

## BRIEF OVERVIEW ON THE CONDITIONALITY IN THE EUROPEAN NEIGHBOURHOOD POLICY

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**Abstract\*\*:** *The European Neighbourhood Policy (ENP) has become a top issue on the EU agenda after the EU enlargement wave of 2004, completed in 2007. The question of efficiently managing the new borders of EU, by facing the new-fangled challenges related to security, combating trafficking, ensuring economic prosperity and environment protection has driven new and restructured EU mechanisms in order to manage the relations with its new neighbourhood - rather diverse in terms of economic and social welfare. Conditionality from the part of EU towards the ENP partner states has been an intricate issue even from the start. How committed can these countries be on the path of rough economic, political and social reforms, in the absence of a perspective of EU accession? If conditionality, as we know it from the pre-accession process of the former candidate states for example, is going to be a success or a failure in the case of the ENP states is still a matter of perception. This paper attempts to give an overview of different opinions upon the potential effect of the conditionality mechanism within the ENP. The victory or breakdown of conditionality within the ENP depends both on the commitment of the ENP partner states to the goals, values, concrete projects promoted through this policy and its consolidated initiatives (Eastern Partnership, Union for Mediterranean), but most of all on the capacity of the European Union to replace the traditional incentive of accession with a proper alternative, mostly in economic, financial, social and security terms.*

**Keywords:** *European Neighbourhood Policy, conditionality, security, neighbours, cooperation, common values*

The European Neighbourhood Policy, initiated by the European Union in 2003 through the Wider Europe Paper and one year later, in 2004 through the *ENP – Strategy Paper* was meant to be at the time an offer for the EU neighbouring states ‘to share the benefits of EU enlargement in terms of

stability, security and well-being’<sup>1</sup>. It was believed that this *new* policy was merely a counter-offer to the new neighbours of the European Union, once it expanded further East, at the same time an offer meant to shift away the focus from the enlargement projects that some of these countries had

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<sup>1</sup> Commission of the European Communities, Communication from the Commission, *European Neighbourhood Policy – STRATEGY PAPER*, COM (2004) 373 final, Brussels, 12 May 2004, [http://ec.europa.eu/world/enp/pdf/strategy/strategy\\_paper\\_en.pdf](http://ec.europa.eu/world/enp/pdf/strategy/strategy_paper_en.pdf) last accessed on 20th August 2010

definitely in mind at the time. The new context was defined by the new type of cooperation relations and work framework mechanisms that the EU would have had to endeavour in order to manage successfully not only the opportunities that these states would bring to the European market, but mostly the challenges related to security, efficient external border management, stability, peace and prosperity in the EU's immediate proximity.

In this context, analysts have tried to explain the necessity of the *conditionality* system and mechanisms even in the new *European Neighbourhood Policy*.

Conditionality was often perceived either as 'a means to use incentives in order to change the behaviour or the policies of a state'<sup>2</sup>, or as a strategy for the international institutions to promote the harmonization of different national policies towards a number of conventional standards. At first mainly economic in essence, used mostly in the financial assistance programmes of the World Bank or IMF, the conditionality principle has gradually found its place and role also in NATO and EU negotiations.

Conditionality became a thorough topic of discussion at European level especially in the period of the accession to EU of the Central and Eastern European countries. This phenomenon became visible in the Association Agreements negotiations, the accession criteria and the pre-accession strategy, the structured dialogue and in the negotiation and legislative harmonization process. Often perceived by the candidate states only as an element of constraint, of some kind of limitation for their own development options in favour of reaching

certain 'standards imposed by the Union', in the absence of clearly stated advantages/disadvantages that it might entail, the conditionality phenomenon was not easily digested by the candidate states. According to some analysts, the national administrations were even subjected to an intensive Europeanization process, taking up gradually the role of 'implementing agencies for EU rules'<sup>3</sup>. Often used even by the governments of the candidate states as a justification for the shocks produced by the internal economic and social reforms, conditionality represented both a strong incentive for reforms, necessary to any transition process to a functioning market economy, and a permanent element to be criticised among the candidate states.

The success of conditionality in the enlargement process was based mainly on the existence of the accession perspective to EU and on the prospective benefits exceeding the costs that full membership might have entailed.

In the case of the *ENP states*, the situation is different, given the diversity of the countries in the area, the lower economic and social development level, the whole range of sensitive problems (such as the frequent non-observation of the rule of law, of human rights, insecurity and instability climate). The major difference is though given by the absence of the main incentive for modernisation and reform: the affirmed perspective of EU accession. In the different stages of defining the ENP and, more recently, in all the attempts to consolidate this policy, it was reiterated the fact that the ENP was not going to be a prior phase towards enlargement. In other words, the

<sup>2</sup> Jeffrey T. Checkel, „*Compliance and Conditionality*“, ARENA Working Papers, WP 00/18, University of Oslo (2000), [http://www.arena.uio.no\\_publications/wp00\\_18.htm](http://www.arena.uio.no_publications/wp00_18.htm) last accessed on 18 December 2009

<sup>3</sup> Husein Kassim, "The European Administration: between Europeanization and Domestication" in Jack Hayward and Anand Menon (eds), „*Governing Europe*“, Oxford University Press, 2003

countries under the ENP were not explicitly offered any promise or prospect of accession to EU.

In the **European Neighbourhood Policy, conditionality** would be explained by the possibility for the ENP partner states to benefit from '*privileged relations*' with the Union, by an increased access to the EU Internal Market, depending on the concrete progress on sharing the European values and on the effective implementation of the economic and institutional reforms in these states.

Even in the ENP Strategy Paper (2004) it is mentioned that any progress in the EU- partner states relation is conditioned by the latter's 'commitment degree to the common values and the willingness and capacity to implement the agreed priorities'<sup>4</sup>. The application of the *differentiation principle* depends also on the success of the implementation of the common values of EU by the partner states. The analysts often state that the agenda is not set by the ENP relevant democratic institutions; instead the monitoring process of the ENP put these countries under a constant influence of the EU institutions. The recommendation would be that 'the ENP states should be part of the discussions upon the common values, otherwise, the ENP goals risk to represent only the political preferences of the EU, and not a reflection of the *common* values of the two parties'<sup>5</sup>.

Within ENP, the European Neighbourhood and Partnership Instrument incorporates elements of *ex-post* conditionality<sup>6</sup>, the assistance could be suspended if a partner country does not observe the democracy principles, rule of law, human rights etc. The added value is represented by the *ex-ante* conditionality, through a permanent link between the development of further (neighbourhood) relations and the fulfilment of certain standards/terms in the Action Plans. There are analysts discussing the EU's offer to support the partner states being conditioned more by the level of institutional and political capacity in each country, than the actual rhythm of change in some internal policies<sup>7</sup>.

Naturally there have been debates upon the potential *success or failure* of the *conditionality in the EU Neighbourhood Policy*. It is still under discussion the extent to which these partner states would firmly commit themselves on the path of reforms, though necessary for them – in particular for the ones in the Eastern Europe and Southern Caucasus – in the absence of the final result that could 'justify the sacrifice'. The most probable answer to this dilemma comes out of the cost-benefit analysis. The reform measures that need to be undertaken (related to democratisation, observing human rights, rule of law, macroeconomic policies, structural reforms, social policy and employment policy, poverty reduction,

<sup>4</sup> European Commission, Communication from the Commission, *European Neighbourhood Policy – STRATEGY PAPER*, COM (2004) 373 final, Brussels, 12 May 2004, [http://ec.europa.eu/world/enp/pdf/strategy/strategy\\_paper\\_en.pdf](http://ec.europa.eu/world/enp/pdf/strategy/strategy_paper_en.pdf) last accessed on 20th August 2010

<sup>5</sup> Päivi Leino, Roman Petrov, "Between 'Common Values' and Competing Universals – The Promotion of the EU's Common Values through the European Neighbourhood Policy", in *European Law Journal*, Vol. 15, No. 5 (pp. 654-671), September 2009, p. 666, 671

<sup>6</sup> Marise Cremona, "The European Neighbourhood Policy: More than a Partnership?" in Marise Cremona (ed), *"Developments in EU External Relations Law"*, The collected courses of the Academy of European Law, Oxford University Press, 2008, p. 284

<sup>7</sup> Paul Collier, „Conditionality, dependence and coordination: three current debates in aid policy“, in Cristopher L. Gilbert, David Vines (eds.), „*The World Bank: Structure and Policies*“, Cambridge, Cambridge University Press, 2000

regional development), most of them similar to the ones applied in the former candidate states from Central and Eastern Europe, will imply a series of costs and the advantages of preferential trade relations, of a consolidated cooperation relation (in all the fields covered by the strategy documents) will have to overall exceed these costs, even in the perspective of non-accession to the Union. As a matter of fact, the costs for adopting the EU rules are much higher in the neighbouring countries, ENP partner states, given the authoritarian regimes in some of these countries, reluctant to change, as well as their lower level of economic and social development<sup>8</sup>.

Some analysts even discuss about a *harsher conditionality* in the case of the ENP, given the absence of the supreme prize - the membership of the EU<sup>9</sup>. There are though some contradictory opinions regarding a *soft conditionality*, given the fact that the priorities of the Action Plans and the ways to monitor the commitment to reforms are *jointly* established, namely in partnership with the ENP states<sup>10</sup>. Parmentier (2008) explains the term '*soft conditionality*' through the link between granting the benefits for the fulfilment of some conditions, this way being capable to influence policies, but not imposing a unique policy valid to all those

involved<sup>11</sup>. The Action Plans were somehow compared to the Accession Partnerships of the EU enlargement towards the Central and Eastern Europe. The conditionality is even more difficult, since 'there is no uniform *acquis* to be adopted in the case of ENP partner states'<sup>12</sup>.

The efficiency of the conditionality in the ENP is also questioned as a result of the *diverse priorities* of the Eastern European, Southern Caucasus states and the Southern Mediterranean ones. Regions with a different level of development and welfare, as well as with diverse visions upon their future in relation to the EU, some of them expressing firmly their wish to join the EU, affirming their European vocation and history and declining the status of merely *neighbours* of Europe, the reconciliation of interests and priorities will not be an easy target<sup>13</sup>.

In this sense, the ENP launch was not received with a great deal of enthusiasm by all the EU neighbouring countries. Some of them were not content with the status of *neighbour of EU* (i.e. Ukraine or Republic of Moldova), while Russia has even withdrawn from the ENP initiative from a very early stage, choosing instead the Strategic Partnership with the EU formula. The Mediterranean states remained optimistic in view of consolidating their relations mostly at

<sup>8</sup> Michael Emerson, Gergana Noutcheva, Nicu Popescu, "European Neighbourhood Policy Two years on: Time indeed for an 'ENP plus'", Centre for European Policy Studies Policy Brief No. 126, March 2007, p. 6

<sup>9</sup> Gwendolyn Sasse, "The European Neighbourhood Policy: 'conditionality-lite'?", in *Development & Transition*, No. 4, The United Nations Development Programme and the London School of Economics and Political Science, June 2006, p. 12

<sup>10</sup> Gergana Noutcheva, Michael Emerson, "Economic Regimes for Export – Extending the EU's Norms of Economic Governance into the Neighbourhood", Centre for European Policy Studies Working Document No. 233, December 2005, Brussels

<sup>11</sup> Florent Parmentier, "The reception of EU neighbourhood policy" in Zaki Laïdi (ed) "EU Foreign Policy in a Globalized World: Normative power and social preferences", Routledge/Garnet Series: Europe in the World, 2008

<sup>12</sup> Judith Kelley, "New Wine in Old Wineskins: Promoting Political Reforms through the New European Neighbourhood Policy", in *Journal of Common Market Studies*, Vol. 44, No. 1 (pp. 29-55), 2006, p. 35

<sup>13</sup> Gwendolyn Sasse, "The European Neighbourhood Policy: 'conditionality-lite'?", in *Development & Transition*, No. 4, The United Nations Development Programme and the London School of Economics and Political Science, June 2006, p.13

a bilateral level, while the Western Balkans states were satisfied with their non-inclusion in the ENP, as a sign of confirmation of their future prospect of accession to EU.

The possibility of the EU neighbouring states to have an increased access to the EU Single Market is one of the most important incentives offered by the ENP<sup>14</sup>. The neighbouring countries can become *buffer zones* between the EU and regions considered to be origin sources of potential threats. The countries in question can encounter difficulties on the internal side for the drastic measures that they can be obliged to adopt towards third countries. As a matter of fact, there is a paradox: in all the strategic documents of the ENP, the focus is placed on the *common* values of these countries and of EU, the sharing and consolidation of common democratic values and principles, and the even Action Plans are focussed on the political goals, upon observing the human rights and democratic principles, while 'many of these countries do not even have a history of observing this kind of values or principles'<sup>15</sup>, quite the opposite. Even sharing these EU values (according to the EU Treaty) is a distinctive sign of the conditionality practiced within the ENP: 'the degree in which the EU neighbours share the EU values will determine the degree in which the Union will deepen the integration level'<sup>16</sup>.

The whole logic of ENP gravitates around conditionality. The more the ENP partners develop their society according to EU standards, the more the EU deepens the economic and political relations<sup>17</sup>, which puts most of the responsibility on the shoulders of the neighbouring partner states. This way, conditionality is often perceived as a key- mechanism of EU's power to bring on reforms *also* in its neighbourhood.

A very interesting perspective on the functioning system of conditionality in the ENP is offered by Ruben Zaiotti (2007). He puts to question the existence of a real commitment and even the sincerity of EU in affirming the wish to create a '*ring of friends*' (in contrast, the European Security Strategy in 2003 uses the formula: '*ring of well-governed states*'<sup>18</sup>), explaining that the necessity to build better, more secure, more efficient "protective fences" could not really represent a sign meant to bring confidence to the partner neighbouring states, on the contrary, there could be the risk of hostility, reluctance, suspicion, even the creation of new barriers. A European initiative, the ENP is more an asymmetric initiative to assure that the EU borders are stable, with an increased focus on security issues, hoping that these partner countries will end up sharing the same values as the EU<sup>19</sup>. 'The negative conditionality', suspending the advantages in the absence of reforms, is not sufficient in

<sup>14</sup> Ruben Zaiotti, "Of Friends and Fences: Europe's Neighbourhood Policy and the Gated Community Syndrome", in *Journal of European Integration*, Vol 29 No. 2, May 2007, pp. 143- 162

<sup>15</sup> Karen E. Smith, "The Outsiders: the European Neighbourhood Policy", in *International Affairs* 81, 4 (2005), pp. 757-773

<sup>16</sup> Marise Cremona, "The European Neighbourhood Policy: More than a Partnership?" in Marise Cremona (ed), "*Developments in EU External Relations Law*", The collected courses of the Academy of European Law, Oxford University Press, 2008, p. 256

<sup>17</sup> Rachel A. Epstein, Ulrich Sedelmeier, "Beyond conditionality: international institutions in postcommunist Europe after enlargement", in *Journal of European Public Policy*, 15:6 (pp. 795-805), September 2008, p. 610

<sup>18</sup> European Council, *A Secure Europe in a Better World – European Security Strategy*, Brussels, 12 December 2003, p. 8, <http://www.consilium.europa.eu/uedocs/cmsupload/78367.pdf> last accessed on 17 December 2009

<sup>19</sup> Ruben Zaiotti, "Of Friends and Fences: Europe's Neighbourhood Policy and the Gated Community Syndrome", in *Journal of European Integration*, Vol 29 No. 2, May 2007, pp. 143- 162

the case of ENP. 'The positive conditionality' is also considered in deficit, in the absence of clear incentives that would justify and boost the necessary drastic and substantial economic, institutional, political reforms<sup>20</sup>.

Meanwhile, the interests of the partner states focus on the trade relations, the access to the EU market, the economic development (through FDI, EU financial assistance), internal stability. The countries not registering progress cannot be given advanced opportunities for cooperation. This way, a major role is given to the governments of the ENP partner states in order to facilitate and boost the cooperation relations. Some analysts have even compared the ENP with 'an association policy with low credibility', given the explicit exclusion of the accession perspective<sup>21</sup>.

The conditionality balance shifts when it comes to the energy field. The degree of dependence of EU on some of the ENP states, as well as on Russia in the field of energy supply, transportation routes is not to be neglected. The power to negotiate of the ENP partners states can make a difference when it comes to this very sensitive field. They are most certainly going to use this advantage in the future negotiations of different agreements with the EU.

In this context, one must not forget that the EU itself depends upon its neighbourhood, in terms of good relations, stability, security at its borders, energy transit, migration, environment protection. The *behaviour* of EU neighbours in all these

fields is crucial to EU<sup>22</sup>. This way, the degree of mutual dependence should not be of such high concern. After all, the ENP represents a promise to strengthen cooperation relations in exchange for concrete reform results. The ENP consists of the promise to consolidate the political relations and economic relations with the partner countries in exchange for tangible progress in the internal reform process in the partner states<sup>23</sup>.

The European Neighbourhood Policy is not fully a brand-new policy. Built on existing agreements, mechanisms and instruments of different cooperation forms at the regional level (from the Euro-Mediterranean Partnership to the Partnership and Cooperation Agreements with the Eastern European countries), the ENP is also based on several mechanisms that have proven useful and efficient during the EU enlargement process. Using certain instruments such as Action Plans, similar somehow to the Accession Partnerships, the technical and financial assistance, twinning, conditionality, monitoring and regular reporting on progress to date, the ENP uses a whole range of mechanisms used by the enlargement policy.

The success or failure of the conditionality within the ENP depends both on the commitment of the ENP partner states to the goals, values and concrete projects, promoted through this policy and its consolidated initiatives (Eastern Partnership, Union for Mediterranean) and also on the capacity of the European Union to replace

<sup>20</sup> Fabrizio Tassinari, "Whole, Free and Integrated? A Transatlantic Perspective on the European Neighbourhood", Centre for European Policy Studies Working Document no. 271, June 2007, Brussels, p. 17

<sup>21</sup> Frank Schimmelfennig, Hanno Scholtz, "EU Democracy Promotion in the European Neighbourhood: Political Conditionality, Economic Development and Transnational Exchange", in *European Union Politics*, Vol. 9, No. 2 (pp.187-215), 2008, p. 211

<sup>22</sup> Rikard Bengtsson, "Constructing Interfaces: the Neighbourhood Discourse in EU External Policy", in *European Integration*, Vol. 30, No. 5 (pp. 597-616), December 2008, p. 612

<sup>23</sup> Christopher S. Browning, Pertti Joenniemi, "Geostrategies of the European Neighbourhood Policy", in *European Journal of International Relations*, Vol. 14(3): pp. 519-551, 2008, p. 532

the traditional incentive of EU accession perspective with a proper alternative (mostly in economic, social and security terms) in order to promote the necessary economic,

social and political reforms in these countries, so that they might become closer to the European Union.

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