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SUMMARY

The Black Sea Region (BSR) has emerged as an important intersection of political, economic and security considerations and is now firmly into the attention and policy focus of the European Union and other international organizations. Increased movement of people, terrorist threats, economic opportunity, diffusion of the political ideas and model of the Euro-Atlantic community, energy diversification and security are only a few of the phenomena worthy of sustained attention and multi-faceted policy. The European Neighbourhood Policy is presently the main framework guiding EU activities in this part of the world. Beyond it, the Black Sea space is something of a constructed region, which contains an enormous diversity of states.

EU policy-makers and politicians will need to develop, implement and monitor cooperation vis-à-vis a set of quite distinct polities evolving in markedly distinct circumstances, pace and structures. The political context and goals of the participating states also differ widely. As for the EU, it will be important to define a stable set of priorities in the area of freedom, security and justice rather than rely on the assumption and certainty that potential accession will bring harmonization and compatibility in entire policy areas. Furthermore and relating to the substance of the policies, the EU will benefit from agreeing on a core of policy positions, which will have to be implemented in conditions of political and institutional flux.

Transit immigration is a feature found widely across the region. Yet, the problem varies in scope and magnitude but appears to be most acute in Russia and Ukraine (for those using the so-called “Eastern route”), Bulgaria and Romania (for those using the so-called “Balkan route” to Western Europe) and Azerbaijan and Georgia for those coming from Central Asia. At the same time, occurring at different times and with varying intensity, emigration is a common feature of the countries of the region with the exception of Greece. In this context, freer movement of people between the citizens of the Black Sea Region and the EU is an important overall prerequisite for advance in reforms and functioning of conditionality. Increased interaction and dialogue will play a decisive role in the process of political learning and transfer of experience permitting elites and citizens in the region to push forward with change. At the same time, the linkage between freer movement (visa facilitation) and prevention of illegal immigration (readmission agreements being one element) remains an essential tool for EU policy in this area. Given the linkage between readmission and visa facilitation and the implementation of the global approach to migration, the signing of such readmission agreements will have the role of unlocking a whole series of measures, which will permit greater dialogue, communication and cooperation with the polities and societies of the Black Sea Region.

The countries of the region are at different stages of the development of their border management systems. Meanwhile, cross-border cooperation is only slowly taking root in most parts of the region as various outstanding unresolved issues persist and are often in the way of regional cooperation. The EU’s border assistance mission to Moldova and Ukraine (EUBAM) is an important example of a multi-player format permitting cooperation, infusion of EU policy and practice and development of regional cooperation. Yet, looking at the wider issues of governance, it is noteworthy that state fragility, political and judicial reform have not been receiving due attention with most of the focus going to matter of energy and security. State-building, institutional modernization, application of rule and norm-based governance, overcoming of inherited patterns of patronage and mismanagement, weak local government and public administration constitute only some of the challenges faced by the polities of the

region. Judicial reform is one subset of the overall effort to establish good governance. Yet, its importance in terms of rule of law and ensuring of justice cannot be overestimated. A great deal of effort has been devoted to the structuring of the judicial systems following the adoption of new constitutions or constitutional changes. Such structural issues mainly focus on the question of judicial independence and security of tenure, which continue to be a major problem. Another key challenge remains the establishment of efficient, professional, accountable and transparent structures, which ensure access and justice.

The elaboration of future policy and political options is based on the conviction that the establishment and management of synergies is the most optimal approach to cooperation with the BSR. The lack of firm regional identity, the existence of a large plethora of policies, formats and approaches towards the region and the implausibility of a repeat of the accession conditionality of the 5th enlargement provide the overall framework in which options may be considered. EU action could be informed by positing a strategic linkage between development and freedom and security. The goal of sustained migration management may be reached through a balance between tackling illegal immigration and helping create social and economic opportunities in the BSR. While legislative change along the lines of the EU acquis is important, emphasis should be placed on the improvement of the institutions and practices, which impede illegal migrants (interrupt and prosecute involved organized criminal network, readmission agreements with countries of origin and EU, document security, functioning migration structures, sufficient equipment, etc.). Further, emigration may be curtailed by adding an 'economic vector' to the EU-BSR cooperation, helping local elites and citizens anchored in the wider EU space.

Ensuring well-functioning border control management will mean quick progress on border delimitation, establishment of professional border policing structures and provision of equipment to support control management operations. Training of personnel is another vital aspect. Cross-border cooperation between adjacent states has already some history in the region. Political reform, democracy enhancement, good governance and judicial reform will benefit greatly from an overall upgrade in hierarchy of the cooperation agenda. This is to be coupled with a better appreciation of the scope of the problem of corruption in post-conflict societies. As a matter of prioritizing, constitutional impediments to separation of powers and independence of judiciary need to be addressed, permitting reform to proceed once the overall legal framework has been set up. Institutional support for Parliament, political parties and the executive will enhance the pace and quality of reform. Tackling corruption may be approached by means of streamlining of public services and a sustained policy of awareness raising. The definition of a mentor country/ies essentially implies that cooperation with the Black Sea Region countries will be encouraged, managed and/or developed by one or a group of EU member-state countries, which have a relevant capacity, experience and drive to further the cooperation agenda between the two wide entities

Regional cooperation among EU candidate countries was an important lever for institutional and cultural change as well as an important element of membership conditionality. This needs to be utilized in the Black Sea Region. The same holds for the political dimension of dialogue on Freedom, Security and Justice. Through its democratic mandate and breadth of political experience, the European Parliament is particularly well-placed to take this. Greater urgency in addressing the frozen conflicts will bring benefits as some of these threaten to become self-enclosed 'mini criminal autarkies' preserving a space of crime generation amid the increasing efforts to tackle security challenges in the region.

I. INTRODUCTION

The Black Sea Region has emerged over the last few years as an important intersection of political, economic and security considerations. The completion of the fifth EU enlargement with the recent accession of Bulgaria and Romania in 2007 has brought the region firmly into the attention and policy focus of the European Union and other international organizations. The multiplying and sometimes unintended effects of globalization increasingly entail the elaboration of approaches and policies towards countries and regions hitherto loosely related to the member states of the EU. Increased movement of people, terrorist threats, economic opportunity, diffusion of the political ideas and model of the Euro-Atlantic community, energy diversification and security are only a few of the phenomena worthy of sustained attention and multi-faceted policy. Coming in immediate proximity with territories whose EU membership, in most cases, is not a medium-term prospect further requires sustained policy thinking and action.

The European Neighbourhood Policy continues to be the main framework guiding EU activities in this part of the world. In this sense, the Black Sea space is something of a constructed region, which contains an enormous diversity of states. This remains a decisive feature as constituent states include EU member states (Bulgaria, Greece and Romania), EU accession negotiating country (Turkey), states with strategic partnerships with the EU (Russia and Ukraine) and ENP states (Armenia, Azerbaijan, Georgia and Moldova). Hence, EU policy-makers and politicians will need to develop, implement and monitor cooperation vis-à-vis a set of quite distinct polities evolving in markedly distinct circumstances, pace and structures. The political context and goals of the participating states also differ widely. Some, like Georgia and Moldova, appear to be focused on pursuing the path of transition to democracy and market economy, while others are more concerned with ensuring their status on the international scene (Russia). Further, Turkey is the midst of the challenging task of democratizing a secular polity in the context of a vital Islamic faith. Romania and Bulgaria are already rooted in the overall EU policies but are still coming to terms with their newly-acquired status. At the same time, Armenia and Azerbaijan are locked into their conflict over Nagorno-Karabakh and adjacent territories and still have to deal with geo-political pressures, which emanate from their particular position of being adjacent to Central Asia and the Wider Middle East. Greece is a well-established member of the EU and with a history of regional engagement.

The recent overcoming of the political crisis created by the rejection of the Constitutional Treaty of the EU is beginning to have its positive impact on the prospects for future enlargement of the union. Yet, we need to recognize that these prospects are unlikely to entail accessions in the coming couple of years. The consequent perceived decline of the “soft power” of the organization will, thus, be a defining characteristic of the overall international setting in which cooperation with the states of the Black Sea Region will take place. This will mean that conditionality will continue to be an important feature of the process and a dynamic, which will ensure gradual approximation of legal norms and institutional practices of the states of the region. Despite this decline in ‘soft power’, the EU will continue to represent a crucial political and economic partner for these states as its relevance in European affairs increases. At the same time, short of accession, the process is unlikely to lead to full and across-the-board harmonization. This feature of the political dialogue will have a number of consequences. One will be the need, on the part of the EU, to define a stable set of priorities in the area of freedom, security and justice (FSJ) rather than rely on the assumption

and certainty that accession will bring harmonization and compatibility in entire policy areas. Furthermore and relating to the substance of the policies, the EU will benefit from agreeing on a core of policy positions, which will have to be implemented in conditions of political and institutional flux.

II. ASPECTS OF THE CURRENT STATE OF AFFAIRS

1. MIGRATION MANAGEMENT

Emigration and Illegal Immigration

Transit immigration is a feature found widely across the region.¹ Yet, the problem varies in scope and magnitude but appears to be most acute in Russia and Ukraine (for those using the so-called “Eastern route”), Bulgaria and Romania (for those using the so-called “Balkan route” to Western Europe) and Azerbaijan and Georgia for those coming from Central Asia. A number of countries are also becoming migration destination countries. Greece has long been such a country, with Romania and Bulgaria slowly beginning to take in a greater number of immigrants. For quite a while, Russia has been a destination for great numbers of people from the post-Soviet Union. Ukraine is also beginning to turn into a destination country by default as many on their way to Western Europe fail to continue their journeys and remain in the country.

While occurring at different times and with varying intensity, emigration is a common feature of the countries of the region with the exception of Greece. The phenomenon currently appears to be most intense in Armenia, Georgia, Moldova and Ukraine. Key push factors remain limited economic opportunity, social deprivation and general geo-political uncertainty. Romania and Bulgaria are also subject to continued emigration but, due to their status of member-states, this is increasingly in the form of free, legal movement of labour within the EU. Azerbaijan and Russia do not appear to be facing serious emigration issues at the time being. The so-called “Cluster Process” financially supported by the Dutch Government and facilitated by the International Organization for Migration is a relevant example of cooperation and attention to the whole range of migration-related matters. The format has been in place since 2001. It includes the three countries of the Southern Caucasus (Armenia, Azerbaijan and Georgia) and interested EU member states (Belgium, Denmark, Germany, Netherlands) and Switzerland. It addresses prevention of illegal immigration, integration of returned migrants, exploring mechanisms for legal migration, etc.²

¹ This section of the paper relies on the migration assessments of the International Centre for Migration Policy Development (ICMPD) and the International Organization for Migration (IOM). Both have a long track record of analyzing the phenomenon and continue to implement a wide range of projects and programmes in the countries of the Black Sea Region. The full texts of the various reports can be found at: http://tcc.iom.int/iom/artikel.php?menu_id=4 and www.icmpd.org

² This case is worthy of attention as it represents one of the first attempts to link certain countries of the region to European countries interested in working on migration-related issues. The full range of topics include enhanced information exchange among respective immigration authorities; awareness-raising campaigns to better inform migrants of their options; technical cooperation to strengthen Governments’ capacities to manage migration and bilateral readmission agreements; reintegration assistance to returning migrants and establishing inter-Ministerial mechanisms to drive the cooperation with Europe forward. More can be found at: http://tcc.iom.int/iom/artikel.php?menu_id=42&artikel_id=84&history_back=true

Visa Facilitation and Readmission agreements

An increase in the number of opportunities for freer movement of people between the citizens of the Black Sea Region and the EU is an important prerequisite for advance in reforms and functioning of conditionality. Increased interaction and dialogue will ensure a great deal of transfer of policy and experience and provide numerous opportunities for ensuring civil society and political impact in the countries of the region. At the same time, the linkage between freer movement (visa facilitation) and prevention of illegal immigration (readmission agreements being one element) remains an essential tool for EU policy in this area. For instance, the observation of the above-mentioned inter-linkage may be witnessed in the recent parallel negotiations on visa facilitation and readmission between the EU and the Russian Federation. As in many areas, the region offers a wide variety across the countries. While Greece, Romania and Bulgaria are now part of the EU visa and readmission policies, the remaining polities have still much to do before they meet EU baselines and cooperation requirements. Armenia, Azerbaijan and Georgia are developing their readmission policies on the basis of a standard clause on readmission in their 1999 Partnership and Cooperation Agreement (PCA) with the EU and a further political commitment to conclude separate bilateral agreements with the various member states.³ At the same time, the pace with which these countries are utilizing this opportunity is not very impressive. For example, Armenia has only three bilateral agreements in place (with Denmark, Switzerland and Lithuania), while Azerbaijan is only presently availing itself of this instrument and is conducting formal readmission agreement negotiations. Such a standard clause is not contained in the PCA in the case of Moldova. Still, the country appears to have keener interest in concluding readmission agreements and has nine in place with further eight currently being negotiated. Despite this activity however, very few of these agreements contain clauses on readmission of third-country nationals. The Ukraine has also begun to enter into such agreements and already has five with EU member states and also with Switzerland. Interestingly, the country is working on such agreements with non-EU countries in the BSR including Moldova and Georgia and countries further a field such as Afghanistan, China, India and Pakistan. Turkey has been entering into readmission agreements since 2001 and has signed five (Greece, Syria, Romania, Kyrgyzstan and Ukraine) and is negotiating with a wide range of countries. Crucially, the country has not yet signed such an agreement with the EU despite it being considered a matter of urgency.⁴ The recent signing of the readmission agreement between Russia and the EU is widely considered as a landmark event even if doubts persist about the level of preparedness of the Russian side and the outstanding issue of current political practices providing insufficient human rights guarantees.⁵ The conclusion of the readmission agreement was a decisive precondition for the process of visa facilitation permitting the implementation of the multi-faceted policy of greater dialogue and interaction with the EU and the Common Space between the two entities. In addition, wider efforts are being made to

³ For instance, this is done in Article 75 of the PCA agreement with Georgia. For further details, see: http://ec.europa.eu/external_relations/ceeca/pca/pca_georgia.pdf. These issues receive full, very detailed and up-to-date treatment in a recent paper by the International Center for Migration Policy Development, based in Vienna, titled "Overview of the Migration Systems in the CIS Systems". More can be found at: www.icmpd.org;

⁴ Data on Turkish activities is obtained from http://www.abgs.gov.tr/tarama/tarama_files/24/SC24DET_ILLEGAL%20MIGRATION%20.pdf, while the treatment of the readmission issue from the EU's perspective is evident from the Council Conclusions on the extending and enhancing of the global approach to migration: http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/gena/94753.pdf.

⁵ Some of these concerns are captured in the opinion of the Committee on Foreign Affairs of the European Parliament on the matter expressed in January 2007: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A6-2007-0028+0+DOC+PDF+V0//BG>

address the issues of re-integration, its impact and linkage with illegal immigration, etc. in the context of the “Cluster Process”.

The EU is now well on the way to integrating its visa facilitation and readmission policies in the wider process of migration management. Meanwhile, there is at times a readiness to treat these issues predominantly as technicalities and procedures. This is further enhanced by the sense of urgency injected in the process of European migration policy development and the ever-expanding perception of growing inter-linkages between the various security threats. Still, the progress on readmission and visa facilitation needs to take into consideration issues of lingering democratic uncertainty in some countries of the region, most notably Azerbaijan and Russia. This is particularly important as forms of political intimidation and persecution continue to be evident in both countries. Given the linkage between readmission and visa facilitation and the implementation of the global approach to migration, the signing of such readmission agreements will have the role of unlocking a whole series of measures, which will permit greater dialogue, communication and cooperation with the polities and societies of the Black Sea Region.

2. BORDER CONTROL MANAGEMENT AND CROSS-BORDER COOPERATION

The countries of the region are at different stages of the development of their border management systems.

One crucial component of these is the presence of a single, well-structured, professional, non-military border control force. Efforts to establish such a structure are being carried out in Turkey, Georgia, Azerbaijan, Moldova. In this regard, demilitarization remains the key issue in Turkey, Georgia and Moldova, while Azerbaijan faces problems in its attempt to secure sufficient funding for its activities. Furthermore, Azerbaijan is still struggling to secure full control coverage of its 3371 km. border. Ukraine has been receiving a great deal of support from Poland and the EU and its border control system is making rapid progress. Ukraine and Moldova have been active recipients of support through the so-called Söderköping Process⁶ For instance, Ukraine and Poland have recently signed a set of cooperation agreements relating to operational activities, introduction of joint threat and criminal analysis system, joint work on tackling corruption. Cooperative efforts include joint patrolling and two advisory teams are in place.⁷ Establishing a stable institutional setting of inter-agency cooperation at the borders is another crucial task being tackled at present. The future elaboration of an integrated border management system along the EU model will further help in this regard. As member states of the EU, Romania and Bulgaria are presently implementing large parts of the Schengen acquis, upgrading the physical infrastructure to enhance the surveillance capacity and improving the qualification of the border police personnel.

Cross-border cooperation is only slowly taking root in most parts of the region. Still, outstanding unresolved issues persist and are often in the way of regional cooperation, i.e. between Armenia and Turkey (genocide and border delimitation issues), Armenia and Azerbaijan (Nagorny Karabach issue), Georgia and Armenia (mutual suspicions over energy

⁶ The Soderkoping Process is an initiative of the UNHCR and the Swedish Migration Board to promote dialogue on asylum and illegal immigration along the EU Eastern border. 10 states currently participate in the process: Belarus, Estonia, Hungary, Latvia, Lithuania, Moldova, Poland, Romania, Slovakia and Ukraine. The initiative is also supported by the EC and the International Organization for Migration.

⁷ The Polish-Ukrainian border is one of Europe’s largest being 542 km. long with 12 crossing border checkpoints located along it. More can be found at: <http://soderkoping.org.ua>;

transit and transport policy), Russia and Georgia. For instance, Armenia and Georgia have been in sharp disagreement over the recent agreement between Georgia, Azerbaijan and Turkey to start work on Kars-Achalkalaki-Tbilisi-Baku railway. There has also been a great deal of tension over the transport fees between the two countries.⁸ Despite the above-mentioned circumstances, the countries of GUAM (Ukraine, Georgia, Azerbaijan and Moldova) have already developed a network of cooperation agreements, which covers areas such as energy, economy, trade, transport, security cooperation, etc.⁹ Regional cooperation among the GUAM member countries in area of border control appears quite wide as they commit to operation cooperation and exchange of information, joint operations in the context of international initiatives and joint training, exchange of experience, etc. The wide cooperation mandate in the field of “soft security” is managed by the GUAM Virtual Centre (a platform for cooperation in the law enforcement area).

The EU’s border assistance mission to Moldova and Ukraine (EUBAM) launched in June 2005 is an important example of a multi-player format permitting cooperation, infusion of EU policy and practice and development of regional cooperation. Its chief aim is of assisting the two countries as they transform their border control systems and establish a mutual cooperation regime, risk analysis, EU standards of border management. The format of the missions is particularly noteworthy as it also incorporates relevant international organizations such as UN Development Programme and the Organization for security and cooperation in Europe, while involving experts from 16 different EU member states.¹⁰

3. GOOD GOVERNANCE AND EFFICIENT JUDICIARY

Ensuring good governance and efficient judicial systems represent decisive prerequisites without which the entire effort of transformation will fail. Yet, it is noteworthy that state fragility, political and judicial reform have not been receiving due attention with most of the focus going to matters of energy and security. State-building, institutional modernization, application of rule and norm-based governance, overcoming of inherited patterns of patronage and mismanagement, weak local government and public administration constitute only some of the challenges faced by the polities of the region.

Good governance in the BSR countries is linked to the on-going processes of constitutional change and institutional building and adjustment in line with the set of European-wide standards of democracy, freedom and market economy. Most of the countries of the region have been through the process of constitutional change since the mid-1990s (either drafting new constitutions as a result of independence, for instance, Moldova (1994) and Armenia (1995)) or have been making extensive constitutional changes, for instance Bulgaria, Turkey and Romania). The latter part of the 1990s has also seen a wave of civil service legislation focused on the introduction of norm-based administration, structural reform and the introduction of merit-based hierarchies, creation of clear functional institutional demarcations of responsibility, training of newly-recruited civil servants, etc. The promotion of democracy and good governance has been at the core of the activities of the Community of Democratic

⁸ This has been an outstanding issue for a number of years now. More can be found at: <http://reliefweb.int>;

⁹ An exhaustive list of areas and forms of cooperation may be found at: www.guam.org.ua;

¹⁰ The involvement of the EU is also of interest as the mission includes representatives of the EC, the EU Presidency and the EU Representative for Moldova. For more: http://ec.europa.eu/world/peace/docs/eubam_presspack_en.pdf

Choice with particular focus on the protection of human rights.¹¹ Corruption is a crucial obstacle to democratic and market reform. Most countries of the region appear to be embedded in corruption and mismanagement.¹² This is evidenced by the Transparency International Annual Corruption Perceptions Index, which shows extremely poor ranking for the regional polities (In a ranking of 142 states: Greece-54th; Bulgaria-57th; Turkey-60th; Moldova-79th; Romania-84th; Armenia-93rd; Georgia and Ukraine-99th; Russia-121st; Azerbaijan-130th). Legal harmonization is the core of the present approach to tackling corruption across the region. This is done mainly by means of accession to the Council of Europe set of criminal and civil law conventions against corruption as well as a commitment to participate in the work of the GRECO Group (Council of Europe States against Corruption).

Judicial reform is one subset of the overall effort to establish good governance. Yet, its importance in terms of rule of law and ensuring of justice cannot be overestimated. A great deal of effort has been devoted to the structuring of the judicial systems following the adoption of new constitutions or constitutional changes. Such structural issues mainly focus on the question of judicial independence and security of tenure, which continue to be a major problem.¹³ Another key challenge remains the establishment of efficient, professional, accountable and transparent structures, which ensure access and justice. As a consequence, a great deal of on-going support is focused on training, equipment investment, institutional strengthening, etc. A further set of issues focuses on the need to foster a culture of effective cooperation between the various institutions within and beyond the judiciary.

III. SOME CHALLENGES AND ISSUES

1. SECURITY CHALLENGES: INFORMATION AND ANALYSIS

It is noteworthy that even international organizations with mandates explicitly related to the Black Sea Region lack in-depth analysis of the specific security situations and challenges in the various states.¹⁴ For instance, this is the case with Black Sea Economic Cooperation organization (BSEC), which has limited itself to a fairly general listing of security problems and formats for addressing them.¹⁵ Furthermore, EU organizations such as Europol have not

¹¹ The Community was established in 2005 by nine founding states (Estonia, Georgia, Lithuania, Latvia, Macedonia, Moldova, Romania, Slovenia and Ukraine). Its structure is fluid and aims to link the Black Sea Region to the Baltic Sea Region with its emphasis on democracy, human rights and security. More can be found at: <http://nsc.gov.ge/download/pdf/declEN.pdf>;

¹² Corruption has been receiving enormous attention in the context of the reforms in Central and Eastern Europe over the last decade or so. There are even analysts who have made it a defining feature of the entire transition process. For a more instrumental approach to corruption see: http://www.transparency.org/policy_research/surveys_indices/cpi;

¹³ For instance, in the case of Moldova judges are appointed by the President on the proposal of the Council of Magistrates and for an initial 5-year period. Some years ago, the issue of independence was highlighted by the dismissal of some 30 judges.

¹⁴ There are various claims for a general lack of detailed understanding of these polities and societies. A good overview of this trend is provided by F. Guliev in his article on post-Soviet Azerbaijan, see http://findarticles.com/p/articles/mi_qa3996/is_200507/ai_n15704837/pg_7

¹⁵ BSEC conducts a number of activities in the area of combating crime in its various forms. The organization has a working group devoted to these issues and an action plan envisaging the creation of a network of liaison officers dealing with organized crime. BSEC is considering working together with the SECI Centre in Bucharest. Still, the organization does not have an own analysis of the security challenges facing the region. More at: www.bsec-organization.org

been given mandate and resources to produce analytic work relating to the region.¹⁶ In this context, the Country Reports under the ENP constitute a vital element of the entire policy aiming to bring together relevant information relating to the scope of cooperation. Still, as far as FSJ matters are concerned, these documents contain scant detail and offer only a brief overview with little or no analysis. While OSCE has rapidly been expanding its activities in important areas of FSJ such as policing, terrorism and border management, there is very little evidence that this activity expansion is leading to an increase in the collection, collation and analysis of security threats in countries of operation such as Armenia, Georgia and Azerbaijan. The Bucharest-based Southeast European Cooperation Initiative Regional Center for Combating Trans-border Crime (SECI Center) has served as an important platform for regional cooperation with a number of BSR states having either member or observer status. Still, the Center is yet to engage more systematically vis-a-vis the region.

2. EU-BSR: AGENDA OVERLOAD: ORDERING PRIORITIES

The wide range of policies and areas of cooperation between the EU and the BSR states poses the important question of ordering of priorities. This is a tall order as there are three distinct processes at work, which might be operating simultaneously: policy infusion, institutional support and cultural change. Undue focus on one is a risky strategy, but integrating all three in a medium-term strategy might be next to impossible even if only their overall effect will bring lasting progress. In these circumstances, sequencing of policies and approaches in every area of cooperation will be required.

IV. POSSIBLE FUTURE STEPS

The elaboration of policy and political options in this section is based on the conviction that the establishment and management of synergies is the most optimal approach to cooperation with the BSR. The lack of firm regional identity, the existence of a large plethora of policies, formats and approaches towards the region and the implausibility of a repeat of the accession conditionality of the 5th enlargement provide the overall framework in which options may be considered. Further, given the breadth of cooperation and diffuse nature of the available instruments, EU action could be informed by positing a strategic linkage between development and freedom and security (thereby ensuring increasing prosperity leading to greater individual opportunity and overall improvement in institutions). This suggestion runs somewhat counter to the ever-expanding notion of security, while taking on board the idea that freedom, security and justice are best advanced through development in its social, economic and political aspect.¹⁷

1. MIGRATION MANAGEMENT

The goal of sustained migration management may be reached through a balance between tackling illegal immigration and helping create social and economic opportunities in the BSR. While legislative change along the lines of the EU *acquis* is important, emphasis should be

¹⁶ The EU Organized Crime Threat Assessment examines exogenous factors and phenomena in regional context but addresses them in fairly general terms. More can be found at: [http://www.europol.europa.eu/publications/European_Organised_Crime_Threat_Assessment_\(OCTA\)/OCTA2007.pdf](http://www.europol.europa.eu/publications/European_Organised_Crime_Threat_Assessment_(OCTA)/OCTA2007.pdf)

¹⁷ This wide approach to security is typified by the Copenhagen School, which insists on the inclusion of an increasing number of aspects. An interesting treatment of the issue may be found at: http://www.ndc.nato.int/download/publications/op_12e.pdf;

placed on the improvement of the institutions and practices, which impede illegal migrants (interrupt and prosecute involved organized criminal networks, readmission agreements with countries of origin and EU, document security, functioning migration structures, sufficient equipment, etc.). Further, emigration may be curtailed by adding an ‘economic vector’ to the EU-BSR cooperation, helping local elites and citizens to anchor themselves in the wider EU space. This may include EU market access, support for small and medium-size companies, improvement in business environment, partnerships between professional and branch associations and entrepreneurs on both sides. ICMPD, IOM and BSEC seem particularly well positioned to provide a regional dimension in this area.

2. BORDER CONTROL MANAGEMENT AND CROSS-BORDER COOPERATION

Ensuring well-functioning border control management will mean quick progress on border delimitation, establishment of professional border policing structures and provision of equipment to support control management operations. Training of personnel is another vital aspect. Cross-border cooperation between adjacent states has already some history in the region. In this sense, the EUBAM border cooperation operation with Moldova and Ukraine is an example to be followed. The idea of joint patrolling missions may also be considered. As new EU member states, Romania and Bulgaria are to be encouraged to come forth with specific ideas about sharing experience with the other countries. Work in the area of these fields may be usefully taken forward by ICMPD, IOM, SECI and the Soderkoping process.

3. GOOD GOVERNANCE AND EFFICIENT JUDICIARY

Political reform, democracy enhancement, good governance and judicial reform will benefit greatly from an overall upgrade in hierarchy of the cooperation agenda. This is to be coupled with a better appreciation of the scope of the problem of corruption in post-conflict societies, which permeates society and polity. As a matter of sequencing, constitutional impediments to separation of powers and independence of judiciary need to be addressed. Institutional support for Parliament, political parties (through cooperation and exchange of experience with the European political parties) and the executive will enhance the pace and quality of reform. Tackling corruption may be approached by means of streamlining of public services and a sustained policy of awareness raising. The communication of the EU-induced judicial and administrative reform in Bulgaria and Romania through the Black Sea Forum will provide useful insights for the other BSR states. Building on work in the context of GUAM and the South Caucasus Parliamentary Initiative is also an option. BSEC and the Black Sea Forum are also in position to make a good contribution. The involvement of interested public administration institutes from EU member states will also be beneficial. Keeping local elites engaged and preventing further ‘brain drain’ is crucial and will be furthered by a policy of assisted interaction at the governmental, non-governmental, business, academic and professional level.

4. MENTOR COUNTRIES FOR REGIONAL COOPERATION

The definition of a mentor country/ies essentially implies that cooperation with the Black Sea Region countries will be encouraged, managed and/or developed by one or a group of EU member-state countries, which have a relevant capacity, experience and drive to further the cooperation agenda between the two wider entities. In any case, it must be recognized that a number of serious obstacles to regional cooperation persist. These include outstanding issues of statehood, unresolved conflicts, absence of regional identity, low level of economic

interaction between the constituent polities, sufficient regional infrastructure. While the countries of the region do share a common interest in developing and maintaining good relations with the EU, there still exist divergent foreign policy strategies. For instance, Azerbaijan's foreign policy is an unstable balance between pro-Western and Central Asian orientation, while Armenia continues to have a durable interest in developing ties with Iran.¹⁸ Russia is clearly interested in re-establishing a great deal of its lost sense of geopolitical self-importance and has been not addressing the provisions of its 2002-2006 Country Strategy Paper even if the document guides EU financial assistance. Given such context, the introduction of this approach will permit the linkage between regional cooperation and diffuse conditionality as mentor EU member-states take the lead in the area of freedom, security and justice. For instance, Romania has taken a leading role vis-à-vis the BSR and may act as mentor country within OSCE, the Black Sea Forum, SECI Centre, etc. Poland, Greece and Bulgaria have expressed, with varying degree and commitment, an interest in active cooperation and sharing of experience.¹⁹ The Baltic States and Poland have taken a leading role in democracy and governance issues, border control, etc. The Dutch and German governments have supported a series of initiatives through the International Organization for Migration and the International Centre for Migration Policy Development.

5. REGIONAL COOPERATION AS AN ELEMENT OF CONDITIONALITY

Regional cooperation among EU candidate countries was an important lever for institutional and cultural change as well as an important element of membership conditionality. It played a role in encouraging the countries to refrain from using Brussels as the sole reference point for their efforts but also develop in parallel their relations in a regional context, which many EU policies presuppose. The approach is currently being employed particularly widely in the context of relations with the Western Balkans. Its use in the management of financial assistance and overall political dialogue will also bring benefits in terms of cultural change in the Black Sea Region where rivalries between neighbouring countries have a centuries-old history.

6. IMPROVED POLITICAL DIALOGUE

The approach of the EU towards the Black Sea Region has been predominantly the result of exogenous influence and, more recently, of awareness of the emerging, broader security strategy of the EU. Two features have largely defined the EU approach thus far. One is the utilization of other, various existing formats of cooperation such as BSEC. Even the latest Communication from the European Commission remains within this domain and reaffirms the centrality of this approach. The other is focused on the communication and partial transposition of EU acquis in the area of freedom, security and justice (as evidenced by the ENP Action Plans for the countries in the region).

Still, one important option remains underutilized – the political dimension of dialogue on Freedom, Security and Justice in the Black Sea Region. Through its democratic mandate and breadth of political experience, the European Parliament is particularly well-placed to take

¹⁸ A detailed treatment of Armenia post-independence foreign policy can be found at:

http://findarticles.com/p/articles/mi_qa3996/is_200604/ai_n17174520/pg_1

¹⁹ A well-structured elaboration of the interests of the Romania may be found at

http://www.eurojournal.org/more.php?id=222_0_1_0_M10 Romania's interest is also evidenced by the establishment of the Black Sea Forum. An overview of its ideas and activities may be found at: <http://www.blackseforum.org/>;

this forward. As already indicated, political will is at the core of the any effort to create, enhance and sustain progress in this field. While cooperating and working with administrations is vital, embodying the FSJ agenda in political parties, party elites and party nominees for public office is central to the embedding of change. In the absence of EU accession conditionality, the relationships with the political elites of the BSR states will require a higher quality of political craft. Moreover, partly reformed polities in this region normally mean volatility in public office appointments (widespread replacements in event of change of government and non-merit based appointments), incoherent policy programmes in the various sectors of the administration, patronage, high degree of policy flux, etc. These weaknesses may be partially tackled by increased activity of the European Parliament and the European political parties and foundations. One option would be to create a cross-European party effort to convey the practices of good governance, processes of institutional party-building, modes of dialogue with civil society and organized interests, etc. Infusing a FSJ agenda into existing regional political initiatives is also an option. For instance, the work of the Consortium Initiative of international NGOs (Catholic Relief Service, Conciliation Resources, International Alert and the London Information Network on Conflicts and State-Building - LINKS) has already produced the South Caucasus Parliamentary Initiative (SCPI), which brings together MPs from the Parliaments of Armenia, Georgia and Azerbaijan.²⁰

7. PREVENTING THE EMERGENCE OF 'CRIMINAL AUTARKIES'

To varying degrees, the territories of the frozen conflicts are beginning to exhibit features of self-enclosed 'criminal autarkies' preserving a space of crime generation amid the increasing efforts to tackle security challenges in the region. This inherited status quo has persisted since the break-up of the Soviet Union in the early 1990s and has only lately begun to attract serious foreign policy attention with the enlargement of the EU and the expansion of security concepts and concerns in the new millennium. The latest EC Communication explicitly refrains from a sustained, large-scale political commitment to tackle the "frozen conflicts" head on. Still, it ought to be recognized that uneven efforts to solve these conflict create a persistent factor of instability vis-a-vis the possible EU agenda in the area of FSJ. The set of potential benefits in this respect is vast and includes, most importantly, greater business and economic opportunity at home curtailing the 'push' factors of emigration and improvement in the governance and judicial systems permitting sustainable democratic development. One option would be exerting greater pressure on the EC and the member states to seek long-lasting solutions to these matters.

8. NEED FOR EFFECTIVE IMPLEMENTATION OF COMMITMENTS

The wider lessons of the fifth enlargement have relevance for the design of policies and strategies vis-à-vis the Black Sea Region.²¹ One of the most potent lessons relates to the underestimation of non-political factors in the process of change and harmonization. While a great deal of effort was being allotted to legal and institutional harmonization, insufficient attention was given to the importance of informal networks, strategies of adopting norms

²⁰ The activities of the Consortium Initiative cover four strands and are making a significant contribution towards regional dialogue. An infusion of security issues could be integrated into the political dialogue agenda. For a more detailed view on its activities, see: <http://www.consortium-initiative.org>

²¹ Greater attention is now devoted to the topic of enlargement learning. A recent and very useful example of this process of reflection and dialogue is a seminar held on the 23rd of May 2007 in Brussels, which focused particularly on lessons learnt in the area of justice and home affairs. A more detailed account may be found at: <http://ec.europa.eu/cgi-bin/etal.pl>;

while not systematically implementing them, etc. Such factors are likely to be just as present in the non-acceding countries of the BSR. Strong cultures of non-legal norms, patronage, clan and regional identities will play a significant role as these societies begin to adjust, harmonize and make compatible their practices, institutions and norms in the vast area of freedom, security and justice. The central implication of this observation is the need to ensure in a systematic way the effective implementation of laws, rules and standards “on the ground” rather than simply rely on statements of commitment. Greater and deeper understanding of the issues through the utilization of non-governmental expertise on the region will make a contribution. More elaborate and detailed reports on the implementation of the ENP Action Plans could also lead to greater urgency in addressing outstanding questions. Enhancing the European Parliament's own capacity to evaluate developments in the Black Sea Region will be a further source of greater understanding, awareness and potential further action.

LIST OF ABBREVIATIONS

BSEC – Black Sea Economic Cooperation

BSR – Black Sea Region

CIS – Commonwealth of Independent States

ENP – European Neighbourhood Policy

EUBAM – EU Border Assistance Mission

FSJ – Freedom, Security and Justice

GRECO – Group of States Against Corruption within the Council of Europe

GUAM – Organization for Democracy and Economic Development founded by Georgia, Ukraine, Azerbaijan and Moldova

IOM – International Organization for Migration

ICMPD – International Centre for Migration Policy Development

LINKS – Consortium Initiative of International NGOs (Catholic Relief Service, Conciliation Resources, International Alert and the London Information Network on Conflicts and State-Building)

OSCE – Organization for Security and Cooperation in Europe

PCA – Partnership and Cooperation Agreement

SECI Centre – South East Europe Cooperation Initiative for Combating Trans-border Crime

SCPI - South Caucasus Parliamentary Initiative

UNHCR – United Nations High Commissioner for Refugees

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