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# POLICY REPORT

## EU-RUSSIA RELATIONS: WHICH WAY FORWARD?



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## PREFACE

*This policy report is the result of a Jean Monnet project on EU-Russia relations, which ran from 2013 to 2016, and was driven by a consortium of four partner universities: the University of Kent (United Kingdom), Carleton University (Canada), Johannes Gutenberg University in Mainz (Germany) and St. Petersburg State University (Russian Federation). The purpose of this independent research project was to transcend strong EU-centric or Russia-centric views of their relations. We are grateful to all experts and policy-makers who have participated in three major project events (a workshop in Mainz and two major conferences in Brussels and St. Petersburg) and whose ideas have often contributed to this document.*

*This policy report translates our research findings into policy recommendations. In the current context, where trust has dwindled, tensions have risen and sanctions are in place, this has become a challenging task. Against this background of acrimonious relations, diverging perceptions and high sensitivities, a few words of explanation are necessary.*

*Several recommendations in this report are meant as long term advice, going beyond the current situation and policies. For many recommendations to be put in place, a settlement in Eastern Ukraine and the implementation of the Minsk II agreement will be essential conditions. Our recommendations focus on the bilateral, the regional and the multilateral levels. While acknowledging essential interlinkages, we do not seek to offer any advice at the domestic level, as this falls outside the scope of our research project.*

*Formulating policy recommendations in the current precarious political circumstances is inevitably a matter of balancing between 'ideal world' recommendations and the 'art of the possible'. In this report we attempt to find a middle ground with challenging but feasible longer term recommendations. We are equally aware of the possibility that different actors may pick and choose those elements from this report that suit them best. Therefore it is important to emphasise that our analysis and recommendations below need to be read as a package.*

## EXECUTIVE SUMMARY

How to get EU-Russia relations back on track? This policy report undertakes a challenging exercise – to rethink EU-Russia relations in the longer term, acknowledging steps forward will, at a minimum, be dependent on the successful implementation of the Minsk II agreement, the lifting of sanctions and slow re-building of mutual trust. This report does not focus on the domestic level, but suggests a way forward at the bilateral, regional and multilateral levels. It formulates separate recommendations in four key areas: energy, regional integration initiatives, multilateral security cooperation and human rights.

The report highlights the need to rethink **wider European relations** in the longer term. They should take the form of double, overlapping concentric circles of integration: one centred around Russia, and another around the EU. Integration is strong in the centre, weaker at the periphery. Where both concentric circles overlap, different forms of integration should be compatible. This avoids a situation where regional integration initiatives create exclusive allegiances (only with Brussels or only with Moscow). This requires, above all, the compatibility of regulation between the Eurasian Economic Union (EAEU), with its common external tariffs, and the EU's Association Agreements, with their deep and comprehensive free trade arrangements. An integrated economic space from Lisbon to Vladivostok should remain a long term objective. Secondly, the report emphasises the importance of building *an effective pan-European collective security system*, which could provide more operational crisis management. Thirdly, *a recommitment to key principles underlying the European order* is of vital importance. These include the inviolability of the post-Cold War border regime, support the internationally-recognized human rights regime and principles of collective security, recognizing that European security is indivisible. It will also be important to come to a more or less uniform interpretation of basic provisions in the relevant international documents. Finally, *cross-border communication* through diverse and multi-level channels will be essential for overcoming paradigmatic and geopolitical thinking. Continuing exchange in fields like research and education is an essential part of this process as well as promoting links between EU and Russian businesses and civil society, and dialogues at the trans-governmental level.

This report also reflects on the proper **format for reengagement** between Russia and the EU. As trust building is essential, any form of progress will inevitably have to start from *small steps and pragmatic engagement*. In the energy field this may take the form of technical, small-scale cooperative projects. Those may lead to a renewed understanding of the benefits of interdependence, hand in hand with further diversification of supply and demand. Secondly, this incremental approach may require *ad hoc formats*, such as the Normandy format in the case of the conflict in Eastern Ukraine. When it comes to 'rivalling' regional integration initiatives, both working toward a direct dialogue between the EU and EAEU will be important, as well as trilateral consultations over new initiatives and their implementation. While initially these consultations would take a pragmatic ad hoc format, perhaps focusing on non-divisive areas such as research cooperation, they can in the longer term grow – or spill-over - into more permanent institutions, and more contentious areas. Thirdly, *a firm embedding of EU-Russia relations in a multilateral context* will be key. Multilateral organizations may form a stabilising factor, a forum for mutual dialogue, as well as a mode of equal cooperation. This is in particular the case for the Energy Charter in the field of energy, of the OSCE in the field of collective security, of the WTO in the area of trade and economic cooperation and of the Council of Europe (European Convention on Human Rights) in the field of human rights. These multilateral settings, however, should be complemented by

direct *dialogue* between Moscow and Brussels. These are needed in all sectors and should start at lower and middle-rank levels. To overcome negative images and clashing perceptions, the report also proposes a Reconciliation Council of experts and independent actors.

It goes without saying that, given the current context, none of the suggestions in this report will be easy to realise. Nor will any of them work individually: they require a broad approach at different levels and on different fronts, which may slowly build trust, predictability and sustain longer term normalisation.

## 1. INTRODUCTION

EU-Russia relations have evolved from pragmatic but stagnating relations, in the framework of a Strategic Partnership, to a confrontation. While hopes for a cooperative relationship started dwindling even earlier, the crisis over Ukraine, which erupted in 2014, appeared to be an unexpected game changer. It has complicated relations between Moscow and Brussels in several ways:

- The Ukraine crisis has intertwined EU-Russia relations with larger questions of international security and relations of power. The latter are now openly acknowledged by both parties to be at the centre of relations.
- Existing negative narratives on both sides and incompatible perceptions have been reinforced by developments linked to Ukraine.
- Developments over Ukraine and diametrically opposed perceptions on both sides have confirmed a logic of competition, which originated well before the crisis. This logic of competition has further escalated over sanctions and retaliation measures.
- The confrontation over Ukraine has given a final blow to trust, which had been dwindling for years. On the other hand it should also be acknowledged that the crisis has broken certain taboos and made it possible to talk about differences more openly.

As a result, there are clear limitations for any of the policy recommendations below to work:

- Any normalisation and return to cooperation will inevitably be long term, slow and difficult. It will require trust-building and dialogue.
- Steps forward will only be possible in case of a successful implementation of the Minsk II agreement and the lifting of sanctions.
- Any reconciliation between Russia and the EU will depend on the broader international context, not least current developments in Syria.
- Finally the internal evolution in all countries concerned will equally be determining: in the EU (member states), in Russia and the Eurasian Economic Union, as well as in Ukraine.

We wrote the recommendations below in the full awareness of these limitations and we realise there is little ground for optimism. Yet the current situation leaves us little choice but to think about the long term. Furthermore, focussing attention on a longer-term strategic vision may help both sides to avoid actions that would preclude its realization.

The report presents both general policy recommendations as well as recommendations of key importance for Russia-EU relations: energy, regional integration and multilateral cooperation, and human rights.

## 2. GENERAL POLICY RECOMMENDATIONS

It should be recognised that deeper structural problems underlie the current crisis in EU-Russia relations. These relate to conflicting projects of post-communist Europe. While Russia envisioned a multipolar Europe on the basis of equality, the Euro-Atlantic community opted for an extension of existing structures of political, security and economic cooperation: the EU and NATO. Russia felt increasingly frustrated with the EU's efforts to export its values, norms and regulations, whereas the EU struggled to offer an alternative model of relations. Moscow increasingly saw the EU as a mere extension of NATO, which fostered the securitisation of relations with Brussels. Integration projects on both sides were increasingly regarded as conflictual and would collide over incompatible integration principles: the EU-driven Eastern Partnership, leading to Association Agreements with Ukraine, Moldova and Georgia, versus the Russia-driven Eurasian Economic Union, with Kazakhstan, Belarus, Armenia and Kyrgyzstan. Ukraine became the main bone of contention.

However, while acknowledging the impact of these structural factors, the conflict cannot be reduced to this problem only. It is equally the result of a process of increasingly negative interpretations of each other's behaviour and of an increasingly geopolitical reading of relations. This implies that overcoming irreconcilable narratives will be key to any substantial improvement of relations.

- A dialogue will be essential to overcome apparently irreconcilable interpretations and narratives. This will be a necessary but not a sufficient condition. It goes without saying that this presents a huge challenge.
- Both Russia and the EU will need to invest in a dialogue and in mechanisms that help both sides to overcome paradigmatic thinking and geopolitical interpretations.
- Re-engagement will likely have to build initially on a modest and pragmatic agenda, where Moscow and Brussels recognise differences, while looking for commonalities.

Longer term solutions for a sustainable and renewed partnership will require:

- Rethinking wider European structures in terms of double concentric circles, whereby the external circles overlap. This should avoid exclusive allegiances, which tend to contribute to thinking in terms of spheres of influence and lead to polarisation.
- Making the Association Agreements under the Eastern Partnership (EaP) and commitments within the Eurasian Economic Union (EAEU) compatible in the longer term and, wherever possible, abstaining from pressuring the countries of the shared neighbourhood into making a choice between the two.
- Reconfirming the long term goal of establishing a free trade area from Lisbon to Vladivostok, as originally provided in the Common Economic Space between the EU and Russia. However, as achieving this goal in the current context is unrealistic, this needs to be prepared by an incremental process of trade liberalisation and negotiations at inter-regional level (EU-EAEU). To avoid this remaining a merely declaratory goal, legal instruments for harmonisation should be proposed.
- Mutual involvement in and consultation over regional integration initiatives. To create minimal trust, a dialogue, transcending the EAEU and EaP and involving the countries-in-between, is inevitable. Also a direct dialogue between the EU and EAEU



is necessary, with the EU's recognition of the EAEU as a speaking partner being an essential step.

- All parties recommitting unambiguously to the European border regime, as laid down in the Helsinki Final Act, the Paris Charter and several other agreements. The parties should also talk openly about differences in the interpretation of these documents.
- Establishing a collective security system for wider Europe: aiming at tackling issues at a multilateral pan-European level; setting up transparency-promoting and risk-reducing mechanisms; seeking agreements on military presence in border areas between Russia and NATO; taking confidence-building measures. Where ad hoc negotiation formats (such as the Normandy format) prove to be effective, a 'light' institutionalisation should be considered.
- Keeping cross-border channels of communication open and stimulating a dialogue at all levels, including inter-personal. This is crucial to creating a better understanding of each other's perceptions and to overcome paradigmatic thinking. More specifically it is of crucial importance to continue student exchanges and research collaboration between Russia and the EU. It is equally recommended to resume the dialogue on visa facilitation at an early stage of normalisation.

Inevitably these recommendations need to be seen in the context of incremental trust-building and normalisation through:

- Small steps of technical and pragmatic collaboration, starting from areas which have been less affected by current tensions or where cooperation has traditionally been important to both parties (e.g. technical cooperation in the field of energy or relating to cross-border cooperation).
- Creating a platform for dialogue on collective security and creating more optimal structures to tackle the crisis.
- An open, unconstrained and pragmatic dialogue, with high involvement of academics, analysts, independent actors. The latter allows for an influx of nuanced thinking, a broader contextual understanding of relations and a recognition of complexity.

### 3. POLICY RECOMMENDATIONS ON ENERGY

Energy is an area of EU-Russian mutual interdependence. Over 50% of Russia's natural gas and about two thirds of its oil exports go to the EU; the latter, in turn, receives approximately 30% of its hydrocarbon imports from Russia. At the same time, already at the turn of the century, both partners started feeling vulnerable about this close interconnection. Much intellectual energy has been spent on which side is more dependent -- whether it is Russia, for which the EU is the key market, where it has to comply with all the changes of the Union's legislation, or whether it is the EU, where some member states purchase 100% of their gas from Russia. Most experts acknowledge the relationship as one of mutual interdependence. Nonetheless, both partners started diversifying their energy exports/imports well before the 2014 events in Ukraine. The EU planned various ways of bringing natural gas from alternative suppliers and hence drafted plans for pipelines and liquefied natural gas (LNG) terminals expansion. Russia, in turn, has invested in deals and pipelines increasing the share of the Asian market in its export of oil and natural gas. Moreover, Russia also became interested in LNG capacities. While diversification of both suppliers and markets reassures both sides, especially in the circumstances like the frosty relations of 2014-2015, it should not be forgotten that the EU and Russia need each other and economically represent the most natural, cost efficient energy partnership.

#### Recommendations

- 1. Mutual energy interdependence should be recognized as economically sensible and beneficial for both partners.**
- 2. A reasonable degree of diversification should be maintained by both sides through additional pipelines, contracts and LNG facilities.**

Both the EU and Russia tend to accuse each other of politicization. This is one of the key irritants in EU-Russian energy cooperation. Politicisation is a complex phenomenon, which lacks any single definition. It is understood here as an understanding of energy trade, investment and infrastructure in terms of not only economic but also (geo) political logics. A tendency to politicise energy can be detected on both sides. In the case of Russia, this is mainly reflected in differentiated price setting and bypassing infrastructure, in particular towards post-Soviet countries. In the case of the EU, it appears in the ambition to diversify, replacing cheaper Russian gas by more expensive shale gas, LNG or pipeline gas from other sources.

#### Recommendations

- 3. While it is impossible to eradicate geopolitical approaches, market logics should become dominant in EU-Russian energy relations.**
- 4. In order to achieve this the parties should agree that their mutual interdependence is beneficial for both sides but that it has to be balanced by reasonable diversification.**

The EU and Russia imagine their energy cooperation differently. While for the EU a common market is about shared rules and regulations, and first and foremost about liberalisation, Russia believes that a shared market is primarily about common infrastructure, which enables trade in oil and natural gas. The visions are not exclusive. Infrastructure and markets are like computers and their software; both are needed for the market. However, the extreme version of each approach is again conducive to politicization. Russia sees the latter in the EU's imposition of its norms on Russia, whereas the EU is uncomfortable with numerous pipeline projects that Russia proposes for gas transportation. Differences in the approaches should be recognized and accepted while their consequences can be reconciled at the practical level.

### **Recommendations**

- 5. Differences in how the EU and Russia address energy cooperation should be openly addressed between the two parties.**
- 6. This difference in perception should not be a barrier for developing practical cooperation.**
- 7. The 2013 Roadmap of EU-Russian Energy Cooperation is a good example of how these differences can be reconciled at the level of practical cooperation, bylaws and projects. It should be used as a guideline for cooperation.**
- 8. This small-scale reconciliation creates trust and should be used to move the EU-Russian energy partnership forward.**

While grand bargains, summits and meetings of the Russian Minister of Energy with his EU colleagues are important, most work is carried out (or should be carried out) by lower- and middle-level officials and energy companies on both sides. These transgovernmental and transnational relations also depoliticise the relations by resolving problematic issues at the level where they are located (most frequently, at a technical level). At the same time these are precisely the links that suffered the most as a result of sanctions. Most EU officials preferred to postpone meetings with their Russian colleagues unless they were absolutely necessary; meetings of the Energy Dialogue were frozen (except for the talks about Ukraine and some expert meetings of the Gas Advisory Council); and companies preferred not to initiate new deals and contacts even when their counterparts were not affected by Western sanctions. This pattern bolstered politicisation of the EU-Russian energy agenda. Moreover, it deprived Russia and the EU of an effective means of reconciling their differences at a technical level.

### **Recommendations**

- 9. EU-Russian energy discussions at the level of lower- and medium level officials should be relaunched.**
- 10. In the case of gas transit and trade they can also involve Ukrainian (as well as other transit countries') officials.**

**11. As sanctions are likely to be maintained for some time to come, their application should be clarified so as to avoid any grey area. The EU side can clarify what services / companies are affected as well as the limits of retroactive effect. Russia, for its part, should be clear about the ownership structure of the companies so as to exclude any risk that some of the people / companies that are in the sanctioned list deal in disguise with EU entities, exposing them to the threat of sanctions' violation.**

One effect of the sanctions is that the EU and Russia, in view of the deficit of direct communication, increasingly appeal to various international organisations (like the Energy Charter working groups for the discussion on policies or the WTO for dispute resolution). This use of multilateral fora should be further nurtured. In this respect it is regrettable that 2015 changes of the Energy Charter provisions happened without Russia. On one hand, use of these other fora softens Russia's fears that the EU is unilaterally imposing its legislation on Russia; in international organisations where the EU and Russia are equal players, decisions are viewed as being co-owned. On the other hand, these international organisations create a certain regime between the EU and Russia that can promote a minimum level of trust between the partners.

### **Recommendations**

**12. The use of international organisations in EU-Russian energy relations should be encouraged.**

**13. The WTO provides a long-needed venue for dispute-resolution in EU-Russian trade relations (particularly in energy).**

**14. The Energy Charter and its Treaty can provide the minimum level-playing field. Changes of these multilateral frameworks without the participation of the other party are to be avoided whenever possible.**

Energy cooperation can also build trust between the EU and Russia, which is essential for EU-Russian relations in all spheres. Trust and confidence will emerge from practical cooperation. Some examples are the reconstruction of the EU-Russian gas transportation system, cooperation on joint implementation of Paris Climate deal (joint reduction of CO2 emissions), and improvement of energy efficiency in Russia. These projects have the capacity to lock the EU, Russia and their neighbourhood in cooperative and mutually beneficial relations, contributing to a gradual transformation of current alienation into practical cooperation and a strategic alliance in the long-term perspective. Joint reconstruction of the Ukrainian gas transportation system can also contribute substantially to transforming it into a zone of stability rather than a grey area of contestation. Moreover, these projects (especially in climate change and energy efficiency) may help to facilitate a wider dialogue between EU and Russian business communities and civil societies, contributing to better mutual understanding, which may serve as a firm foundation of long-term cooperation.

## Recommendations

- 15. Priority should be given to specific cooperative projects rather than to large-scale energy market formation, which is impossible in the current situation characterized by a lack of trust.**
- 16. Transit countries (especially Ukraine) should be involved in these projects to foster cooperation and lock all the partners into mutually beneficial relations.**
- 17. Small-scale projects in energy efficiency and climate-change, which contribute to mutual trust and socialization through a wide interaction of small and medium companies, should be encouraged.**

## 4. POLICY RECOMMENDATIONS ON REGIONAL INTEGRATION

Due to linkage with the current Ukraine crisis, development of policy recommendations in the arena of neighbourhood relations is the most challenging. As noted above, a prerequisite for positive developments in this area is a settlement on Eastern Ukraine and the implementation of the Minsk II Agreement. We do not specifically address here recommendations to achieve those ends because the Minsk agreement itself lays out the necessary actions on both sides. The following recommendations suggest avenues to facilitate a framework for more constructive relations in a longer run perspective.

A fundamental problem in the period leading up to the Ukraine crisis was the absence of any specific forum or governance structures to provide a framework for interaction or coordination of EU and Russian policies in the region. The relationship between the EU and Russia was otherwise quite highly institutionalized, building on the Four Common Spaces, which generated numerous specific working groups and dialogues. However, in regard to EU and Russia activities in the neighbouring countries, such vehicles were not developed. The reasons for this are complex and responsibility lies with both parties. The initial EU approach involved inviting Russia to be a party to the European Neighbourhood Policy (ENP) initiated in 2004, as well as in projects under ENPI (European Neighbourhood and Partnership Instrument) and, later, offering the possibility of involvement, on an ad hoc basis, in Eastern Partnership (EaP) activities. After Russia rejected involvement in the ENP (although engaging with ENPI), the EU generally took the position that bilateral relations with these countries should not be a subject of negotiation with Russia. The Russian position seemed to derive from two assumptions. First, on a pragmatic level Russian officials seemed doubtful that EU policies, as developed through the Eastern Partnership, would be effective in drawing countries into the sphere of EU influence due to the high costs that would be involved for the receiving states. Second, on a principled level, the Russian side viewed these countries as within its legitimate sphere of interest and therefore Russia was not inclined to permit the EU to unilaterally establish terms for interaction such as those laid out first within the framework of ENP and EaP. The consequent absence of a forum for

discussion or of governance mechanisms to address issues provided fertile ground for misunderstandings that contributed to the subsequent conflict. Each side interpreted actions of the other within its own normative and conceptual frame, which in turn formed the basis of the conflicting narratives about the region that have emerged since. Neighbourhood relations proved to be the most difficult and intractable aspect of EU-Russian relations, even preceding 2013-14.

This backdrop underlines the need for creating an *institutional framework that facilitates longer-term joint strategic thinking about how relations in the neighbourhood might be managed*. However, this effort will be hindered by a reservoir of mistrust, which currently is expressed in posturing and shadow-boxing. The question also arises as to whether and how partner countries from the common neighbourhood should be included in such a framework for dialogue. Given the increasingly differentiated positions and statuses of the various neighbourhood countries, an inclusive format could be quite problematic and could actually increase the likelihood of rhetorical posturing. On the other hand, bilateral discussions exclusively involving the EU and Russia could risk undermining or, at a minimum, creating a perception of undermining the agency of the countries affected. The objective of the entire process would be to rebuild trust, to promote clearer communication between the parties, and, in the longer term, to generate a mutually acceptable institutional framework for addressing issues. While it may not be possible to arrive at a shared strategic vision for relations in the region, establishing an institutional structure to provide regular interaction about differing perceptions and interests may serve the purpose of an early warning system to reduce the likelihood of further conflict. This should be separate from the usual bilateral summits, if these are re-established, to avoid over politicization of those summits and to prevent 'leakage' of tension into other areas of potential cooperation.

At the same time, it will be important for the two parties to engage in discussions regarding particular sectoral or technical issues. The goal here would be to depoliticize such issues to the extent possible. While the above-mentioned forum for establishing an institutional structure to discuss larger strategic questions may be bilateral, technical discussion might involve third parties, including EaP countries. The trilateral talks that took place in 2015 involving Russia, Ukraine, and the EU regarding issues affecting Russia in regard to implementation of the EU-Ukraine Deep and Comprehensive Free Trade Area (DCFTA) are an example of such an approach.

### **Recommendations**

- 1. A combination of long-term thinking and short-term practical/technical accommodations seems to be the best approach to establishing a foundation for improved relations in the common neighbourhood.**
- 2. A format for discussions, with the goal of establishing an institutional framework to consider shared long-term thinking about relations in the region, should be established bilaterally between the EU and Russia.**
- 3. Trilateral or regional discussions involving the EU, Russia, and appropriate neighbouring countries should be established to discuss particular sectoral or technical issues, as required by the parties.**
- 4. Some sectoral/technical issues may more appropriately be addressed between the EU and the Eurasian Economic Union.**

Divergent narratives propagated about policies, motivations and actions of the 'other' are presented by the EU and Russia. Some areas where these divergent narratives are most visible relate to the following points:

- Both sides claim legitimate interests in the region, due to geographic proximity and/or historic ties.
- Both sides claim that the other side has forced countries in the common neighbourhood into an 'either-or' choice between one alignment or the other (with Russia/EAEU or with the EU).
- Both sides claim to better represent the interests of the countries affected through their integration initiatives.
- Both sides claim that the other has exercised undue pressure on the countries affected to achieve its own foreign policy objectives.
- Russian leaders claim that the EU seeks to unilaterally establish norms and regulatory frameworks that apply in the neighborhood, while the EU claims that it is obligated and within its rights to follow EU law and norms in conducting its foreign policy with Russia and with countries in the neighbourhood.

We will not elaborate the arguments that are used to support the above narratives but simply note that such claims are not easily subject to factual verification because they involve interpretations of motives or involve normative assumptions about desired outcomes. Therefore it will not be purposeful here to try to establish which claims are more 'correct', due to firm convictions about this on both sides. Allegations that such claims 'mask' true motivations are also not subject to factual verification. At the same time, each of these claims has important and powerful implications in terms of legitimizing policies, both in the international sphere but also for domestic purposes.

The most fruitful way forward may be to try to work toward a shared narrative (i.e., a minimal set of shared assumptions) which, in part, avoids claims on the above issues and, in part, is achieved through compromises that acknowledge the validity of elements of the other's claims. The parameters of a minimal set of shared assumptions might include the following ideas:

- That both the EU and Russia have legitimate interests in the region, and that therefore wider European structures can be conceived of as overlapping concentric circles rather than as exclusive spheres of interest.
- That pressing countries in the neighbourhood into an 'either-or' choice is inappropriate and undesirable. To the extent possible, countries should be free to pursue relations with both the EU and Russia/EAEU in line with their own definitions of national interest.
- That countries in the neighbourhood are sovereign states that are the arbiters of their own interests; therefore external assessments of national interest may be taken into account but national interests are constructed by actors themselves.
- That while positive incentives for cooperation are appropriate, punitive measures in relation to neighbouring countries are not helpful and constitute undue application of pressure, unless the affected state clearly operates in violation of international law or norms.

- That to the extent possible the two parties should consider the avenue of mutual recognition of divergent norms or regulations rather than only considering approximation to one set of norms/regulations or the other.

Agreement on such a shared narrative will be difficult to achieve, given the highly charged atmosphere that prevails today. Each of the two parties would be encouraged to take unilateral action to defuse the charged rhetoric that characterizes their narratives.

### **Recommendations**

**5. Efforts should be made to defuse inflammatory rhetoric and to move toward a framework of pragmatic cooperation to govern discourse about neighbourhood relations.**

**6. Each side should seek to unilaterally reduce accusations or attribution of motivations to the other party.**

**7. A mutually-agreed and mutually-supported Reconciliation Council of participants from Russia and the EU, involving academics, analysts, and independent actors, should be organized to articulate the potential basis for a shared narrative, using concepts such as those suggested above as a starting point. The Council should also include individuals independent of both parties (and possibly from outside the region).**

**8. Rather than censuring past actions, the Council should identify positive practical measures to realize the above principles.**

**9. The EU and Russia should jointly and separately seriously consider committing to implementing the recommendations of the Reconciliation Council and discuss the most effective way for realizing such implementation**

Particular issues surround relations between the Eurasian Economic Union (EAEU) and the European Union. While Russia would like to see talks commence between the two unions in areas of EAEU competence, the EU has expressed hesitancy in this regard for various reasons. One set of considerations has to do with the unresolved nature of the Ukraine crisis. Apart from that is the fact that not all EAEU countries are currently WTO members. Finally, it is unclear what the objectives of such talks would be.

A particular concern relates to how such talks would affect countries in the region that are not part of either Union. A reasonable precondition for initiating relations between the two unions, therefore, might be an agreement on the part of both unions to avoid measures that would penalize countries in this position. Establishment of relations should not be used by either party, either rhetorically or in terms of concrete decisions, to penalize or incentivize countries that are not currently a party to either Union or plan/wish to become one. This might be a difficult concession to gain from the Russian side, given the Russian presidential decree of December 2015 excluding Ukraine from benefits under the Commonwealth of Independent States Free Trade Agreement (to which Ukraine is a party) in light of the coming into force of the Ukraine-EU DCFTA. The possibility of EU agreement to engage formal relations with the EAEU might bring Russia to reconsider this decision.

A main purpose of initiating relations between the EU and the EAEU would be to assure the longer term compatibility of the two regional integration initiatives. This would require, in the



first instance, a focus on technical cooperation relating to areas of EU and EAEU competence.

### **Recommendations**

**10. Relations should be initiated between the European Union and the Eurasian Economic Union, subject to some agreements on parameters of the relations.**

**11. Whenever bilateral negotiations between the EU or Russia/EAEU and a common neighbour may impact on the third party, trilateral consultations should be considered. Self-evidently trilateral consultations do not imply a right to veto.**

**12. A prerequisite for initiating such relations would be that neither party uses these relations as a means to rhetorically or in terms of policy to influence the choice of other countries that remain outside of both unions or express preference for membership in one or the other of the two unions.**

**13. Relations should, in the first instance, be focused on technical issues to avoid politicization.**

Trade and economic interdependence can generate mutual interest in cooperation. While the current regime of sanctions and counter-sanctions in the context of the Ukraine crisis has undermined faith in the power of economic and energy interdependence as a motor of political cooperation, those interdependencies have likely, even under current strained circumstances, promoted restraint on both sides. Without that, tensions could have spiked more quickly and with graver consequences. Therefore the long term goal of a unified economic space from Lisbon to Vladivostok should be reaffirmed by both parties. In the short to medium term this is unlikely to take the form of a free trade zone, due to differing levels of competitiveness in key sectors as well as protectionist tendencies. A joint research-based analysis of the relative costs and benefits that would derive from various types of intensified cooperation (from trade facilitation to a free trade area) is necessary to help depoliticize this issue and allow concrete progress. The same applies to the impact of free trade agreements involving countries in the common neighbourhood.

Trade facilitation would be the first step in moving forward with enhanced economic cooperation, and this has already occurred to some degree. A second step could relate to clarification and coordination of rules of origin. A third step could be to promote better conditions for investment activities. Finally, non-tariff barriers, including mutual recognition of standards, where appropriate, could be another avenue of discussion. In many of these areas discussions would need to take place between the European Union and the Eurasian Economic Union rather than between national states due to the transfer of competencies.

We refrain from making any specific recommendations regarding specific sanctions regimes that are currently in place. Obviously the above approach depends on sanctions being lifted. However, the conditions under which this is likely to occur are linked to fulfilment of the Minsk II Agreement rather than to particular areas in the field of trade or economics.

## Recommendations

**14. The goal of an integrated economic space from Lisbon to Vladivostok should be reaffirmed and appropriate measures taken to promote it. Countries in the common neighbourhood should be included.**

**15. Both sides should redouble their efforts to realize the provisions of the Minsk II agreement to facilitate the lifting of trade sanctions and counter-sanctions.**

**16. A joint study or studies should be commissioned to clarify the relative benefits of certain types of trade facilitation and relaxation of trade barriers, including creation of a free trade areas between the EU and EAEU; the joint study should develop particular recommendations for actions and timelines that would be mutually beneficial. Similar studies could be commissioned relating to the impact of other types of free trade arrangements being implemented or proposed involving countries in the common neighbourhood that are not part of the EU and EAEU.**

**17. The goal of enhanced economic integration should be promoted by work at all levels, depending on competencies of particular organs, i.e. between the European Union and the Russian Federation, where appropriate; and between the EU and EAEU, where transfer of competencies requires this.**

**18. Countries that remain outside of both customs unions (the EU and EAEU) should be included to the greatest extent possible in measures to promote regional trade, trade facilitation, and other steps along the way to a potential long-term goal of continental economic integration; possible benefits of an EU-EAEU trade agreement for the countries outside both agreements should be explored.**

**19. An incremental approach should be taken, with a first focus on trade facilitation, then, as appropriate attention to other issues such as the constructive interaction of rules of origin, mutual recognition of standards, and tariff as well as non-tariff barriers.**

## 5. POLICY RECOMMENDATIONS ON MULTILATERAL COOPERATION AND SECURITY

Both Russia and the EU declare multilateralism to be a priority in their foreign policy. Today, in a context of sanctions, part of the contacts between both actors go via multilateral fora. There has been fairly successful collaboration, for example, in the framework of the E3+3 talks, but equally in the margin of multilateral organisations and meetings (such as the G20, the UN, etc.). Multilateral organisations may prove to form an important platform for re-engagement and trust building. Cooperation in technical fields as well as in areas of common interest may prove the only feasible channel for increasing confidence and normalisation.

Security is no doubt one of the most challenging areas for Russia and the EU to make progress and it will no doubt require clear signals of good will. At the same time, it is one of

the most essential and indispensable. Security issues are largely within the purview of organizations other than the EU in Europe. However, it should be acknowledged that an improvement in relations is unlikely to be successful without addressing the issue of security and the differing positions of Russia and the West on this issue, also in a multilateral context. The most important area of disagreement is over NATO's eastern enlargement, which has been a constant irritant to Russia; any suggestion of further expansion to include countries from the current common neighbourhood is viewed by Moscow as being a critical security threat.

The EU and Russia continue to face shared security concerns, such as the fight against terrorism and against the proliferation of weapons of mass destruction, and the other priorities identified in the EU-Russia Common Space on External Security. However, even before the Ukraine crisis, this area of joint activity remained relatively underdeveloped compared to the other Common Spaces. Therefore, it seems unlikely that the EU and Russia, on a bilateral basis, would be able to make progress on these issues at the current time, outside the larger international framework. EU-Russia cooperation to mitigate any of the three frozen conflicts in the region (Nagorno-Karabakh, secessionist regions in Georgia, Transnistria) also seems unlikely in the near to mid-term future.

The Ukraine crisis has underlined the absence of an effective pan-European collective security mechanism. Paradoxically, it has also made the Organisation for Security and Cooperation (OSCE) into an acceptable partner again. The importance of the latter as a forum for consultation has increased as a result of the lack of alternatives. It has become the context in which the Minsk talks over Eastern Ukraine are held, in the so-called Normandy format (with Ukraine, Russia, Germany and France). In the current context, this type of ad hoc format may have an important role to play. Such a format may elevate the role of individual member states rather than of the EU itself.

In the longer term it will be crucial to develop an effective collective security mechanism, which may prevent crises at an early stage. While other more far-reaching proposals have been made in the past (such as Russia's proposal for a European Security Treaty in 2009), the OSCE is likely to be the only feasible platform for developing collective security mechanisms today. For the OSCE to play that role, it will be essential to restore trust in the core security principles the organisation stands for, including the European border regime. In the longer term, it will be necessary to think how threat perceptions and strategic competition can be reduced. It is key to return to an acceptance of the principle that European security is indivisible and to build appropriate structures on this basis. This rethinking may involve an acceptance of double concentric circles, which may partly overlap where they meet. This would make it possible to circumvent the sharpness of dividing lines that current polarised structures generate.

## **Recommendations**

**1. In the longer term effective collective security mechanisms need to be created on the basis of the principle of the indivisibility of European security. In the current context these plans should grow from consultations within and through a reform of the OSCE and on the basis of experience with ad hoc mechanisms such as the Normandy format.**

2. The fundamental principles of the OSCE, as laid down in the Paris Charter, should be reconfirmed and a long process of trust building should be set into motion.
3. Both sides should refrain from actions which may undermine trust or be seen by the other as threatening, as well as from negative inimical framing of their counterpart.
4. While the NATO-Russia Council offers few prospects as a solid security mechanism, a cautious reopening of talks on technical forms of cooperation may contribute to re-engagement and trust-building.
5. The EU and Russia should, independently from collective defence organisations (NATO, CSTO) and collective security organisations (OSCE), enter into a dialogue on regional security matters. They should, as soon as possible, reinstate discussions within the Common Space on External Security to identify means of cooperation in areas of shared security concern.
6. Both sides should restrain from actions that would aggravate existing frozen conflicts in the region or that would invite spill-over into other adjacent regions. They should actively engage in consultations over these protracted conflicts in the post-Soviet space, which form a potentially destabilising factor. Initially this may work best in ad hoc constellations, such as the Normandy format, rather than at the bilateral EU-Russia level.
7. The EU and Russia should seek greater technical cooperation and engagement in areas of common interest within diverse multilateral organisations. This is an important step in a slow process of trust-building whereby cooperation may spill over to other areas and slowly grow.

## 6. POLICY RECOMMENDATIONS ON HUMAN RIGHTS

In April 2013, legal documents were drafted and the EU's accession to the European Convention on Human Rights (ECHR) became official; Russia was already a signatory to the Convention. Within this context, one of the cornerstones of the European human rights regime is the European Court of Human Rights (ECtHR), widely regarded as the most influential and effective human rights court worldwide.

Unfortunately, rulings of the Court may be subject to contest within Russia, given a December 2015 law, adopted in Russia, allowing the Russian Constitutional Court, to decide whether or not to implement rulings of international human rights courts. This law allows the Russian constitutional court to overturn the judgments of the ECtHR, if it deems them unconstitutional. This decision on the Russian part potentially threatens the existence of a European-wide human rights regime as well as weakens the ability of Russian citizens to seek redress for human rights violations through the ECtHR.

Within the EU-Russia relationship itself, the Human Rights Dialogue, founded in 2005, provided a suitable platform for human rights consultations and cooperation between the two

parties. The focus tended to be on some critical domestic issues, such as the Northern Caucasus and the situation of fundamental freedoms in Russia (raised by the EU) and issues such as minority rights in EU (raised by Russia), as well as on coordination and cooperation between the EU and Russia on international human rights issues. However, the Dialogue, as a form of international engagement, has severe limitations. It is hard to bridge from discussion to agreement and from agreement to change on the ground. Furthermore, the Dialogue increasingly has highlighted the fact that the visions of human rights differ between the two actors, and that the diffusion of human rights, as understood in the EU, does not at this point in time represent an acceptable option in Russia. In this context, recommendations relating to human rights must be focussed on re-establishing agreement of methods to address these differing interpretations.

#### **Recommendations:**

- 1. Adherence to agreed-upon international human rights norms, such as the European Convention on Human Rights, should be recognized as the foundation of mutual relationship between the EU and Russia.**
- 2. For the existing EU-Russia Human Rights Dialogue to be viable, a new understanding of the limits, as well as opportunities, should be sought. There is an urgent need to open a dialogue between the EU and Russia on how to overcome differences in perceptions of human rights.**
- 3. The EU and Russia should cooperate more closely with the ECtHR, in particular in aiding enforcement of judgments.**
- 4. The role of the Council of Europe and the European Court of Human Rights, as important venues for dialogue and dispute-resolution, should be recognized by both parties.**
- 5. Differences in how the EU (and its member states) and Russia approach and implement the decisions of the ECtHR should be scrutinized and a unified approach sought.**

The European Union sees itself as a long term promoter of human rights. On the whole however, the direct role of the EU in human rights protection is limited and the issue had moved to the periphery of the EU-Russia agenda well before the Ukraine crisis. Yet, with the Lisbon Treaty the protection of minorities became a binding principle of primary EU law. This offers the EU additional leverage in the areas of external relations, neighbourhood policy and enlargement, where protection of national minorities is one of the main criteria for cooperation with the EU and for potential accession. Evidence indicates that litigating in front of a supranational court requires capacities that vulnerable people subjected to severe human rights violations are unlikely to possess (except if they are aided by transnational human rights advocacy groups).

#### **Recommendations:**

- 6. In order to strengthen the protection of human rights, in particular in countries with weak human rights record, individual states record (both within and outside the EU), should focus on strengthening the capacity of their citizens to seek redress – by providing access to necessary resources.**

**7. The EU needs to recognize the role of domestic and international human rights groups, which aid citizens in seeking redress internationally, and clarify its stance on domestic policies of ECHR member states aimed at restricting the ability of these organisations to act.**

**8. Future EU-Russia Human Rights Dialogue consultations should include discussion of engagement with domestic NGOs by both actors.**

The six-monthly EU-Russia human rights consultations, which were established in 2005, have provided for a diplomatic exchange and dialogue on human rights issues in Russia and the EU and on EU-Russian cooperation on human rights issues in international fora. In this dialogue Russia has mainly raised concerns regarding the situation of “non-citizens” in the EU and on legislation on the use of minority languages in some European education systems. The European Union has shared its concern, for example, on issues such as freedom of expression and assembly, the situation of civil society, the functioning of the judiciary, the observation of human rights standards by law enforcement officials, violence against LGBTI individuals, racism and xenophobia, and the harassment of human rights defenders and opposition leaders in Russia. The European Union also upholds a dialogue with both Russian and international NGOs in Russia on human rights issues.

**Recommendations:**

**9. The EU and Russia should reaffirm the importance of the human rights system both at the UN and regional levels, and should reassert that these systems provide an important foundation for future dialogue.**

**10. The bilateral dialogue on human rights should be maintained, addressing both partners’ concerns.**

**11. The dialogue should formulate concrete objectives, the progress of which should be assessed on a regular basis.**

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