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The main ambition of EU-STRAT is to provide an **inside-out analysis and strategic assessment** of the links between the EU and Eastern Partnership countries.

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First, why has the EU fallen short of creating peace, prosperity and stability in its Eastern neighbourhood?

And second, what can be done to strengthen the EU's transformative power in supporting political and economic change in the six Eastern Partnership (EaP) countries?

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## POLICY COMMENT

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# After the Dutch 'No': Prospects for the EU-Ukraine Association Agreement

by [Rafal Sadowski](#) (OSW)

On July 1, 2016, the Association Agreements (AA) between the European Union (EU) and Georgia and between the EU and Moldova fully entered into force. Even though Ukraine had also signed and finished all procedures to implement the AA, the EU-Ukrainian agreement did not enter into force at the same time. While 27 EU Member States had ratified the agreement, the Dutch government was forced to suspend its ratification as the result of a referendum on this question in the Netherlands on April 6, 2016. In contrast to the 'Brexit' referendum in the United Kingdom, this referendum was not a government initiative, but was held as the first application of a referendum law that made a public consultation obligatory after the collection of 300 thousand signatures over a period of six weeks. A coalition of Euro-sceptic groups had initiated the referendum, making it quite clear that they were less concerned about the AA with Ukraine than with the process of discussing a Dutch exit from the EU.

Meanwhile, as a result of the negative outcome of the referendum with a turnout just above the minimum threshold, the procedure of entering into force of the AA between the EU and Ukraine was held off. The agreement had been provisionally applied since November 2014 and its section on the Deep and Comprehensive Free Trade Agreement (DCFTA) since January 2016.

## Ramifications of the Dutch referendum

The vote against the AA with Ukraine was above all the result of internal developments in the Netherlands, and Ukraine's integration with the EU was not the only motive to vote against the agreement. First of all, it was an expression of a Eurosceptic mood in the Dutch society and a general protest against decision-making processes inside the EU. In addition, concerns that the AA could pave the way for Ukraine's future membership in the EU crucially contributed to the rejection of the agreement.

After the 'No' vote, the Dutch government suspended the ratification process and started to discuss possible solutions with the EU institutions and EU Member States. At the same time, there was little political debate within the Netherlands on the consequences of the vote - an attempt to calm sentiments and provide time for reflection. The Dutch prime minister presented the outcome of the referendum during the European Council meeting on June 28 and 29. The Dutch

government requested legally binding assurances to address its citizens' concerns. However, the government has not yet defined what form such assurances should take, also because specific voter concerns remained unclear. Two issues figured prominently in the 'No'-campaign: the lack of clarity with regard to Ukraine's prospects for joining the EU, and visa liberalisation, which is not, in fact, handled in the agreement.

So, what are the available options in this situation? As the AA is a complex document and the product of more than six years of negotiation, its content is nearly impossible to re-negotiate. Not only Ukraine, but also other EU Member States and EU institutions oppose a renegotiation. The consequences of such a move would also be devastating for the EU's relations with Ukraine, as well as for the European Neighbourhood Policy in general. Association Agreements are one of its fundamental instruments and the period of paralysis would be unacceptably long. A renegotiation would block the provisional implementation of the AA and thus mean the return to the status of 2007, when negotiations over the AA with Ukraine started. Hence, a renegotiation could derail the EU's relations with one of its biggest direct neighbours and seriously undermine the EU's credibility in the eyes of other partners in the region.

A formal solution that would not affect the substance of the agreement could be the adoption of a declaration by the EU that addresses the Dutch concerns. Such a declaration could include opt-out clauses for the Netherlands in the application of the political part of the AA. The Netherlands may also limit their participation in other areas of cooperation with Ukraine as defined in the AA. Its participation in the part of the AA on trade cooperation – the DCFTA –, however, is difficult to change since it is a Community, not a Member State, competence. So far, the Dutch government has not suggested any concrete areas that might be considered in this regard, presumably as a result of the government's own ambivalence and reluctance to accept the vague message sent by the voters in the referendum.

The main contentious issue, however, would be related to Ukraine's potential membership. The Dutch might require a firm statement that this is not in the cards. Currently, however, it would not be advisable to refer to Ukraine's potential EU membership in such a declaration or any other EU document. Such a statement would only concern the AA with Ukraine, as the AAs with Moldova and Georgia have already been ratified and hence, cannot be changed. Depriving only Kyiv of the perspective of membership in the EU, however, is hard to justify.

Instead, the EU's current approach of neither promising nor ruling out the neighbours' prospective EU membership seems to be a reasonable compromise. If the EU definitely closed its doors to the partner states in the current situation, it would seriously reduce the EU's power of attraction and weaken its bargaining position. Partners would lose the stimulus to implement reforms included in the AAs and the DCFTAs. Besides, the AAs do not mention a potential membership perspective, so there is no need to include statements referring to it now. In fact, the issue of further enlargements is likely to remain off the agenda for a longer period of time, at least until the EU has found a way to deal with the consequences of the 'Brexit' referendum.

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## EU slows down the process of integration

The delay in ratifying the AA with Ukraine also sends a negative signal to the EU's other neighbours. The EU is criticized for not fulfilling its commitments, even though the neighbouring countries have done their job. The postponement of the visa liberalisation process with Georgia in June 2016 and the delay in the visa liberalisation process with Ukraine further strengthen this signal. Both countries fulfilled the conditions for abolishing short term visas at the end of 2015 and the European Commission requested to lift visa restrictions for these countries in spring this year. Germany and a few other states, however, appealed to postpone this decision. This move was motivated primarily by domestic concerns, as parts of the German public critically eye visa free travel with the EU's Eastern neighbours.

Finally, the UK's decision in the referendum to leave the EU has triggered a heated debate about the EU's future shape. While it is too early to assess how and to what extent a potential 'Brexit' will impact the EU's relations with the Eastern Partnership countries, it is likely to make EU Member States focus on internal developments and to more cautiously approach the relations with Eastern neighbours.

All these events will have serious consequences for the process of moving Ukraine closer to the EU. The lack of significant progress in and concrete effects of integration with the EU raises disappointment among the general public in Ukraine. Recent polls, made by Kyiv International Institute of Sociology, show a drop in support for the integration with the EU from 55 percent in December 2015 to 46 percent in June 2016.

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