: The Disappearance of Fraud and Development of Political Parties: Ukraine’s 2006 Parliamentary elections. University of Oregon, April 2007

level in the pre- election period. Furthermore, election observers uncovered that pro-Kuchma campaign by state institutions was widespread, systematic and co-ordinated across the country and provided Kuchma with an enormous advantage over his competitors. Observers noted that during the second electoral round many serious violations were noted such as students and hospital staff voting under the supervision of their superiors, as well as multiple voting and proxy voting. According to the 1998 ODIHR report there was violence against the candidates for president. ODIHR monitoring groups received more than 90 complaints from opposition candidates and activists, claiming that their ability for free campaign was inhibited by personal and physical threats, removal of campaign material, obstruction in publishing campaign materials and other violations. During the 1999 presidential elections the media wasn't free of political manipulation either. The public funded electronic and print media, and private broadcasters failed to meet their obligations to provide balanced coverage of the campaign and equal treatment of all candidates.²²

The result of this pattern of policy, characterized by lack of democratic electoral processes was the massive electoral fraud, occurred during the presidential elections in 2004. There were two main rivals – Yanukovitsh (supporter of the former regime) and Yushchenko (leader of the opposition)²³. The campaign leading to the 2004 presidential elections was heavily criticised because of the broad violation of democratic norms, including government intimidation and pressure on the opposition, abuse of state administrative resources and media manipulation. The results of the first round led to a winner-take-all second round. The run off elections in November 2004 were characterized through significant violations, including illegal expulsion of opposition representatives from election commissions, reports of coercion of votes in schools and prisons and suspiciously high number of mobile ballot box votes. The reaction of Ukraine's people was negative - hundreds of thousands of people went on the streets to protest the election fraud and expressed their support for Yushchenko (called the "Orange revolution"). On November 24th 2004 Yanukovitsh was declared to be the winner of the elections (with 49.46% of the votes compared to 46.61% for Yushchenko). The international reactions were responding to the political situation – the EU and other international actors refused to accept the result as legitimate. The protests and international political pres-

²² Ukraine Presidential Elections 31 October and 14 November 1999. Final report Office for Democratic Institutions and Human Rights OSCE Warsaw 2000

²³,²⁴ Ukraine Presidential Election 31 October, 21 November and 26 December 2004.

Final report of the Office for Democratic Institutions and Human Rights. OSCE Warsaw 2005

sure had effect – Ukraine’s Supreme Court invalidated the announced election results and mandated a repeat of the second round vote to take place on December 26th. An agreement mediated by European leaders resulted in reform of the electoral law, in order to prevent further electoral fraud. The improvement was most clearly demonstrated in the media coverage, the overall conduct of the campaign and the transparency in the CEC (Central Electoral Committees) performance. On 10 January 2005 the results of the last vote were disclosed: Yushchenko had won 51.99% of the votes; and was inaugurated on January 23, 2005.²⁴

Thanks to the massive protests and significant international pressure during the 2004 Presidential elections the 2006 parliamentary elections occurred in sharp contrast to the previous presidential vote.²⁵ In 2006 voting irregularities were virtually nowhere to be found and international observers described the process as free and fair. The elections were conducted largely in line with OSCE commitments and international standards for democratic elections.²⁶ Ukraine appeared to have turned away from the Post – Soviet electoral model and moved, if not to a 2 – party system to at least one in which those elites who compete for national office (in particular President and Prime – Minister) have a clear association with a specific party, where those parties have well defined differentiating platforms and good, sustainable party organization on both national and regional levels.²⁷

Ukraine must hold presidential elections by the end of 2009. This will be a great possibility to „test” whether the democratic electoral regime has a sustainable base in Ukraine.

5.1.3 Political rights (Basic political rights like freedom of information, freedom of assembly, freedom of association, freedom of speech)

An essential indicator for democratic political system is the free expression of the civil rights, including basic political rights like the freedom of information and speech, as

²⁵ Some electoral amendments were made after the 2004 Presidential elections: The 450 deputies now are elected in a nationwide multi- member electoral district for a five- year term, the 4% threshold to gain representation was changed into 3% threshold

²⁶ Winner of the 2006 vote: „Party of the regions” , second -loc of Yulia Tymoshenko, third „Bloc Our Ukraine”

²⁷ Myagkov, Mikhail, Ordeshook, Peter C. , Shaikin, Dimitry, Shulgin, Sergey: The Disappearance of Fraud and Development of Political Parties: Ukraine’s 2006 Parliamentary elections. University of Oregon, April 2007

well as the freedom of assembly and association. In the following section I am going to analyze the application of these rights in Ukraine.

Freedom of speech and information

The freedom of speech and information are some of the most vulnerable civil rights in Ukraine. Since Ukraine's independence the traditional media press and TV depend on the official pro-presidential propaganda. The biggest threats to the freedom of speech in Ukraine are corruption, political pressure and lack of personal position of the journalists. Ukraine's poverty and economic decline inhibited the development of an independent press and TV, making journalists and media operations vulnerable to pressure from the government. Media corporations still struggle to attract investors and sell advertising space, as well as to find suitable and affordable newsprint, office space, publishing facilities, and distribution network. In the most cases these necessary facilities are owned or regulated by the State. Nowadays a censorship still exists and effectively denies access to objective information for the majority of the Ukrainian citizens.²⁸

Since 1999 electronic media activity in Ukraine has created a significant impact on the success of the struggle for democracy, as e- media is the only free media in the country. This phenomenon can be explained by the fact that for a long period of time there was lack of understanding among the majority of Ukrainian policy makers about the nature of the Internet as global medium. However, there have been numerous assaults against electronic media and Internet journalists. Probably the most famous case of violence against e- journalists is the case of Georgy Gongadze. He was the editor of "Ukrainska Pravda", an online news site that reported regularly about corruption among the president's advisors. Gongadze, like any other journalist dared to criticize the regime, faced often anonym threats. In the evening of September 16, 2000 he disappeared on his way home. In November the same year his corpse was found. Few weeks later, the long time Kuchma's rival and Socialist Party leader Oleksandr Moroz released an audiotape on which he claimed that Kuchma and two of his staff members could be heard discussing ways of attacking the journalist. Even though the government tried to hide the case, the violent death of Gongadze provoked a week – long series of protests, calling for the

²⁸ <http://www.privacyinternational.org/article.shtml?cmd%5B347%5D-x-347-103789>

President's resignation. The few print press and radio media, trying to report about the case, were attacked and threatened with closure by the government.²⁹

After the "Orange revolution" there was some progress in the area of information and speech freedom. As already mentioned before and during the 2006 parliamentary election the media coverage was relative fair and transparent. Even though study conducted by the international NGO "Reporters without borders" indicated that freedom of speech got worse over the last years. The results of the study pointed out that the continuous tensions between President and Prime Minister were the main factor affecting the country's independent journalism (by attempts of both sides to manipulate public opinion through the media). The freedom of speech, achieved after the 2004 elections was shadowed by renewed attacks against independent journalists. Furthermore, Yushchenko who promised to find and bring Gongadze's murderers to justice stopped the investigation as those who only carried out the murder were found. Compared to the period 2004 – 2006 the attacks against journalists are growing enormously. There has also been rise in censorship, as well as political and economic pressure against journalists.³⁰

Freedom of assembly

The Constitution provides for freedom of assembly, but there is no a national law regulating this civil right. Therefore the Code of Administrative Justice and case law regulates assemblies.³¹ Sometimes local authorities apply rules on freedom of assembly not according to the current Constitution, but according to the resolutions from the Soviet era (which are much more restrictive than the current law). Because of the fact, that there is no explicit national law regulating the freedom of assembly, some local authorities are able to overcome court decisions and prohibit public manifestations (frequently coped with political motivation). This occurs often before or during elections when public demonstrations by the opposition or NGO's are banned. In the most cases restrictions on assembly involve demonstrations that are against the Government policy. At the same time there are no restrictions on demonstrations supporting the Government.

²⁹ Attacks on the Press 2000: Ukraine. Committee to Protect Journalists. Defending Journalists worldwide. <http://cpj.org/2001/03/attacks-on-the-press-2000-ukraine.php>

³⁰ Rudometova, Anna: Study detects decline in Ukraine's press freedom. Kyiv Post Newspaper Vol.2 21 February 2007. downloaded: <http://www.kyivpost.com/nation/26165>

³¹ Bureau of Democracy, Human rights and labor under the USA Secretary for Democracy and Global Affairs: Country reports on Human rights practices- Ukraine 2004. Download: <http://www.state.gov/g/drl/rls/hrrpt/2004/41715.htm>

There are also some cases, in which the police broke up violently political demonstrations or failed to protect demonstrators from violence.³²

Freedom of association

The Constitution and the law provide for freedom of association. Theoretically, the government respects this civil right. However, there are numerous cases of infringement of the association freedom. During the 2004 Presidential elections the right of association was infringed; especially in the presidential election campaign (including police unauthorized searches in offices of the opposition parties). There is lacking legislative foundation for the protection of Non-profit organizations. In the period 2000 – 2008 the government refused to register civil – rights organizations (like environment organizations or minority organizations). Furthermore, if registration is allowed, the organizations must fulfil extensive registration requirements. This is especially relevant for the political parties. To be registered as a national – level party, political parties must maintain offices in one- half of the regions and may not receive financial support from the state or any foreign patron. There are still restrictive conditions for the formation of political parties, including the requirement to collect 10, 000 signatures in no less than two – thirds of all country’s regions (oblasts). This requirement makes it nearly impossible for groups concentrated in one region such as the Crimea Tatars (ethnic minority in Ukraine) to form political party.³³ This creates enormous difficulties for minorities and inhibits their possibilities to participate in the political life.

By looking at the second and third indicator for democracy consolidation, it is getting obvious that Ukraine has a long road to go, before seeking the acknowledgment of its democratic system. Despite the fact, that the country made some progress in providing democratic elections, it still lacks the continuous and sustainable implementation of the legislative rules. Ukraine is still in process of building civil society and establishing Western electoral standards. Furthermore, the expression of basic civil rights is almost as difficult as during the Soviet era. Some violations against the freedom of speech and information are so brutal that a critical and fair opinion costs sometimes a human life. The freedom of assembly and association is not warranted either. Practically, since

³² Bureau of Democracy, Human rights and labor under the USA Secretary for Democracy and Global Affairs: Country reports on Human rights practices- Ukraine 2007

³³ Bureau of Democracy, Human rights and labor under the USA Secretary for Democracy and Global Affairs: Country reports on Human rights practices- Ukraine 2007
Download <http://www.state.gov/g/drl/rls/hrrpt/2007/100590.htm>

Ukraine's independence there hasn't been any kind of institutional changes, ensuring the protection of the civil rights.

5.2 Second criterion: Market economy

The second criterion will be theoretically facilitated by the perception of the EU for market economy: The existence of a functioning market economy requires that prices, as well as trade, are liberalized and that an enforceable legal system is in place. Macroeconomic stability and consensus about economic policy enhance the performance of a market economy. A well – developed financial sector and the absence of any significant barriers to market entry and exit improve the efficiency of the economy.³⁴ This is the opposite of a centrally planned economy, in which government decisions drive most aspects of a country's economic activity.

5.2.1 Basic results of macro - economic development in Ukraine

Since 1994 until 1999 the basic institutions of a free market economy have been established: the Ukrainian currency (hryvna); a financial and banking system, a tax system, and other systems which now determine the economic infrastructure of Ukraine.

The monetary reform in 1996 and the establishment of a relatively stable currency was a significant achievement. At the same time the positive reforms had no important impact on the standards of living in this period of time. The dissolution of the centrally planned economy occurred very slowly and the disruption of the economic links associated with independence has led to a 50% decline in output since 1990. Inflation rose sharply during this period, reaching 65% per month in 1993. After this decline the government of Ukraine began taking serious steps toward reform of the economy through improvements in its macro – economic structure, privatization and decentralization. Even though the overall progress has been very slow. In 1994 most of the post- socialist countries had already overcome their financial crisis and achieved GDP growth. At the

³⁴ European Commission: Strategy Paper and Report 2003. © European Commission; Last modified: 2003-04-09 .Download: http://www.fifoost.org/EU/strategy_en_2002/node7.php

same time the fall in Ukraine's GDP was 23 %.³⁵ Until 1999 there was practically no economic progress in Ukraine. Compared to 1998 the real GDP growth was – 1, 7 %.

Since 2000 Ukraine achieves continuous growth of its GDP. The economic progress was stimulated by Yushchenko's government and his new concept of economic reform. He concentrated on the transfiguration of the regulatory function of the State, the abolishment of the barter economy and implementation of the structural reforms. These reforms were further implemented after Yushchenko's resignation from the Prime Minister position and led to a positive development in Ukraine's economy.³⁶ In 2000 the growth of the real GDP was 5, 6% and in 2004 it was 12, 5 %.

Despite the positive development the Ukrainian economy remains vulnerable to external economic shocks. The economic progress, achieved in 2004 mainly due to considerable steel exports, have turned into a deficit, caused by the tightened steel market and increased prices for energy. The economic shock was approved by the sharp decline of real GDP growth – in 2005 it was 6% and in 2006 only 2,5%. The continuous economical vulnerability can be approved by the considerable impact of the 2008 financial crisis on Ukraine's economy. Ukraine experienced sharp economic decline in the second half of 2008. The global financial crisis and export stagnation challenged the banking and corporate sector and caused a cut- off from external financing. In October – December 2008 real GDP decreased by 11,7% and brought the overall economic growth down to 2,5 % for the whole year. The inflation grew (25% compared to 12.8% in 2007) partly because of the high global food prices.³⁷ A major factor, contributing to the macro – economic instability, is linked with the monetary fiscal policy framework of Ukraine. This framework is based on maintaining the de facto pegged nominal exchange rate for Ukraine's currency hryvna against the US dollar. The National Bank of Ukraine (NBU) does not have a clear approach of achieving price stability. Even the latest macroeconomic adjustment to relax the peg of the hryvna to the US dollar and introduce exchange rate flexibility had no impact on the GDP deficit reduction. Furthermore, a medium term fiscal framework is still missing to put tax and expenditure policies on a more sustainable base.

³⁵ Vergun, Volodimir; Kusnetsov, Oleksiy: EU, NATO and Ukraine: Nation – Building and Democratization between East and West. P. 298

³⁶ Tereshenko, Volodymyr: Evolution der politischen Beziehungen zwischen der Ukraine und der EU 1991 – 2004. P.55

³⁷ European Neighborhood policy: Country report Ukraine. European Commission Staff working paper 2008

5.2.2 Structural, legislative reforms and progress towards market economy

Despite the fact that Ukrainian authorities have introduced structural reforms in the recent years, the appropriate reforms of the institutional system and the adoption and implementation of new laws lag behind. The administrative system is still in transition towards a market – oriented model. The current government structures are based on previously – existing structures and approaches, including laboriously decision – making, excessive bureaucracy, and lack of clarity about the division of responsibilities between the different institutions. The development of many economic branches is inhibited by the continuous political tensions between President and Prime Minister.

Additionally to this, the legal environment for business is an area, where the Government should make progress. Since 2004 several civil and commercial laws were introduced, some of them were implemented. Unfortunately, there is significant overlap in many of the laws, which are in part contradictory. This underlines one of the major problems in the development of the economic sector of Ukraine – the inability of the Government to control the passage of its draft legislation through Parliament. There is no guarantee whether a draft law which enters the Parliament will be recognizable when it finally becomes law, which is caused by the combination of poor parliamentary discipline and deputies representing specific business interests.³⁸

Another major problem for the economic development of Ukraine is the corruption. The country ranks poorly in word comparison of corruption. High level corruption created the so called “insider” economy in Ukraine. It is especially well developed in this country, where large financial industrial groups dominate industrial output. These groups have strong connections with the Government and other state institutions, allowing them to determine the operating rules of the market economy. This hinders the economic modernization and isolates the country from external competition.³⁹

The already mentioned problems are transferred to most important economic branches.

³⁸ Mayhew, Alan (2007): Foreign Direct Investment and the modernization of Ukraine’s economy. P 3

³⁹ Mayhew, Alan (2007): Foreign Direct Investment and the modernization of Ukraine’s economy P.4

5.2. 3 Corporate Law

In the mid- nineties Ukraine missed to implement a suitable Joint – stock company law. As a result controlling shareholders took full control over the political system and Ukraine became one of the European countries with the worst protected minority shareholders. This was the main reason that prevented the development of the Ukrainian securities market and determined unfavorable character of the investment climate of the country.⁴⁰ Current legislation on Joint Stock Companies (JSC), that produces the main share of the economic output in Ukraine, contains a number of legal loopholes.

During the last eight years the Parliament rejected to adopt seven drafts on JSC law. Therefore the issues on JSC were resolved according to the first draft law, introduced in 1998. Since its presentation the draft law started to evolve, passing through hands of various initiative groups, undergoing modifications and reductions. The result was a typical Post – Soviet law, serving to interests of certain “oligarchs” and the regulatory authorities of the state bodies. On 17th September 2008 the Parliament adopted the “ Law on Joint Stock Companies” that has been on the agenda for more than seven years. The new law should considerably improve protection of the rights of minority shareholders and governance of the JSCs, as well as to close a number of loopholes for legally dubious takeovers.⁴¹

The issues in the area of privatization and JSC laws affected negative the Foreign Direct Investment climate in Ukraine. Legislation improvements in the area of Foreign Direct Investment are too weak. Despite several reforms the legislation for FDI is still quite inconsistent, frequently changing and weakly enforceable. The result is uncertainty, which makes it difficult to attract FDI in Ukraine. A point of extreme concern of foreign investors, namely taxations is subject of constant changes in Ukraine. Therefore Ukraine is still one of the least attractive countries for investment in East Europe.⁴²

It is a fact that there was massive jump of FDI in 2005, so the investment in 2005 equaled the cumulated FDI from 1995 to 2004. However, this was the result of two very large deals (Raiffeisen Bank investment, and sale of Kryvorizhstal steel works privatization). This two first significant investments as well as the fact that Brussels gave Ukraine the status „market economy” in 2005, should encouraged foreign investors.

⁴⁰ Yefimenko, Anatoliy: Corporate Governance under Ukraine’s new joint stock company law. Institute of international relations Kiev Downloaded: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1387360

⁴¹ Monthly economic monitor Ukraine No 10. (96) October 2008
http://ierpc.org/ierpc/memu/memu_96_oct_08_en.pdf

⁴² Kudina, Alina (1999): The Motives for Foreign Direct Investment in Ukraine.

But the unresolved institutional and legislative problems as well as the high level of corruption bring foreign investors to shy away from investing in Ukraine.⁴³

5.2.4 Banking sector and financial services

Many issues can be observed also in the area of financial services. Banking supervision remains a challenge due to the non-transparent ownership structures and related industrial establishments. Draft amendments of several laws concerning improvements of the financial services markets regulation were submitted to the Parliament in September 2008 but have not been adopted yet. Furthermore, the National Bank of Ukraine lacks provisions, ensuring its independence. Legislative amendments, clarifying the division of responsibilities between NBU and the Government, as well as guaranteeing less state intervention and more independence for the National Bank have to be implemented.

In the framework of the ENP Action Plan Ukraine agreed to strengthen the independence of the NBU. Unfortunately, no measures were taken in this respect in 2008.⁴⁴

5.2.5 Trade relations

One of the major EU integration criteria is the development of liberalized trade. Since 1994 Ukraine's dependence on trade with the republics of the Former Soviet Union and Russia has been continually reduced and in turn, the trade with the EU and CEFTA countries increased.⁴⁵ Regarding Ukraine's participation in the multilateral trade framework, there has been significant progress on key issues related to WTO accession leading to the 2008 inclusion of this country to the organization. Together with the Accession Protocol, Ukraine committed to pass 10 – WTO related pieces of legislation, of which already six were adopted so far. The achieved WTO membership plays key role in implementing economic reform, especially in the context of a transition economy. After its accession to the WTO Ukraine benefits from secure access to markets of all WTO members and has the possibility to provide stable trade environment.

⁴³ Mayhew, Alan (2007): Foreign Direct Investment and the modernization of Ukraine's economy
<http://www.wider-europe.org/files/Mayhew2007.pdf>

⁴⁴ European Neighborhood policy: Country report Ukraine. European Commission Staff working paper 2008

⁴⁵ Vergun, Volodimir; Kusnetsov, Oleksiy : EU, NATO and Ukraine: Nation – Building and Democratization between East and West. P. 298

EU – Ukraine trade relations has been growing in the recent years and amounted to EUR 39.5 billion in 2008. Most Ukrainian exports to the EU are liberalised thanks to the Generalised System of Preferences (GSP) granted by the EU to Ukraine since 1993. Ukraine ranks ninth among the most effective users of the system (approximate 2.2 million Euro of GSP preferential imports to the EU).⁴⁶ Ukrainian exports to EU in 2008 increased by 15.7 %, at the same time imports from the EU increased by 12.4%. The EU share in Ukraine's overall external trade in goods in 2007 was 39%, ahead of Russia. Ukrainian exports to the EU consist mainly of manufactured goods and basic commodities such as metal, minerals, energy, agricultural products and chemicals. The most important EU exports to Ukraine are machinery, vehicles and transport equipment and manufactured goods.⁴⁷ The already in 2006 developed concept of Free Trade Area in 2006, that has the goal of deeper access of Ukraine to the EU market and increased investment in the country, was officially launched in February 2008. Even though Ukraine registered significant success in its trade relations with the EU, it still has to work on several trade aspects, included in the ENP Action Plan. For example, limited progress was made in the implementation of the customs part of the Action Plan. On the free movement of goods and technical regulations progress remained very limited. Furthermore, no significant progress was achieved in reform of the institutions responsible for the regulation of the quality of industrial products.

As the analysis above demonstrates, Ukraine made economic progress in the direction of European integration. There was significant progress in the area of trade (with regard to the WTO accession and enhanced trade relations with the EU). In the recent years important measures have been taken on the institutional and administrative level. Unfortunately, the present overall economic development and the particular institutional structures do not quite accord to the European standards. The economy is still too vulnerable to external shocks, and there is no suitable fiscal framework, guaranteeing the macroeconomic stability of the country. Other important criteria for well functioning market economy, namely the consensus about economic policy, sustainable legislation and well developed financial sector are problematic in Ukraine. Furthermore, total government expenditures and inflation (average 12% in 2007) are very high. In the recent

⁴⁶Trade Issues of the EC. Bilateral Trade Relations – Ukraine.
http://ec.europa.eu/trade/issues/bilateral/countries/ukraine/index_en.htm

⁴⁷ Trade Issues of the EC. Bilateral Trade Relations – Ukraine.
http://ec.europa.eu/trade/issues/bilateral/countries/ukraine/index_en.htm

years government spending equalled almost the half of GDP.⁴⁸ This poor economic performance does not fit in EU's perceptions for economic development. Realistically it is doubtful whether Ukraine can fulfil all expectations of the EU. Probably it is even not desirable from Ukrainian perspective. Its present state of economic performance does not make for objective grounds for an accession to EU membership in the short- or medium-term perspective.

5.3 Conclusions Hypothesis 1

The provided analysis of the political and economic transition in Ukraine since its independence shows that these processes are not completed. Ukraine's progress in the two key areas "democracy consolidation" and "market economy" was insufficient.

In political aspect there are too many differences between perceptions and performances, required by the EU and the political practice in Ukraine. In terms of economic performance Ukraine achieved the status "market economy" but the de facto transition to competitive and free economy still has to be completed. This shaped the external political relations of the country and the European Union. The lacking internal political and economical progress gave no motivation for the EU to open pre-accession negotiations with Ukraine. The international partners of Ukraine still wait for the implementation of fundamental reforms. However, these reforms are not in the interest of the political power elites. The elites or "oligarchs" and the surrounding political leaders remain the key driving force in Ukraine. Political and economic reforms required for closer cooperation with the EU would jeopardize their group and personal interests. Therefore they are interested in proclaiming formal European aspirations without reforming the established domestic structures.⁴⁹ Ukraine does not fulfil the conditions set in the framework of the first hypothesis. Therefore the lacking willingness of EU to open its door for Ukraine can be explained by the fact that all problems are caused by Ukraine. But this conclusion creates a base for new doubts and perspectives of analyzing the current bilateral issues between Ukraine and the EU. With regard to the East – Central European countries the EU opened de facto the accession perspective with the ratification of the European Convention in 1991 and the Copenhagen Summit in 1993. At that time the ECE countries were on the way of broad political and economic transformation, but the re-

⁴⁸ <http://www.heritage.org/index/country/Ukraine> 2009 Index of economic freedom

⁴⁹ Wolczuk, Katarzyna: Integration without Europeanization: Ukraine and its Policy towards the European Union. P.23. EUI Working Papers No. 2004/15

sults of this transformation were unpredictable. Therefore one of the most significant factors for the development of the ECE countries was EU's decision to support politically their transformation. The most important instrument of this political support was the accession perspective. At the same time the possibilities for internal development of Ukraine based on the conception of integration in the EU were ignored. The EU hardly supported the democratic and economic processes in Ukraine. One could easily get the impression that EU accepted that although no democracy exists in Ukraine, there exists at least stability.

Why the EU failed to support Ukraine's transformation straight after its independence?

Why the EU made a "selection" which East European countries to be supported and which not, especially with regard to the fact that the initial situation in Ukraine was identical with the ECE countries?

Why there is still a lack of political clarity about Ukraine's accession perspectives?

The incapacity to answer those questions within the framework of the first hypothesis led me to the conclusion that it gives only partly an answer to the main research question.

6. Hypothesis 2: The geopolitical factor

These questions could be answered by the second hypothesis.

Hypothesis 2 suggests that the current political deadlock between Ukraine and the EU can be explained much more by a “geopolitical” factor. This means that the external geopolitical environment has major impact on the EU – Ukraine relations. The geopolitical importance of Ukraine is characterized by the correlation between the geographical position of this country (a position between Russia, the Black Sea Region and Western Europe) and its position on the international level (in political, economical and defence policy dimension). When talking about the “geopolitical role” of Ukraine for the EU, it is not possible to oversee the enormous influence of Russia on this bilateral relationship. The bilateral relation EU-Ukraine is dependent on the course of relations between Russia and the EU.⁵⁰ Therefore it is necessary to analyze the geopolitical role and influence of Russia in the context of the second hypothesis.

6.1 The Russian -Ukrainian- EU triangle relations

After the breakdown of the Soviet Union the EU was especially interested in political, social and economical stability of its Near Abroad - the Central and Southeast European area. Therefore it applied the strategy of stabilization and respectively implementation of the Eastward enlargement in the ECE countries. The EU saw in the Eastward enlargement above all the best strategy of political stabilization and a guarantee for its own safety. In the case of Ukraine, this country was seen as part of the relative distant CIS area. That’s why the EU found it incommensurately to apply its enlargement strategy to this country. Furthermore, the EU recognized that an accession perspective of Ukraine could be transformed into a destabilization factor. After the first years of its independence Ukraine was a territory, which was still under the enormous influence of Russia. Therefore the EU tried to avoid any conflicts with Russia by intervening in Ukraine’s political matters. This policy was relevant especially in the run-up to the Eastward enlargement. On the one hand, Brussels had the interest to develop peaceful and stable relations with Russia. On the other hand the EU had the interest of maintaining the Status quo – Ukraine’s independence and stability (especially with regard to Ukraine’s significant military capacity), and had the obligation to support this country.

⁵⁰ Tereshenko, Volodymyr: Evolution der politischen Beziehungen zwischen der Ukraine und der EU 1991 – 2004. P.30- 32

In order to keep the balance between these two interests, the EU applied the same formal cooperation conditions to both states – Ukraine and Russia.

This includes similar subject matter in the PCA, ratification of Common Strategies with regard to both states, similar options for the establishment of free-trade-area, as well as inclusion of both states in the area of safety policy. In fact the EU always gave priority to its external relations with Russia. For example, the EU acknowledged Russia as market economy in 1998. In the case of Ukraine, this occurred eight years later.

The EU started the initiative of the European Economic Area driven by its interests of cooperation with Russia. Later, the initiative expanded to the western CIS countries.⁵¹

This second hypothesis includes the assumption that EU's unwillingness to open the door for Ukraine is determined much more by the "Russian shadow" than the political and economical underdevelopment of this country. As long as the EU - Russia relations have cooperative nature and Kremlin remains an important political and economical partner, Ukraine will be excluded from Brussels's institutional framework.

In order to approve the arguments within the Hypothesis 2 three main dimensions of the EU-Ukraine-Russia relations will be analyzed – geo-political, geo-economics and safety policy dimension.

6.2 Geo-political dimension of the EU-Ukrainian-Russia triangle relations

During the 1990s Russia – Ukraine- EU relations were shaped by the issues occurred after the dissolution of the Soviet Union. Russia was a weak player, paralyzed by internal political and economical crises, culminating in the financial breakdown in 1998. These occurrences forced Russia to concentrate on the internal issues and prevented from more aggressive Russian policy in the CIS countries.⁵² In this period of time Ukraine's foreign policy hesitated between "pro-independence" Western-oriented approach and a "pragmatic" pro-Russian approach. Kiev hoped that the Western political structures will provide support for its political consolidation. Ukraine's leaders expected that the EU will help for its transformation like in the ECE countries. The first Ukrainian President, Leonid Kravchuk, based his external policy on the conflict potential of the Russia – EU relations. He presented Ukraine as an opposite to Russia in order

⁵¹,⁶² Fischer, Sabine: Ukraine as a regional actor. . In: Ukraine- Quo vadis? Institute for Security Studies. Chaillot Paper No. 108 P.122

to achieve political and economical advantages for his country. The pro –western political course was further developed by the second President Kuchma. He declared the cooperation with NATO and the EU as the most important goal of Ukraine’s external policy. Since 1996 Kiev proclaimed its ambitions for full integration in the EU’s structures.⁵³ Despite the fact that Ukraine declared its European geopolitical choice, Brussels did not pay much attention to its aspirations. The EU has just started to develop political relations with the former Soviet Republics and at the same time concentrated on the Eastward enlargement. Brussels was much more interested in cooperation with the Russian Federation and did not demonstrate interest of integrating Ukraine in the Western policy. In this situation Ukraine turned to the more convenient concept of “pragmatic policy” and intensified its economic and political relations with Moscow. Despite the fact that an EU accession remained as the main external political target, Ukraine’s relations with Russia under Kuchma’s second mandate became deeper. As a result of Kiev’s changed political course the EU started to show geopolitical interest in Ukraine. This interest was caused both by the Eastward enlargement and the “Orange revolution” in 2004. The EU needed intensified cooperation with Ukraine in order to prevent the problems resulting of its enlargement. Therefore Brussels insisted to communicate with a stable and predictable country. Recognizing that the existing cooperation framework (PCA) was not the appropriate one, the EU introduced the ENP.

At the same time Russia was also interested in sustainable cooperation with Kiev.

The occurrences after 2000 (especially the NATO intervention in Kosovo) enforced the Russian Federation to strengthen its geopolitical position. Kremlin saw in the Post Soviet region its last political weapon in the battle for geopolitical status.

Therefore Putin welcomed neither NATO expansion nor the introduction of the ENP.⁵⁴

Russia refused to participate in the ENP partly because the strategy was not developed and introduced with its participation and partly because the Post Soviet states were regarded as legitimate object of EU policies. For Putin the ENP was rival and officious geopolitical project. The geopolitical battle for Ukraine emerged at the 2004 Presidential elections. Russia supported Kuchma and his “pragmatic approach”, for this purpose several favourable bilateral economic measures were adopted.

⁵³ Tereshenko, Volodymyr: Evolution der politischen Beziehungen zwischen der Ukraine und der EU 1991 – 2004 P. 239

⁵⁴,65 Samokhvalov, Vsevolod (2007): Relations in the Russia – Ukraine- EU triangle: „zero-sum game” or not?. Institute for security studies. Occasional paper No. 68 P.20

The EU supported the “Orange revolution” by criticizing the electoral fraud during the elections and encouraging the already mentioned Constitutional changes. The responding Russian reactions were broadly negative – the President and other institutions criticized the West for giving support to the opposition. Moscow saw in this political position the enforcement of EU’s geopolitical interests. This perception led Kremlin to apply aggressive measures to Ukraine and at the same time to intensify its cooperation with the Former Soviet Countries, which have no European aspirations (like Belarus).

Russia turned to a policy of political threats and economic pressure.

The instruments used in this power struggle reached from embargos on essential exports from Ukraine and the exploitation of energy dependence (which will be analyzed in the next section). The „Orange revolution” in Ukraine confronted Russia with its failure to establish political hegemony in the region. As a response Moscow returned to bilateralism in its relations with the neighbours and applied political and economic pressure, when necessary. This difficult situation made it even more uncomfortable for Kiev to keep the balance between its EU integration efforts and the essential economic relations with Russia. Yushchenko’s government failed to improve its relations with the Russian Federation. While Ukraine proclaimed its willingness to return to good mutual relations with Moscow, there was lack of suitable strategy for achieving this goal. Ukraine’s political position on regional level (like the close cooperation with Georgia and the personal friendship between Yushchenko and Saakashvili) deteriorated further its relations with Russia.⁵⁵ However, the weakened geopolitical position of Ukraine was caused not only by Moscow’s pressure and the domestic political mistakes but also by the lacking support from the EU and NATO. NATO’s rejecting position regarding the accession chances for Ukraine and EU’s restrictive political course (especially the withdrawal of economic preferences for Ukraine in the framework of the ENP) led to a loss of credibility within the country and weakened its position vis-à-vis Russia. Furthermore, the tensions with Russia led to negative attitude of some EU Member States towards Ukraine. EU’s enthusiastic support of the “Orange revolution” was soon replaced by disagreement between the Member States supporting Kiev’s pro – European course and those MS who emphasised on possible EU-Russia conflicts. After Kremlin’s negative reactions, the EU avoided formulating and expressing a clear political position to Ukraine. It also did not support Yushchenko’s Pro- independence Plan and his initia-

tives in regional aspect. These circumstances led Ukraine to a status quo situation – nowadays it finds itself stuck in between Russia and the EU.⁵⁶

The attempt to become an independent regional player failed. This can be explained by the fact that Ukraine's regional leadership was neither in Russia's nor in EU's interest. Russia approved once again its ability to exert considerable influence on the former Soviet Countries. Moscow's political leaders succeeded to prevent political processes (like electoral transparency, reforms of Ukraine's economy) that are in conflict with its regional geopolitical interests. Despite the fact that Moscow is unable to establish its previous hegemony in the CIS space, it is still able to undermine EU integration efforts in the region. In this situation Brussels also follows its own geopolitical interests. By recognizing that the occurrences in Ukraine could lead to a destabilization in the region and to deterioration in its relations with Moscow, the EU sacrificed the opportunity for rapid reforms and progress in Kiev in order to secure favourable relations with Russia.

6.3 Geo-economics and the energy dimension in the triangle

Since the break up of the Soviet Union the Russian Federation enforced its economic influence in Ukraine. This was seen not only as an opportunity to maintain and expand the old trade and economic chains, but to secure sustainable political influence in the region. Therefore Russia insisted on deeper economical cooperation.

At the same time Ukraine tried to defend its national interests by preventing deeper forms of cooperation. During the 1990s the economic relations between both countries were difficult – it was observed that both sides imposed often restrictions and quotas on each other for different products. These trade wars were used as a political tool for power struggle between the two countries. One example is when Ukraine tried to introduce free trade area for the CIS members. Russia refused and “punished” Kiev's attempt to strengthen its position by imposing certain quotas and restrictions on Ukrainian exports. However, Russia achieved to make Ukraine's economy dependent on Kremlin.

An important step for achieving this goal was Kiev's integration in the Single Economic Space (SES). The purpose of this organization was the creation of closer economic ties between both countries. Kiev refused to become deeply involved in the organization and participated in only few projects. Ukraine was not ready to go beyond a free trade area with the other Member States of the SES. Despite Kiev's attempts to secure its

⁵⁶ Fischer, Sabine (2008): Ukraine as a regional actor. In: Ukraine- Quo vadis? Institute for Security Studies. Chaillot Paper No. 108.P.119

relative economic independence, Russia achieved to be the number one consumer of Ukraine's exports and has contributed to its constant economic growth since 2000.⁵⁷

In the recent years the economic influence of Russia diminished as Ukraine chose the pattern of WTO accession and enhanced trade relations with the EU.

Nowadays the EU is Ukraine's most important trade partner. Since 2005, the EU shaped its economic relations with Ukraine mainly through the ENP. Brussels envisages further trade liberalization and the establishment of a free trade area. Russia does not possess enough attractiveness to compete with the wide-range market of the EU (especially with the high quality exports as vehicles, machinery and equipment). Therefore EU imports in Ukraine grew in the recent years. However, this bilateral trade relation is asymmetric. The EU is a significant factor for Ukraine's economy, but Ukraine's share in EU's trade is still too small. This means that Ukraine will feel much stronger the benefits and losses from closer economic cooperation than the EU.⁵⁸

The situation looks different with regard to the EU – Russia economic relations.

Russia is EU's third biggest trade partner. The EU is Moscow's main trading partner, accounting for 52,3% of its overall trade turnover in 2008. Furthermore, Brussels is the most important investor in Russia. On the other hand, imports from Russia are important raw materials like energy and mineral fuel products (68.2% of the overall imports).⁵⁹ After the Soviet Union dissolution EU trade relations with Russia have been characterized by the attempts to intensify the cooperation. The purpose of this enhanced relation was to establish political and economic stability in the region and to integrate Russia into the global economy as soon as possible. Despite the fact that in the recent years Putin returned the policy of state control over the economy, this had no significant negative effects on EU – Russia trade relations. This could be partly explained by the fact that Russia is EU's most important supplier of energy resources. Nowadays, the European economy cannot function without Moscow's energy exports. Therefore, the importance of the energy supply gives Russia such weight that EU is actually in a position of dependence in this trade relation. The Russian Federation is aware of this fact; it does not hesitate to use its strong geo-economical position in order to provide its foreign

⁵⁷ Sherwin, Jillian (2006): Russia's security interests: Dominating Ukraine. Department of Political Science University of Calgary P.7

http://www.ucalgary.ca/innovations/files/innovations/sherwin_russias_security_interests.pdf

⁵⁸ Kolesnichenko, Anna, Jakubiak, Maigorzata (2006): Prospects for EU – Ukraine economic relations. Center for Social and Economic Research Ukraine Report No. 66

⁵⁹ European Commission. External trade – trade issues. Download http://ec.europa.eu/trade/issues/bilateral/countries/russia/index_en.htm

policy interests.⁶⁰This can be observed in the geo-economic triangle EU –Russia – Ukraine. Ukraine represents a considerable part of the former Soviet production and market territory. Russia’s goal is to integrate this market into the world economy on equal terms. The pro-western oriented “Orange government” was seen as a key threat for Russia’s geo-economic hegemony. Ukraine’s European course and the possibility of opening up the markets for international business would mean that Kiev is on the way of overcoming the Russian shadow.⁶¹ This would change both the economic relations between these countries and the geo-economic position of Kremlin. With a pro-Western oriented Ukraine Moscow could not further promote effectively the Russia – led economic integration initiatives in the region. Furthermore, as one of the main investors in Ukraine, Russia recognized that increased transparency and internationalisation in the economic sector would undermine enormously its economic power in this country. In attempt to prevent Ukraine to leave the „pragmatism” approach Moscow already two years in a row uses its strongest geo-economic weapon: namely energy supply.

6.3.1 The Russian –EU- Ukraine energy triangle

Energy relations within the triangle represent the different approaches (and interests) of each actor in this sector. This is caused by the direct link between the three sides – EU is Russia’s number one energy consumer, Russia is EU’s most important energy supplier and Ukraine is the most important “link” between both sides – it is the main gas transmission country for Western Europe. The control over significant energy resources is for Moscow clearly a power tool that gives Russia great abilities to regain its power status and to conduct international modernization. It is one of the few sectors which enables Russia to negotiate with Europe on an equal level. In the current situation the Russian political elite and energy oligarchs are so closely tied, that following situation can be observed: The government promotes the interests of the largest gas company Gazprom (since 2006 the monopolist on the Russian energy market) , while Gazprom endorses Russia’s foreign policy actions. As a result, the Gazprom interests became part of Russia’s foreign policy interests.⁶² The Russian – Ukrainian energy relations are a

⁶⁰ Borda, Andrew(2006): EU- Russia trade relations. P. 4

⁶¹ Sherwin, Jillian (2006): Russia’s security interests: Dominating Ukraine. Department of Political Science University of Calgary

⁶² Simpson, Emma (2007): The changing nature of Russia’s Gazprom
BBC News, Yugorsk, Western Siberia

Downloaded: <http://news.bbc.co.uk/2/hi/business/6485065.stm>

reflection of the Post – Soviet way of making international politics. After the first years of its independence Ukraine managed to take advantage of its position as a transition country and to ensure lower prices for energy supply from Russia. During the years of transformation the country did not have enough hard currency to pay off its debts through barter transactions. Therefore Kiev received energy on concession basis through a number of intermediary offshore companies. Initially, this was an appropriate solution. But later these offshore companies created a base for enormous personal profit for key political and business persons in Russia and Ukraine. Russia's position was not driven by the noble idea of "helping" Ukraine. It supplied Kiev with gas to preferential prices, but in return expected Ukraine's political and economic loyalty. The close Russian – Ukrainian cooperation after the break – up of the Soviet Union brought Moscow to the idea to create an international gas – pipeline consortium, which foresaw the transfer of the Ukrainian national infrastructure into private parts assets of the Gazprom – led consortium companies. Unfortunately, after the "Orange Revolution" in 2004 Ukraine chose political path that was in conflict with Russia's plans in this sector. This fact can be approved by Russia's reaction in the energy sector shortly after Ukraine demonstrated its pro – Western political orientation.

The first reaction of Russia was to stop subsidizing Ukraine's energy consumption.

In the period 2005 - 2006 negotiations about the gas price started. Russia insisted a new, much higher price per 1000 cubic meters gas (about 160\$). Despite the fact Ukraine was ready for compromise (by offering Russia to increase gradually the prices), Gazprom insisted on a new, almost double price per 1000 cubic meters (about 230\$). The conflict escalated as Gazprom started reducing the pressure in the pipelines from Russia to Ukraine (January 1st 2006). The normal gas supply was restored on January 4th 2006, following a preliminary agreement between Ukraine and Gazprom.⁶³

For many political observers this course of events could not only be explained by the economic interests of Moscow. Moscow's goal was not just to raise the prices and respectively to increase its profit. Its reaction was much more an act of "punishment" and humiliation for Ukraine. Russia wanted to demonstrate its power status in the energy sector; but also to show that Ukraine's strong pro – Western orientation as well as EU's support of Kiev is not welcomed. This at a first glance "scandalous" statement can be

⁶³ Samokhvalov, Vsevolod (2007): Relations in the Russia – Ukraine- EU triangle: „zero-sum game” or not? Institute for security studies Occasional paper No. 68 P. 20-22

approved by several facts – only few days after Ukraine showed its willingness to accept the price set by Gazprom, the corporation raised the price and made it almost double. Furthermore, Russia blocked successfully Ukraine's attempts to ensure gas supply from Turkmenistan.⁶⁴

With this conflict Russia achieved to shift the centre of debates about Ukraine's democratization and economic liberalization to the more important question of energy supply. Furthermore, the gas crisis led to disagreements within the EU. The governments of some Member States started negotiations for separate gas deals with Gazprom. These MS argued that private enterprise initiatives would lead to more success than an EU energy security initiative. This undermined enormously the idea of a common energy policy of the EU. With this action Russia demonstrated its geopolitical power in the region and at the same time was able to take economic advantages of the conflict.⁶⁵

Despite the fact that the EU intervened in the conflict, it could not support the establishment of long-term solution. The agreement was signed mostly on Moscow terms. Furthermore, both sides showed unwillingness to decide about the future of RosUkrEnergo (a non-transparent offshore company providing the gas to Western Europe). This showed that new conflicts could escalate once again. It was obvious, that the created agreement between Russia and Ukraine was a solution only for the short-term perspective. Thus, further tensions were expected.⁶⁶

Accordingly to these expectations, a new gas conflict emerged by the end of 2008.

In December 2008 Gazprom accused Naftogaz (the Ukrainian gas company) of failing to pay a \$ 2 billion debt for gas delivered in 2008. Then it was about the price the Ukrainians should pay in 2009 for the Russian gas that it uses on domestic level. Then Ukraine involved the question about a contract handling the gas transport to Europe and shifted the negotiations on "technical gas" that is needed to keep up volumes in Ukraine's pipelines. On the one hand Russia claimed that it was sending gas to Ukraine, but Ukraine refused to accept it. On the other hand Kiev made the statement that the gas was coming down the wrong pipeline and could only be delivered to Europe if it shut off supplies to Ukrainian factories and households. The conflict escalated as Russia's

⁶⁴ Schwarz, Peter (2006): The gas conflict of 2006
<http://www.ireport.com/docs/DOC-181576>

⁶⁵ Schwarz, Peter (2006): The gas conflict of 2006
<http://www.ireport.com/docs/DOC-181576>

⁶⁶ Samokhvalov, Vsevolod (2007): Relations in the Russia – Ukraine- EU triangle: „zero-sum game” or not? Institute for security studies Occasional paper No. 68 P. 20-22

Prime – Minister Putin ordered Gazprom to cut supplies through Ukraine by 20 % (by withholding the gas, that according to Russia’s accusations was illegally siphoned off by Ukraine) and ensured that Gazprom would further increase shipments through alternative pipelines in Belarus, Poland and Turkey. The consequence of this action was a two week shut down of the gas – pipelines through Ukraine that had left people in South – East Europe freezing. Finally, on January 19th 2009, Prime – ministers of Russia and Ukraine Putin and Tymoshenko signed a deal, which according to press reports would for ten years and would regulate the contentious issues which caused the conflicts so far.⁶⁷ This year’s conflict has a different background. First, the volumes affected were much higher (on January 7th Russian gas supplies through Ukraine stopped altogether). The 2006 crisis lasted only few days and had relative small impact on EU. As already mentioned, the 2009 conflict affected very negative the new Member States and approved their full dependence on Russian gas. Second, the political situation in the region looks very different – the optimistic expectations after the “Orange revolution” are replaced by Ukraine’s divided and inadequate functioning government. The personal tensions between President and Prime Minister inhibited the creation of unified and successful anti – gas crisis strategy. Furthermore, at the time of the energy conflict Ukraine was hit so hard by the world financial crisis that it could not afford to pay gas for the prices, set by Gazprom. Gazprom and respectively Russia suggest that the conflict is purely commercial. But it is much more plausible to believe that there are both political and economical considerations explaining the conflict. One of Russia’s goals was to increase the gas prices (the World Financial crisis affected also negative Gazprom). Ukraine buys more than 40 billion cubic meters of gas from Russia per year – this makes it one of Russia’s biggest customers and a higher price was one of Russia’s commercial objectives.⁶⁸ Therefore in this year’s conflict price really mattered. But there are other facts, approving that the conflict is not only commercial. As the conflict emerged, Gazprom started to register significant financial losses. The estimated Russia’s total loss was also two billion dollars due to gas disruption.⁶⁹ Moreover, Russia risked facing many law suits from European companies if supply contracts were breached. Additionally, Gazprom started to loose its standing in the energy

⁶⁷ Barysch, Katinka (2009): After the gas conflict. Centre for European Reform. <http://centreforeuropeanreform.blogspot.com/2009/01/after-gas-conflict.html>

⁶⁸ Barysch, Katinka (2009): Just another gas crisis? Centre for European Reform

⁶⁹, Özertem, Hasan Selim (2009): Aftermath of the energy crisis- Russia still dominant in the Market! Download <http://www.usak.org.tr/EN/makale.asp?id=887>

market. Ukraine was not the only country without finalized negotiations about gas prices - Belarus was in the same situation, but it was not “punished” by Moscow.

An important non – commercial aspect of Moscow’s action was its ambition to decrease Ukraine’s power in the transmission sector. Currently, more than 80% of Russia’s gas exports pass through Ukraine and Moscow can not afford that each problem in the bilateral relations emerge in energy crisis. Currently, a North Stream Pipeline Project between Germany and Russia, which should by-pass any third party on its way to Western Europe, is on the agenda. Thus, Russia wants to approve Ukraine’s lacking liability as gas transition country and to win the EU as an investor for new projects in the Arctic and East Siberia which are very costly and can not be implemented only with domestic resources.⁷⁰ Other factor, contributing to the gas crisis is the deteriorating bilateral relation between Russia and Ukraine. Since the “Orange Revolution” Moscow remained a clear opposite to Ukraine’s EU and NATO aspirations. January gas conflict was accompanied by intensified Russian media and political coverage on the topic that Ukraine is no reliable partner for the EU and that the gas conflict is caused by the divided and weak Ukrainian government.

At the same time Ukrainian analysts claimed that Russia is trying to occupy not only the energy sector, but also to regulate the internal policy of Ukraine. The arguments of the analysts implied Russia’s ambition to diminish Ukraine’s NATO aspirations and Putin’s anger on Yushchenko’s decision to limit Russia’s military presence in the Crimea.⁷¹

The gas conflicts reflected negative on the EU – Russia relations in the energy sector. The EU Member States have become less willing to provide Russian state – owned companies with access to the energy infrastructure of Europe.

The EU promotes open markets, transparency, competition and equal opportunities. Furthermore, the EU has clear requirements – Russia has to comply with the Energy Charter and its protocols, emphasizing on liberalization of the access to pipelines and energy resources in Russia and Central Asia.⁷² But it seems that Russia does not hurry to comply with these requirements. And it has good reasons for not doing it.

⁷⁰ Özertem, Hasan Selim (2009): Aftermath of the energy crisis- Russia still dominant in the Market! Download <http://www.usak.org.tr/EN/makale.asp?id=887>

⁷¹ Loskot- Strachota, Agata (2009): The complexity of Russian- Ukrainian energy relations. European Union Institute for security studies P.2

⁷² Konoplyanik, Andrey: Regulating energy relations.Acquis or energy charter? In Barysch, Katinka: „Pipelines, politics and power: the future of EU – Russia energy relations”. Centre for European Reform P.107

It is a fact, that the energy crisis enforced the EU to develop strategies of alternative energy supply. But the energy resources for the future are mainly concentrated in Russia and the Middle East. Russia is and will remain EU's key supplier. The EU and Russia will remain mutually dependent in the energy sector. Therefore the occurrences in the energy dispute brought Brussels to the thought that it must take carefully every step in the Post – Soviet space. Because a wrong step in the wrong direction causes disadvantages for all sides. The EU recognized this fact and shortly after the first gas crisis restricted its support of Ukraine. Despite the fact that Ex – communist EU Member States are accusing Russia of using energy as a political weapon in the Ukraine gas crisis, the European Commission paints the dispute as a purely commercial matter.

As long as the EU and Russia do not tackle the questions of the control, management and redistribution of Ukrainian gas infrastructure, the gas policy of both actors will have negative impact on Ukraine's internal situation. And Ukraine will pay high price for every attempt to overcome the Russian shadow.

6.4 Geopolitics and security interests

The security policy is another significant aspect in the EU-Ukraine-Russia triangle.

Ukraine's role in the safety policy dimension should not be underestimated.

The country received an important heritage from the Soviet Union – namely a well developed and competitive arms industry. Ukraine's further expansion of this branch brought it in the top 10 of world's biggest arms exporters. Additionally to this, Ukraine still possesses significant military capacity. As in the previous dimensions (geopolitical and geo – economical) the interdependences among the three actors are caused by their different security building strategies. For Russia an effective and sustainable security system in the Post Soviet Space is a tool for preservation of its power status in the region. On the other hand Ukraine seeks the establishment of security policy, supporting the Ukrainian independence. Therefore closer cooperation with the Western structures (like NATO) is wished. The EU also welcomes Ukraine's aspirations of intensified work in the security dimension (especially with regard to CFSP). For Brussels this cooperation is a precondition for the creation of a stability and prosperity zone in its neighbourhood. However, these three strategies hide enormous conflict potential.

In order to approve the second hypothesis I will analyze the relations between the three actors including important security organizations as NATO and CFSP.

6.4.1 Russia, Ukraine and NATO

In the recent years Ukraine's accession perspective in NATO has become one of the main issues in the Russia -Ukraine -EU triangle. In the context of NATO's eastward enlargement, the position of the West and Russia towards Ukraine is one of the most sensitive geopolitical questions. Many issues that could result of Ukraine's enforced NATO accession approve that the option of rapid integration in this organization is not plausible.⁷³ Russia still perceives NATO as a geopolitical threat, as a military alliance that remained a rival after the dissolution of the Soviet Union. Several factors enforced Russia to see the Euro- Atlantic alliance as a threat. This includes NATO's significant role in the integration of Eastern Germany, Central Eastern Europe and the Baltic States in its structures. Further aspect of Russia's position is NATO's intervention in Kosovo. Additionally to this, big part of Russia's society and politicians perceive the organization as US – led security enterprise.

Moreover, the Euro – Atlantic organization never treated Moscow as an equal partner. With the significant efforts of the EU (especially of Germany) a bilateral dialogue could be established. Even though, this was not enough for Russia to treat NATO as a reliable partner.⁷⁴ All of the above mentioned factors explain Russia's negative reaction about Kiev's NATO accession ambitions. Moscow is concerned about the option of facing a new Ukraine, which is integrated in this rival organization. Despite the fact, that an eventual NATO accession of Ukraine is not perceived as a direct military threat, it will diminish significant the influence of the Russian – led security structures in the region. Tensions between Ukraine and Russia have increased during the past year mainly as a result of a move by Ukrainian leaders to join NATO's Membership Action Plan. This political step faced strong Russian opposition. As already analyzed, Moscow did not hesitate to pay high price in the energy sector in order to express its disagreement with Kiev's NATO – accession considerations. In this situation, Kiev is forced to show more attention to Moscow's mood. However, since the very beginning Ukraine proclaimed its NATO accession ambitions. It was the first Ex - Soviet country, ratifying

⁷³ Vergun, Volodimir; Kuznetsov, Oleksiy: EU,NATO and Ukraine: Nation-Building and Democratization between East and West

⁷⁴ Samokhvalov, Vsevolod (2007): Relations in the Russia – Ukraine- EU triangle: „zero-sum game” or not? Institute for security studies Occasional paper No. 68 P. 23

cooperation agreements with NATO (the formal base for NATO – Ukraine relations is the 1997 Charter on a Distinctive Partnership, which establishes a bilateral commission). Kiev saw in the closer cooperation and partnership with NATO an alternative multilateral framework for its national security and a precondition for deeper cooperation with the EU. In the past years Ukraine made progress in the political, military – technological and military – political areas of cooperation with NATO. Even though, from NATO’s point of view there is still long road to go. Ukraine’s access to the Alliance is inhibited by the presence of Russian armed forces on its territory. Furthermore, according to the Alliance the cooperation framework is still not implemented by Ukraine.⁷⁵

Additionally to this comes the problem of Kiev’s unclear approach about its geopolitical course and the policy of “active neutrality”. While Ukraine proclaims its NATO aspirations, it still needs to define its priorities in the security policy more concretely – either it integrates itself into the Alliance and leaves the CIS or it remains under the Russian shadow. Nowadays the policy of neutrality remains the only official one, which enables Ukraine to base its security policy on a choice between many options.⁷⁶

I suggest that currently both the EU and NATO are aware of the fact that short or medium – term accession of Ukraine to the Euro- Atlantic organization could lead to issues with high conflict potential in the region. On the one hand the United States is seeking to use Ukraine as a counterweight to Russia’s influence and has the ambition to bring its military and political influence closer to the Russian borders. Some of the new EU Member State like Lithuania and Poland are also interested in Ukraine’s integration in the Alliance, mostly driven by their, „Russophobia complex”.

On the other hand there is a general distrust of the other NATO members about a possible accession of Ukraine. The „old” EU members (the representatives of the so – called Old Europe) ,who do not identify themselves with the position of the United States, are interested in conflict – free relations with Russia and at the same time have no special interest in Kiev’s membership of the alliance.⁷⁷

⁷⁵ Vergun, Volodimir; Kuznetsov, Oleksiy: EU, NATO and Ukraine: Nation-Building and Democratization between East and West. P. 230

⁷⁶ Vergun, Volodimir; Kuznetsov, Oleksiy: EU, NATO and Ukraine: Nation-Building and Democratization between East and West. P. 230

⁷⁷ Markov, Sergei: Ukraine’s NATO Membership is Path to „small” Cold War. Moscow News, No 28 2007.

Downloaded: <http://www.mnweekly.ru/national/20070720/55262909.html>

In my opinion Ukraine's future accession to NATO is used as a bargaining chip in the triangle. Both Russia and the West are "playing" with Ukraine's considerations to join NATO. On the one hand the West is taking advantage of Ukraine's military capacities, without giving guarantee for forthcoming accession. On the other hand Moscow seems likely to exploit the NATO issue as long as it takes Ukrainians to agree on a common position and values. A NATO accession is currently only possible if the West's contacts with Russia sharply deteriorate. In order to approve this, I will mention some important facts.

Currently the majority of people in Ukraine is opposed to NATO membership and wants to remain neutral. Mainly the citizens in the Eastern parts of Ukraine are against an accession. There is also strong resistance to NATO in the Ukrainian Parliament.⁷⁸

In this current unstable situation, an entry into the Euro – Atlantic structures could possibly split the country and some of its regions may secede.

Nowadays Russia and Ukraine have much more a formal than a real border. If Ukraine joins NATO, this would change and inevitably cause tensions on Ukraine's Western border. The logical consequence will be disrupted trans-border employment and trade, many job losses, many cancelled economical and political projects from Russian side.⁷⁹

Furthermore, it is doubtful whether Russia will allow that the current flying time of NATO's tactical aircraft to its territory will be reduced from about an hour in less than 20 minutes. Additionally to this, after eventual accession of Ukraine, NATO forces would increase to several divisions, ships and combat aircraft. This possible scenario hides huge conflict potential – a similar situation in Russian-Ukrainian relations carries much higher risk than in some Western states. The agreements and international institutions in the Post Soviet space are at much lower level of development than in the EU, therefore conflicts could escalate quite easier.⁸⁰

With regard to the above analyzed options the West is aware of the fact that Russia will use all drastic economical and political measures in order to keep Ukraine out of the Euro- Atlantic organization. At the same time both NATO and the EU are taking advan-

⁷⁸ Fedynsky, Peter (2008): Ukraine's NATO bid increases tensions with Moscow. VOA news online downloaded: <http://www.voanews.com/english/archive/2008-11/2008-11-10-voa34.cfm>

⁷⁹ Karaganov, Sergei: Russian View: Ukraine should not join NATO. NY Times

⁸⁰ Samokhvalov, Vsevolod (2007): Relations in the Russia – Ukraine- EU triangle: „zero-sum game” or not? Institute for security studies Occasional paper No. 68 P. 21 – 22

tage of Ukraine's military capacity. Ukraine participated actively in various peacekeeping missions (no matter whether they were in the NATO, UNO or CFSP framework).

Ukraine was the only partner nation taking part in all four NATO- led operations.

The participation of Ukrainian military troops started on the Balkans also in 1995 within the framework of IFOR (Implementation force), established to facilitate the peacekeeping mission in Bosnia and Herzegovina. Ukraine's participation in KFOR (Kosovo Force) is the most considerable area of NATO – Ukraine cooperation in terms of duration and number of personnel commitment. Furthermore, Ukraine supports ISAF (International Security Assistance Force in Afghanistan) operation. The latest mission of Ukraine in the NATO framework is in Iraq.⁸¹

Currently, due to the fact that for the citizens of most NATO member states the conflicts in Iraq and Afghanistan have turned to more and more unpopular issues, support by Ukraine could be right in place. The leaders of these countries realize that further intensified cooperation with Ukraine represents an opportunity to minimize their manpower contribution and save their political careers. At the same time, because Old Europe does not want to deteriorate its relations with Russia, it keeps Ukraine at safe distance from the Euro-Atlantic Alliance. The Alliance has the right tools for achieving this. It requires each country to meet certain military and democratic standards and does not guarantee membership. In April 2008 NATO rejected Ukraine's bid for a Membership Action Plan, a program elaborated to prepare prospective members for an accession to the Alliance. Furthermore, both German Chancellor Angela Merkel and French President Nicolas Sarkozy approved with their own words that Ukraine would not join NATO in the foreseeable future.⁸² So, Ukraine finds itself once again stuck in between the interests of East and West. Similar situation can be observed in the cooperation framework of the CFSP.

⁸¹ Ministry of Foreign Affairs of Ukraine: Ukraine's contribution to NATO peace support activities. Download: <http://www.mfa.gov.ua/missionnato/en/10257htm>

⁸² Fedyashin, Andrei: Ukraine's membership in NATO? NATO – Ukraine meeting in Tallinn. Download <http://www.globalresearch.ca/index.php?context=va&aid=10959>

6.4.2 Russia, Ukraine and CFSP/ESDP

For Brussels cooperation with Ukraine in the context of CFSP/ESDP is important because of the country's geographic position, size and influence in Eastern Europe and the Black Sea region. After the first years of Ukraine's independence Brussels main priority in the security sector was to solve the problem with Kiev's nuclear weapons capacity. After Kiev achieved complete nuclear disarmament, Brussels interest shifted to Ukraine's arms exports capacity. During the 1990s the development of Ukraine's armed industry was seen as a threat for EU's security policy. Therefore the bilateral cooperation framework was extended to arms export control system, technical safety, etc.

Kiev's interests in this dimension were linked with its overall integration efforts and developed according to the transformation processes in the country. For Ukraine this cooperation aspect is of a significant importance – the country hopes that closer cooperation in this area will increase the possibility of providing its own security policy interests on EU level. So far Ukraine had to accept many economical and political disadvantages; because some of its activities were in conflict with Brussels security strategies (for example EU's military sanctions against the former Yugoslavia and Macedonia, which brought economical losses for Ukraine's arms industry and exports).⁸³ At the same time Kiev proclaims its policy of balance between the EU and Russia. The country has not made any attempts to challenge the Russia-led security structures, but favours the CFSP as an important alternative security system.

In order to approve its serious intentions Ukraine changed its armed industry policy according to EU's requirements in this sector. Furthermore, cooperation between both sides intensified after the occurrences on 11th September 2001 with the consultations and common projects in the framework of the ESDP.

With these efforts Ukraine hoped that the EU should demonstrate a better understanding of its security policy ambitions and provide intensified support. Brussels already provided Ukraine with support by mediating the political crisis in 2004, as well as the two gas crisis. However, a closer look on the cooperation between both actors in this dimension leaves the impression that it is asymmetric one. While the EU takes advantage of Ukraine's military capacity, it does not give an answer to Ukraine's urgent questions concerning bilateral strategic, peacekeeping, military and arms trade relations.

This could turn to a lose-lose game for Ukraine, because currently Russia has a negative attitude to CFSP. With regard to the security policy for both states the EU adopted a

⁸³ Tereshenko, Volodymyr: *Evolution der politischen Beziehungen zwischen der Ukraine und der EU 1991 – 2004* P.245

strategy, similar to NATO's concept. Brussels elaborated identical formal framework to Russia and Ukraine, which could not comply with the practice due to the different strategic objectives of both countries. Unlike Ukraine, Russia perceives CFSP as a competitive political structure. This can be explained by the disappointing experiences of Russia with this cooperative aspect of the EU. Even though the EU established several mechanisms for strategic partnership, Russia remained disappointed by the high level of dependency of EU on NATO in this sector. Moscow's concerns increased after Brussels refusal to establish a joint consultative body (practically this could lead to institutionalisation of the bilateral security relations). Additionally to this, EU's activity in the former Soviet Republics (for Russia competitive to its security structures) increased Moscow's distrust in the CFSP. The EU not only failed to ensure Russia's inclusion in its security system, but increased Russia's negative attitude to its closer cooperation with Ukraine. The occurrences during the "Orange Revolution" in 2004 approved that EU's security structures possess significant weight, which increased Russia's concerns.⁸⁴

For Russia the fact that Ukraine has strong commitment to the CFSP is a proof that it promotes EU's security initiatives in the region. For Ukraine this implies significant political and economical risks -like in other economic sectors, there are close links and interdependences in the arms industry of Ukraine and Russia, which are recently disrupted due to EU- Ukraine enhanced relations. Therefore the risk factor for Ukraine in this sector is high, especially with regard to the fact that the European defence market is not fully oriented to the norms of openness and equal competition. The best example for this is the failure of Ukraine to establish the AN – 70 military –transport aircraft project on the EU market (not only because there were some technical defects, but also lobby of the USA and Great Britain).The circumstances for Ukraine worsened as Russia started unilateral withdrawal from close high – tech military cooperation with Ukraine (including shipbuilding, motor building, and in 2006 the AN- 70 common aircraft project).⁸⁵

This could be interpreted as Russia's reaction of Kiev's enhanced security relations with the EU. And even if the reason for Russia's activities is purely commercial, this does not change Ukraine's position of "loser" in this sector. While Ukraine wants to continue its pro– European course and further intensify its relations with the CFSP, it is doubtful

⁸⁴ Samokhvalov, Vsevolod (2007): Relations in the Russia – Ukraine- EU triangle: „zero-sum game” or not? Institute for security studies Occasional paper No. 68 P. 24

⁸⁵ RIA Novosti: Ukraine's air force to phase in new An – 70 aircraft in 2 years
<http://www.globalsecurity.org/wmd/library/news/ukraine/2006/ukraine-060608-rianovosti01.htm>

whether the cost/benefit of this cooperation will be positive for this country. This could change Ukraine's commitment to the European- led security structures. This asymmetric relation implies too many risks , caused by the close cooperation with an EU –led security structure, which ensures by no means any EU - accession perspectives and any concrete security prerogatives of Ukraine.

Summary

Since the break-up of the Soviet Union both the EU and Russia started to enforce their own geo – strategic ambitions in the Post Soviet space. Both actors were interested in shaping the region according to their own objectives. These different strategic ambitions influenced directly Ukraine – a country from enormous geopolitical and geo- economical importance for Brussels and Moscow. Ukraine's participation in the policy of both sides was initially not seen as a reason for rivalry. However, the fact that Ukraine is a subject of very different strategies made it to a matter of endless tensions and conflicts in this trilateral relation. As deteriorating Russia –Ukraine relations begun to affect negatively the EU, it was forced to provide its own interests without underestimating Russia's role. EU's negative attitude and Russia's restrictive policy undermined Ukraine's efforts to overcome the Russian shadow and to become a stable regional political player, which can count on at least one of both actors. The already analyzed three main dimensions – geopolitical, geo-economical and safety policy show that progress or regress of Ukraine's position on international level is enormously influenced and shaped by the EU- Russia negotiations on particular issues, emerged within this trilateral relation. On the one hand the EU ignores Ukraine's accession aspirations and gives priority to its relations with Russia. At the same time Brussels insists on closer cooperation with Kiev in areas, which imply high economic and political risks for this country. On the other hand it seems that Russia will further promote its "pragmatic" approach and will not hesitate to „punish" Ukraine for its pro –Western aspirations. In this Status quo situation it seems that Ukraine will be rewarded for its EU-accession attempts only if Russia's importance for Brussels diminishes significantly.

7. Conclusions – answer to the main research question

In order to find the answer of the main research question I introduced two hypotheses.

In the course of the analysis of Hypothesis 1 I found out that Ukraine's progress in the two main areas „democracy consolidation” and „market economy” was not sufficient and gave few motivation for the EU to open pre- accession negotiations with this country. But these conclusions were coped with critical questions, suggesting that Hypothesis 1 gives only partly a plausible answer and there are some reasons beyond Ukraine explaining the unwillingness of EU for deeper cooperation.

Therefore I further searched for the answer of the research question within Hypothesis 2. In the geopolitical context it may be concluded that the EU searched its own interest in the transformation of the Post Soviet area. On the one hand, the EU had the interest of developing balanced and conflict – free relations to Russia. On the other hand the EU had the interest of supporting the transformation of Ukraine.

However, it is obvious that while recognizing Russia's negative attitude to Ukraine's Western – aspirations, the EU always gave priority to its relations with Russia and therefore neglected or even prevented a deeper cooperation with Ukraine.

There are close interdependences between the two hypotheses – therefore the dilemma is whether politically consolidated and economically strong Ukraine would be able to overcome the Russian shadow and become potential member – aspirant for Brussels; or stronger support of Brussels (already at the initial stage of Ukraine's transformation) and diminished influence of Russia would emerge in politically consolidated and economically transformed member-aspirant? I suggest that the answer of the main research question is partly in Hypothesis 1 and partly in Hypothesis 2. However, in my opinion the external political factor prevails. It is true that if Ukraine has achieved more political stability and economical progress, its position in the geopolitical landscape would change. The internal progress would inevitably give Ukraine more power and importance on international level. This would also change EU's attitude – it would concentrate much more on the bilateral relationship and abstract from Russia's ambitions in the EU-Ukraine-Russia triangle.

But since its independence Ukraine was practically left alone with its essential political and economical issues. This country desperately needed an example how to create a base for democratic, stable and economically strong state structures.

Nevertheless, support from the West was insufficient and rather with declaratory nature.

The EU was much more concentrated on how to prevent eventual dangers of Ukraine's nuclear sector than promoting the establishment of Western standards in this country.

At the same time Russia used its influence in shaping Ukraine's new political landscape according to its own perceptions and ambitions.

As the EU started to show more interest in this country, Ukraine already has created monstrous political and economical structures, currently unable to fit in any Western criterion. It is a fact that the initial situation in Ukraine and the Eastern EU- member states was identical. Therefore it is not plausible to shift all responsibilities to a country, which didn't received the same economical, political and personnel support as the ECE countries.

How can one expect that Ukraine will set out for the European integration on its own?

For the EU this is only one of the many questions, coped with the current status quo situation of Ukraine. The further development of the EU-Ukraine relations is hardly predictable. Ukraine's pro Western aspirations and EU's rejecting position inhibit the creation of balanced bilateral relations. A possible solution could be either to open the pre-accession door for this country or close it forever. Until then this relation will remain distrustful and mistakable.

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