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REGIONAL AND COHESION POLICY – THE CROSSROADS OF EU SECTORAL POLICIES

Alina Bârgăoanu, Loredana Călinescu*

Abstract. *The article reviews the main theories of development in order to provide a solid background to discuss one of the most important EU policies – the Regional and Cohesion Policy. Firstly, its weight is given by the fact it represents EU's major development policy, by means of which the EU decision-makers have tried to maintain a balanced growth. Secondly, its special relevance is due to the fact that it represents „a spatial combination of a variety of sectoral policies“ (Hooghe, 1996, 10), a genuine crossroads where these sectoral policies meet. EU regions – the focus of Regional and Cohesion Policy – are testing grounds where sector-driven initiatives are tested, confirmed, invalidated, or improved. The new design of the policy is discussed in the context created by the global economic crisis that puts cohesion to a severe test. Just like other phenomena that we can witness today, the crisis only has enforced and strengthened pre-existing trends, among which the shift from convergence and cohesion towards competitiveness as such appears to be the most prominent one.*

Keywords: *development, structural approach, structural policy, EU Regional and Cohesion Policy, competitiveness*

JEL classification: *O10 (Economic Development – General)*

1. Theories of Development

Development has been a hotly debated issue ever since the end of the 2nd World War. After that, it emerged as a discipline concerned with disparities between states and, within single states, between regions or between different social groups. The moment that brought development to the fore of world's attention may be considered US President

Truman's inaugural address in January 1949, in which he advised that the US and the world at large „must embark on a bold new program for making the benefits of our scientific advances and industrial progress available for the improvement and growth of underdeveloped areas“ (<http://www.bartleby.com/124/pres53.html>). Yet, the awareness built around this issue by the war efforts and its results appeared on a strong theoretical

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background created by the contributions of „such thinkers as List, Marx, Weber, Parsons, among others, who defined and conceptualised it in the first place” (Zamfir and Stănescu, 2007, p. 355).

The problem of development was included on the agenda of both developed and less developed states and it was mainly discussed in terms of poverty. In spite of the initial optimism generated, and the actions initiated on its behalf, disparities have persisted up to this day; they have even deepened, breeding the conclusion that development is „the most pressing economic problem of our times”, „the greatest single problem and danger confronting the twenty-first century” and „the greatest scandal of our age” (Greig *et al.*, 2007, p. 1). The sharpening of inequalities represents „the paradox of modernity – the existence of extreme poverty in a world of unprecedented wealth” (*ibid*, p. 6).

As research and theoretical thinking made good headway, development started to be conceptualized in terms of inequality. This perspective became widely accepted after the publication of the United Nations Development Programme in 1990. UNDP defined human development as „[...] a process of enlarging people’s choices. In principle, these choices can be infinite and change over time. But at all levels of development, the three essential ones are for people to lead a long and healthy life, to acquire knowledge and to have access to resources needed for a decent standard of living. If there essential choices are not available, many other opportunities remain inaccessible. But human development does not end there” (UNDP 1990, p. 10).

This famous report acknowledged the existence of disparities between

states, disparities within the state, as well as disparities between individuals. Disparities exist within rich states also, as a result of industrial restructuring, technological changes, the collapse of entire economic sectors. In this context, UNDP launched the „Human Development Index”, which combined indicators of life expectancy, literacy, and GDP per capita. It was gradually enriched with indicators regarding welfare, educational attainment, and participation. The notion of „human development” represented an expression of the emerging idea that development cannot be reduced to economic growth expressed in GNP terms. More and more thinkers adhered to the idea that „the growth of GNP is indicative only of the extent of national potential for improving the welfare of the majority of population – not the extent to which the society delivers on its potential (Adelman, 1999, p. 14). The emerging ideas about development – centered around such notions as inequality, human and social development, human and country potential – were reinforced by a series of World Bank reports and papers. A bank report published in 1991 differentiated between „economic development” and „development in a broader sense”. „Economic development” was seen as „a sustainable increase in living standards that encompasses material consumption, education, health, and environmental protection” (World Bank 1991, *apud* Kingsbury *et al.*, 2008, p. 35). „Development in a broader sense” includes „other important and related attributes as well, notably more equality of opportunity, and political and civil liberties. The overall goal of development is therefore to increase the economic, political and civil rights of all people

across gender, ethnic groups, religions, races, regions, and countries" (*idem*).

Contemporary thinking on development underlines the fact that development cannot be reduced to economic development, that it includes various changes, from social structures to popular beliefs and customs; it involves the social and institutional spheres, the quality of life, human development, education. Economic growth is an essential component of development, but it is definitely not the only one. Development is a social phenomenon, too, meaning more than an increase of productivity per capita. Consequently, it should be conceived as a multidimensional process, which calls for a major reorganization and reorientation of the entire economic and social system. Along with the increase of income and productivity, development involves radical changes in the institutional, social and administrative structures. Moreover, although development is usually defined in a national context, it transcends national borders and depends on fundamental changes taking place at a global level.

Finally, there are authors who radically challenge the opportunity of development as such and place the entire notion under a cloud. In 1969, Dudley Seers questioned the conceptualization of development as economic growth; according to him, development has to be seen as a process that aims to achieve a universal goal, that of „exploiting human potential" (Seers, 1973, *apud* Kingsbury *et al.*, 2008, p. 51). In a provocatively titled book, *Small is beautiful* (1973), the British economist E. F. Schumacher argues against industrialization and praises village-based economies instead, emphasizing the notion that the very

desirability of development should be reconsidered.

Regardless of the varieties of perspectives and of the ways development is conceptualized or measured, it is beyond doubt that economic growth is essential to development, since it makes possible the accumulation and redistribution of resources. This type of neoclassical conceptualisation of development as economic growth and welfare is the more or less explicit assumption underlying any development strategy, irrespective of whether the strategy encompasses a regional, state or global level. At the same time, many authors pertaining more to a structuralist view on development than to a neoclassical, neo-liberal one, convincingly show that more economic growth is not necessarily the solution to close the increasing gaps between states, regions and individuals as such. The problem of contemporary world is not that it is not capable of economic growth; on the contrary, „it now takes two weeks for the world to produce the same output as the whole of the year 1900" (Greig *et al.*, 2007, p. 5). Closing the gaps cannot take place instantaneously, therefore, systematic actions are needed in order to provide for the reallocation of resources. What is at stake here is for these interventions to constitute an engine for growth and not a mere redistribution mechanism, which may create dependency.

2. Poverty and inequality – two theoretical perspectives

There are two main theoretical approaches of the relationship between poverty and inequality: the neoclassical, liberal approach, which focuses on individual behavior, and the structuralist

approach, which highlights the performance and importance of social structures. The neoclassical approach emphasizes national economic growth based on economic investments. Development equals economic growth and industrialization, and the basic growth mechanism is the development of physical and human capital. „The premise of neo-classical theory is that, if the investments are made, the acquisition and mastery of new ways of doing things is relatively easy, even automatic” (Reinert, 2007, p. 248). Moreover, the benefits of capital accumulation will „cascade down” to poorer regions and individuals: „...growth in successful regions will eventually trickle-down to the more peripheral areas, given certain conditions and policies” (Kingsbury et al., 2008, p. 51).

The neoclassical approach assumes the individual’s rational choice. Social processes are seen as a social aggregation of choices made by individual people in a society. „The environments within such choices are made and outcomes realized are theorized as markets, usually perfect markets (that is, markets with large numbers of buyers and sellers, no buyers and sellers who are so big that they can influence prices, homogeneous goods, freely available information on prices and freedom of entry to the market)” (Greig et al., 2007, p. 24). Inequality is viewed in economic terms, while equality of opportunity is taken for granted. (Economic) inequality fosters individual initiative and risk-taking, leading to economic growth, which, in turn, produces social benefits. The poor should deal with poverty by themselves, and the only prerogative left for the state in this matter is to create a favorable environment for individual initiative.

Consequently, the role of the state should be contained to setting the policies that are conducive to that favorable environment: apply the policies right and development will follow!

The structuralist perspective highlights the interdependent nature of inequalities. The paradox of modernity of having extreme poverty in a world of unprecedented wealth is examined taking into account various interdependencies. The solution to such paradoxes is „to focus on transforming the very structures that link deprivation to opulence, rather than lifting the poorer countries up to the level of the wealthier ones” (Greig et al., 2007, p. 6). The focus shifts from dealing with the problem of „lack of development” or „underdevelopment” to answering the question „how is wealth generated?”. If global wealth and global poverty are interconnected, then the problem of inequalities is not an abnormality to be corrected by an even more sustained pace of economic growth. Growth is part of the problem and not part of the solution. Inequality is the fundamental process that creates poverty. Economic inequality is important, but it is not the only type of inequality, as there are social inequalities and political inequalities, too.

It is not the individuals who are responsible for structural problems. For example, structural unemployment occurs as a result of an imbalance between supply and demand of labour on the labour market. It may be the effect of lack of correlation between jobs and people’s skills. This lack of correlation appears as a result of economic restructuring, of technological change, the collapse of an economic sector or of an entire industry.

According to the structuralist perspective, economic, political and

social inequalities are interconnected, and this fact produces relative or absolute poverty; therefore, the state must take direct action in order to redistribute the economic, political and social resources. Structural problems prevent the automatic reallocation of such resources and are both technological and institutional in nature. Some examples of such structural problems are slow of inefficient investments, inadequate infrastructure (be it transportation, business, education, social etc.), lack of vision, imperfect and imature markets. Irrespective of their nature, structural problems call for structural solutions. Structuralists argue that, instead of examining the symptoms of inequality, attention should be paid to its fundamental causes and processes, to the social structures that lead to unequal power relations. „From a structuralist perspective, poverty and deprivation are not the result of a lack of resources but the maldistribution of resources” (Greig *et al.*, 2007, p. 13).

In order to develop, a country needs the basic, physical infrastructure – transport, energy and environment infrastructure, as well as social infrastructure, meaning property rights, market institutions, political and social structures, economic and political culture. None of these infrastructures appears spontaneously, as a response to some uncoordinated market incentives. Opening the economy to international trade is such an incentive, but it does create either the physical or the social infrastructure (Skott and Ros, 1997). Therefore, it is the state that must initiate

and steer the process of economic development. Its fundamental role is to boost social development, to create appropriate economic and political infrastructures, to create the framework for development and economic growth.

These debates have theoretical, ideological and practical stakes. They influence the way in which policies are made and implemented. For example, neo-liberal conceptions favor a certain type of policies and measures such as reducing public spending, reducing the role of the state. The structuralist perspective leads to the implementation of redistribution policies, to measures aimed at social inclusion and active involvement of the state in the economy as well as in other sectors of society.

3. A Policy of Balanced Growth

The question of economic and social gaps between EU member states, regions and individuals has accompanied the process European integration since its inception. What we call today EU Regional and Cohesion Policy¹ (http://ec.europa.eu/regional_policy/policy/history/index_en.htm) is a structural policy in the sense that it aims at eliminating or, at least, reducing the disparities between EU regions and citizens in order to attain sustainable and balanced development. This fact was openly acknowledged by Graham Meadows, former Director General for Regional Policy during 2003 - 2006: „The Union has three policies for growth. It has the single market, including its trading agreements with third countries

¹ In order to provide for accuracy of terms usage, when we talk about current EU structural policy, we will use the term „Regional and Cohesion Policy” (as stated on the official website of the EU quoted above). When we talk about that policy until the year 1988, when the European Council issued the first regulation with specific reference to the notion of „cohesion”, we will use the term „Regional Policy”.

and it has the single currency [...] But in the Union we have a third policy which is a part of our economic growth armony and which provides us with a balancing factor: Cohesion Policy. Cohesion Policy seeks to balance the disparities which are constantly created by growth and to help the slower-growing regions to grow more quickly and to reach the overall growth rate of the Union. [...] The reason for this policy is that it gives the Union the chance to achieve growth in a more balanced way" („EU Cohesion Policy 1988-2008: Investing in Europe's Future", *Inforegio Panorama*, no. 26, June 2008, p. 30). So, by means of this policy the European Union seeks to identify the structural problems that face member states, regions or different social groups and which hinder development. For these „structural" problems, „structural" answers are sought, which are supported by „structural spending/ transfers".

This policy has accompanied the process of EU enlargement step by step and has acted as a counterweight to the negative effects (real or perceived) of this process. For example, the creation of the single market bred the fear that this initiative would create disproportionate benefits to rich regions, that were more prepared to reap the benefits of trade liberalization. In order to alleviate such concerns, the peripheral monoindustrial regions received considerably more resources, which were meant to lead to their structural adjustment.

The form and content of the Regional and Cohesion Policy changed with each enlargement. It has changed from a simple redistribution mechanism to a genuine structural policy, driven by the aim to reduce the existing gaps and to prevent the creation of new ones. It is not a policy for growth in its own terms,

since the engines of economic growth are provided by regulations concerning free trade, the Monetary Union and the free movement of goods, services, capital, people. The role of the Regional and Cohesion Policy in economic growth is rather indirect: to create the necessary conditions and frameworks for economic growth.

The Regional and Cohesion Policy was conceived as „the social counterpart to the dominant economic European project of the creation of a frontier-free market", as emphasized by EC president Jacques Delors himself (Hooghe, 1996a, p. 5). It has sought to combine economic freedom and competition with economic, social, and recently, territorial cohesion. In European terminology, „*the espace libre* needed to be complemented by an *espace organisé*" (*idem*). This policy underlines the dilemmas that have always accompanied the process of building the European Union: enlarging vs. deepening, competitiveness vs. convergence, economic growth vs. redistribution, supra-national level vs. national or regional level, flexibility vs. long-term planning.

4. Regional and Cohesion Policy in the Context of Globalization

Nowadays, the significance of the Regional and Cohesion Policy is amplified by globalization, by the fact that the Union as a whole must deal with competitive pressures exerted by regional integration blocs (such as USA or Asia-Pacific). EU internal disparities may constitute a brake to its performance in the global, shoulder-to-shoulder competition. Besides, the current economic crisis has „enhanced the relevance of Cohesion Policy investment

in the real economy” („Cohesion Policy: Investing in the Real Economy”, 2008) and puts it to a severe test.

EU provides a range of striking data from the point of view of internal imbalances. 43% of the economic output of the entire EU and 75% of its investments in research and development is concentrated in only 14% of the European territory, in what is usually known as the Pentagon – the territory between London, Hamburg, Munich, Milan and Paris („Working for the Regions, EU Regional Policy 2007-2013”, Inforegio, 2008, p. 1). It is true that the Pentagon share in the European GDP decreased in 2004 compared to 1995, while the population share remained the same (4th Progress Report on Economic and Social Cohesion, 2007, p. x), and that the limits of the Pentagon have been enlarged to include Dublin, Madrid, Helsinki, Stockholm, Warsaw and Prague. However, these striking data revealing the concentration of the EU’s capacity to produce wealth, technology and innovation are essentially the same. The entire EU territory is linked to the global one through access nodes located throughout the Pentagon; the biggest and most crowded airports and cities are London, Paris, Frankfurt, Amsterdam, Zurich, Madrid. It is noticeable that all EU gateways to the global world are located in the Western part of Europe.

Regional gaps are even more dramatic. The GDP of the EU richest region, Inner London, is 303% compared with the average European GDP per capita (EU-27, PPS), while the poorest region, the North-East Romania², has a GDP which is 24% of the average

European GDP (5th Progress Report on Economic and Social Cohesion, 2008, p. 30). So, the ratio between the richest and the poorest region is approximately 1:12,5. In 2004, the best 10 performing regions in terms of GDP per capita were all located in the old Member States. The same British region, Inner London, is among the first 10 regions with the fastest growth rate of GDP per capita in the period 2000-2005 (*idem*). Therefore, disparities are not a mere expression of historically accumulated „wealth”, but also of a different contemporary pace of development. In simpler terms, there are cases in which the historically accumulated gaps are widening.

Such gaps can only be encountered in emerging economies such as China and India, where a 1:7 ratio is recorded between the richest and the poorest regions (*Regional Policy – How It Works*, European Commission, www.inforegio.eu, 2008, p. 4). The United States and Japan are characterized by a more even distribution of wealth. In the United States, for example, the richest state is only two times richer than the poorest one, and all American states have a GDP per capita higher than the average European GDP/capita. In Japan, the ratio between the richest and the poorest region is only 2:1, and 40 of the 47 regions of this state have a GDP per capita above the European average GDP (4th Progress Report on Economic and Social Cohesion, 2007).

In our assessment, the European Union has difficulties in being a global player if it is crossed by too big disparities. On one hand, they influence its global, external competitiveness.

² The North-Eastern Region is composed of the Bacău, Botoșani, Iași, Neamț, Suceava and Vaslui districts.

On the other hand, gaps may lead to conflicts, migration, social and political instability, which could jeopardize the performance of the internal market. This, in turn, touches upon the issue of EU competitiveness at a global level.

Contemporary challenges give new impetus to the EU project. Among such challenges there are global crisis, global economic competition, the rise of the new economic colossuses known under the BRIC acronym (Brasil, Russia, India, China), technological changes and the increasing role of technology in the economic growth, climate changes, the increasingly high prices of energy, migration and the ageing/aged population in developed countries. All these are „challenges that transcend national, institutional and sectoral boundaries” (4th *Progress Report on Economic and Social Cohesion*, 2007). Global issues give new impetus to Regional and Cohesion Policy, too, and create a whole new array of challenges. The causes of problems, issues, and changes are global, but the effects are felt at a regional and local level, which favours the further development and consolidation of a European regional, structural-type policy.

We have underlined the fact that, initially, this policy was a mere redistribution mechanism, by means of which resources were redistributed from the richer to the poorer regions. Funds were not granted in order to reach common goals of what was the embryo of today’s European Union. Instead, they were allocated directly to the Member States, which spent them as they saw fit in order to reduce internal disparities. Given the pressure created by the single market and single currency, regional action was recognized as a competence of the Union under the cohesion objective, and

was no longer left to each Member State. Funds began to be granted for a number of common European objectives. The Regional Policy (today’s Regional and Cohesion Policy) witnessed a qualitative leap from a redistribution mechanism to a structural policy, an (indirect) engine for economic growth. Measures implemented on its behalf seek to create the conditions for economic growth, in compliance with the principles of economic and social cohesion. These measures are ultimately meant to increase EU global competitiveness and giving it considerable global weight.

5. Competitiveness and Cohesion or Competitiveness versus Cohesion?

Given the contemporary requirement of global competitiveness and the new set of challenges brought about by globalization and the current economic crisis, there are many voices trying to shift the EU economy closer to the US model, in which „solidarity”, „cohesion”, „convergence” are no longer deemed as important. According to such critical views to the current design of the Regional and Cohesion Policy, structural assistance should be directed towards the richest countries in order to enable them to create greater wealth: „wealth thus created would then be redistributed to the poorer segments of the population through specific mechanisms of each country: social protection systems, tax systems, systems of local taxation” (Băleanu, 2007, p. 26).

Arguments in favor of such an approach are based on examples coming from a variety of fields. Firstly, the Internal Rate of Return for publicly funded projects is smaller in poorer regions than in the rich ones; according to strict economic

data, projects implemented in former areas appear not to be very profitable. Secondly, the effect of attracting other financial resources, either as a result of co-financing partnerships, or from private sources, is greater in Objective 2 Regions compared to Objective 1 or convergence regions³. Every euro spent in the convergence regions attracted about 0.90 euro during the period 2000-2006. In the Objective 2 regions (or regions covered by the „Competitiveness and Employment“ objective, every euro invested attracted upon 3 euros from other sources (public or private) (4th Progress Report on Economic and Social Cohesion. Growing Regions, Growing Europe, 2007, p. vii).

One can even talk about a paradox of the European money, the „paradox of cohesion“ (Bal, 2008, p. 68), meaning that this money goes to those who have financial power, the ability of providing co-financing, organisational capacity, experience in strategic planning, in implementing projects, ability to form and lead partnerships. Which runs contrary to the initial design, that of directing the funds to those who face severe development gaps. How can one reconcile these contradictions? Business cases show that investments should be made where more financial gains are to be expected, which is an economic and a global demand, too, since EU performs in the global race not with the least developed regions, but with its strongly developed, competitive ones. Gaps are counterproductive and even risky, yet giving money to less developed regions in order to reach some balanced

growth may affect the willingness, motivation and determination of more developed regions to act as spearheads and engines of the whole EU.

Another paradox of European development funds has to do with the fact that the efforts initiated in order to reach economic and social cohesion seek, among other things, a levelling of EU citizens' wages. But the increase in wages in less developed regions has the effect of rising the cost of living; these two factors (increased wages and increased living costs) decrease the attractiveness of the respective regions to investors coming from Western Europe or from elsewhere; consequently, they lead to a decrease in Foreign Direct Investment. The decision to invest or to relocate is financially and economically driven. Therefore, seeking cohesion in less developed regions appears not to be sustainable and creates a vicious circle which can hardly be broken. There is some relevant data supporting this view. According to the European Cities Monitor, in 2005 52% of Western European firms were interested in relocating their businesses in the new Member States; a year later, the percentage decreased to 43%. At the same time, interest in relocation increased from 22% to 36% for China, from 22% to 30% for India and from 21% to 28% for countries of Central and Eastern Europe outside the European Union (Cushman and Wakefield, 2006, *apud* Grasland, 2007, p. 76).

Such critical approaches express the concern that the cohesion objective may undermine EU global competitiveness interests. According to critics, we

³ Objective 1 or convergence regions are regions whose GDP/ capita is below 75% of the EU average GDP. Objective 2 or competitiveness and employment regions are regions whose GDP/ capita is above the 75% threshold but still need structural support and structural readjustment.

cannot talk about competitiveness and cohesion, but about competitiveness *versus* cohesion, irrespective of the countless official statements to the contrary. Besides, Regional and Cohesion Policy is claimed to be more of a structural policy meant to stimulate the endogenous potential of regions than a mere redistribution mechanism. Consequently, it should cover the entire European Union territory. There is a broad consensus that regions lagging behind must benefit from this policy in the first place, the question is to strike a fair and wise balance between funds meant to reduce disparities and funds meant for economic growth as such.

Under the pressure of such voices, Regional and Cohesion Policy is likely to undergo a major rethinking, from cohesion to competitiveness objectives, which could ultimately lead to a new design of the entire policy. An array of statements and concrete measures are indicative of this new direction of Regional and Cohesion Policy. The latest innovation related to the Structural Instruments is the procedure of *earmarking*, by means of which a considerable part of these funds are reserved – „earmarked” – for the following priority areas: „promotion of research and development, innovation, and an inclusive information society; a strengthening of industrial competitiveness and the promotion of entrepreneurship; encouragement of the sustainable use of resources and the strengthening of synergies between environmental protection and growth; expansion, improvement and linking up transport infrastructure of European importance; investment in people” (4th *Progress Report on Economic and Social Cohesion. Growing Regions, Growing*

Europe, 2007, p. 128).

These are often called „Lisbon type priority areas” or „the renewed Lisbon Strategy priority areas”. As we know, the Lisbon Strategy was originally designed to help Europe to become, by 2010, „the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion” (*Structural Policies and European Territories. Competitiveness, Sustainable Development and Cohesion in Europe. From Lisbon to Göthenburg*, 2003, p. 10). This strategy was developed on the occasion of the 2001 Göthenburg European Council on sustainable development. In 2005, the strategy underwent a revision according to which emphasis shifted to economic growth based on technological progress and employment (what we usually call „the revised Lisbon Strategy”). In the convergence regions (regions supported by Objective 1 of the Structural Instruments), 60% of the total funding is directed to „Lisbon type” domains. In the Objective 2 regions, the percentage is even higher, namely 75% of the entire structural funding. The European Council decided that the “earmarking” procedure not to be applied in countries that joined after 2004 unless they wanted to. However, the new Member States set their priorities for funding to comply with that innovative procedure. Romania, for example, decided to earmark 50% of the total Structural Instruments funding for Lisbon-type domains.

Therefore, the fact that a country or a region is crossed by development gaps will not automatically make her eligible for European funding; even under conditions of severe disparities, be they economic or social nature, money is likely to be

granted in order to support objectives of economic growth and competitiveness. In principle, funding will still go to regions that have severe development gaps. But if money is not spent up to the above mentioned percentage on „Lisbon type” interventions – that are less connected to closing the gaps but more to enriching global competitiveness – it is likely that funds will be returned to the EU budget. In our assessment, this new design of Regional and Cohesion Policy, with a renewed focus on competitiveness and on the strenghts of a state or a region rather than on weaknesses represents a true „paradigm shift” in EU development outlook. Estimates can be made that more and more efforts will be made in order to change the whole philosophy of structural type funding.

The new design of the Regional and Cohesion Policy is based on the awareness that development – broadly speaking – cannot be achieved only by eliminating disparities, but also by exploiting strenghts, by stimulating excellence and growth poles. A cursory look at Romania’s priorities for the 2007-2013 programming period, as they are stated in the National Development Plan shows that they target negative aspects and weaknesses almost exclusively, which may be an indication of the the desynchronization between Romania’s performance and EU trends (see also Bârgăoanu, 2007).

„Competitiveness is at the heart of the cohesion policy”, according to the *5th Progress Report on Economic and Social Cohesion. Growing Regions, Growing Europe*, (2008, p. 6). Funds granted in order to support Regional and Cohesion Policy must be so designed in order to achieve the two global objectives of the revised Lisbon strategy – economic

growth and the creation of new and better jobs. The objective of this policy is not only to reduce disparities (an ex-post correction of existing disparities), but also to stimulate the endogeneous potential of regions, to create the conditions and frameworks for growth. It is still a matter of debate whether marrying growth and competitiveness objectives to cohesion ones is a viable option in practical terms. What is beyond debate is the awareness that cohesion should not represent an end in itself and it makes sense only in so far as it supports global competitiveness. It is true that cohesion is having a hard time today under the dire conditions created by the economic crisis. But, as with many other phenomena that we can witness these days, the crisis only enforced and strengthened pre-existing trends.

„In the age of globalization”, European Commission President José Manuel Barroso said in the opening of the European Week of Regions and Cities in October 2006, „regions and cities [...] have a leading role to play in the competitive Europe we are trying to create” („EU Cohesion Policy 1988-2008: Investing in Europe’s Future”, *Inforegio Panorama*, nr. 26, June 2008, p. 25). This statement suggestively summarises the entire current debate regarding interdependences between globalisation, regionalisation and europeanisation.

Regional and Cohesion Policy exceeded, somewhat paradoxically, even EUs’ borders, which shows that, in terms of policy design, EU can be „a workshop of institutional innovation” (Telò, 2007, p. 1). In 2006, the European Commission signed a Memorandum of Understanding on Regional and Cohesion Policy with China (*4th Progress Report on Economic and Social Cohesion. Growing Regions, Growing Europe*, 2007). One of China’s

priorities is to reduce development disparities between its regions. The same type of agreement was initiated with the Russian Federation in 2007, and there are some ongoing discussions on the same topic with South Africa and Brazil.

EU tries to strike a balance between cohesion and competitiveness so as not to favour one at the expense of the other. The fact that this policy of „balanced growth” has been pretty

successful so far, creates a reference framework for other countries, which reinforces the initial rationale of Regional and Cohesion Policy, the awareness that internal disparities are counterproductive and constitute a hindrance to economic growth and competitiveness.

Whether the EU concept and policy cohesion will pass the test of the current economic crisis is a matter for the future.

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COMPETITION AND REGULATION IN THE EU ENERGY MARKET

Cristina Havriş*

Abstract. *When prices are high and public service obligations are not properly fulfilled, consumers wonder if they obtain what they need from the market. In electricity and gas markets of the EU Member States, apart from the persistence of high, non-transparent regulated prices, a number of shortcomings have been identified by the European Commission, such as a less than optimal network use for energy transmission, a lack of coordination and cooperation across borders by transmission system operators and national authorities, and a lack of transparent and simple procedures for dealing with consumers' complaints. These are the main elements of the infringement proceedings that the European Commission decided to launch on 25 June 2009 against 25 Member States for non-compliance with certain Community provisions in the Second Internal Energy Market Package, which entered into force on 1 July 2007. Quite emblematic is the fact that it occurred the same day as the adoption of the Third Internal Energy Market Package aiming to ensure a proper functioning of the EU energy market. We intend to analyse what has happened in the recent years at the EU level in order to liberalise and remove the significant remaining obstacles to competition in the energy market.*

Keywords: competition, regulation, deregulation, unbundling, energy market

JEL: L5, Q4

1. Introduction

In the 1980s already, states began to deregulate a number of sectors considered as natural monopolies, such as telecommunications, energy, transport, postal services¹. There were basically three types of determinants that led to a reviewing of the relationship between the state and the natural monopolies. The

first one was economic. These sectors did not have good performance results under state ownership and management and a single, vertically-integrated state-owned monopoly was considered as being less efficient than a market structure with more players. The second one has a more technological nature, implying that monopoly does not favour innovation. The third one is political and refers to the

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¹ See M. Thatcher, 'From Industrial Policy to Regulatory State: Contrasting Industrial Change in Britain and France' in J. Hayward and A. Menon (eds.) *Governing Europe* (Oxford: Oxford University Press, 2002) and P. D. Cameron, *Competition in Energy Markets: Law and Regulation in the European Union* (Oxford: Oxford University Press, 2002), Chapter 1

shift in the conception of the role of the state in the market.

The story of liberalising the EU energy market is interlinked with one of the objectives of EU energy policy, that of ensuring the EU security of supply.² Bearing in mind that EU imports 54% of its energy, it is a must that the EU improves the infrastructure required in order to transport energy as efficiently as possible, to make the market accessible for all suppliers and eliminate barriers to cross-border trade.

We intend firstly to clarify the terms competition, regulation, and deregulation, based on different theories in order to better analyse the specificities of the process of liberalisation of EU energy market, as well as the progress achieved until now.

2. Competition and regulation: some theoretical considerations

There are different meanings of **regulation**³, as this concept may imply, on the one hand, the legal specific mechanisms to remedy some deficiencies or to limit the abuses of some producers or services suppliers and, on the other hand, the legal regime for a certain economy.⁴

We would make reference in this paper to the more specific significance, which is the control exerted by a public agency on the activities which are considered desirable for the society.⁵ We will focus on the regulations which have had as a purpose the remedy of the imperfections of a market in a certain sector or industry. The most evident imperfection is the existence of a natural monopoly.⁶ In this situation, the regulation of prices or of production may represent a necessity in the sense that it must be ensured that the company which has the monopoly does not earn abnormal profits or that the services it provides are at a level compatible with public interest.

There can also be distinguished different possible conceptions of **competition**.⁷ First, it is the natural and classical meaning of the word, as envisaged by Adam Smith in the eighteenth century, of a **rivalry** between the participants on the market. This dynamic process between competing sellers was considered to induce the changes to the price of the products in response to the market conditions and, eventually, to lead to the effective allocation of resources in an economy.⁸ However, it was argued, the rivalry on the

² See Communication from the Commission adopted on 13 November 2008, *Second Strategic Energy Review, An EU energy security and solidarity action plan*, COM(2008) 781 final

³ For an overview on regulation, see Leveque, F. (2003), *Economie de la réglementation* (Paris: La Decouverte)

⁴ Begg, I. (1996), "Introduction: Regulation in the European Union" in *Journal of European Public Policy* (London), No. 3(4), p. 528

⁵ Selznick, P., "Focusing Organizational Research on Regulation" in Noll, R.G (1985), *Regulatory Policy and the Social Sciences* (Berkeley, University of California Press), pp. 336-7; Majone, G (1990), *De-regulation or Re-regulation? Regulatory Reform in Europe and the United States* (New York, Pinter, pp. 1-6)

⁶ The natural monopoly represents that situation in which the scale economies are so big that the existence of a firm is viable. The distribution of gas, electricity, water or telecommunications are examples generally accepted by natural monopoly.

⁷ For an overview, see Combe, Emmanuel 2002, *La politique de la concurrence*, Ed. La Decouverte, Paris, p.12-25 and Cook, Kirkpatrick, 2001, *Competition, Regulation and Regulatory Governance*, p.5-17

⁸ See Whish, R., *Competition Law*, 5th edn (London: Lexis Nexis, 2003), p. 2

market does not necessarily imply that the market is competitive, as it depends on the **market structure**. The neoclassical economists emphasized the importance of the level of concentration on the market to the encouraging of an anticompetitive behaviour. The monopoly and oligopoly market structures are less efficient than market structures with more players.

In contrast to advocating the dilution of the power on the market, the Chicago School of Antitrust⁹ challenges the idea that market behaviour would be strictly linked to market power and introduces the notion of **economic efficiency**. For example, in case of a natural monopoly, it would be inefficient to encourage the multiplication of the number of producers. Furthermore, industrial concentration seems to be the result of selection of the most efficient companies, with an innovation capacity high enough to face competition that has an increasing market share and high profits.

From the point of view of **social-institutionalists**, markets are conceived as social institutions governed by a set of rules: 'The markets are created by governments, regulated by institutions, and supported by regulations.'¹⁰ The key problem is not if the markets should be regulated, but the modality and the subject to regulate. For this school of thought, competition and regulation are complementary and not alternatives. Furthermore, the purpose of regulation is

'fair competition', a social construction, rather than 'free competition', which would mean a competition without regulation. The regulatory framework for fair competition would be cooperation, legitimacy and trust. According to Wilks, „any regulation is based on the voluntary cooperation of the regulating targets by respecting the legitimacy of the regulations, and trust in the procedures of the regulators.”¹¹ However, legitimacy, he argues further, cannot be obtained, but through a democratic process of implying all the actors, and the trust cannot be generated, other than via common norms and repeated contracts.

For **neoliberals**, competition is always preferable to regulation, pleading for 'competition where possible, regulation where necessary'. Furthermore, the first purpose of regulation is, in their view, ensuring free competition, regulation being necessary in the case of a market failure.¹² In spite of that, 'the existence of a free market does not eliminate the need for governmental intervention. On the contrary, the government is essential as a forum to establish the rules of the game, as well as a referee for the interpreting and implementing the rules agreed upon. What the market does is to significantly reduce the spectrum of issues to be politically decided upon, thus minimising the extent to which the government needs to take part directly to the game.'¹³

⁹ For a succinct review of the Chicago position, see H. Hovenkamp 'Antitrust Policy after Chicago' (1985) 84 Michigan Law Review 213, 226-9

¹⁰ Wilks, S., "Regulatory Compliance and Capitalist Diversity in Europe", *Journal of European Public Policy*, No. 3(4), 1996, p. 538

¹¹ GWilks, op.cit.

¹² The concept of market failure refers to the situation when the link is broken between the following of private interests of the consumers and producers and the satisfying of general interest, which happens for externalities, natural monopoly, and collective goods.

¹³ Friedman, M.(1962), *Capitalism and Freedom*, (Chicago: University of Chicago Press), p.15

Deregulation¹⁴ has become a process destined to improve the efficiency and competition, by which governments remove, reduce or simplify restrictions on business and individuals to encourage the good functioning of the markets. The general economic idea behind deregulation is the neoliberal point of view that only on the completely deregulated markets competition is possible. In market economies, the decisions taken individually and decentralised are coordinated by the market, through prices, which signal the demand and the offer, as well as the rarity of goods on the market. The real competition is considered by the neoliberals as being the best option to supply efficient services and to reduce the governmental control. Deregulation represents, in fact, reform that includes not only government regulatory controls of the behaviour of the firms, but also the liberalisation of the entries on the market, and, in several countries, the privatisation of the assets of the state. In a broader meaning, it represents one of the major political-economic phenomena of the last decades, being the manifestation and the basis of the globalisation of the economy. In a restricted sense, the regulation term is improper, as deregulation does not signal the end of regulation, the deregulation measures could be accompanied by more explicit regulating structures.

3. Liberalising EU energy market – progress achieved and specificities of the process

The energy market has some specificities. Thus, the electricity market consists of four vertically interdependent markets: generation of electricity, transmission of electricity through high voltage grids, distribution through lower voltage grids, and supply to final customers. Of these markets, the transmission and distribution systems are natural monopolies. Competition is possible at the generation and supply ends of the market provided that generators and suppliers have access to the network. In most Member States, the four sectors were vertically integrated with local or national monopolies designed to maintain security of supply and public service obligations¹⁵. As in the case of electricity, both transmission and distribution of gas are considered to be natural monopolies. Transmission refers to the transport of natural gas through a high pressure pipeline network other than an upstream pipeline network with a view to its delivery to customers, but not including supply. Distribution means the transport of natural gas through local or regional pipeline network with a view to its delivery to customers, but not including supply. As compared to electricity, the gas network also has the storage function which is also part of the natural monopoly.

In the 1990s, the European Union has been quite active in liberalising the

¹⁴ See Noll, R., Owen, G.B. (1983), *The Political Economy of Deregulation- Interest Groups in the Regulatory Process*, (Washington: American Enterprise Institute for Public Policy Research)

¹⁵ L. Hancher, 'Slow and Not So Sure: Europe's Long March to Electricity Liberalisation' (1997), *Electricity Journal* 92, 93

energy sector by adopting the Directives in 1996¹⁶ on electricity and in 1998¹⁷ on gas which partially opened the market to competition by allowing large users to choose their suppliers and trying to ensure that vertically integrated operators would not discriminate against new entrants or create new entry barriers. However, liberalisation seemed not to proceed swiftly enough, further measures being necessary in order to complete the internal energy market.

There were voices that criticised these first directives for allowing some liberalisation at national level, but failing to create the conditions for an internal market.¹⁸ Furthermore, in 2004, there was only 4 per cent increase of cross-border trade since 2000.¹⁹ Lacks of proper unbundling and of interconnection capacity were the main reasons to explain the fragmentation of the energy markets.

A second legislative package of gas and electricity directives²⁰ was adopted in June 2003. The pieces of legislation provided for unbundling, whereby energy transmission networks have to be run independently from the production and supply side. Each Member State had to nominate a Transmission System Operator (TSO) and a Distribution System Operator (DSO), having as a main task the maintenance and monitoring of electricity flows. The concerned companies had to

create separate legal entities for network activities, but also divide executive management and decision-making as regards the operation, maintenance and development of the network. At the same time, all system users were supposed to be treated alike, including as regards access to information. A timetable to fully open electricity and gas markets to competition was provided for. Thus, markets for all non-household gas and electricity customers are to be liberalised by July 2004, and for private households, by July 2007.

However, the results were not necessarily satisfactory and the market for industrial consumers did not seem to function properly, as a 2005 Sector Inquiry into the European gas and electricity sectors concluded. The preliminary sector report described high concentration in both gas and electricity markets, uncompetitive wholesale markets caused by vertical integration, barriers to transmission across national borders, and imperfect information. Additional barriers to competition were found in the failure of some Member States to implement the liberalisation directives. Some problems areas were identified in the electric and gas markets in Spain and Luxembourg, electricity markets in Greece and Portugal, and gas markets in Estonia and Ireland. In

¹⁶ Directive 96/92/EC of the European Parliament and of the Council of 19 December 1996 concerning common rules for the internal market in electricity (OJ L 27, 30.1.1997, p.20-29)

¹⁷ Directive 98/30/EC of the European Parliament and of the Council of 22 June 1998 concerning common rules for the internal market in natural gas (OJ L 204, 21.7.1998, p. 1-12)

¹⁸ B. Eberlein, 'Regulation by Cooperation: The 'Third Way' in Making Rules for the Internal Energy Market' in P. D. Cameron (ed.) *Legal Aspects of EU Energy Regulation* (Oxford University Press, 2005), p. 64

¹⁹ *Report on Progress in Creating the Internal Gas and Electricity Market* COM (2005) 568 final p. 5

²⁰ Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity and repealing Directive 96/92/EC (OJ L 176, 15.7.2003, p. 37-56); Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas and repealing Directive 98/30/EC (OJ L 176, 15.7.2003, p. 57-78)

the gas sector, there was lack of access to transmission networks, pipeline capacity, and storage facilities. Cross-border transmission of electricity lacked transmission capacity and incentives to build additional capacity, discriminatory allocation of transmission capacity, and poor management of congestion. (European Commission Energy Sector Inquiry, Preliminary Report, Frequently Asked Questions (2006)).

As a consequence, the Commission has initiated infringement proceedings in April 2006 by sending letters of formal notice to Austria, the Czech Republic, France, Ireland, Italy, Poland, Slovakia and Spain, followed by reasoned opinions, in December 2006, as a second stage in the infringement procedure²¹.

The Energy Sector Final Report²², issued on 10 January 2007, concluded that even though energy markets have become more open to competition, there is still no competitive European energy market and that the most leading national firms in gas and electricity markets do not attempt to compete across their national borders. Furthermore, there was a continued risk that the vertically integrated companies would use the control over the network to make market entry and expansion of their competitors in the supply markets difficult.

The extent to which the national regulator could verify whether the unbundling provisions are respected in practice was unsatisfactory, due to

mainly lack of resources and appropriate powers. The role of the national regulator in the energy field is quite important, while the decision of the governments to delegate regulation to an independent authority can derive from a number of reasons. Firstly, the agency can specialise and gain expertise in the sector, making thus a better regulation. Secondly, the agency is the one having the main responsibility as regards the functioning of the liberalised market. Thirdly, it is a signal of the commitment to efficient markets.²³

Deeper regulatory efforts seemed to be necessary in order to create competition, either by unbundling generation and transmission, and forcing generators to compete, or by increasing interconnections between Member States. It seemed unlikely that single-market project will progress further merely through episodic challenges under the competition rules.

4. The Third Internal Energy Market Package

In September 2007, the European Commission decided to set specific goals for a third package of measures for energy liberalisation²⁴: separating production and supply from transmission networks (ownership unbundling), facilitating cross-border trade in energy, increasing the powers of national regulators and establishing a European regulator for

²¹ In accordance with the European Commission's Press Release IP/06/1768

²² Communication from the Commission (COM (2006) 851 final): "Inquiry pursuant to Article 17 of Regulation (EC) No 1/2003 into the European gas and electricity sectors (Final Report)" and its Technical Annex (2006) 1724.

²³ M.Thatcher, 'Delegation to Independent Regulatory Agencies: Pressures, Functions and Contextual Mediation' (2002) 25 *West European Politics* 125, 133

²⁴ See Commission's Press Release, 'Energising Europe: A real market with secure supply', Brussels, 19 September 2007, MEMO/07/361, and Questions and Answers on energy policy, Brussels, 19 September 2007, MEMO/07/362

cross-border issues, promoting cross-border collaboration and investment, greater market transparency on network operation and supply, as well as increased solidarity among the EU countries.

It is no surprise that central to the Third Internal Energy Market Package is the creation of an European Agency for the Cooperation of Energy Regulators (ACER). This body is intended to take the place of the European Commission's independent advisory group, the European Regulators Group for Electricity and Gas (ERGEG). It complements the work of the existing regulators. ACER has to ensure that the regulatory functions performed by national regulatory authorities under EU's internal market package are 'properly coordinated and, where necessary, completed at EU level. The Council has insisted that these monitoring tasks do not duplicate or hamper monitoring by national authorities, in particular national and EU competition authorities.'²⁵ Furthermore, the agency has a role in developing, analysing and monitoring the non-binding 'framework guidelines' by which network codes must abide. This means that interested parties should be consulted with regard to tariff structures, grid connection and access, capacity allocation and congestion management, security and reliability rules, emergency procedures, and transparency. It is worth mentioning the individual decisions that the agency has the power to adopt on technical issues, such as the regulatory regime for electricity interconnectors and new gas infrastructure.

Moreover, the most important remedy that the Commission proposed in order

to break up big companies altogether was the ownership unbundling that provided for the complete separation of ownership of generation assets from ownership of transmission assets. European Commissioner Neelie Kroes explained: 'Owners and operators of critical networks often compete with companies that need to have access to the same networks. Can we expect such integrated companies to treat competitors in a fully fair manner? Their own self-interest would suggest not.'²⁶

However, the discussions which took place in the working group on energy in the Council led the Commission to the conclusion that it must propose other options so that all Member States could accept the legislative package. The first alternative they came up with ISO – Independent System Operator, according to which vertically-integrated forms are allowed to retain ownership of their pipelines and storage assets, but they are obliged to entrust the management to a separate legal entity ISO. ISO will still maintain loose ties to the original owner, but the funding for operations would come from the parent company, ISO deciding the timing and the destinations of the investments.

However, during negotiations in the Council, it appeared that at least France and Germany, and several other Member States were not satisfied with the ISO option, as it would have meant dismantling national champions such as EDF, GDF, E.ON, RWE. The displeased EU ministers managed to introduce in November 2008 a third option, the ITO model (Independent

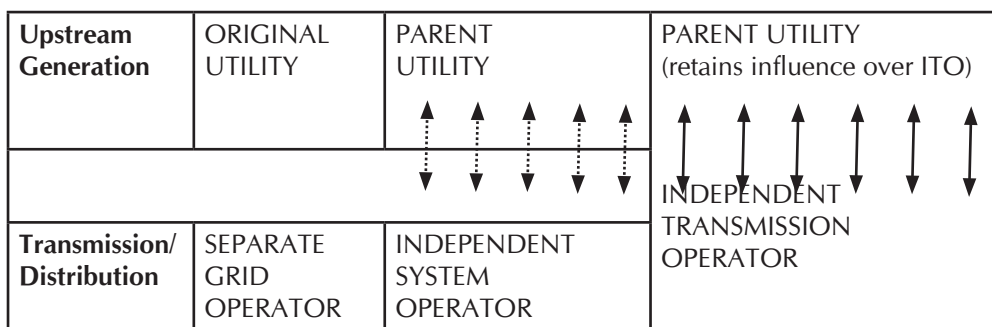
²⁵ *Europolitics*, 'Energy Liberalisation. The Makings of an Energy Watchdog', Tuesday, 31 March, no. 3725, p. 10

²⁶ As quoted on www.euractiv.com, 'Liberalisation of the EU gas sector', published on 26 March 2008 and updated on Friday 26 June 2009

Transmission Operator). This option allows energy companies to own both supply and transmission companies, but the transmission system operator has to operate independently from the mother company. A ‘compliance officer’ is responsible for monitoring the implementation of a programme of measures to prevent discriminatory conduct as well as abuse of dominant market position whereby new entrants are denied capacity on transmission systems so as to favour the dominant mother company. The difference from the ISO arrangement is that it allows significantly closer integration between the parent utility and the supposedly independent network operator. 50% plus one-vote majority on the operator’s supervisory board is what the parent firm can hold. Furthermore, the parent firm is entitled to guide investment strategy, although under some regulatory supervision.

oligopolistic electricity and gas market, it came naturally that the European Commission inserted in the draft energy liberalisation package a ‘level playing field clause’ in order to allow countries that have fully unbundled (such as Spain, Netherlands or United Kingdom) to block the acquisitions of more vertically integrated companies (from France or Germany).²⁷ Furthermore, a reciprocity clause, so called the Gazprom clause, was included. According to its provisions, foreign companies have to comply with the same unbundling requirements at home before making acquisitions in the European Union.

On 12 January 2009, the EU Council of Ministers in its energy format adopts common position on third energy liberalisation package. Two months later, on the night of 23-24 March, the representatives of the European Parliament reach an informal compromise on the



Source: Datamonitor, 2009

Months of negotiations followed. This legislative package arrived in the context of a European energy market dominated by a few cross-border giants, such as France’s EDF, Germany’s E.ON and RWE, and Italy’s Enel. In an

package with the Czech Presidency²⁸. The Parliament had given up its demands for ownership unbundling as the sole option for electricity companies, in exchange of a few concessions from the Council on strengthening powers

²⁷ *The Economist*, ‘The final shape of the European energy market is emerging: an oligopoly’, February 26, 2009

²⁸ *Europolitcs*, ‘Energy markets. EP letting go on ownership unbundling’, 20 March 2009, No. 3718, p. 7 and *Europolitcs*, ‘Energy liberalisation. MEPs trade in ownership unbundling’, 25 March 2009, No. 3721, p. 1, 5

and independence of national energy regulators, the European ACER, energy consumers' rights and smart meters. The compromise offered both gas and electricity companies the three options of separating supply and production activities from network operations: full ownership unbundling, independent system operator (ISO) and independent transmission operator (ITO).

The compromise agreement is endorsed by the Parliament in its plenary session on 22 April 2009, and on 25 June 2009²⁹ the Council, in its Environment format, adopts the internal energy market package. The package contains a Directive on the internal market in electricity, a Regulation on conditions for access to the network for cross-border exchanges in electricity, a Regulation establishing an Agency for the Cooperation of Energy Regulators (ACER), a Directive on the internal market on natural gas and a Regulation on conditions for access to the natural gas transmission networks.

However, on 25 June 2009, the same day as the adoption of the package, the European Commission decided to launch infringement proceedings³⁰ against 25 Member States for non-compliance with certain Community provisions in the second Internal Energy Market Package, which entered into force on 1 July 2007. The purpose of the Commission's action was to draw attention to the implementation of the existing regulations (the second legislative package), as a precondition for implementing the third legislative package. It concentrated, mainly, on fields where regulations

have been systematically infringed: lack of transparent and simple procedures regarding the consumers' complaints, lack of transparency on the conditions and cross-border access capacity, as well as the market distortion caused by regulated prices on energy. Furthermore, the interconnection congestions have to improved North West and North East of Europe, as well as in South West and South East. The Commission draws attention to the fact that a system of sanctions for non-observing the regulations has to be put in place, together with increasing the role of national authorities in ensuring conformity with the Community legislation in the field of energy. The 25 Member States have two months' time, until the end of August 2009 for adopting the measures needed and transmitting the requested information.

5. Concluding remarks

Competition and regulation are rather complementary than substitutes. Government establishes the rules of the game, as a referee for the interpreting and implementing the regulations agreed upon. In this context, deregulation does not mean, however, the end of regulations, as this process could imply liberalisation followed by more explicit regulating structures. In the 1980s already, states began to deregulate a number of sectors considered as natural monopolies, such as telecommunications, energy, transport, postal services. Along these lines, in the energy market, competition is possible at the generation and supply

²⁹ To be published in the Official Journal in August. Member States will have 18 months to transpose the new rules into the national law.

³⁰ See Commission's Press Release IP/09/1035, Brussels, 25 June 2009, Commission acts to ensure effective and competitive energy market across Europe

ends, provided that generators and suppliers have access to the network, while transmission and distribution systems are natural monopolies.

The narrative of liberalisation of the EU energy market is an interesting example in this respect. The real process of liberalisation began in the 1990s, by adopting two directives on gas and electricity which partially opened the market to competition especially at national level and allowed large users to choose their suppliers. Nevertheless, further regulatory measures were necessary in order to complete the internal energy market and create competition, such as proper unbundling generation and transmission, and improvement of interconnection capacity between Member States.

In this context, it came as no surprise the adoption in June 2003 of a second legislative package of gas and electricity directives. It provided for unbundling, whereby energy transmission networks have to be run independently from the production and supply side. Separate legal entities had to be created for network activities, but also executive management and decision-making had to be divided as regards the operation, maintenance and development of the network. In addition, all system users were supposed to be treated alike, including as regards access to information. The full opening to competition of the electricity and gas markets was supposed to be done by July 2004, for all non-household gas and electricity customers, and by July 2007 for private households.

However, the results achieved in implementation were not satisfactory, as the infringement procedures for non-compliance of certain provisions, launched twice by the Commission, in

2006 and later on, in 2009, were to prove it. The EU energy market is an oligopolistic one, still dominated by a few cross-border giants, such as France's EDF, Germany's E.ON and RWE, and Italy's Enel.

The adoption of a third legislative package was considered vital for the Commission. Proposed in 2007, the concerned pieces of legislation aimed to further liberalise the energy market by offering ownership unbundling as the sole option for energy companies. The opposition of certain Member States led to a compromise which offered both gas and electricity companies the three options of separating supply and production activities from network operations: full ownership unbundling, independent system operator (ISO) and independent transmission operator (ITO). Nevertheless, in exchange, strengthened powers and more independence had to be conceded to national energy regulators, as well as to a newly-created European Agency for Cooperation of Energy Regulators. At the same time, two clauses were inserted. One of them is the 'level playing field clause' in order to allow countries that have fully unbundled (such as Spain, Netherlands or United Kingdom) in order to block acquisitions by more vertically integrated companies (from France or Germany). The other one is the reciprocity clause, or the so called 'Gazprom clause', according to which, foreign companies have to comply with the same unbundling requirements at home before making acquisitions in the European Union.

This new package will have to be transposed by the Member States until the end of 2011. Its implementation will reveal if another, fourth legislative package of liberalising the internal energy market is necessary.

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SOME LEGAL ASPECTS OF ENERGY SECURITY IN THE RELATIONS BETWEEN EU AND RUSSIA

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Abstract. *The need for a sustainable, secure and competitive energy supply has long been recognized within the Community, and has been addressed on numerous occasions, notably in the Green Papers elaborated by the Commission in 2000 and 2006. Recent supply crises and rapidly escalating fuel prices have focused the minds of leaders across the European Union, as well as those of businesses and individual energy consumers. Energy policy transcends a range of different policy areas, including competition, transport, environment and energy itself. Decisions relating to energy policy in Europe are primarily within the remit of individual Member State governments, with the European Commission's powers limited to two specific areas (creation of the European single market and matters relating to nuclear safety and security under the EURATOM Treaty). The extent of the transfer of powers towards Europe is clearly a critical decision point and in practice a sensitive balance is likely to be required between those matters for which the Commission should have responsibility and those where Member State governments retain sole authority. European officials are putting into evidence their belief that Europe's energy predicament is acute and mention energy security as a priority issue for the Common Foreign and Security Policy. Policy commitments say that energy strategy must move beyond the internal sphere and become systematically a part of EU external relations. The Commission's 2006 Energy Green Paper promised "a better integration of energy objectives into broader relations with third countries".*

Keywords: *energy, energy security, gas, Russia, solidarity, Energy Charter, competition*

JEL classification: *K1, K19*

I. Introduction

There are two basic terms in English having the same meaning: "energy security" and "security of energy supply".

The first one is widely used by many organizations and government advisors, and the second is accepted by the EU and is included in the text of Lisbon Treaty, many already having implemented the

legal and political documents of the Union.

In accordance with the Green Paper 2000, "the European Union's long-term strategy for energy supply security must be geared to ensuring, for the well-being of its citizens and the proper functioning of the economy, the uninterrupted physical availability of energy products on the market, at a price

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which is affordable for all consumers (private and industrial), while respecting environmental concerns and looking towards sustainable development..." The security of energy supply in the European understanding has two essential components – technical and commercial. The technical component consists of the physical accessibility to the resources and non-interruption of energy flows. The commercial component presupposes the affordability of the energy prices. After the entry into force of the Amsterdam Treaty in 1997 the security of energy supply policy was built into the concept of sustainable development.

The expression "*energy security*" also makes part of the EU vocabulary, being narrowed, mostly as the technical security of the energy installations and infrastructure.

The Russian definition of energy security is found in the Energy Strategy of Russian Federation adopted by the Government Decision in 2003. It is defined as the "state of protection of the country, its citizens, society, state, economy from the treats to the secure fuel and energy supply". There is also another definition contained in the document: "the full and secure provision of energy resources to the population and the economy on affordable prices that at the same time stimulate energy saving, the minimization of risks and the elimination of threats to the energy supplies of the country". In the Strategy there are mentioned the basic elements of energy security in Russia:

- The ability of the energy sector to meet internal and external demand with affordable energy resources of the necessary quality;

- The ability of consumers to use the energy resources efficiently, preventing

unnecessary expenditure by society on energy supply creating a deficit in the energy balance;

- The stability of the energy sector in the face of internal and external economic, technical and natural threats and its ability to minimize the damage caused by different destabilizing factors.

The comparison of the ways the security of supplies is defined both in Russia and in the EU and of the elements accepted by political and legal doctrines on both sides leads to the essential conclusion – the general understanding of the security of energy supplies is largely the same for Russia and for the EU. The main difference is that the Russian Federation is the energy exporter and the EU is the energy importer.

II. Situation in the European Union

The political documents of the EU contain numerous measures aimed at securing stable and affordable energy supplies to the Union. The most significant are:

- measures and agreements aimed at creation of the single European energy space;

- interaction and cooperation with the largest consumer states, inter alia within the framework of the development policy;

- improvement of the access of the European companies to global energy resources;

- improvement of the investment conditions in the international projects;

- use of the financial instruments to increase the security of supplies;

- elaboration and promotion of an energy efficiency agreement.

In our days, the legal basis for cooperation in the energy sector

comprises the following international instruments: Agreement on Partnership and Cooperation (PCA), Energy Charter Treaty (ECT) and political agreements within the framework of EU-Russia Energy Dialogue. Each of the mentioned documents has its own strong and weak points.

The *Partnership and Cooperation Agreement* (PCA) with Russia was the first one entered into by the European Community, followed by other PCAs with the former Soviet Republics. The objectives of this Agreement and of the Partnership established thereby are to provide an overall framework for political dialogue between the parties, for the gradual integration of Russia and wider Europe and create the necessary conditions for the future establishment of a free trade area between the European Community and Russia.

The trade regime provided for by the PCA is based on GATT provisions. The Parties to the PCA grant to one another most favoured-nation treatment. The Agreement prohibits quantitative restrictions and excessive (discriminatory) taxation of imported goods.

The principle of the freedom of transit is one of the conditions essential for the achievement of the purposes of the Agreement. Each Party is expected to provide for freedom of transit through its territory of goods originating in the customs territory or destined for the customs territory of the other party.

It is necessary to bear in mind the exceptions from that principle contained in the article 19 of the PCA. These exceptions provide that the Agreement shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security

and also on grounds of protection of natural resources.

The European Union officials have repeatedly expressed concern over the obstacles for the natural gas transit from Central Asia through the Russian Unified System of Gas Supply to the European market. These concerns have never been taken to formal dispute resolution under the rules of international law. It would suggest that the exception for the purposes of protection of natural resources may serve as a valid legal basis for the limitation of the freedom of transit.

It is clear that the rules of the PCA cannot guarantee the security of energy supply to European Union by means of diversification of supply and transportation from Central Asian countries that do not have common frontier with the EU. Article 65 of the PCA, specifically dedicated to energy, refers to cooperation in such areas as formulation of energy policy, improvement in management and regulation of the energy sector, introduction of institutional, legal and fiscal conditions necessary to encourage increased energy trade and investment, promotion of energy saving and modernization of energy infrastructure including interconnection of gas supply and electricity networks. Cooperation in the area of improvement of the quality and security of energy supply in an economic and environmentally sound manner is stated as the main priority. It must be noted that article 65 of the PCA with Russia does not make reference to the diversification of supplies which is a common feature of the Agreements on Partnership and Cooperation with other ex-Soviet republics. The provisions of the article 65 implicitly confirm the role of Russian Federation as the key energy supplier for the European Union.

A suspensive condition is mentioned in Article 105 of the PCA which relates to the application of the Energy Charter Treaty and Protocols thereto in matters covered by the PCA. In case of Russia it is especially important to note that the provisions of the ECT substitute the respective norms of the PCA only upon entry into force of the ECT on the territory of Russian Federation, upon its ratification by Russian Federation.

A political declaration on international energy cooperation, the *European Energy Charter*, was adopted in December 1991, followed by the legally binding Energy Charter Treaty (ECT), which was signed in December 1994 and entered into force in April 1998.

The ECT has two distinctive features.

Firstly, it is the only body of legally binding international rules that is tailored specifically to the energy sector.

Unlike other international economic treaties, it therefore takes into account the wider range of risks faced by energy companies (for example, geological risks) and the extraordinary high capital needs of the energy industry. The ECT covers such areas as energy investment, trade and transit, and energy efficiency. It offers dispute settlement for disagreements between states, and between states and investors.

Secondly, the ECT membership includes a broad and diverse range of countries across Eurasia. A total of 51 European and Asian countries have signed or acceded to the ECT, and all but five have ratified it. The five that have not are Australia, Belarus, Iceland, Norway and the Russian Federation. Belarus and Russia have accepted provisional application of the ECT in so far as it is compatible with their own constitution, laws and regulations. Another 20 states

and ten international organizations have observer status in the Energy Charter, among them the US, Pakistan, China, Korea, Iran and ASEAN. Although the ECT initiative was initially focused on east-west co-operation in Europe, its scope is now considerably broader. The Energy Charter is therefore the natural basis for the evolving Eurasian energy market, which also includes (not geographically, but from an energy-economic perspective) North Africa.

The ECT and its related legally binding documents constitute one dimension of the Energy Charter. The other is the inter-governmental Energy Charter process. The Energy Charter offers a depoliticized, energy-specific international forum which is unique in that it brings together producing, consuming and transit countries. It allows its member-states not only to discuss new challenges in international energy markets, but to incorporate common concerns and understandings into new legally binding instruments.

The ECT aims to help the development of open and competitive energy markets. Its rules are meant as a minimum standard, which leaves each member-state free to follow its own path and speed towards market opening.

Those countries that push ahead cannot demand that other ECT members follow their particular market model, nor are they permitted to discriminate against companies from such countries in any way.

Russia signed the ECT in 1994. But although Moscow applies ECT rules on a provisional basis and has been actively participating in the Energy Charter process, it has not ratified the treaty.

When the Russian State Duma (Parliament) discussed the ECT, it

concluded that it would not revisit the question of ratification unless a number of conditions were fulfilled. These included two clarifications regarding the ECT's provisions on transit (in article 7) and the finalization of a special protocol on transit. In fact, an agreement on the Transit Protocol would offer the most practical way to resolve the outstanding disagreements on article 7.

But the protocol cannot be adopted before the ECT is in force because only countries that have ratified the ECT can ratify protocols attached to it.

At present the *relations between Russia and the EU in the energy sector*, and in the sphere of energy security, apart from the Partnership and Cooperation Agreement rules, are formally governed by the provisions of the Energy Charter Treaty. Russian Federation has signed the ECT, but has not ratified it. The rules of the ECT are applied provisionally on the territory of Russian Federation to the extent that such provisional application is not inconsistent with Russia's Constitution, laws or regulations. Such possibility of provisional application is provided for by the article 45 of the ECT.

The scheme of the ECT may be qualified as "investments for the producers (mostly from the Eastern countries) in exchange for the security of the energy supplies. The ratification of this Treaty by the Russian Federation is the key element of the scheme, and without this element the system does not function properly.

The change in energy consumption structure of the European Union puts into evidence an increase in the share of natural gas. Russian natural gas reserves therefore increase the importance of Russia as the key energy exporter to the European market. The Central Asian states

– Kazakhstan, Kyrgyzstan, Turkmenistan and Uzbekistan – also possessing significant energy reserves require large and stable transit routes in order to be able to supply energy to Europe. Considering the geographic location of those countries, energy transit through the territory of Russian Federation seems the most suitable.

The legal regulation of international energy transit in Russia exerts significant influence on the amount of energy supplied from the Middle Asia countries to the European market and hence - on the security of the EU energy supply.

The international transit regime provided by the ECT if applied on the territory of Russian Federation would serve as a solid legal basis for free and uninterrupted energy transit from Central Asia to Europe. For Russia the relationship with the transit countries and with the countries that use the territory of Russian Federation for the transit of their gas have revealed important priorities in this area, which are not fully recognized by the text of the ECT. The international recognition of the principle of noninterruption of transit and inviolability of the resources transported, and the establishment of an obligatory international dispute resolution mechanism that could validly apply those principles must correspond to the interests of Russian Federation. The principle of the freedom of transit cannot be included in this list. Moreover, it is not clear at present whether the ECT provisions governing transit would be applicable on the territory of the European Union on the basis of international law or as a consequence of the European Union legal system.

In the first case Russia and other non-EU parties to the ECT shall have clear remedies for the breach of the ECT transit

regime by the EU and its member states, whereas in the second case European Union will be able to change the rules by means of its secondary legislation. The 2006 and 2009 gas disruptions occurred due to the controversies between Russian Gazprom and Ukrainian Naftogaz also show that ECT mechanism can not prevent such situations, although Ukraine has ratified the ECT. Bearing in mind that the economic and political environment in Russia has changed over the recent years, it is necessary to take into consideration new challenges and requirements.

It is evident that a large amount of investment is necessary for the EU energy sector, which is *inter alia* underlined in the Green Paper adopted by the European Commission in 2006.

The possibility of expansion of the Russian energy companies to the European market becomes real. The Energy Charter Treaty in its present form can hardly serve as an adequate legal framework for the new economic and political realities. The abovementioned scheme “investments in exchange for the security of energy supplies” had been changed significantly since the adoption of the ECT, which objectively has created the necessity to review the legal basis for the EU-Russia cooperation.

A decision was adopted during the EU-Russia summit in 2000 to establish a strategic partnership in the energy sector which was later called the *Energy Dialogue*. The reason for that was basically the refusal of the Russian Federation to ratify the Energy Charter Treaty.

The new *Energy Dialogue* could serve as a basis for bilateral cooperation. The underlying reasons were to ensure stable energy markets, reliable and growing

imports and exports, to address the need to modernize the Russian energy sector and to improve energy efficiency.

By setting-up the Energy Dialogue, the parties put forward five major topics of common interest. Those topics included ensuring the security of energy supplies of the European continent, the development of the potential of the Russian economy, in particular Russia’s energy resources, the opportunities of the pan-European market, the challenge of climate change and the conditions framing the use of nuclear energy.

It is thus evident, that the major part of the ECT elements was embodied in the programme of the Energy Dialogue. It gives an additional argument in favour of the opinion that the Energy Dialogue represented a specific substitute for the ECT.

Security of energy supply in Europe was obviously the key element of the Energy Dialogue. A number of political and legal measures were initially proposed in that area. As a starting point, the parties highlighted the necessity to share adequately the risks between the energy producers (investors) and the energy consumers.

Such risk-sharing is essential in order to create the conditions for long-term investment decisions in large-scale projects, on the one hand, and guaranty the security of energy supply, on the other. In our days certain results in the sphere of energy security are evident under the framework of the Energy Dialogue. The European Union acknowledged the importance of the long-term contracts for the supply of natural gas.

On the one hand, it proves the impossibility for Europe to diversify the import of oil and still more the import of natural gas. On the other hand, it shows

the necessity to develop a strategic cooperation with Russia as the major energy exporter, which means that Russian energy supplies should be stable and uninterrupted no matter how the international situation evolves.

From the legal standpoint, the Energy Dialogue represents a permanent consultative mechanism aimed at the development of international relations in the energy sector. At present it does not provide for the guarantees of EU energy security within the meaning of the international law. Potentially, however, it may serve that purpose.

In general the level of legal formalization of the security of supplies from Russia to the EU does not adequately correspond to the scale of international relations and the amount of supplies. The enormous volumes of energy involved in the Russia-EU trade require a solid legal basis. Of importance in this respect may be the policy, currently being elaborated by the EU institutions. The policy is aimed at creating a single European energy market that should embrace all European countries including Russia. It is proposed to extend the basic principles of the EU law, particularly the rules of competition, free movement of goods and services, freedom of access to the energy infrastructure, to the markets of the energy exporting countries. Such measures aimed at energy prices reducing and establishing common requirements common for producing and consuming countries to reduce the amount of the natural rent received by producers. This can hardly coincide with the economy guidelines and the energy security of the Russian Federation.

In order to adopt and implement an agreement which would be legally binding and effective, the strategic

interests of the Russian Federation should be taken into consideration.

First, Russian energy companies are keen to gain access to downstream assets in EU member states. They want to sell their goods and provide services to the final consumers.

Second, of importance to Russia are the principles of non-interruption of transit and inviolability of resources transported. However, the freedom of transit is definitely contrary to the interests of Gazprom.

Third, the emerging market players in Russian electricity sector, which has undergone the liberalization processes, may be looking forward to sell electricity in the EU-countries and hence require the interconnection of the network systems.

It should also be noted that even if there is success in the first three points, Russia would hardly accept EU competition rules. Such acceptance would lead to significant interference in the corporate structure of the energy companies in Russia. It is, of course, impossible to follow completely the demands of Russia, but vice versa it is illogical for Russia to accept all the requirements of the EU.

The 2000 European Commission Green Paper on the security of supply notes that "energy supply security must be geared to ensuring...the proper functioning of the economy, the uninterrupted physical availability... at a price which is affordable...while respecting environmental concerns... Security of supply does not seek to maximize energy self-sufficiency or to minimize dependence, but aims to reduce the risks linked to such dependence".

The 2006 Energy Green Paper continues this line of thinking by describing the proposed energy strategy

for Europe as an attempt “to balance security of supply, competitiveness and environmental protection”.

The European Parliament states that “being dependent on imports is neither necessarily a bad thing nor economically inefficient provided the sources are diverse, no one supplier is dominant and we can produce sufficient goods and services to pay for them”.

Taking into consideration the European Commission’s 2000 Green Paper on the security of energy supply, the following types of risks can be identified:

- technical risks (including systems failure owing to weather, lack of capital investment or generally poor conditions of the energy system);

- economic risks (imbalances between demand and supply, stemming from a lack of investment or insufficient contracting);

- political risks (potential government decisions to suspend deliveries because of deliberate policies, war or civil strife, or as a result of failed regulation, which is defined as regulatory risk);

- environmental risks (the potential damage from accidents such as oil spills or nuclear accidents, which includes pollution, the effects of which are less tangible or predictable);

The secure delivery of energy is a complicated matter for at least four reasons:

- at all stages, the access (rights) to resources, upstream operations and the transit or transport of energy have their specific risks, possible reasons for delays, etc;

- the existing delivery infrastructure inside and outside the EU was built for different historical, commercial and other reasons, and sometimes for a different

purpose (especially that in the former USSR area);

- demand forecasting, investment planning and the actual construction of infrastructure and the development of big fields take years and are very risky for investors;

- there is the subjectivity of risk perception, the difference in the languages of comfort and assurance between nations and political cultures, the different readings of real events and the political and mass media interference in economic considerations.

Now in principle the Single Market rules applied to the gas market, but very little happened in the gas sector. In 1994 a European Energy Council meeting took the decision to prioritize the opening up of the electricity market.

The gas market only saw its first sector-specific liberalizing instrument in 1998 (Directive 98/30/EC of the European Parliament and of the Council of 22 June 1998 concerning common rules for the internal market in natural gas), with the first gas directive. Under the second directive (Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas and repealing Directive 98/30/EC), commercial gas customers were supposed to be free to choose suppliers by July 2004 and residential customers are to have the ability to do so by July 2007.

Another problem is the application of the competition rules to the gas market. Liberalization has been comprehensively frustrated by the member states and domestic incumbents. DG (Directorate-General) Competition has launched a major sectoral review into the state of competition in the gas and electricity

markets. The preliminary report of this review suggests that many member states and their domestic incumbents have effectively side-stepped the liberalization directives and the gas regulation.

Even if there are many laws on the statute books, effective circumvention practices are in place:

- legacy contracts (dominant incumbents are tying up both upstream and wholesale markets with 20-year contracts with renewal clauses, effectively foreclosing markets for the foreseeable future);
- confidentiality clauses (specific clauses are used to deny information on capacity and storage to potential new market entrants);
- possible market-sharing agreements among incumbents.

Real competition means ensuring that Gazprom does not operate with an unfair advantage based on its monopolistic structure. For this reason, the EU must adopt a clear and consistent position in favor of competition, above all by insisting that Gazprom's operations in the EU are unbundled. However, as long as Brussels seeks to impose this by the special Gazprom clause rather than as part of a comprehensive package of energy market reform applying equally to EU utilities; it will have little leverage in Moscow. The European Commission therefore needs to overcome the opposition from French, German, and other energy monopolies and impose across-the-board unbundling, rather than focusing on the Gazprom clause as a compromise position.

The EU's Third Gas Directive (September 2007) initially called for complete ownership unbundling. In the face of opposition from France, Germany, and a handful of smaller states,

the European Commission was forced to fall back on the creation of independent system operators (ISOs), which allow the big European energy firms to maintain ownership of transmission infrastructure but leave management decisions to the ISOs. At the national level, the ISO option is suboptimal from the point of view of encouraging competition, but more important, it does nothing to address the security challenges posed by Russian participation in the European market.

The EU Commission and Council should push for full implementation of the Parliament's September 26, 2007 resolution that called for a "common European foreign policy on energy". Carrying out the Parliament's recommendations would help "level the playing field" for Western investors, reduce opportunities to engage in non-transparent or corrupt business practices in the East-West energy business and decrease the large profit that stems from monopoly control of piped natural gas exports from the Caspian Sea countries and Russia to Europe.

- Western companies should petition the EU, DG COMP and national governments to enforce more vigorously existing anti-trust and competition policy, particularly in regards to Russian state companies.

Greater import competition would lower prices for consumers and for Western power and refinery operators. Opening existing Russian pipelines to competitors would also increase the supply of oil and gas coming from Russia and Caspian countries and bring more predictability in supply.

- The Council and Parliament should consider establishing an independent regulatory agency with the authority to monitor (but not approve or disapprove)

all major energy agreements between EU and non-EU companies. It would report to the Commission regarding the likely effect of the proposed agreement on the broader EU energy market. The agency could enforce a minimum level of revenue transparency in international energy contracts, extending to all companies (domestic or foreign) that do business within EU member states.

- Require all member governments to notify the Commission at the start of negotiations with foreign entities regarding the construction of new energy pipelines, the offering of tenders for energy contracts and when conducting talks for the sale of existing facilities within their border.

This might counteract the “divide and conquer” activities of Russian state-owned energy firms, thereby leading to greater cooperation by EU states.

- Western energy companies would benefit from a uniform reporting requirement that applied to domestic and foreign firms doing business within the EU; one that mandates revenue transparency reporting for their operations at home and abroad. This would weaken the present advantage held by firms from countries with high levels of business corruption and an unwillingness or inability to enforce existing contracts.

- Firms should be barred from including confidentiality clauses that hide revenue transparency in contracts with foreign energy companies.

- The EU Commission should be more active in defending member states against politically-motivated disruptions in energy flows from Russia, such as occurred in Lithuania and Latvia. An unwillingness to defend EU members from this kind of disruption only disadvantages the energy firms and the

state interests targeted by Moscow. It also further encourages those elements in Russia who oppose domestic reform and enforcement of the rule of law.

In order to enhance external coherence, it is necessary to combine the EU’s traditional normative policy based on the promotion of values and its model of governance with strategic thinking focused on Community interests.

The EU should be more assertive in presenting its interests clearly to all major producers, and should identify conflicting and overlapping interests with actors such as China, Russia and the US. Considering that external energy policy should be an integral part of the Common Foreign and Security Policy (CFSP) much will depend on how the modifications introduced by the Reform Treaty will be exploited by the new High Representative for EU Foreign Policy. Security of supply can no longer be considered only a national issue.

First, any action taken by any member state in the energy sector should not violate the security interests of any other member state, let alone contravene the Community objectives. And if this were the case, then the Community should have the power to take adequate measures. The main problem is to construct an accepted methodology that will identify risks and threats, their likelihood and scale (European, regional, national), and to arrange responses, along with the designation of the responsible actor and the political mandate to react. Such a mechanism should be prepared carefully so as not to let any member abuse it in order to block important undertakings.

Second, it is essential to make solidarity work. The need for action in the spirit of solidarity is unquestionable. With no infrastructure in place, this principle will

remain on paper, which can widen the credibility gap. An obligatory solidarity mechanism may send the wrong signals to some countries which in turn may abandon expensive modernization of their own energy systems and count on “free-riding” when a crisis occurs.

However, the EU member states, in particular those most vulnerable to disruption, may expect effective common protection mechanisms in the face of external risks in return for conferring upon the Community additional control over domestic energy affairs. Otherwise, they may revert to purely national measures resulting in energy de-integration. It would surely make the EU more vulnerable to external actors, who would benefit directly from intra-European disunity. It is necessary to focus on the creation of common ground in terms of regulations and standards, functional market-based mechanisms, and sufficient physical and technical links. True unity in the field of external energy policy can be possible only after achieving real integrity within the EU.

The scale of the would-be European common energy market combined with the collective character of a would-be common energy policy could transform the EU into a real energy power. It could use market access and the principle of reciprocity as a policy tool. It could speak with one voice in bilateral or multilateral talks through one agent (most probably through the High Representative).

The fragmentation of the European energy market dates back to the 1970s, when EU member-states responded in an individual fashion to the oil crisis.

Some countries, like France, diversified their energy panorama, while others proceeded to rapidly explore their own reserves, as the Great Britain did in

the North Sea. Germany built up strategic reserves of gas and invested heavily in infrastructure.

In recent years it was adopted Council Directive 2004/67/EC of 26 April 2004 concerning measures to safeguard security of natural gas supply. In the directive two important terms are defined, “long-term gas supply contract” (a gas supply contract with a duration of more than 10 years) and “major supply disruption” (a situation where the Community would risk to lose more than 20 % of its gas supply from third countries and the situation at Community level is not likely to be adequately managed with national measures). According to the directive, the Commission shall monitor the degree of new long-term gas supply import contracts from third countries, the existence of adequate liquidity of gas supplies, the level of working gas and of the withdrawal capacity of gas storage, the level of interconnection of the national gas systems of member States and the foreseeable gas supply situation in function of demand, supply autonomy and available supply sources at community level concerning specific geographic areas in the Community.

A Gas Coordination Group is set-up (composed of the representatives of Member States and representative bodies of the industry concerned and of relevant consumers, under the chairmanship of the Commission) in order to facilitate the coordination of security of supply measure.

After the gas supply disruptions in January 2009, it was formulated a Proposal for a Regulation of the European Parliament and of the Council concerning measures to safeguard security of gas supply and repealing Directive 2004/67/EC. In the proposal, the security of

gas supply is a task of the natural gas undertakings, competent authorities of the member states, the industrial gas customers, and the Commission within their respective areas of responsibility. Each member state shall designate a competent authority responsible for the implementation of the security of gas supply measures.

The Commission shall coordinate the competent authorities at the Community level through the Gas Coordination Group in particular in the case of a Community emergency. The measures to ensure the security of supply must be clearly defined, transparent, proportionate, non discriminatory, verifiable, and shall not unduly distort competition and the effective functioning of the internal market. A Preventive Action Plan containing the measures needed to mitigate the risks identified and an Emergency Plan containing the measures to be taken to mitigate the impact of a gas supply disruption.

The Preventive Action Plan must include the measures to fulfill the infrastructure and supply standards, the risk assessment, the preventive measures to address the risks identified and the information on the relevant public service obligations. The Preventive Action Plan shall be updated every two years.

The Gas Coordination Group shall assist the Commission in particular on issues related to security of gas supply, at any time and more especially in times of emergency, all information relevant for security of gas supply at national, regional and community levels, best practices and possible guidelines to all the parties concerned, the level of security of supply, benchmarks and assessment methodologies, national, regional and Community scenarios and testing the

levels of preparedness, coordination of measures to deal with emergency within the Community, Energy Community Treaty countries and with third countries and implementation of the plans.

III. Situation in Russia

In the situation of Russia, there are often apparent misunderstandings between the oil and gas sectors.

Unlike the gas sector, the oil markets have evolved globally and are not dependent on EU-Russia relations. The Russian oil sector has seen the emergence of new international majors that place western oil companies in an uncomfortable position. In the aftermath of the USSR's break-up, the Russian oil sector comprised a weak and highly fragmented patchwork of companies. Production and supply were unbundled from the transport sector, most of which was privatized.

A number of new private companies emerged at the national (Lukoil, Yukos, Sibneft) and regional levels (Tatneft, Bashneft, Surgutneftegaz, TNK). Rosneft remained a state-owned company.

Unlike production and supply, the oil pipeline sector, which has the world's largest network, is mainly regulated by the state-owned company Transneft.

If the oil sector is a global market, the gas trade links Russia directly to the EU. Europe has been Russia's main client since the 1960s and Gazprom wants to maintain its positive image in Europe.

The complete halt of gas deliveries violates Article 7 (on transit) of the Energy Charter Treaty (ECT). Ukraine ratified this treaty, while Russia signed and has applied it, though has not ratified it. Transit issues lie at the heart of a long-term solution for European

energy concerns. The EU wants to push negotiations on the Transit Protocol in the EU-Russia energy dialogue and the EU-Russian negotiations on the Partnership and Cooperation Agreement.

The full application of this multilateral international regime would install dispute settlement mechanisms. It would be a first step to acknowledge the necessity of a multilateral regime if both sides invoked the conciliation procedure according to Article 7 (7) that the ECT provides.

Gazprom wants to own pipelines outside of Russia, but refuses to let foreign companies or governments own pipelines inside Russia. The EU and Russia are currently negotiating a new Partnership and Framework Agreement. The EU-Russia energy dialogue also provides another bilateral mechanism to negotiate energy issues. These channels have to be used now to address structural issues, such as the early warning mechanisms, which provide the possibility of engaging transit countries as well. The EU has to put a stronger emphasis on energy infrastructure, but also pressure for more legal certainty in Ukraine.

The development and signing into law of *production sharing agreements* (PSAs) in Russia became extremely important for the foreign investors. Even if there are inadequate, PSAs have become a popular model for the Russian government and foreign oil company to share petroleum output in pre-determined amounts. They also offer the investor the possibility of reducing exposure to long-term contractual risk by accelerating the recovery of invested capital. And finally, under this construct, the investor's tax liability to Russia can be offset by increasing the government's percentage take of profit oil.

It should also be pointed out that the

foreign oil company faces numerous competing authorities in Russia, all claiming control over portions of the petroleum industry. At the federal level, "the President, the Parliament, and the various ministries and commissions compete for authority over aspects of oil production and export. Administrative bodies at the regional and local levels have increasingly asserted jurisdiction over petroleum assets located within their respective territories." Sometimes the federal government promulgates legislation that is inconsistent with that of the regional government, and vice-versa. The result for foreign investors is the "proliferation of overlapping and contradictory laws, regulations, and licensing requirements, all with the potential for arbitrary and capricious enforcement."

It is no surprise that disputes might arise in the execution of the contract.

In the case of Russia, where the political risk is considered to be high and where there are significant power asymmetries, investors may insist upon a neutral forum outside of the host country to arbitrate potential commercial disputes. There is a difference in perception on such issues as "force majeure" and "hardship," both central themes for the investor and usually standard features in petroleum contracts. Without them, there would likely be no agreement, as they are designed to address the possibility that unanticipated events may fundamentally change the economics of the negotiated agreement.

Foreign oil and gas companies lobbied for a Production Sharing Agreement law. The President Yeltsin signed the PSA Law in December, 1995, a year after the ECT was concluded. Although the PSA is available to Russian as well as foreign

citizens, and the first PSA approved involved a Russian-owned company, the PSA Law remains one of the most controversial pieces of legislation in Russia.

The legislation is a three-party agreement among the Investor, the State, and the regional political subdivision of the Russian Federation where the investment will take place. It grants the investor an exclusive right for exploration, development and production of mineral raw materials on the subsoil area provided for in the agreement and for conducting operations thereto on a chargeable basis and for a certain period of time (Article 2). Foreign investors are limited to 30 percent of Russia's hydrocarbon resources.

Under Article 7 in Terms and Conditions for Conducting Operations, Russian legal entities are granted the priority right to take part in the conduct of the Agreement and no less than 80 percent of all employed personnel in operations should be Russian. In exchange for relief from most types of taxes (except profit and social taxes), the Investor agrees to give the State a share of the oil that it produces. The Investor may pay the State in product or in the form of proceeds from actual sales. The State's share of the oil consists of a royalty, which is based on a percentage gross production, and a portion of "profit oil". Profit oil is defined as the oil produced in excess of the amount given to the State as a royalty and the amount necessary to reimburse the Investor for the costs of its investment ("cost oil"). Article 8 states that after a PSA is signed, the government and the regional authority are supposed to agree separately as to how to divide their respective portions of the State's share.

The PSA Law expressly provides that the Investor is to be reimbursed for the costs of its investment out of an agreed portion of the oil that the Investor produces, before any profit oil is taken by the parties to the agreement. The PSA itself, however, determines which costs can be compensated, and some of these costs are disallowed. In addition, the PSA seeks to guarantee the rights of the Investor to fair treatment and to stabilize the regulatory regime by offering such assurances as the right of the investor to export its share of profit oil freely, nondiscriminatory access to pipelines and storage facilities, and a special legislative "stabilization clause providing compensation if the commercial terms of the PSA become less favourable as a result of subsequent Russian legislation (Article 9). Article 22 of the PSA grants permission to refer disputes to international arbitration.

The 1995 PSA Law considerably advanced Russian petroleum law. Even containing many uncertainties, it must be seen as framework legislation, where many, if not most, significant issues "remain to be resolved through negotiation of individual production sharing agreements between foreign oil companies and the Russian Federation".

Although the PSA legislation contains a stability clause, it provides at the same time that a change of the PSA is allowed in the event of a substantial change of circumstances as defined under the Russian Civil Code.

On the other hand, a worsening of the investor's situation caused by subsequent legislation entitles the investor to a change in the PSA to maintain the commercial result had there been no such legislation.

The Law authorizes international arbitration and waives Russia's sovereign

immunity to such extent, leaving it to the parties to determine whether to agree on the same. It also affirms the contract-based character of the PSA as a fully recognized ground for the issuing of a license for the use of the subsoil. The Duma rewarded demands of domestic manufacturers' and workers' demands for a mandatory local content requirement (70% of equipment used by PSA operators is required to be of Russian origin and 80% of the workforce employed at a PSA project must be Russian). The percentage of existing national oil and gas reserves that may be designated for development under a PSA is limited to 30%. Despite the hopes of the supporters of the PSA Law, the Russian Federation has not received the substantial foreign investment that was supposed to come in wake of the new legislation. PSA amendments passed in 2001 introduced the concept of an optional scheme of direct sharing under which there is only one stage of division of production shares between the producer and the state (instead of a first-stage "cost" share followed by a second-stage "profit" share between the parties.) The 2001 amendments also enabled an existing holder of a license to transfer it to a PSA operator without requiring the PSA holder to get a new license e-issued.

Given that under the PSA Law, no less than two separate actions of the State Duma are required (approving the particular field to be listed to which the PSA Law applies and approving the PSA after it is negotiated), and no less than three separate negotiations with local authorities or other private companies are necessary (negotiations with a license holder for the field in question; negotiations with federal and local authorities to allow the field to be developed under a PSA, and finally –

after initial Duma action – negotiation with federal and local governments of a PSA), it is not surprising that only 3 PSA projects in Russia have been implemented.

The government is supported by numerous Russian oil and gas companies, which want to do away with the production sharing agreements altogether, contending they are no longer needed and give unfair advantages to foreign rivals. Indeed, this view is becoming ever more mainstream, prompting visions of gloom from industry observers.

Another legal instrument in the Russian legal panorama is the joint venture contract. The joint venture form of contract is seen to be in Russia's interest, the foreign investor committing significant capital upfront to the Russian state. In contrast to a production sharing agreement, however, the investor is not able to recoup capital investment in the course of cost recovery. Thus the joint venture arrangement offers less economic incentive.

The Department of Natural Resources (NR) prepared a draft law on the subsoil in the summer of 2002, re-issuing it in March 2003 with slight changes. NR supports the continuation of the license procedure under the existing Subsoil Law as the primary mechanism for granting rights of exploration and exploitation of the subsurface.

Revocation of a license is conceived as an administrative act that a license holder can challenge in court. The multiplicity and complication of taxes are among the complaints common to foreign as well as domestic investors. Holders of subsoil licenses are subject to numerous taxes and other charges in connection with the franchise: royalties

for the use of subsoil resources, excise taxes, charges for mineral replacement, export duty, value added tax, property tax, profit tax, land tax, withholding tax, and local taxes and duties.

Foreign investors are complaining of having to deal in Russia with multiple agencies, overlapping and inconsistent laws and other legal instruments, a weak judicial system making contractual enforcement in the courts a chance proposition at best, and corruption. These complaints are shared by Russian companies but on the other hand such situation seems to disadvantage foreign investors more directly in the short run than local companies and in fact, it may act as a sort of protection against foreign competition.

Another example of legal uncertainty in legislation is the Russian Arbitrage Procedural Code. This Code gives the Arbitrage (state commercial courts) exclusive jurisdiction in disputes relating to Russian real estate where foreign investors are involved in the dispute. Real estate is defined in the Code to include the subsoil and thus would appear to prohibit foreign investors from selecting foreign arbitration in contracts dealing with the subsoil.

IV. Conclusions

Energy policy is subject to majority voting at the EU level. With the new reform proposed under the now revised (constitutional) Treaty of Lisbon, some sort of EU foreign policy mandate is possible. There are four factors in the international economic context that contribute to reinforcing the energy relations between the EU and Russia.

The first factor is the regionalization of international oil geopolitics. The

rise of Islamic extremism in the Middle East, US intervention in Iraq and the subsequent destabilization of the Gulf region pushed many economic actors to focus on regional energy transactions. The regional axis of oil geopolitics was outlined by the European Commission in its Communication on the energy policy of the enlarged EU in 2004.

The second factor is the rapid growth of natural gas in the EU's energy consumption. The EU's liberalization of the gas sector was an attempt to create an integrated gas market whose success is highly linked to the availability of supply. Russia is a valuable source of supply as it has 36% of the world's gas reserves. For Russian gas exporters the EU market is still the most stable and profitable source of revenues.

The third factor is the introduction of competition in the electricity markets of both the EU and Russia. Electricity markets have traditionally been exempt from cross-border trade. The introduction of the competitive model of power supply has created new opportunities for energy investment and trade. European electricity companies invest in less mature markets in order to reinforce their position in a context of increased competition. The liberalized electricity market has given rise to new opportunities for cross-border trade. In the liberalized markets it might be more costly to maintain marginal reserve capacity than to build new infrastructure to import electricity. This is why, following reforms in the power sector, Russia now has a significant potential for investments in the electricity sector.

The fourth factor is the emerging environmental market, brought about by the entry into force of the Kyoto Protocol. The EU's objective is to reduce CO₂

emissions by 8% by 2012, compared to the 1990 level, in order to meet its commitment on climate changing.

The most effective way for the EU to counter Russian attempts to divide Member States is to restructure its internal gas market, making it much more difficult for Russia to advance its political interests.

In the past three years, the debate has evolved around three equally unsatisfactory proposals for EU responses to the Russian gas challenge:

- regain energy independence from Russia by developing alternatives to natural gas, especially nuclear power and renewables. (This is not a credible option. Even if nuclear and renewables are competitors to natural gas, they cannot marginalize it in the medium term. Pushing for alternatives to Russian gas will not keep it from dividing Member States);

- further diversify Europe's gas supply through aggressive pursuit of sources of non-Russian gas (the Europe's gas supply has considerably diversified in recent years, and Russia's share of EU imports has declined continuously since 1980. During that period Russian gas has become *more* divisive politically, not less. It is unclear how further diversification would help resolve the issue);

- bind Russia's hands by having it accept treaty-backed policy and behavioural disciplines (Such an attitude depends entirely on Russian goodwill, which has lately been in short supply. The EU is powerless to force a sovereign state like Russia to obey the treaty-backed disciplines, considered by Moscow as detrimental to its national interest. The solution to the Russian gas challenge lies not in foreign energy policy but in reform of the European gas market itself).

Russia is interested in market segmentation.

Permitting to Gazprom to acquire European transmission or storage assets attracts the risk of reinforcing barriers to market integration. The authorities in charge of the European market should screen all proposed takeover projects.

Due to this reason, an integrated and competitive European gas market would:

- create the maximum possible degree of solidarity between European gas consumers;

- improve collective supply security by allowing the price mechanism to re-allocate physical supply across the entire market in times of supply or demand shocks;

- make Member States' bilateral relations with Russia largely irrelevant to the conditions of access to Russian gas for consumers. An integrated market would europeanize bilateral commercial relationships with Gazprom, without the need for political involvement from the EU.

The Commission must to develop a business case which clearly articulates where it believes that a more centralized approach is required, on an item by item basis.

Both the EU and Russia must set-up a political commitment to reach a free trade agreement.

Only with a political accord will they be able to go towards multilateral mechanisms for crisis prevention and the settlement of disputes for short-term transit crises as well as for an improved investment climate. A clear legal framework based on the Energy Charter will allow the estimation of necessary energy investments.

Without a political commitment the Energy Charter will remain marginalized.

In contrast, once the commitment to a framework exists, a multilateral legal regime for energy can be established.

Another important issue in this context is to help Member States, especially those in Central and Eastern Europe who are highly dependent on Russia, to develop and implement national action plans for improving their gas security.

The Directorate General for Competition (DG Competition) should continue to investigate abuses of dominant position in the gas industry and, where appropriate, demand that companies sell their transmission networks.

Another necessity is to enforce the Energy Charter Treaty. According to Article 45 of the Treaty it went into effect when a state signed it (not ratified it), unless there was a specific declaration that it would "opt out" such as Norway. Russia already has a binding treaty obligation with the EU member states; even it announced recently the refusal to enforce and to ratify the Charter.

Another problem is to enforce the Rome Treaty's competition and anti-trust rules in cross-border deals between Transneft, Gazprom and individual European states. It must calculate the true cost to the European consumer of Russia's pipeline monopoly of Central Asian supplies and of the very expensive Nord Stream pipeline.

Other important aspect is to prevent member states from reaching individual deals with Russia that undercut the viability of EU plans to bring alternative supplies of energy to Europe, in the same time with providing more leadership in

working with Central Asia to supply gas and oil directly to the EU, without the use of intermediaries.

The multiplicity of players has been a principal reason behind the West's failure to develop a coherent, strategic approach to the reality of Europe's growing dependence on Russia for its energy. By leaving the energy policy to national governments, the European Union has struggled to cope with the fact that the interests of its members can be different one from another, and from those of Brussels. The most fundamental challenge facing the EU is thus to ensure greater solidarity between eastern and western Europe, and between countries dependent and independent of Russian gas.

Unification of European gas markets, which would be the single most effective way of decreasing the geopolitical risk of dependence on Russia, can be real only if the diverging interests of countries in positions as different as Germany, Poland, Hungary, and Spain can somehow be reconciled. Reaching such solidarity will be even more difficult in the aftermath of a global financial crisis that has forced countries to put their own interests first.

A common position on energy security remains critical to the viability of the EU as a political force. Europe can resolve the problem of its dependence on Russia only in close partnership with the United States. Due to the fact that it does not depend on Russia itself, the United States is well positioned to play the role of a disinterested consensus-builder among the Europeans.

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THE EASTERN PARTNERSHIP – A PREMISE FOR AN ENHANCED EU-EASTERN NEIGHBOURS COOPERATION RELATIONSHIP

Oana Mocanu*

Abstract. *The enlargement of the European Union towards the Central and Eastern Europe has brought to attention the necessity to reshape the EU institutional framework and specific policies addressing its new neighbourhood. Repeatedly stating that the European Neighbourhood Policy (ENP) is not a preceding phase for membership, the European Union also embraced the Polish-Swedish initiative for an Eastern Partnership (EaP). Meant at first to counterbalance the Union for Mediterranean project, the EaP has developed into a distinct project, with specific and ambitious cooperation goals, a positive and constructive agenda meant to support six countries (Ukraine, Moldova, Georgia, Azerbaijan, Armenia and Belarus) develop and harmonize with the European standards and, at the same, attempting to build and further develop an Eastern dimension of the ENP. The questions of the efficiency of the conditionality derived from the EaP and also the complementarity of this initiative with other regional projects in the area can also be important matters of concern.*

Keywords: *Eastern Partnership, European Neighbourhood Policy, conditionality, regional initiatives, Eastern neighbours, enlargement*

The need of reshaping the European Union's external policy as regards its new neighbourhood appeared alongside EU enlargement towards the Central and Eastern part of Europe. Apart from several economic opportunities, the new Eastern EU border has brought along more new challenges determined by the need to have and to permanently maintain a stable and secure climate in the area, by the demands for an efficient management of borders, at the same time *avoiding new division lines in Europe*¹.

The European Neighbourhood Policy (ENP), initiated in 2003 through the Commission's Communication on *Wider Europe* and officially launched in May 2004, by the strategy document *European Neighbourhood Policy – Strategy Paper*² came out as a result of the EU borders repositioning process towards the East and also of the need to adapt the working mechanism with the states which had now become closer neighbours of the European Union. The strategic goal of the ENP, as stipulated in the strategy, was to

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¹ European Council, Copenhagen, 12-13 December 2002, Presidency Conclusions, http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/73842.pdf

² 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

share with the neighbouring countries the benefits of EU enlargement to the Central and Eastern Europe, for their consolidated stability, security and prosperity.

The Eastern Partnership (EaP), originally emerged in May 2008 as a Polish-Swedish proposal³, was created with the aim of *strengthening the relations between the European Union and its Eastern neighbours*, passing beyond the objectives of the current European Neighbourhood Policy. Having as goals to deepen the *bilateral* cooperation with the Eastern partners, to ensure an increased economic integration as well as to create a permanent formula for a *multilateral* cooperation, the EaP could be perceived as yet another EU initiative in the area, embracing a multitude of demanding objectives and quite few sensible instruments.

At present there are strong debates upon the concrete instruments that the EaP intends to bring into play and also on whether the efficiency of the so-called *conditionality* within EaP and also its desired *complementarity* with other regional cooperation initiatives in the area can be practically proven.

Eastern Partnership: Initial Steps and Launch

Concept firstly delivered by Poland and Sweden on 23rd May 2008, the Eastern Partnership (EaP) initiative became more comprehensive in October 2008, when an extended, more pragmatic, project-oriented proposal was conveyed to all

the EU Member States.

The Eastern Partnership was officially launched on May 7th 2009 during the *Prague Summit*. The Joint Declaration adopted on this occasion enshrines the proposals of the European Commission from December 2008, reaffirmed during the European Council held in March 2009, setting out “*an ambitious partnership*” based on common interests and commitments.

The EaP initiative envisages the relations of the EU27 with Ukraine, Moldova, Georgia, Azerbaijan, Armenia and Belarus, all the six countries already under the ENP umbrella. The Eastern Partnership has a positive, constructive agenda, meant to support these six countries develop and harmonize with the European standards. Complementary to the bilateral contractual relations under ENP, the Eastern Partnership aims to respect the *principles of joint ownership, differentiation and conditionality*. As the partner countries (from the Eastern Europe and the Southern Caucasus) have different levels of economic and social development, democratization and modernisation, a unitary approach of these relations between the EU and these states may also seem rather impossible.

What does the EaP imply?

The most important elements envisaged by the EaP, as set out in the *Joint Declaration of the Prague Eastern Partnership Summit* in May 2009⁴

³ Polish-Swedish Proposal: Eastern Partnership, Ministry of Foreign Affairs of the Republic of Poland <http://www.ms.gov.pl/Polish-Swedish,Proposal,19911.html>

⁴ Council of the European Union, Joint Declaration of the Prague Eastern Partnership Summit, Prague, 7 May 2009, 8435/09 (Presse 78) available at: http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/er/107589.pdf

and also in the Communication of the European Commission in December 2008⁵, regard the following:

a) Strengthening and intensifying the bilateral relations between the European Union and the partner countries by:

- Concluding *new association agreements* and establishing *deep and comprehensive free trade areas* with each of the partner countries, and, as a long term goal, even developing a *Neighbourhood Economic Community* (which in time would provide the partner countries full access to the single market), accompanied by the creation of a bilateral agreements network among the partner countries;

This new framework that would gradually replace the old Partnership and Cooperation Agreements would entail a much stronger commitment, from both sides. Given that the confidence-building is a key issue in such relations, the stronger and more practical the agreements and measures are to be taken, the more valid and result-oriented the cooperation relation between the parties will be.

The *differentiated approach*, brought about by the rhythm of liberalization of each one of the partner economies will still be a principle to be pursued.

- Increasing mobility of citizens through gradual steps towards visa liberalisation, growing partners' stability and safety, increasing border security (through the creation of *mobility and*

security pacts)

The pacts would incur negotiations for visa facilitation for the EaP partner countries, up to the waiving of fees and, finally, visa-free travel with all the partners. The pacts envisaged would also entail progress in key areas such as: fight against illegal migration, asylum system modernisation, more efficient border control structures, improved judicial system for the fight against corruption and organised crime.

- Strengthening the energy security through cooperation in long-term energy supply and transit policies;

The European Union foresees the inclusion of energy interdependence chapters in the Association Agreements; Ukraine and Moldova's rapid accession to the Energy Community; closing up several Memoranda of Understanding on Energy with Moldova, Georgia, Armenia; consolidating the political commitment with Azerbaijan - exporter of hydrocarbon to EU⁶.

- Improving the administrative capacity and supporting the economic and social development of the partner countries (through enhanced dialogue on regional policy memoranda, for example, increased cross border cooperation, development of transnational cooperation programmes)

b) The multilateral framework of the EaP which will support at the same time the differentiated bilateral relations of the partner countries with the EU, will

⁵ European Commission, Communication from the Commission to the European Parliament and the Council, *Eastern Partnership*, COM(2008) 823 final, SEC(2008) 2974, Brussels, 3 December 2008, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0823:FIN:EN:PDF>

⁶ European Commission, Communication from the Commission to the European Parliament and the Council, *Eastern Partnership*, COM(2008) 823 final, SEC(2008) 2974, Brussels, 3 December 2008, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0823:FIN:EN:PDF>

be organized at the following level:

- Meetings of the Heads of State or Government of the countries involved – every two years;
- Meetings of the Ministers of Foreign Affairs - every year;
- Development of four *thematic platforms*: Democracy, good governance and stability; Economic integration and convergence with EU sectoral policies; Energy security; Contacts between people – meetings at the level of senior officials engaged in the reform work in the relevant areas/at least twice a year;

The *multilateral cooperation* that the EaP foresees should be project-oriented, flexible and all the projects should be performed on a voluntary basis. There cannot and will not be any imposition either on EU member states, or on the six Eastern partners.

Developing democratic institutions with an increased participation of the civil society should be a common goal for these partner countries. The potential benefits that a future Neighbourhood Economic Community would entail could represent not only a stringent need to adapt to the EU standards, but also a proof that these economies are able to become competitive on the European and international market and able to cope with the competition pressures of the Single Market. A development of a mutual energy security system, including an early-warning system will be implemented in the framework of EaP. The speeding-up of energy policies' harmonisation and of related legislation of the partner states, together with the development of an inter-connected energy market, with

various routes of supply and transit are also objectives of the EaP. Cooperation in the field of education, research, youth programmes, development of the information society and culture are also to be followed and fulfilled within the EaP.

The setting-up of brand new institutions (as it is the case for the Union for the Mediterranean project) is not an objective for the Eastern Partnership. The Commission intends to place the EaP within already existing EU structures, without establishing or duplicating institutions⁷.

c) The Flagship Initiatives, designed to increase EU visibility in the region, i.e. Integrated Border Management Programme; SME facilities; regional electricity markets, renewables and energy efficiency; developing a Southern energy corridor; prevention of, preparedness for, and response to natural and man/made disasters;

These initiatives would assemble different potential donors, international financial institutions, private sector funding in order to channel the support to this kind of multilateral cooperation, with a view on raising EU's impact on and visibility in this region.

d) The need of co-financing the EaP projects.

The proposal envisages a variety of *financial sources*: starting from the European Neighbourhood and Partnership Instrument (ENPI), the Neighbourhood Investment Facility (NIF) and reaching to additional funds from EBRD, EIB, cross-border cooperation instruments, bilateral assistance from some of the EU Member States.

⁷ Deniz Devrim, Evelina Schulz, *The Eastern Partnership: An Interim Step towards Enlargement?*, 10 February 2009, Real Instituto Elcano, p. 3

Only through the Neighbourhood Investment Facility⁸ (NIF), the allocation from the European Commission in 2009 amounts to 70 million euro⁹ (out of a total of 700 million euro intended for 2007-2013 through NIF), planned for major investment projects i.e. energy, transport, environment, SMEs development and social sector.

The EaP has nearly 600 million euro¹⁰ at its disposal for the implementation of the policy. Unlike the Union for Mediterranean, which is much more oriented towards attracting private funding and international financing, the EaP's finances derive mainly from the EU budget.

The Eastern Partnership will attempt to enhance the bilateral relations (existing already under ENP), but at the same time, to focus more upon the *regional* component, deeply supporting the cooperation among the partner countries.

Initial meetings on the four thematic platforms already took place this summer, *thus opening the way for the implementation of the EaP*. The Prague Summit also confirmed the Commission's proposal to establish an *Eastern Partnership Civil Society Forum* in order to promote dialogue between

civil society organisations in the partner countries and public authorities.

Eastern Dimension of ENP

At start, the Eastern Partnership initiative was perceived merely as an equivalent for East of the project initiated by President Sarkozy regarding the Union for the Mediterranean. Furthermore, it became clear then that there was a strong need for developing an Eastern dimension of the European Neighbourhood Policy¹¹.

The six countries under the EaP have rather different levels of development and also different aspirations. Some of them have been expressing their European vocation and perspective quite firmly for quite some time, at the same time they are more advanced in the process of economic and political reform, thus rightly imposing an asymmetrical approach. Even under ENP, the focus is upon the Action Plans, differentiated targeted to a specific country.

The main goal of EaP was to accelerate the process of political association, economic integration between the EU and the partner countries from Eastern Europe and Southern Caucasus, EU aiming to constantly encourage and

⁸ NIF was officially launched in May 2008, "to strengthen Community and Member States' grant support for lending operations carried out by European multilateral and bilateral development finance institutions in ENP partner countries". Source: EUROPA, Press Release, *The European Commission allocates €70 million for key investment projects in the EU's Neighbourhood*, IP/09/1164, Brussels, 20 July 2009 available at <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/1164&language=EN>

⁹ EUROPA, Press Release, *The European Commission allocates €70 million for key investment projects in the EU's Neighbourhood*, IP/09/1164, Brussels, 20 July 2009 available at <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/1164&language=EN>

¹⁰ European Commission, Communication from the Commission to the European Parliament and the Council, *Eastern Partnership*, COM(2008) 823 final, SEC(2008) 2974, Brussels, 3 December 2008, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0823:FIN:EN:PDF>

¹¹ Council of the European Union, *Joint Declaration of the Prague Eastern Partnership Summit*, Prague, 7 May 2009, 8435/09 (Presse 78), p. 6, available at: http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/er/107589.pdf

support the process of economic and social reform of the targeted states, so that the *gradual harmonization with the EU standards might be achieved*.

The participants at the European Council held in Brussels between 19th and 20th June 2008 once more set forth the need to promote the Eastern dimension of the ENP, to strengthen the regional cooperation between the Eastern neighbours of the EU as well as between the EU and this region on differentiated grounds. The *EaP* was therefore considered to be *a good opportunity to reform the ENP* in favour of the Eastern neighbours, also aiming at reducing the gap towards other regional projects such as the Northern Dimension or the Black Sea Synergy¹².

At the same time it is clear that, whilst the Union for Mediterranean was more focussed upon a multilateral approach (if we mention only the historical background of the Euro-Mediterranean Partnership, the Barcelona Process and then the main components established in July 2008 at the Paris Summit regarding a multilateral partnership meant to increase the opportunities for the regional cohesion and integration), the Eastern part benefited more from bilateral schemes, the focus being more evident on the Action Plans within the framework of the European Neighbourhood Policy. *A strong regional or even multilateral component was lacking* as regards the Eastern component of the EU's neighbouring countries. From this point of view, the *EaP* was meant to restore the balance.

Different commitment?

The Eastern Partnership initiative was basically a Polish-Swedish initiative. Further on, not all the countries in EU embraced the project in the same manner. The options and visions were somehow different, both regarding the *EaP* principles and objectives, and to some extent, results and also an important aspect was *the necessity not to overlap with other similar initiatives*. At first, Romania and Bulgaria were a bit reserved, given their strong and steady support for the Black Sea Synergy project, at the same time the strong focus that France and Spain placed constantly upon the increased cooperation with the Southern neighbours within the Union for Mediterranean project contributed to a certain cutback of interest for *EaP*. Several analysts even evaluate in comparison the festivity of the launch of the Union for Mediterranean and the modest presence of high level officials at the Prague Summit launching the Eastern Partnership¹³. EU's foreign policy seems to continue to be well-dominated by national interests and to have more than a single voice, even when issues like EU's neighbourhood are at stake.

If the older EU Member States might show some resistance to the pro-active attitude towards the *EaP* partners, the new Member States have a more open attitude and are willing to make alliances in building common positions for consolidating the partnership. It is a known fact Poland's position in supporting Ukraine to follow the European path,

¹² Agnieszka K. Cianciara, „*Eastern Partnership – Opening a New Chapter of Polish Eastern Policy and the European Neighbourhood Policy?*”, *Analyses and Opinions*, No. 4, June 2008, The Institute of Public Affairs, Warsaw, Poland, p. 13

¹³ Wiebke Drescher, „*The Eastern Partnership and Ukraine – New Label – Old Products?*”, ZEI Discussion Paper C 1894, 2009, Centre for European Integration Studies, Bonn, p. 12

developing and consolidating an Eastern dimension of the ENP being one of the proposed goals.

If at first the EU Member States' focus upon the Eastern Partnership was rather low, after the war in Georgia, in August 2008, the topic gained more interest and concern within the European Union.

Needless to mention that the reactions of the EaP partner countries envisaged were also different. Ukraine, with a long history of affirming its European vocation and aspirations was definitely not to accept the EaP as alternative to membership. A necessary step towards accession maybe, but not an alternative. The same case could apply for Moldova, though the 2009 events raised partly the criticism amongst the European political arena, and the European vocation and aspirations were somehow damaged and placed, at some point, under certain doubt.

Cooperation and trade relations among the six partner countries register quite a low level and the cooperation initiatives in the area, were not always a success. Given the relatively small degree of success of ENP in the area¹⁴ (low commitment and implication in solving the conflicts in the area, frail energy security supply for the EU, democracies of partner countries still fragile), the EaP could be perceived as a breath of fresh air and new impulse/incentive for modernisation, democratisation and economic and social development in the region.

EaP also invites Russia to join the agreement in particular policy fields.¹⁵

However, it seems that Russia has so far treated EaP as a competitor in gaining even more influence in the region.

If we were to identify possible weak points for the EaP at this incipient stage, there could be mentioned: a rather low degree of interest among the Member States of EU27 (also an obvious interest separated into pro-Eastern and Pro-Southern projects), an overall regional perspective not always unitary and coherent (the EaP partner countries themselves have different expectations, aspirations, and -most important- diverse levels of development and commitment to the European values), many ambitious objectives and relatively low level of financial assistance.

Complementarity and conditionality

Despite the official constant reassurance that the regional cooperation initiatives or projects in the area are, above all, *complementary* to one another, there is a risk of overlapping, their substance might water down. Initiatives such as the *Union for the Mediterranean* or the *Eastern Partnership*, which operate in parallel with the *Black Sea Synergy*, as well as a series of regional cooperation bodies (Black Sea Forum for Dialogue and Partnership, Organisation of the Black Sea Economic Cooperation etc) seem to hinder to a certain extent a consistent development of the ENP. If the *Black Sea Synergy* is more focussed on the regional approach, the *EaP* promises to focus both on the multilateral approach and on consolidating the bilateral approach

¹⁴ Kerry Longhurst, Susanne Nies, "Recasting relations with the neighbours – prospects for the Eastern Partnership", Europe Visions 4, IFRI/Bruxelles, February 2009, p. 10

¹⁵ Wiebke Drescher, "The Eastern Partnership and Ukraine – New Label – Old Products?", ZEI Discussion Paper C 1894, 2009, Centre for European Integration Studies, Bonn, p. 24-25

of the neighbourhood relations. It is true that both initiatives can further develop. Differentiation should be correlated to performance and a particular attention must be paid to the areas eligible for each of the two initiatives. While the Eastern Partnership is focusing on supporting the Eastern partner countries meet the European standards, the Black Sea Synergy is based upon confidence-building regional projects, equally important to the area.

The sensitive issues regarding the identity of the area, the regional power asymmetries, the vulnerabilities induced by the political and economic fragility of some of the states from this part of Europe, the conflicts more or less frozen from this area and the need for a pragmatic approach in their case, together with the need to pay more attention to the issue of resources, transport routes and energy security are important problems which must be solved in the following period in order to ensure the functionality of the policies and initiatives, be they even multiple, in the area.

In this context, an issue which also requires special attention is the fact that the *EaP*, although likely to be compared to the pre-accession stage of the former candidate states from Central and Eastern Europe (based on the instruments and objectives concerning the harmonization with EU standards) *does not aim to offer* the Eastern European partners *the prospect of accession*. Although at some point the goals of ENP or EaP seem similar

to those of the enlargement (stability, prosperity, promoting democracy, rule of law, market access), the outcome differs¹⁶. This also generates the fear that, without the incentive of a future accession to the EU, the elements of *conditionality* from the ENP and EaP approach will not have the expected result in the evolution of the democratisation and economic and social modernisation of the partner countries. Addressing with maximum attention at least three key issues: trade, mobility and energy, the EaP must definitely list the clear advantages for the partner countries, otherwise the reforms expected might not have the highest degree of commitment, implementation and success.

Analysts consider that the EaP is a unitary message transmitted to countries with various expectations¹⁷, the opportunities envisaged, from visa facilitation, free trade areas, strategic partnerships representing value added for the EaP partner countries.

There is also an impression that, “only by allowing the European neighbours to hope for future membership will be a strong enough incentive to carry out reforms as defined by the EU”¹⁸. After a short period of time though, the partner countries will most certainly require a much stronger promise to EU membership, otherwise their commitment (anyway at a rather low level) towards real reforms and transformations in the economic, social and most of all, political area will certainly decrease.

¹⁶ Wiebke Drescher, “*The Eastern Partnership and Ukraine – New Label – Old Products?*”, ZEI Discussion Paper C 1894, 2009, Centre for European Integration Studies, Bonn

¹⁷ Adrian Cioroianu, “O șansă pentru vecinii Europei - și pentru Europa însăși”, published in *Foreign Policy România*, July/August 2009, p. 79

¹⁸ Deniz Devrim, Evelina Schulz, *The Eastern Partnership: An Interim Step towards Enlargement?*, 10 February 2009, Real Instituto Elcano, p. 6

The idea of a clear separation of ENP and EU enlargement policies is still to be put in place. The confusion that both Member States and ENP or EaP partner states may encounter further on can only have adverse effects, diluting the commitment of both parties in the common goal of developing towards EU standards.

Though often considered a definite upgrading compared to ENP, be there for the regional and multilateral components that it addresses, the EaP “has still some tests to pass”, those of coherence of the policies (either in the context of ENP or complementary to other initiatives) and the implementation phases that follow¹⁹.

Conclusions

There is no doubt that the enlargement of the European Union towards the Central and Eastern Europe has brought to the attention the necessity to reshape the EU institutional framework and policies addressing its new neighbourhood.

Confronted more with sensitive issues rather than with new opportunities at its Eastern border, the European Union was compelled to involve itself, beyond declarative level, in a tangible project of anticipating and solving potential problems.

EU has delimited its new neighbourhood policy, since 2003 and 2004, stating repeatedly that *the ENP is not a preceding phase for membership*. By its constant concern to strengthen the ENP, the European Union proposes a consolidation of its commitments towards the neighbours and also a reaffirmation of the proposed objective not to create new

dividing lines in Europe.

The Eastern Partnership, initiated by Poland and Sweden, has gradually become an important project for the Eastern part of EU's neighbours. Meant at first to counterbalance the Union for Mediterranean project, initiated for the Southern EU neighbours, the EaP has developed into a separate project, with specific and ambitious cooperation goals, both among EU and the Eastern partner countries. The free trade areas entailed, the visa-free travel perspective, the enhanced bilateral cooperation and the development of multilateral and, most of all, regional components of the initiative are only a few of the main goals the EaP intends to address. The EaP initiative envisages the relations of the EU27 with Ukraine, Moldova, Georgia, Azerbaijan, Armenia and Belarus, all the six countries already under the ENP umbrella. The Eastern Partnership has a positive, constructive agenda, meant to support these six countries develop and harmonize with European standards.

There is a question if *conditionality* can really exist and function within EaP or ENP and to what extent the partner countries can pursue difficult internal reforms in the absence of the ultimate incentive: the perspective of full membership. The positive conditionality has quite a difficult role to play in the process of harmonisation with EU standards envisaged for the EaP partner countries.

A major concern is also *the effort not to overlap* with other regional initiatives, such as Black Sea Synergy. The issue at stake is rather delicate, since the risk of watering down the substance of the EaP

¹⁹ Gabriela Drăgan, Iulia Serafimescu, “The Future of our Neighbours: EU's Eastern Partnership Initiative”, *Strategic Impact*, no. 2[31]/2009, National Defence University Carol I, Romania

initiative, given the multitude of (more or less) complementary projects in the area, is rather high. It is true that all initiatives can further develop. Differentiation should be correlated to performance and a particular attention must be paid to the areas eligible for each of the new initiatives.

The European Union still needs to clarify the final goal of the EaP, *within the context or related* to the framework of ENP. There is still confusion among the partner countries as far as the results for their commitments to reform are concerned. Viewed as an upgrading of

ENP, the Eastern Partnership can develop itself into a more concrete, practical and efficient cooperation framework between EU and Eastern partner states.

What EU is offering through this initiative must be based on solid ground and must go beyond political statements or general strategies. The success of this new initiative will depend upon the actual measures which the EU will efficiently implement in this new framework and on the reaction and firm commitment of the EaP partner countries.

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THE CZECH PRESIDENCY OF THE EU COUNCIL: NO TRIUMPH, NO TRAGEDY

Petr Kaniok, Hubert Smekal*

Abstract. *The text firstly introduces briefly the Presidency as an instrument or tool of the decision-making process within the EU. The article further presents the basic potential criteria for evaluating an EU Council Presidency. Then the course of the Czech Presidency is described according to how it dealt with its functions. In the concluding analysis the Czech Presidency and perceptions of it are evaluated on the basis of the criteria set forth, and the conclusions are developed in the context of their importance for the function of the Presidency in general. Czech Presidency is introduced in the context of both internal and international politics and a special section is also devoted to very unfavorable media coverage of the Presidency. However, the condemnation it received especially from the French and German media was the result of secondary motives unrelated to the Presidency itself. The basic thesis of the text goes against ordinary media conclusions and states that the Czech Republic in carrying out the Presidency – in view of the style chosen – did very well, and fulfilled the basic function of the Presidency.*

Keywords: Czech Presidency, EU Council, EU institutions, EU leadership

“It generally applies that small countries fill the Presidency of the EU Council better than the big countries. They cooperate better with other EU institutions, take a consensual approach, listen to others, and try to get along.” This would tend to summarize the conclusions that usually appear not only in the theoretical literature about the Presidency, but in the analyses of the individual mandates. Even so, with the increasing frequency with which small countries are serving in the EU Presidency, the large and influential actors in the European Union (EU) have displayed attitudes ranging from skepticism to disrespect toward the small country presidencies. A specific case is the recently-

concluded Presidency of the Czech Republic. Probably no other Presidency was anticipated by influential French newspapers with such deep disrespect and unconcealed loathing as in the case of the Czech Republic. But the fault did not lie only with the evident dissatisfaction of France (Münchau 2008), which held the Presidency before the Czech Republic, at having to pass the baton to a country many times less influential. Nor was it merely supposed or real Euroskepticism of some Czech politicians, or concern about the inexperience of Czech diplomacy and its bureaucracy, or the Czechs’ unstable domestic political situation. The following study will attempt to analyze the Czech

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Presidency and determine whether these concerns, expressed prior to and during the Czech Presidency by both the media and by politicians from the EU member countries, were grounded in reality, or were the manifestation of other tendencies.

The study consists of several parts. In the first section, the Presidency is briefly presented as an instrument or tool of the decision-making process within the EU. This part will also present the basic potential criteria for evaluating a Presidency. Then the course of the Czech Presidency is described according to how it dealt with the functions of the Presidency. In the concluding analysis the Czech Presidency is and perceptions of it are evaluated on the basis of the criteria set forth, and the conclusions are developed in the context of their importance for the function of the Presidency in general.

The basic thesis of the text is that the Czech Republic in carrying out the Presidency – in view of the style chosen – did very well, and fulfilled the basic function of the Presidency. The condemnation it received from the media in particular was the result of secondary motives unrelated to the Presidency itself.

The Presidency in theory

At the turn of the millennium the Presidency of the EU Council was one of the least-studied parts of the institutional structure of the EC/EU. Political scientists have long devoted attention mainly to the historical development of European integration, its theory, common policies, or institutions that were regarded as less

inscrutable and most influential. The note about scrutability is not beside the point. Unlike the Commission or the European Parliament (EP), for example, the Presidency still does not have as strong an anchoring in primary law. Its development and the definition of its functions developed spontaneously, and more than the result of reform efforts it was a reaction to the momentary needs of the integration process. Specialized study of the Presidency during the 1970s and 1980s was negligible, with the main exception being reform reports¹.

At the turn of the new century there was a turning point, related to a change in the quality of European integration. In the 1980s what was for a long time mainly economically-oriented cooperation took on a clear political context, and consequently there was a growing demand for institutions that could produce clear leadership. The Presidency clearly had that potential, and it showed a growing tendency to take the lead. Specialized monographs usually dealt with the Presidency in the context of issues related to the EU Council (Sherrington 2000, Westlake, Galloway 2004, Hayes-Renshaw, Wallace 2006). An exception is the monograph by Jonas Tallberg (2006) dealing with the Presidency of the EU Council as an important instrument of leadership and negotiation within the EU.

Studies in specialized journals can generally speaking be divided into two groups. The first category deals mainly with case studies of individual Presidencies (Henderson 1998, Stubb 2000, Kerremans and Drieskens 2002, van Keulen 2004); the second with the

¹ For example the Tindemans Report or The Report of the Three Wise Men.

Presidency in theory, while part of that theory is drawn from a certain set of case studies (Westlake 1999, Sherrington 2000, Tallberg 2001, Bengtsson 2003, Elgström 2003, Schout, Vanhoonacker 2006, Warndtjen 2007, Thomson 2008). The key themes of these studies (of course a certain theoretical aspect or implication cannot be denied even to texts that primarily focus on description of a specific country's term in the Presidency) are above all the function of the Presidency, and the influence of the Presidency or the issues it deals with. The sum of observations that these publications and studies have produced constitutes a description of the characteristics of the Presidency. The Presidency should be above all impartial, which does not necessarily mean neutral (Tallberg 2003: 38–39). The modern Presidency should carry out a certain catalog of functions, the genesis of which, as shown by Fiona Hayes-Renshaw and Helen Wallace (2006: 141), ideally reflects the differing approaches of the member states toward the Presidency. The two authors point out that the nature of the function of the Presidency arose among other things out of competitiveness between chairing countries and the attempt to make one's Presidency stand out; or out of the mandates of small countries that, through conscientious performance in office, seek

to show that the principle of equality among member countries towards the Presidency is justified. Although in the literature there is no unanimous agreement on classification of the functions and their differentiation², the standard demands upon the Presidency include:

- 1) administration and management of the work of the Council,
- 2) determination of political priorities,
- 3) negotiation,
- 4) representation of the Council (Tallberg 2002a: 13, Elgström 2003: 4–7).

A controversial question is the national function of the Presidency, within which the Presidency must serve as a forum for the defense of national interests or national positions. This function is assigned explicitly to the Presidency by Adriaan Schout (Schout 1998, Schout, Vanhoonacker 2006: 1054) or Philippa Sherrington (2001: 44). It is implied by Martin Westlake and David Galloway (2006: 335) as well, who state that the Presidency offers small countries a chance to promote their political priorities. It is also frequently observed that the presiding country, however hard it tries to be neutral and impartial, is still a part of the political discussion on the Council, in which it continues to have its interests.

² The first and fundamental description of the function of the Presidency was set forth in 1976 by Helen Wallace and George Edwards (Hayes-Renshaw, Wallace 2006: 141), who attributed to the Presidency the following functions:

- 1) manager of the Council,
- 2) representative of the Community for foreign relations,
- 3) policy initiator,
- 4) negotiator of agreements,
- 5) administrator,
- 6) collective representative of the Council.

Martin Westlake and David Galloway (2004: 334) added function of honorary negotiator, which is distinguished from the function of negotiator of agreements. An interesting observation was made in 1984 by Jean-Louis Dewost (1984), who also assigned it the role of arbitrator in the event of political conflict.

Small and medium-sized countries in the Presidency

The current system of roles and tasks for the Presidency, and of course the brevity of the mandate, logically imply that the Presidency cannot devote itself equally to all areas and functions. On the contrary, the condition for success is a rational evaluation of the capabilities of the given country, and determining which particular functions to focus on³. As it is evident from the previous paragraphs, individual authors differ in the emphasis they place on individual functions. For example Philippa Sherrington (2001: 41) considers administrative functions and representation to be the most important; emphasis on the role of administrator-manager is also placed by Fiona Hayes-Renshaw and Helen Wallace (2006: 141). Also Adriaan Schout and Sophie Vanhoonacker (2006a: 1054) add that the Presidency may distinguish itself either by a balanced fulfillment of all roles, or by focusing on some of the dominant ones: in any case a balanced application to every aspect of the Presidency function is therefore not the norm.

It is clear that a fundamental factor underlying the success of the Presidency is the character of the chairing state. Influential and ambitious countries, such as France or Germany, have traditionally launched into complicated topics (in the case of France the Treaty of Nice, with Germany the reform of the so-called European Constitution, which resulted in a mandate to hold the intergovernmental conference) and they tend to be relatively visible in the external representation of the EU. On the other hand the presidencies

of small countries usually rely on carrying out administrative functions and putting the more politically sensitive functions (major initiatives or representation of the EU) on the back burner. Accenting the individual functions of the Presidency logically affects the style in which the Presidency is conducted. Ole Elgström and Jonas Tallberg (2003) speak in this regard of a rational and sociological approach to the Presidency.

Under the rational approach, the Presidency of the EU Council is regarded mainly as another instrument toward the achievement of the interests of the given state. The key elements of this approach are the formulation of the chairing state's priorities, the internal political context or internal political uses of the Presidency, and the strategy of behavior by the chair in interacting with other member state actors (Elgström, Tallberg 2003: 192-198). A Presidency may be successful if it is able to formulate and advance the chair's program, if it makes use of its mandate to achieve desired internal political goals, and successfully manages its interactions and negotiations with the key institutions of the EU.

The opposite of the rational approach to a certain extent is the sociological approach (Elgström, Tallberg 2003: 198-203), in which the behavior of the Presidency is influenced especially by the logic of what it is suited to do. The chair behaves as it is expected to by the other countries and institutions of the EU. The scholars speak in this context not only of expectations connected with fulfilling the function of an impartial negotiator, in other words with expectations connected with the Presidency as such, but also

³ Many of the small countries for example place do not emphasize the function of external representative, and leave this to other actors in the EU political system (European Commission, High Representative for the CFSP).

expectations that relate to the presiding country. Also important in this approach is the actual identity of the presiding country, which may be perceived as a traditional leader, or as a country which is ahead of the rest of the EU in a certain policy context.

Not that most mandates can be defined strictly according to one or the other of the above-described styles in any ideal form. As pointed out by Ole Elgström and Jonas Tallberg (2003: 203–204), the two styles are often combined. With the bigger and more influential EU countries the tendency towards a rational approach prevails, while with the smaller and medium-sized member states tend to opt of the sociological option.

Evaluating the Presidency

The Presidency is not a phenomenon that can be the object of an exact scientific evaluation. Some functions of the Presidency can be measured with a certain degree of exactitude and comparability, but most of the evaluation of a Presidency takes place on the level of qualitative judgment. A comprehensive analysis of a Presidency does not speak the language of numbers, but that of personal impressions, journalistic commentary, and academic study. As Daniel Kietz points out (2008a: 15), a Presidency can fulfill all of the required functions even without concluding any major negotiations. For the chairing state is only one of the actors present in the EU system.

The difficulty or impossibility of objectively evaluating a Presidency,

much less comparing the success of different presidencies, is pointed out by a number of authors (Schout, 1998, Schout, Vanhoonacker, 2006, Hayes-Renshaw, Wallace, 2006). Martin Westlake and David Galloway (2004: 336) point out that successful and productive negotiations in the European Council can overshadow an otherwise contentious and poorly-run Presidency and vice versa. They also point out that politicians from the chairing state can rate the success of a Presidency differently than the independent analysts, officials of EU institutions, or the mass media do. The Presidency combines within itself a number of functions, for example the organizational function of the Presidency, as well as representation of the EU. An objective evaluation (or comparison) of the individual mandates is seriously complicated by the fact that every country begins from a different starting position. The fact must be kept in mind, for example, that the course of a Presidency can be diverted by an unexpected foreign policy event⁴. The atmosphere that momentarily prevails in the EU also has a major influence.

However, we cannot give up on a comprehensive evaluation of Presidencies. According to Adriaan Schout (1998: 5), a good Presidency is one that is successful in its program goals, shows good organizational and media ability, and is perceived in a positive light. An unsuccessful Presidency is one that fails to achieve its program goals (or at least an important part of them), fails to manage the organizational and negotiation tasks of a Presidency, and is regarded generally in a negative light.

⁴ Such as the events during the Belgian Presidency in the second half of 2001 which was marked by the September terrorist attack on the World Trade Center in New York.

What are the criteria for evaluating the individual functions? As has been said, the organizational function of the Presidency is a key measurement of the success of a Presidency. Meanwhile there are no clear criteria for its evaluation. Preparation of negotiations, functional/non-functional logistics, understandable or confused communications (and other aspects and dimensions of organizational functioning) are of course very evident and easily communicable personally. A successful Presidency from the organizational side should be capable of flexible and constructive communication with other EU institutions, and correct handling of the meetings of the EU Council on all levels.

In the representative function of the Presidency lies the success or failure of Presidency. Successful carrying out of this function requires the combined ability to coordinate the Presidency with other EU institutions (especially when it comes to EU representation), while being able to de-emphasize potential national interests (at the level of internal representation on the Council; in other words, where the chairing state is the spokesman for the EU Council in its dialogue with other EU institutions). While EU representation requires the Presidency to take into account the position of the entire EU, in the context of the inter-institutional representation of the Council the Presidency represents a particular interest, and not the position of the home country.⁵

From the standpoint of evaluating priorities it is important (aside from general principles) to take into account a number of factors. The first of these is the measurability of results attained. In this context we can point out the Swedish Presidency of the EU Council in 2001, when it set EU expansion as one of its main priorities. The success of the Swedish mandate was measurable for example by the number of chapters closed. The success of the Presidency is evaluated according to other, qualitative categories as well. A successful Presidency should be able to accent the needed priorities of the EU, to address the continuing theme of European integration, to tie into the content agenda of their predecessor, and not favor their own national themes at the expense of EU priorities.

Evaluating the success or lack of success in the negotiating function, i.e. the ability of the Presidency to serve as an architect of compromise on the EU Council, is to a significant degree subjective. This does not consist of merely counting up the number of approved procedural measures, for example. In evaluating the negotiating function there is a need to take account of the demands that are brought mainly from the side of the EU and the member states. Other member states and EU institutions demand from the negotiating function of the Presidency a number of mutually-related demands, by which they judge its success. These are mainly the nature of the issues taken up, the a

⁵ For an example of the unhappy relationship between the Presidency and the institution we can recall the Italian Presidency in 2003, which failed to manage its communications with the EP. At the beginning of the Italian mandate the Italian premier compared a German member of the EP to a Nazi concentration camp guard; later the Italian Presidency during the discussion on the so-called European Constitution tried to limit the influence of the EP on approval on the EU budget (Quaglia, Moxon-Browne 2006: 360).

priori judgment of the negotiator, the potential presence of other negotiators, and the sensitivity of the problem being discussed. The fundamental important prerequisite is the removal of issues that could be contentious from the standpoint of the national interests of the presiding country. An important prerequisite for success in the negotiating function is advance preparation, which should consist of following the development of legislation well prior to assuming the Presidency, and coordination with the predecessor and successor countries in the Presidency (Kietz 2008a: 15–16).

Comparison of individual presidencies is, as the above analysis makes clear, an extremely difficult matter. The success of a Presidency is directly determined by the basic characteristics of the individual chairing countries. It would be hard to expect Malta or Estonia at the head of the EU to have the same influence on the international scene as when the Presidency was held by Germany or permanent members of the UN Security Council France and Great Britain, with their colonial past and languages used by large parts of the world. Likewise the size of a country, its economic development, length of membership in the EU, and number of people in important posts in the EU structures, affects the possibilities of a presiding country. A Presidency can be significantly influenced by the momentary political constellation – if for example 20 of 27 current governments do not share the ideological leanings of the government of the chairing country, then we can expect it to be harder to find compromise. Because of these variables affecting the fate of individual presidencies, it would seem extremely difficult to compare the relative success of different countries in conducting the Presidency.

The context of the Czech Presidency

The Czech Presidency cannot be evaluated or understood without understanding its context. The context of the Czech Presidency can be divided into foreign policy and domestic policy aspects. Both in the first and second contexts, the Czech Republic, or rather its political elite, did not find itself in an easy situation. From the foreign policy standpoint the Czech Republic took up the Presidency during an era of turbulent events in the world and the EU. The world scene was dominated by an economic crisis of global dimensions, and the continuing emergence of the BRIC powers (Brazil, Russia, India, and China). High expectations were attached to the new administration of American President Barack Obama, who took office after eight years of government under George W. Bush left the USA with a damaged reputation. The beginning of the Czech Presidency was strongly affected by the violent conflict in Gaza and the energy crisis caused by an interruption in natural gas deliveries to Central and Eastern Europe from Russia through the Ukraine.

But for the Czech Presidency, it was the European context that was determinant. Its dominant feature was the fact that the Czech Republic took over the function from France and its extremely active and media-savvy President Nicolas Sarkozy. During the Czech Presidency there was also movement on the ratification of the Lisbon Treaty; it was little to the advantage of the presiding country that at the end of 2008 it was still among the few member states that had not ratified this reform of the founding treaties. The Czech Republic has still not adopted the common currency, the Euro; there is not

even a deadline for when preparations should begin to adopt Euro. There was also a certain irregularity in that the mandate of the European Parliament (EP) and European Commission⁶ ended in June 2009, with European elections to follow thereafter.

The domestic political situation in the presiding countries was determined some time before the beginning of the term. Since parliamentary elections in 1996 the Czech Republic has suffered from weak and fragile governments that have not enjoyed a sufficient (or any) majority in the Chamber of Deputies. Besides having to struggle to implement its program, the government had to constantly fight for its very existence. The Czech party scene is grouped around two dominant actors: the Civic Democratic Party (ODS) on the right, and the Czech Social Democratic Party (ČSSD) on the left. Other traditionally relevant party actors are the Communist Party of Bohemia and Moravia (KSČM) and the Christian Democratic Union – Czechoslovak People’s Party (KDU–ČSL). The latest parliamentary elections in 2006 resulted in the situation in which the left-wing parties (ČSSD a KSČM) won the same number of seats in the Chamber of Deputies as the center-right formations (ODS, KDU–ČSL, and most recently the Green Party) – an even half. In January 2007, six months after elections, a coalition was formed between the ODS, KDU–ČSL, and the Greens, further relying on the support of two defectors from the ČSSD. This non-standard method of constructing a government

majority resulted in an atmosphere of pure antagonism between the ČSSD and ODS, which continued to dominate Czech politics during the period before the Czech Republic assumed the EU Presidency. In the spring of 2008, ČSSD chairman Jiří Paroubek made statements to the effect that during the EU Presidency the government would continue to be the target of attacks by the opposition (Kaniok 2008). This was very much unlike the situation in Slovenia, where the government and the opposition made a “cease fire” agreement for the duration of its Presidency.

There were also concerns over the figure of President of the Czech Republic Václav Klaus, who is regarded as a critic of deeper European integration. Both the Czech and foreign media feared Klaus’s possible activism and his controversial statements. Klaus’s sharp edges were to be softened during the EU Presidency by a careful choice of key foreign policy positions in the Topolánek government – the new post of vice-premier for European affairs was filled by former dissident Alexander Vondra, an experienced foreign-policy pragmatic; and the foreign minister was Karel Schwarzenberg, an internationally-respected politician with strong European ideological roots.

Other domestic structural conditions shaping the Czech Presidency included a low degree of enthusiasm for the EU on the part of Czech citizens. According to the latest survey by Eurobarometer at the end of 2008, 46% of Czechs regarded EU membership as beneficial⁷, which placed the country in 19th place

⁶ From the standpoint of the EU legislative cycle, it must be noted that during election years both institutions stop working around the end of April.

in Europe (Eurobarometer 2008: 32). In other parameters, such as trust in European institutions for example, Czech citizens were mildly above average in their positive responses. Czechs do not take a great interest in European affairs; for example nearly 80% of Czechs are uninterested in events related to the Treaty of Lisbon; nearly 80% of Czechs do not know or know very little what the term Treaty of Lisbon actually refers to (CVVM 2008: 2, 4).

Both the external as well as the internal context of the Czech Presidency led to extremely low expectations (Kaczynski 2009). Foreign experts, members of the EP, and analysts all questioned the ability of the government of Prime Minister Mirek Topolánek to manage the Presidency of the EU Council in view of the uncertain domestic political situation. For example, an analysis by Newton Media from November 2008⁷ shows that in October political instability in the Czech Republic was the most frequent media argument for the failure of the Presidency⁹ (Mediainfo 2008). At the end of October 2008 there even appeared speculation in the Czech and European media that it would be better if France continued to exercise the Presidency after January 1, 2009, or if the Czech Republic would hand the Presidency

over to Sweden.¹⁰ It must be noted that the Slovene Presidency did not have to overcome such low expectations.

Priorities of the Czech Presidency

The Work Programme of the Czech Presidency carried the subtitle “Europe without Barriers”, which was intended to describe the Czech Republic’s vision of a Europe “without internal, economic, cultural and value barriers for individuals, entrepreneurs and economic entities” (2009: v). This slogan clearly refers to continuing barriers to free movement, especially limits on the free movement of persons from the new member states, and Europe’s cautious policies on the liberalization of services. The Czech Presidency openly displayed its liberal tendencies when it said that in a time of crisis “excessive regulation and an increased level of protectionism must be avoided” (2009: v). The Czech Republic presented its program through the media abbreviation “3E – Economy, Energy, and the EU in the World”. In the introduction to its Work Programme it did not set concrete goals in these key areas, but instead confined itself to general proclamations, over which the Czech Presidency had little real influence anyway, such as “to prevent

⁷ Domestic surveys actually showed an even lower degree of satisfaction with EU membership; according to the Center for Public Opinion Research only 40% of Czechs regarded EU membership as a good thing, while a plurality (43 %) took a neutral stance (CVVM 2009: 2).

⁸ The cited analysis focused on the national dailies *Aha!*, *Blesk*, *Haló noviny*, *Hospodářské noviny*, *Lidové noviny*, *Mladá fronta Dnes*, *Právo*, *Šíp* and selected weeklies (*Ekonom*, *Euro*, *Reflex*, *Respekt*, *Týden*). The analysis covered the period from 1 to 31 October 2008.

⁹ Political instability as a cause of failure was the subject of 15% of the studied articles, 14% contained the very similar argument of questioning the competence of the Czech government/mandate for the conducting of the Presidency, and the same percentage consisted of the argument that the Czech Republic had not yet ratified the Treaty of Lisbon (Mediainfo 2008).

¹⁰ This idea originated in an article in the Austrian daily *Kurier* “Mach’s nochmal, Sarko” of 21 October 2008. On the political level it was articulated for example by German MEP from the CDU/CSU Ingo Friedrich (Idnes 2008).

any further deepening of the crisis and to revive economic growth“ (2009: vi). The introductory passages clearly indicate in which direction the long-term development of the EU should go, according to the Czech Republic. There should be a general liberalization, removal of all remaining barriers to movement and the development of human capital through support for education and for research and development. In the area of energy, the Czech Republic called for an overall diversification of sources of commodities, development of renewable resources, reducing the economy’s energy intensity, and creation of a unified internal energy market. As for external relations, the Czech Presidency favored further EU expansion, and reaffirmed the value of transatlantic ties with the USA (2009: vi–viii).

The Czech Republic avoided discussion of two very current topics that are usually dominated by the big countries – agriculture, and the budget. Just before the beginning of the term a “health check” of the CAP was carried out, which set forth how this policy was to function until 2013. As for the European budget, the year 2009 was the time when the debate was supposed to start on the budget for 2013. However, the right to begin this initiative falls to the Commission, which as of the end of June had brought forth no proposal (Mora 2009).

The course of the Czech Presidency

The course of the Czech Presidency was foreshadowed by the preceding campaign to promote it. While the official slogan “Europe Without Barriers” was uncontroversial, the intentionally double-edged slogan for its domestic campaign “Evropě to osladíme” raised eyebrows.¹¹ A much greater stir over the Czech Presidency was caused by the installation at the headquarters of the EU Council of the work “Entropa” by non-conformist artist David Černý; in an often controversial way, the work played on some of the stereotypes that are applied to the individual member countries. The depiction of Bulgaria as a Turkish toilet led to a formal note of protest and the subsequent covering of that part of the installation¹². Černý also found himself in trouble with the Czech government because the artist in his official presentation falsely claimed that artists from all 27 member states took part in the work: a few days later it was discovered that the list of co-authors was entirely fictional.

The Czech Republic began the Presidency at a very tense moment amid two major crises: the violence in Gaza and the closing of the natural gas pipeline from Russia through the Ukraine to some of the EU member countries. On the Israel-Palestine conflict, a team led by Czech Foreign Minister Karl Schwarzenberg accompanied by colleagues from Sweden and France succeeded in having a humanitarian

¹¹ “Evropě to osladíme” allows for a double interpretation – on one hand, “We will sweeten Europe”, but also “We will give Europe a hard time”. After a lukewarm reception the slogan was changed to “Sladíme Evropu”, which was also subject to a double interpretation, but this time positive – “We sweeten Europe” or “We will coordinate Europe”.

¹² Which of course led to increased interest in what was under the canvas...

corridor opened and deliveries made. Meanwhile, French President Sarkozy was making parallel attempts to mediate the conflict. The natural gas crisis was very actively addressed by PM Mirek Topolánek, and after two weeks of intensive negotiations in Moscow and Kiev, deliveries of gas were restored. For the rest of its mandate the Czech Presidency was not forced to confront such urgent foreign-policy issues as the "2G" (Gas and Gaza).

The subsequent course of the Presidency was dominated by the economic crisis. On March 1, 2009 an extraordinary summit was held in Brussels devoted to protectionism. The topic of the economic crisis continued to dominate the agenda at the spring summit of the European Council, when on the initiative of the Czech Presidency the topic of energy security and the Eastern Partnership with six countries of the former Soviet Union was addressed as well. On March 24 hopes for a positive evaluation for the Czech Presidency were dashed when the Chamber of Deputies voted no confidence in the government; thus the two big events in April – the G20 summit in London and the visit by American President Barack Obama were conducted by a government in resignation. Even so, in April it was successful in negotiating EU legislation on tightening the regulation of ratings agencies, which were singled out as one of the causes of the crisis. Before Topolánek's cabinet resigned on May 8, Prague hosted three more big

summits – on the Eastern Partnership, a summit on employment, and a summit on the Southern Corridor¹³. The new "technocratic" caretaker government under chairman of the Czech Bureau of Statistics Jan Fischer continued to conduct the Presidency, and represented the EU at summits with China, Russia, Korea, and Pakistan; it was especially successful at the June summit of the European Council in Brussels in negotiating a compromise on four key points – guarantees for Ireland in relation to the Treaty of Lisbon, a new framework for European financial regulation, a common approach to protection of the climate, and on filling the post of chairman of the European Commission for the next term.

From the standpoint of legislative activity, the Czech Presidency was above-average in terms of productivity; in the summary of its activities it declares that it saw through the successful completion of negotiations on more than 80 concrete measures (Czech Presidency 2009a: iv). Representatives of the Czech Republic chaired more than 3000 meetings; over six months the country was visited by some 30 000 foreign delegates and more than 2000 foreign journalists. Some 1500 civil servants worked on the Presidency; more than 600 cultural events were held, and the bill for the Presidency came to some 1.9 billion CZK (around 75 mil. EUR) (Czech Presidency 2009b), which is a sum comparable to that spent by other smaller countries, though nearly three times less than what was spent by France.

¹³ This dealt with the possibilities for alternative delivery routes for oil and natural gas, with the aim of limiting energy dependence on Russia.

Criteria Application to the Czech Presidency

As already indicated in the theoretical section, the Presidency can be evaluated from a number of perspectives. In our analysis we will concentrate on two of these. Firstly we will examine to what extent the Czech Republic was successful in achieving its own priorities, and to what extent it was successful in “crisis management” or coping with unexpected events. Secondly, we will examine the Presidency from the standpoint of its function.

Under the general slogan of “Europe Without Barriers”, during the Czech Presidency the number of countries not allowing free movement for employment to citizens of countries joining in 2004 fell by half, with limitations on the labor force being retained only by Germany and Austria. In regard to the 3E priorities, the Czech Republic enjoyed mixed success. In promoting its economic proposals, the possibilities of a smallish state that is not a member of the G20 or the Eurozone are relatively limited by the nature of things. Meanwhile, the first reaction of the Union was outlined via the proposals of the Larosière Report, in which no Czech representatives took part. The Presidency did reach its main goal, despite the disapproval of France, when it succeeded in striking out protectionist language and inserting language warning against excessive state intervention. The Czech Republic was not as affected by the crisis; therefore it fought against excessive intervention; it put priority on solutions not involving further strengthening of powers on the European level, which of course brought

criticism from left-wing politicians and other actors preferring deeper integration. At Czech urging, after long years of dispute reduced VAT rates for locally supplied labor-intensive services were permitted. On the other hand, the Czech Republic failed to initiate on the European level any working group of respected economists that would explore the possibilities for an economic revival. In sum, the Czech Republic was not able to solve the economic crisis, but it roughly achieved its goals, although it is questionable whether the crisis could have been approached in any other way.

Energy policy proved to be the predominant theme of the Czech Presidency. On the initiative of the Czech vice-premier for European affairs Alexander Vondra, the energy issue was brought up as an important theme on the European agenda, a theme that should be given increased attention in the future. The Presidency was praised for the diplomatic efforts it devoted to the renewal of natural gas deliveries from Russia via Ukraine. There was an increase in EU financial support for energy security, and more detailed discussions were begun on the Southern Corridor, which is planned as one way to diversify sources of energy. Last but not least, a third liberalization package was adopted which is intended to contribute to the building of the common energy market.

From the standpoint of European priorities in the world, success was achieved especially in the launching of project Eastern Partnership, through which the EU has formed closer ties with six post-Soviet republics. In Prague, new President of the USA Barack Obama delivered a speech on nuclear disarmament, but this produced

no development in the USA – EU relationship. Likewise there was no progress in reviving membership talks with Croatia, which are blocked by a dispute with Slovenia. The membership process with Turkey was resurrected at the last minute.

From the standpoint of reaction to unexpected events, the Czech Republic fared much better during the natural gas crisis, while evaluations of its activities during the Israel-Palestinian conflict are mixed, on one hand because its course was more pro-Israeli than is the norm in the EU, on the other because of the meager results of the mission, which was not successful in settling the conflict as a whole. However, to expect great success by the Czech Presidency in settling a problem that has foiled international diplomacy for decades would be entirely unrealistic.¹⁴

A clear turning point in the conducting of the Presidency was the fall of the government in March, as a result of which the Czech Republic lost its chance to achieve anything further than seeing to the bare functioning of the Presidency. A government under a vote of no confidence, followed by a caretaker government, does not enjoy great authority within the Union or outside it. An active Presidency trying to lead affairs in a certain direction becomes a mere “honest broker” at best, the task of which is above all to promote compromise. While Mirek Topolánek

himself acknowledged that given the constantly tense relations with France he relied especially on the help of Germany, the Netherlands, and Sweden (Topolánek 2009: 12), external observers noted that after the fall of the government the influence of Germany on the Presidency was even greater.

The Czech Presidency was successful in the organizational role.¹⁵ During the term over 3000 meetings were held at various levels of the EU Council, summits, and negotiations with third countries, which it prepared and conducted in cooperation with the General Secretariat of the EU Council. No criticism of the organizational side of the Presidency was raised during the term. The Czech personnel were praised by their partners from the other EU countries for their preparation and flexibility (Conversation with official from the Czech Embassy to the EU, 14 July 2009; Kaczynski 2009). Aside from the prevailing positive evaluation, sporadic minor complaints dealt with insufficient prior consultation, the quality of the “Reflection Papers” on complex foreign affairs issues, or delays in decision-making on the Council (Rettman 2009, Král, Bartovic, Řiháčková 2009: 69–71).

By managing the organizational function, the Czech Presidency fulfilled the basic demands placed on the Presidency by a new member state. As in the case of the Scandinavian countries, which entered the EU in 1995 and first

¹⁴ Many commentators were also confused by Nicolas Sarkozy, who at the same time was trying to tamp down the conflict, which otherwise might have been interpreted as bad faith towards the Czech Presidency. The fact is, however, that at the same time France was chairing the UN Security Council, so the increased activity on the part of the French president was completely logical.

¹⁵ This was attested to in an article by Tony Barber in the Financial Times (2009: 11), which was widely distributed in other media, but quite accurately reflected the attitudes of the participants in the Czech Presidency in interviews. Barber cites one Brussels-based ambassador: “Their officials were very good. Their politicians were catastrophic”.

chaired the Council at the turn of the century, in the case of Slovenia the main expectations placed on its term were efficient organization and correct conducting of negotiations. No major demands were placed on the political dimension of its Presidency. With the exception of a gaffe at the beginning of the crisis in Gaza¹⁶, the Czech Presidency was also successful in fulfilling the representative function. Its actions in addressing the natural gas crisis in January of 2009 were judged as very successful (Moore 2009, Willoughby 2009, Rettman 2009). Also praised was the Eastern Partnership initiative, which was meant to strengthen the role of the EU in the east. On the other hand, there was little or no progress in the dispute between Slovenia and Croatia affecting the negotiations between the EU and Croatia. The Presidency conducted itself in the standard manner in representing the EU Council in negotiations with the EP and the European Commission. According to officials of the Czech embassy to the EU, the impartial fulfillment of the Presidency role was easier because the legislative proposals handled did not deal with strong national interests that would differ from the consensus achieved in the Council (Conversations with officials of the Czech Embassy to the EU, 14–15 July 2009).

The priorities of the Czech Presidency as they were set prevent a meaningful quantification. From a qualitative standpoint it is possible to say that the Czech Presidency was successful in advancing the themes it regarded as important. As pointed out by Piotr Kaczynski (Kaczynski 2009), the Presidency was active in all the three E's. The Czech Republic was

especially successful in promoting its declared liberal approach in economics; important legislature in the area of energy policy was adopted as well.

In regard to negotiating compromise in the EU Council and subsequent interaction with the EP, the Czech Presidency succeeded in reaching agreement on more than 80 items (Rettman 2009). Meanwhile a number of the legislative initiatives were controversial, making compromise difficult to achieve. If we eliminate a number of agreements that were only simplifications of previously existing legislation, then the Czech Presidency achieved significant progress on 50 items. In these terms the Czech Presidency did better than the preceding French and Slovenian Presidencies (Conversation with official of the Czech Embassy to the EU, 15 July 2009). There were two reasons for the success of negotiations. The first is the fact that during the period of the Czech Presidency the term in office of the EP and the European Commission were coming to an end. Both institutions were thus more willing to make compromises and come to agreements. The second reason was the quality of preparation by the Czech negotiators. During the summer of 2008 they prepared a list of legislative items that could potentially come to the floor during the Czech Presidency. Thus the progress of the legislation in the Council and the EP during the French Presidency could be carefully monitored, and items updated as they occurred (Conversation with official of the Czech Embassy to the EU, 15 July 2009). For example the French representatives on the EU Council were

¹⁶ Specifically, the unfortunate statement by the premier's spokesman for the Presidency Jiří F. Potužník, who at the beginning of the crisis labeled the actions of Israel as defensive, which did not correspond with the prevalent opinion in the EU.

surprised by the professionalism of the meetings and the efficiency with which they were conducted (Pur 2009).

Media image of the Czech Presidency

An integral part of the evaluation of a Presidency is its presentation in the media. In this context it must be said that the Czech Republic, or rather its officials, seriously underestimated the media dimension of the Presidency.¹⁷ In view of the controversial promotional activities described above which accompanied the Presidency, it would seem that a more moderate, if somewhat greyer, tone would have been more suitable. Media criticism, given the low expectations and skepticism which predominated during the fall of 2008, might have been expected. The French media in particular were sending clear signals that every false step of the Presidency would be pounced upon. As Andrew Rettman points out (Rettman 2009), “Paris took every opportunity to let it be known that a small and new member country could not handle the leadership of the European Union”, and that “many people were hoping for the Czech Presidency to fail”.¹⁸

The media view of the Czech Presidency, both during its course and after its conclusion, would suggest that

this was true. Besides criticizing the objective mistakes of the Czech Republic, for example the difficulties caused by hesitation at the beginning of the Gaza crisis, the majority of commentaries contained elements that had nothing to do with the conducting of the Presidency. One example is the pictures taken of former premier Mirek Topolának during his stay at the villa of Italian premier Berlusconi in May 2008, which appeared in the Spanish newspaper *El País* in June 2009, and added an entirely irrelevant hue to the image of the Presidency (Moore 2009, Taylor 2009). Another example of media incorrectness and stereotyping was the perception of Czech president Václav Klaus. The supposed or actual Euroskeptic Klaus was, as has been said, regarded as one of the greatest threats coming out of the Czech Presidency. The result of this bias was, for example, the vulgar simplification of a February speech by Václav Klaus in the European Parliament. Klaus’s speech was interpreted as “comparing European integration to a Communist dictatorship” (EUBusiness 2009). But in his speech Klaus merely said that the European Parliament lacks the classic [division of power] between government and opposition MPs¹⁹.

Perhaps the ultimate in hypocrisy was the reaction to Entropa, the installation

¹⁷ P. Drulák commented that a good reputation is one of the most important resources of a smaller country, but that the Czech Republic has, especially because of President Klaus, a rather burdened reputation on European affairs (Drulák 2008: 136–137).

¹⁸ The same observation was made by a number of personnel of the Czech Embassy to the EU during the personal visit by one of the authors of this text to Brussels in July 2009.

¹⁹ The exact citation: “The present decision making system of the European Union is different from a classic parliamentary democracy, tested and proven by history. In a normal parliamentary system, part of the MPs support the government and part support the opposition. In the European Parliament, this arrangement has been missing. Here, only one single alternative is being promoted and those who dare thinking about a different option are labeled as enemies of the European integration. Not so long ago, in our part of Europe we lived in a political system that permitted no alternatives and therefore also no parliamentary opposition. It was through this experience that we learned the bitter lesson that with no opposition, there is no freedom. That is why political alternatives must exist.” (Klaus 2009).

by David Černý, which was unveiled at the EU Council headquarters. European integration seriously needs to use all possible channels to build the interest of citizens, which Černý's sculpture succeeded in doing – according to eyewitnesses, people stood in line in the Justus Lipsius EU Council building to see the sculpture (Conversation with official of the Czech Embassy to the EU, 15 July 2009; Charlemagne 2009). However, the controversial work was criticized for its borderline tastefulness (Moore 2009, Taylor 2009).

On the other hand, analysts and the media pointed out the senselessness of the no-confidence motion in the Topolánek government right in the middle of the Presidency. Although from a domestic political standpoint the actions of the opposition can be regarded as legitimate, the timing was very poor, and illustrated the provinciality of Czech politics. The successful conducting of the Presidency, for which the Czech Republic had laid good foundations, was in the long-term national interest of the Czech Republic. The positive image of Czech politics in the EU could in subsequent years have been of benefit to any cabinet no matter what its composition. The Presidency of the EU Council is seen by member states as well as by EU institutions as the task of a country, not just a particular government. The left-wing opposition and some of the government MPs at the time failed to accept this fact, and their effort to bring down the government was all the more mystifying because the opposition did not have a prepared alternative. The caretaker government of Jan Fischer, which took over after the government had been in resignation for a month, was an emergency measure, not a solution.

It is also interesting that the media,

especially the French, but also the German, diverged from the opinion of the analysts from the think-tanks and academia, who were noticeably more tolerant towards the Czech Presidency. Let us cite for example a recognized expert on European politics Peter Ludlow, founder of the Centre for European Policy Studies in Brussels: "Topolánek was a very successful chairman of the European Council. The caretaker government worked as well as could be expected" (Ludlow 2009). Ludlow basically criticizes one fundamental flaw: weak coordination between Prague and its Brussels embassy, partly caused by a change in ambassadors in 2008.

But regardless of the actual reality of the matter, the Czech Presidency failed in its media presentation. The question, given the expectations and stereotypes it was confronted by, is whether it ever had a chance to succeed.

Conclusion

Czech commentator Adam Drda in his relatively favorable analysis of the Czech Presidency of the EU Council for the weekly *European Voice* said: "It is almost meaningless to look at how many meetings the Czechs successfully conducted and how many decisions the EU made under their leadership. Likewise it's hardly worthwhile to point out that politics is not just newspaper headlines, but painstaking work behind the scenes, which the public never sees. It is a waste of time because – and this is the heart of the Czech failure – politics is simply not a technical discipline. Politics is the art of capturing people's interest, a question of reliability and trustworthiness" (Drda 2009).

It would seem that Adam Drda's view not only of the Czech Presidency but of European integration and politics, is generally the prevalent one. It is not important what you do or how you do it, but how you look doing it. Times are accelerating; there is no time for detailed and conscientious analysis. If we apply to the Czech Presidency the standard criteria, we find that they did about as well as the previous mandates. From the standpoint of the expectations that are usually placed on smaller and newer countries, that is to manage the logistics and negotiations, the Czech Presidency was actually excellent. Its one major mistake was the March fall of the government, which instead of the Presidency pointed up the immaturity of Czech politics as such.

The history of the Czech Presidency provides a number of important conclusions and lessons. The media picture of this complex event is completely simplified and selective, down to a couple of symbols: the EU flag not flying over Prague castle. Topolánek's and Klaus's statements are taken out of context. Old photos from Berlusconi's villa, a spokesman corrected too late, the scandalous Entropa – these symbols, which say little about the reality, are the basis for judgments that this was the worst Presidency of all time. Interviews with the actors, or their statements for the press, do nothing to dissipate such negative conclusions. The European

media, moreover, recycles itself to an amazing degree – one catchy statement is immediately spread, and wire reports resemble one another to a very high degree.

The media summary says: smaller member states are unable to cope with the Presidency; after the French activist Presidency the Czech Presidency was a failure; therefore it is necessary to change the system; the Lisbon Treaty, which would introduce the office of the President of the European Council, offers a partial solution. It can be assumed that the presidents would usually come from the larger countries, and guarantee a pro-integration approach, which would eliminate the "harmful" effects of the Czech Republic and similar countries, which are not completely convinced of the benefits of decision-making on a European level. Instead, despite the proclaimed respect by the European Union for the principle of subsidiarity, there has been a continuous centralization of decision-making. Deeper integration is favored by the larger states; for example the population criteria for decision-making in the EU Council. On the basis of this most recent experience, the only presidencies that are presented as successful are those that work to deepen integration, which have tried to settle as many things as possible on the European level (as at so many various summits). But is this really the proper measure of success?

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WHERE IS THE DIFFERENCE? THE PROFILE OF THE ROMANIAN CANDIDATES FOR THE 2009 EUROPEAN ELECTIONS

Sergiu Gherghina, Mihail Chiru*

Abstract** *Drawing on a complex dataset that includes the age, gender, education, public experience, party career, wealth, and the occupational background of all 215 candidates proposed by the five Romanian parties winning seats in the 2009 EP elections, this article devises an analytical framework for the candidates' profiles. The study is valuable for those researching the professionalization of the EP along the convergence thesis, and for the legislative recruitment scholars interested in candidates' qualities targeted by selectorates in a blocked-list PR setting, i.e., the significant differences between candidates receiving an eligible place and the rest. Our findings reflect the importance given by parties to previous experience in the EP and to wealth/capacity to contribute to the campaign costs and, at the same time, they emphasize the ambivalent educational trajectories of the candidates and the dominance on the lists of male politicians.*

Keywords: *MEPs, professionalization, political profile, patterns of recruitment, eligibility*

JEL Code: C46.

Introduction

The dynamics of involvement in the European elections is considerably reduced compared to the domestic electoral practice both from the perspective of candidates and voters. In the eyes of the latter, the European issues acquire significance only when they are prioritized on the national agenda to which they get access. As this is not a major issue in the old member states from Western Europe, it is problematic for the new Eastern European joiners where electorates are

inattentive and characterized by severe knowledge limits about the workings of the European Parliament (EP) or the responsibilities of the MEPs. In fact, they are scarcely aware of how their representatives are elected. This is the particular case in the two most recent European Union members, Romania and Bulgaria, where in 2007, the year of their accession, only one quarter to 40% of the population was aware of the European elections.¹ Looking from the angle of political parties and candidates in these countries, they rarely enrich the quantity of information received by the

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¹ Data are taken from the standard Eurobarometers, Spring and Autumn 2007.

citizen on European issues and often use loose messages that hardly help voters differentiating between competitors. Actually, their task becomes more difficult as they frequently compete with members of the same European party group.

In such environments the choice in the European elections usually revolves around two major possibilities. On the one hand, the majority of voters stick to their domestic choice. On the other hand, the available voters orient themselves towards smaller parties. The last 2009 elections brought numerous small parties to the forefront and new parties gained for the first time seats in the EP. Nevertheless, in both situations parties promote candidates that are able to gather votes for the party. The relevant case occurs for blocked lists where parties decide who is on top and who fills the list. The factors behind such a decision vary. By examining all candidates of the five parties that secured seats in the EP, this paper aims to illustrate and analyze the differences observed at general and party level between the successful and unsuccessful candidates in the 2009 European elections in Romania. We focus on this country due to its recent accession to the EU, because it had now the first European election for a full mandate, only half a year after its domestic legislative elections, and

because it uses blocked lists for the EP elections. Consequently, it is a valuable case for the identification of the profile of candidates whenever the party is the main decision-maker.

Generally, less than one percent of those eligible to public offices 'survive' the candidate selection trials² - where parties' selectorates (i.e. those in charge with the decision-making process regarding the selection) are the gatekeepers. The mechanics behind this simple fact has provoked important scholarly curiosity, transforming the patterns, the outputs and the effects of recruitment into some of the most researched topics in the contemporary scope of political elites' studies. Inside the field, probably the most studied single subject regards the recruitment for the national legislatures.³ More recently, one can observe a shift of interest, at least from the part of some scholars towards the patterns of recruitment into the EP. Thus, part of seeing how institutionalized has become the supranational body is to look at the degree of professionalization of its members⁴. Essential questions in this respect target the occupational background of the MEPs, their public experience and nonetheless their career ambitions. Due to data availability and workload the majority of studies concerning the recruitment for the EP are focused only on those successful

² Pertti Pesonen in Michael Gallagher & Michael Marsh, eds., *Candidate Selection in Comparative Perspective: The Secret Garden of Politics*, (London: Sage Publications, 1988), p. 2

³ See for example: Pippa Norris & Joni Lowenduski, *Political Recruitment – Gender, Race and Class in the British Parliament*, (Cambridge, Cambridge U. P., 1995); Heinrich Best & Maurizio Cotta, eds., *Parliamentary Representatives in Europe, 1848-2000. Legislative Recruitment and Careers in Eleven European Countries*, (Oxford: Oxford University Press, 2000)

⁴ Pippa Norris, 'Recruitment into the European Parliament', in Richard S. Katz, Bernard Wessels, *The European Parliament, National Parliaments and European Integration*, (Oxford: Oxford University Press, 1999), p. 86

candidates who managed to be elected⁵. Our study goes beyond this limit, analyzing the sociological and political profiles of all the candidates proposed by the five Romanian parties that secured seats in the last June elections.

This article brings two major contributions both at theoretical and empirical level. First, we fill a void in the literature by emphasizing the differences between the successful and unsuccessful candidates. Thus, we set the framework for a profile to be used in further analyses and reveal certain patterns that may serve as departure points for comparisons. This pioneering effort for the legislative studies literature about Romania is complemented by a systematic use of data collected by the authors. In this respect, the paper meets the need for empirical data on the profiles of the MEPs, a necessity created by the growing comparative research on the convergence thesis, i.e., the idea that we are in the middle of the making of a new, supranational elite⁶, which shares similar career trajectories and values and assumes multiple representational roles.

The first section briefly presents the political developments in Romanian politics associated with the European elections. The second section sheds light on the methodology and variables used for our analysis, whereas the following five sections include general and party level difference occurred between

elected MEPs and unsuccessful list partners. Finally, the last two sections test for the statistical robustness of the results and expand on the implications of the findings, opening the floor for further investigation.

The Bumpy Road to the First Full EP Mandate

The first 35 Romanian MEPs were appointed in January 2007 by the parliamentary parties in accordance with their share of mandates in the national legislative. It was a provisory solution until the first European elections which were scheduled to take place in May. Which did not happen because the Liberal Prime Minister delayed them until November, motivating that the "internal political climate was inappropriate"⁷ (i.e., the tensions in the coalition government which was just about to collapse). Thus, from the beginning the Romanian experience with the EP was circumscribed to the national agenda's issues, with the effect that the mandates of the first elected MEPs were shortened with half a year, to a period of only 18 months.

The preference for a national career, rather than a European one, was emphasized by the decisions of 9 MEPs⁸ (25.7%) to renounce their mandates won in 2007, in order to return into the national legislative or to be part of

⁵ A notable exception is the extensive research conducted by Martin Holland, 1987, who had interviewed not only the candidates but also the non-selected aspirants for the EP elections in Britain in 1979.

⁶ See for example: Luca Verzichelli & Michael Edinger, "A Critical Juncture? The 2004 European Elections and the Making of a Supranational Elite", *The Journal of Legislative Studies*, Vol.11, No.2, Summer 2005, pp. 256-8

⁷ For the positions of the relevant actors involved in that decision, see: <http://www.hotnews.ro/stiri-arhiva-1107477-alegerile-europarlamentare-amanate-prin-decizie-asumata-premierul-calin-popescu-tariceanu.htm>.

⁸ Seven from the PDL and 2 from the PSD; for more details and a solution proposed to this kind of defection see: <http://www.crpe.ro/library/CRPE%20Policy%20Memo%20no.1%20Romanian.pdf>

the new government formed after the November 2008 general elections. In the end 14 of those 35 elected in 2007 did not participate at all in the first EP elections held in Romania for a full-time mandate. Despite all these, the incumbency rate is quite high – 21 of those in office at the start of the 2009 elections were reelected, while other 5 were placed on un-eligible positions⁹.

Besides their European significance – deciding on whom and how will represent Romania for the next five years in Brussels and Strasbourg – the current elections were highly relevant for the national political system in two respects. First, there were a series of stakes related to both the previous parliamentary elections and the future presidential ones (December 2009). Thus the EP elections were expected to show who is the more popular partner in the ‘Grand coalition’ since it was not very clear who won the parliamentary elections¹⁰ and also to show if the political system will stabilize itself to the “3 big parties + 1” formula, excluding the extremist Greater Romania Party (PRM). They were also to be taken as a barometer for the presidential vote, and the current president as his most important challengers, the president of the Social-Democratic Party (PSD) Mircea Geoană and that of the National Liberal Party (PNL) Crin Antonescu participated in the Euro-campaigns of their parties. This was probably most obvious a case for Crin Antonescu, recently elected as the president of the

Liberals and their presidential candidate, whose image was present on almost all PNL advertising materials, from banners to leaflets, although he did not run for an EP mandate.

The second important implication which the European elections had on the political system refers to the parties’ tacit consensus to play them by the good old rules of the closed PR. It seemed a little bit illogical to keep the same closed lists once all significant parties (with the exception of the PRM) have supported more or less vocal the abandonment of this electoral system at national legislative level in exchange for a mixed one¹¹, held in Single member district (SMD) due mainly to the alienating effects for voters of the former.

The explanation at hand is that the parties were not willing to take the risks that a preferential vote or a semi-open list would come along with and they were more enthusiastic to establish once again who gets elected and who does not only by ranking the candidates. In other words, although popular figures could have won more votes for the parties than a list, this perspective was not strong enough to defeat the fear of “unpleasant” surprises, i.e., defeats of important politicians, preferred by the party leaderships. Actually, there was no real debate around renouncing this electoral system for the EP elections as well. This despite the proposal of the CRPE think tank which made an appeal to open the lists based on the December

⁹ The distribution of the reelected MEPs was the following: PSD - 8, 7 for PDL, 4 from the PNL and 2 UDMR (including the special case of Laszlo Tokes).

¹⁰ PSD had won the popular vote, while PDL received more mandates.

¹¹ For an ample discussion of the reasons of the electoral change see: Mihail Chiru & Ionuț Ciobanu, “Legislative Recruitment and Electoral System Change: The Case of Romania”, in *CEU Political Science Journal*, Vol. IV, No. 2, (April 2009), 2009, pp. 204-207.

2006 legislative initiative of the PSD MPs, Vasile Pușcaș and George Maior, who tried unsuccessfully to introduce the preferential vote with regional lists as the electoral system for the European elections.

There are five main political parties that won seats in the 2009 European elections in Romania. First, the Democratic Liberal Party (PDL) is member of the EPP and the center-right part of the 'Grand Coalition' established after the November 2008 general elections. In 2007¹² the party, then named PD (Democratic Party) won 13 mandates. Shortly after, 3 other MEPs joined their ranks, when their party, PLD (Liberal Democratic Party) merged with the PD to form PDL. At the present elections they obtained only 10 mandates, a sign that the party is losing ground, weakened also by the independent candidature of the president's daughter, who rejoined PDL, right after being elected.

PSD is the biggest party, not only on the left, member of PES, and the other half of the governing coalition. After the 2007 results, when PSD got the smallest share of votes in its entire history (23.1%), the party is constantly recovering, winning both the parliamentary and European elections. Despite their lead, the number of mandates increased only by one, from 10 to 11. PSD accepted to give one eligible place to the Conservative Party (PC), a traditional alliance made in exchange for media exposure in the media trust owned by the leader of the PC. The one and only time when the Conservatives went alone, unlike in all the elections since 2000, was in the

previous European cycle, when they only got 2.93% of the votes.

PNL, which is currently the most important opposition party, member of ALDE, obtained a better percentage of votes than in 2007 (14.5 vs. 13.4%) but the number of their MEPs decreased from 6 to 5. The Democratic Alliance of Hungarians in Romania (UDMR) is another member of the EPP, benefited from the return of Tokes Laszlo, who in 2007 won a mandate of MEP as an independent and secured 3 seats. After failing to enter the EP in 2007 and the national legislative in 2008, PRM capitalized on the wave of popularity of George Becali, ex-President of the New Generation Party (PNG), managing to win 3 seats. In 2007 PRM and PNG had won separately 9% of the votes, but none of them surpassed the 5% threshold.

Research Design: Cases, Data, and Variable Operationalization

The general analysis includes 215 cases, 43 candidates from each of the parties that won seats in the European elections. Out of these, 32 candidates got elected for the EP. We do not include the independent candidates as our main concern is to identify the relevant discrepancies between elected and not elected candidates from the lists of the political parties. As the universe of cases is completely covered and no representative sample is selected, the level of significance of the statistical tests indicates the robustness of the relationship rather than the probability to generalize it. We use

¹² The European elections were held only in the two new Member States that joined the EU in January 2007, Romania and Bulgaria.

basic statistics (cross-tabulations) and graphical representations to illustrate the main differences between the successful and unsuccessful candidates. We focus on age, gender, education, wealth, occupational background and experience in public institutions of all candidates. As the latter four variables reveal stark discrepancies at party level, supplementary statistical analysis is provided to test if the claims resulting from the first part of the analysis hold.

The data were taken from the official websites of the parties and their local branches, from websites of candidates, but also from newspapers and campaign blogs. For the variable 'institutional experience' the information provided by candidates or by news regarding them, was verified on the official websites of those institutions. Only two of the parties, PSD and PDL had websites specially designed for the campaign, which included curriculum vitae-s of all their candidates. It was particularly difficult to find data on the candidates proposed by the CNMT (National Council of Hungarians in Transylvania) on the UDMR list, because of their regional/local profile and also on some of the candidates of the PRM. Despite this, the level of missing data is very low (2.32%). All variables are considered and coded as ordinal (see appendix 1). If for education, wealth, and level of experience in the public institutions this is a normal assumption, the occupational background variable is also ordinal due to methodological considerations¹³. We considered the political background to be the most appropriate for candidates and we assigned the reference score, all

other backgrounds receiving consecutive scores as their distance to the reference background increases.

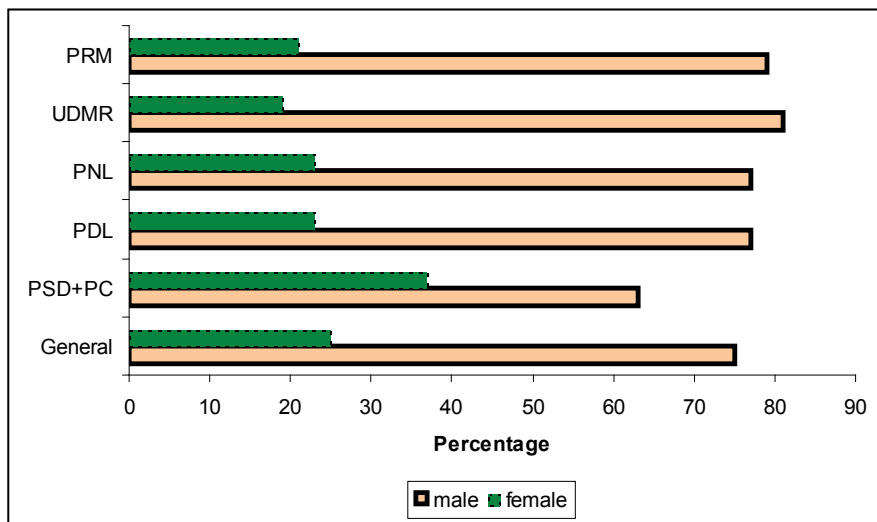
Gender under-representation on the lists

The gender distribution of the candidates (figure 1) illustrates a dominance of the male candidates on the lists both at general and party level. Overall, only one in four candidates is a female. Out of the parties that gained seats into the EP, the winner of the popular vote (the PSD+PC coalition) has the highest proportion of female candidates on its list (38%) compared to the average. At the other extreme, the party that promotes the fewest female candidates is UDMR with barely one out of five candidates being a woman. It is closely followed by PRM (21%) and PNL and PDL, both promoting an equal proportion of 23% females on their lists.

Coincidence or not, the parties that promoted the smallest number of women on their lists did not place them on eligible seats. As a result, UDMR and PRM are the only Romanian parties in the 2009-2014 legislative without any female representative. The explanation at hand concerns the target groups and the size of these parties. As numerous election polls indicated before June 7, these parties could get at most 3 MEPs, PRM being credited most of the times with one or two successful candidates. UDMR could have easily placed a female candidate on the top eligible positions as it is the least volatile party in Romania and for that reason counts always on a stable number of voters.

¹³ All the other variables being ordinal, we coded background in the same way so as the symmetry coefficients of the cross tabulations to make sense.

Figure 1: Gender distribution of candidates for the European elections



The re-joining of Laszlo Tokes with the so-called “Solidarity List”¹⁴ involved the assignment to the former independent MEP of one eligible seat. However, the allocation of the rest of eligible seats depended entirely on the party’s choice. They were not entirely sure of the 3rd seat – which depended on the participation of the Hungarian population at the polls. On the other hand, the first woman, Anna Horvath, is placed only on the 6th position. The situation is different for PRM and its decision can be easily related to an electoral strategy. It failed to enter the Romanian Parliament and disappeared for more than half a year from the domestic political scene. Thus, the party needed visible candidates that could attract votes for themselves and

for the list. In this respect, the president of the party was followed by on the list by George Becali, the former leader of PNG. The latter, and implicitly PRM, was on the centre of the public agenda for a few weeks before the elections due to an incoherent act of the Romanian Justice who arrested Becali without sufficient evidence. His victimization promoted by media created certain waves of sympathy for this candidate determining his positioning on top of the PRM’s Euro-list. At the same time, it made a good subject for their populist slogans.

Besides the obvious relevance of candidates’ gender distribution for the balance of power between men and women politicians in the Romanian parties, there are three other important

¹⁴ Laszlo Tokes accepted to be the head of the UDMR’s list, with the condition that the party officials would grant places on the list to a number of other candidates supported by the CNMT (National Council of Hungarians in Transylvania). These were mainly Hungarian personalities living in Transylvania (artists, writers, civil activists or people from the more radical PCM – Hungarian Civic Party) who were not/ not anymore members of the UDMR. For more details see: Csaba Ferenc Asztalos, 2009.

aspects that the same variable can be associated with. The data in table 1 reflects the distribution of candidates' gender and education relative to their success in the European elections and represents the basis for the assessments. The first column indicates the level of analysis, conducted both at general level, for all candidates, and at party level. Overall, one in three elected candidates is a female, a higher percentage than the one in figure 1, which took into account all the candidates. Such a situation indicates that they occupied more eligible seats compared to the male candidates. In this respect, the extreme case is PNL, where 80% of the elected MEPs are women although they represent slightly over 20% of the total amount of candidates. The fact that PNL placed women candidates on top of the list is confirmed also by the proportion of women that were not elected, which was

the smallest among all successful parties (i.e. they represent only 16% of the non-elected candidates). Second, there is consistency for those parties situated at the extremes of gender balance in these elections. On the one hand, the party that promotes most women on its list (PSD+PC) also displays the highest number of elected female candidates. Almost half of their MEPs and exactly one third of the non-elected candidates are women. These figures indicate that, beyond the unique (for the Romanian parties running in European elections) balanced gender distribution from the eligible seats, this party is consistent in its approach. It does not include female candidates just to fill the list, but it did provide a real chance for representation. On the other hand, the parties that had the smallest percentage of women on their lists had no women representatives either (i.e. UDMR or PRM).

Table 1: Gender and Education of the Euro-Candidates (percentages)

		Gender		Education				
		Male	Female	Highschool	BA	MA	PhD	Postdoctoral
Pooled analysis	Elected	66	34	3	25	31	38	3
	Not elected	77	23	1	49	23	25	2
PSD + PC	Elected	55	45	-	18	27	46	9
	Not elected	66	34	-	32	36	32	0
PDL	Elected	80	20	-	20	40	40	0
	Not elected	76	24	-	33	24	37	6
PNL	Elected	20	80	-	0	60	40	0
	Not elected	84	16	-	43	38	16	3
UDMR	Elected	100	0	-	100	0	0	-
	Not elected	80	20	-	76	9	15	-
PRM	Elected	100	0	33	33	0	34	0
	Not elected	77	23	5	56	11	25	3

Third, there is one case of inconsistency in the approach towards women candidates: although PDL has an equal percentage of female candidates on its lists with PNL, only 20% of its elected candidates are women. Such a discrepancy cannot be explained by the different number of won mandates (PDL has twice as many as PNL) as equal numbers of female candidates on eligible seats leads to less difference between the percentages of women representatives of the two parties. In a nutshell, PDL placed on the eligible seats two times fewer women than PNL or PSD + PC.

Towards highly-educated MEPs

Education appears for a long time as a key component in politics. Moreover, as pointed out by Pippa Norris, “one of the most striking long-term trends in many parliaments is the gradual rise in university-educated members”¹⁵. When considering all 215 candidates, one can observe the predominance of Bachelor studies, almost half of them (45%) graduating from at least one faculty. Approximately equal percentages of candidates have MA degrees (25%) or PhD (27%) studies. Basically, 97% of the candidates graduated at least one faculty, whereas there are isolated cases with post-doc (2%) or high-school (1%) studies. The distribution is not similar when looking at the elected MEPs. The figures displayed in table 1 indicate that seven out of ten elected candidates have at least MA studies, with a predominance

of PhD studies (38%). This category overshadows the MA (31%) and BA (25%) graduates. Consistent with the reduced share in the candidate cohort, only 3% of the elected MEPs have high school and post-doc studies. The latter two categories are due to two parties that placed on top of their lists one candidate with post-doctoral studies (PSD+PC) and another with highschool (PRM).¹⁶ In fact, PRM is the only party that has candidates highschool graduating only on its lists, all other parties orienting themselves towards people that have at least a BA. However, the education indicator can be misleading if we closely analyze the institutions that granted some of the diplomas. In fact, almost a quarter of the PSD+PC candidates have degrees conferred by the party’s *Ovidiu Șincai Institute*, which is more of an overly partisan think-tank, rather than an education centre. There are also candidates in the PRM and PDL with studies at the highly controversial *Spiru Haret University* or graduating from unaccredited programmes at private universities like *Hyperion* or *Dimitrie Cantemir*.

Overall, we observe a tendency of parties to place the highly educated candidates on eligible seats. For example, although the BA graduates represent proportionally, almost half of the candidates, they were assigned more non-eligible than eligible seats. The evidence indicates that one in four got elected, whereas half of those not elected are BA graduates (columns 6 and 7, rows

¹⁵ Pippa Norris, ‘Recruitment into the European Parliament’, in Richard S. Katz, Bernard Wessels, *The European Parliament, National Parliaments and European Integration*, (Oxford: Oxford University Press, 1999), p. 97.

¹⁶ The percentages in table 1 are different for the two categories due to the different number of MEPs elected from each party. One out of 11 PSD+PC elected candidates has post-doc and one out of three elected PRM MEPs graduated highschool.

3 and 4 in table 1). Although displaying a small variation of patterns, the tendency towards highly educated candidates is visible at the three parties that got 26 out of the 33 mandates. Almost half of PSD+PC's elected candidates hold a PhD, slightly more than a quarter have MA studies and less than one fifth hold only a BA. At the same time, it is the only Romanian party that had one successful candidate with post-doctoral studies in the June 2009 elections. The proportion of PhD and MA graduates among the elected PDL's candidates is equal (40%), with only one fifth of its MEPs graduating a faculty. Finally, PNL has among its successful candidates only MA graduates (60%) and PhD holders (40%). Different from the previous political parties, PNL is the party in which the PhD holders are less than MA graduates. In fact, this party displays the strongest tendency among the Romanian competitors in the European elections to place highly educated people on the eligible positions: 40% of the elected candidates hold a PhD and only 16% of the unsuccessful have this degree, the situation being similar

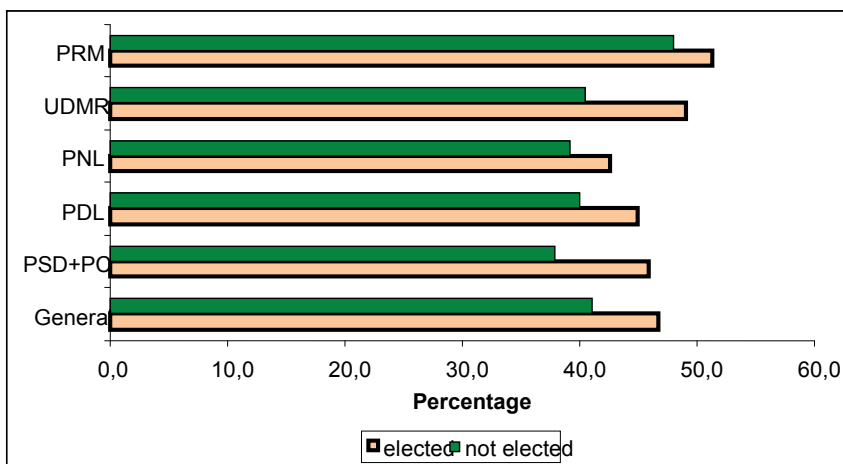
with the MA graduates (60% among the elected vs. 38% among the non-elected).

UDMR and PRM are two particular cases. The successful candidates of the former have only BA, none of those holding an MA or a PhD being elected. PRM has an equal distribution among its elected candidates, one holding a high school diploma, one graduating his BA and one with PhD.

Oldies, but goldies

Figure 2 illustrates the differences between the average ages of elected and the non-elected candidates for the European elections in Romania. Although the number of cases to establish the average age for elected candidates is considerably smaller compared with their colleagues that did not get elected, this is not a major inconvenience. Theoretically, the higher number of cases in one category may lead to artificial difference between categories. However, empirically it is not the case here: there are no major variations of age within the group of successful candidates. On the

Figure 2: Differences between average ages of elected and non-elected candidates



contrary, some outliers are registered within the non-selected candidates and problems could appear if their number would have been smaller. As this is not the case, the presented evidence is reliable.

At a general level, there is a relevant difference between the average ages of successful and unsuccessful candidates. The average age of the 32 MEPs is close to 47 years old, whereas the average age of the candidates that failed to get access to the EP is slightly over 41 years old. This age-lag varies from party to party, with UDMR at one extreme - the highest discrepancy between the average ages of the cohorts (49 vs. 40.5 years old) – and PNL at the other, with only three and a half years difference (42.6 vs. 39.2). The party with the highest average age of elected candidates is PRM (51.3 years old), whereas the same PNL promoted the youngest average winners (42.6).

The importance of age is twofold. First, it is an indicator of the career ambitions of those running for the EP, as in the first decades of its existence the supranational body was the retirement home for many national politicians, being in their late 50's or older¹⁷. That fact inhibited the development of life-time careers as MEPs and subsequently the institutionalization of the European legislative. On the other hand, one could argue that the Romanian parties' preference for older candidates in eligible positions has more to do with those persons being more experienced than their younger colleagues. Second, the age difference would be a significant cleavage if indeed the new generation of politicians – i.e., those candidates in their

30's would have a completely different worldview and values than the others, who were mainly socialized (i.e. used and adapted to specific mechanisms) and lived most of their lives under communist rule.

Wealth leads the lists

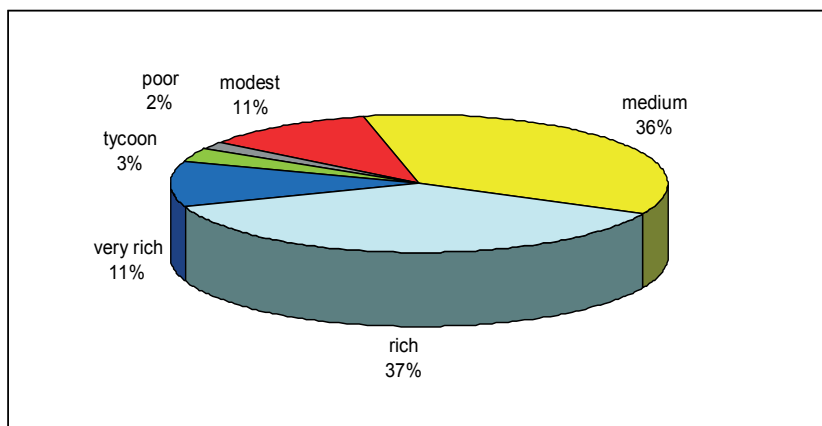
The wealth distribution among all candidates (figure 3) illustrates that three out of four individuals on the lists have a medium or a high level of wealth. This means that each candidate in these two categories has one-two cars, one-two houses, lands and/or bank accounts of 10,000-50,000 Euro. Out of the remaining 25% of candidates approximately equal percentages are situated at the wealth extreme. Thus, 2% of the candidates can be labeled as being poor, with no land, no car, and no accounts, whereas 3% hold large amounts of goods and extremely good financial situation. Similarly, the modest and very rich categories display equal proportions of candidates, one in ten candidates getting into each of these categories. Such a distribution leads to the general conclusion that the candidates placed on the lists have good or very good financial situation with a large majority benefiting from numerous goods and money accounts. This strategy of the selectorates vis-à-vis the financial situation of those selected to run for office bears both benefits and disadvantages. On the one hand, it is important to have candidates with stable financial situation as their interest in politics cannot be reduced to personal gains. It can be assumed

¹⁷ Luca Verzichelli & Michael Edinger, "A Critical Juncture? The 2004 European Elections and the Making of a Supranational Elite" *The Journal of Legislative Studies*, Vol.11, No.2, Summer 2005, p.261

that the corruption temptation is smaller when the individual needs are satisfied prior to the election as MEP. Moreover, from the party's perspective, this profile indicates a capacity of the candidate to bear, at least partially, the costs of the electoral campaign. This can be a valid explanation for the inclusion of relatively rich people on party lists for the European elections and it is plausible since the traditional party sponsors (businessmen forming local clienteles) were reluctant to contribute to the costs of the Euro-campaigns after spending large amounts of money to secure victories in the first post-'89 general election fought in SMDs, the last November. On the other hand, the main disadvantage is represented by the danger to have rich people pursuing further economic interests once in office. The cartelization of politics is not a new phenomenon and it affects not only Eastern European countries, but also old EU member states.¹⁸

distribution at party level can shed light on the reasons to include reasonably wealthy candidates on their lists. Table 2 includes the percentages of elected/not elected candidates with a certain financial situation. At a glance, there is a tendency of wealthier candidates to be elected compared to their unsuccessful colleagues. In this respect, the elected candidates are in their vast majority (85%) either rich or very rich. Only one out of ten has an average economic situation and two out of the entire cohort of representatives are extremely rich. Regarding the later, a closer look indicates that both candidates in this category originate in PRM, none of the other parties having tycoons as successful candidates (e.g. PNL did not even have such candidates). At the same time, it is relevant to notice that none of the candidates with poor or modest economic situation got elected (13% of the total number of candidates – figure

Figure 3: Wealth Distribution of Euro-Candidates (pooled data)



The differences between the elected and non elected candidates and their

3). PSD+PC did not have any candidate on its list to fit in the “poor” category,

¹⁸ Richard S. Katz & Peter Mair, “Changing Models of Party Organization and Party Democracy: The Emergence of the Cartel Party,” *Party Politics*, 1 (January, 1995), pp. 5-28

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which is quite paradoxical for a social-democratic party claiming to represent the interests of the disadvantaged stratum of the society. Sticking to this party, it displays the most balanced distribution of wealth among its selected candidates with equal percentages of rich and very rich (40%) and average wealthy MEPs (20%). However, when looking at the unsuccessful candidates, their vast majority belongs with the average wealthy category, whereas the very rich candidates were generally not positioned on non-eligible seats (only 6% of the unelected candidates). Thus, with seven out of ten unelected candidates coming from the modest and average categories, PSD+PC favours wealthier candidates, placing them on top of the list. A similar situation is registered for PDL where nine out of their ten MEPs are rich and very rich and the remaining has an average economic status. The wealthier candidates are placed on eligible

positions compared to the rest: only 38% of their unsuccessful candidates belong to the rich-tycoon categories, whereas 62% are in the poor-medium categories. UDMR fits within the same pattern with all its elected representatives falling within the rich category. At the same time, only 37% of the unsuccessful candidates are rich or extremely rich, the rest being in the poor/average categories. As a result, we can easily observe an increased tendency of UDMR to favour the wealthy candidates and place them on top of the list.

The evidence shows that PRM is the party with the highest discrepancies between candidate positions: all selected candidates from the very rich and tycoon categories, whereas only 11% of the unsuccessful candidates belong to the same categories. This implies that wealthier candidates are preferred to fill the eligible positions. These results are valid despite the low number of MEPs and

Table 2: Wealth of the Euro-Candidates (percentages)

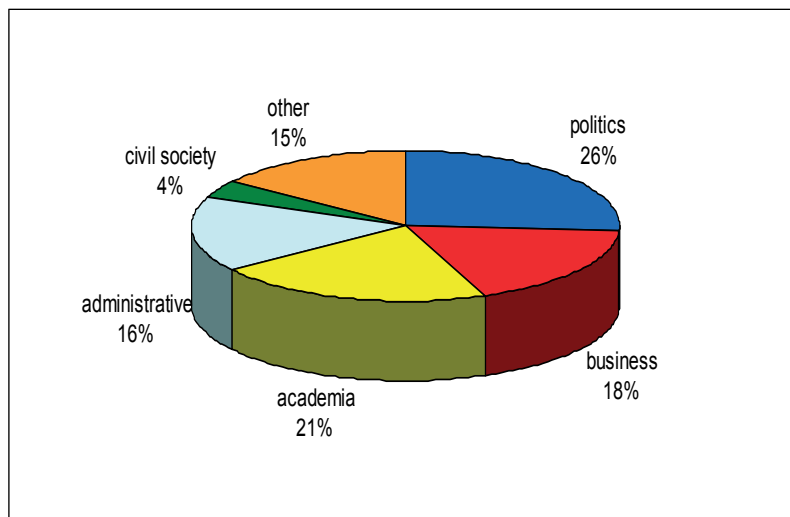
		Wealth					
		Poor	Modest	Average	Rich	Very rich	Tycoon
Pooled analysis	Elected	0	0	9	50	35	6
	Not elected	3	11	40	35	8	3
PSD+PC	Elected	-	0	20	40	40	0
	Not elected	-	9	61	21	6	3
PDL	Elected	0	0	9	46	45	0
	Not elected	3	9	50	29	3	6
PNL	Elected	0	0	0	80	20	-
	Not elected	5	8	26	45	16	-
UDMR	Elected	0	0	0	100	-	0
	Not elected	3	20	40	35	-	2
PRM	Elected	0	0	0	0	33	67
	Not elected	3	19	30	37	8	3

they can be explained by the necessity of the candidates to financially support their own electoral campaign. As the party failed to gain access into the national legislative at the general elections in 2008, it does not receive funds from the state and relies on individual contributions. As such, candidates that are able to support the campaign and gather votes for the list are placed on top positions. At the other extreme, PNL has the least tendency to differentiate candidates according to wealth. Although having as elected MEPs only rich (80%) and very rich (20%) people, a close look at the unsuccessful candidates reveals that 61% of them belong to the same categories. At the end of the day, wealthy candidates are placed by all parties, to a lesser extent by PNL, in front of their lists.

Professionalizing top positions

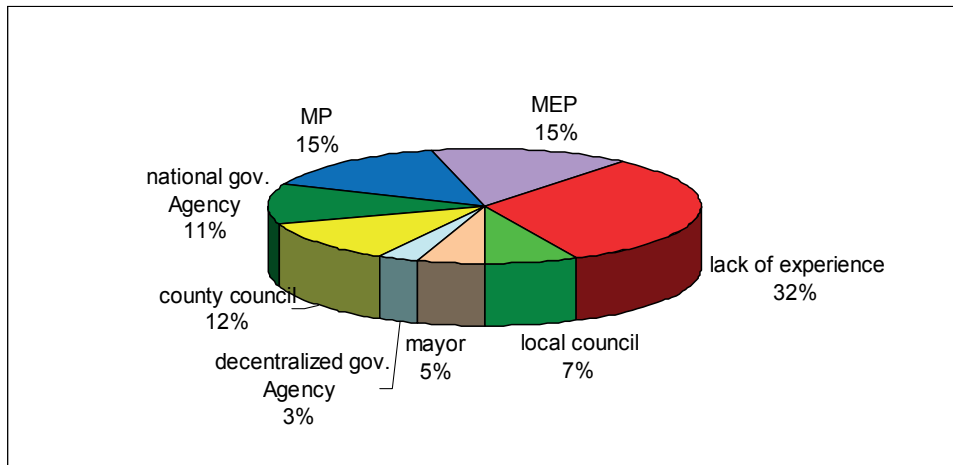
The two indicators chosen to observe the professionalization of Euro-candidates are their occupational background and their experience in public institutions.¹⁹ Initially, we included party career as an indicator to reflect the promotion of members of various party organizations (e.g. youth) as candidates, but its presence does not differentiate between parties and candidates. Figure 4 includes the distributions of all candidates according to the two indicators. A few conclusions are possible at a glance. First, as reflected in 4(a), there is no clear tendency of the political parties to fill the lists with candidates having certain backgrounds. Although those active in

Figure 4: Euro-Candidates' Background (a) and Institutional Experience (b)



¹⁹ Richard S. Katz & Peter Mair, "Changing Models of Party Organization and Party Democracy: The Emergence of the Cartel Party," *Party Politics*, 1 (January, 1995), pp. 5-28

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politics are the biggest group (26%), the candidates with academic, business and administrative backgrounds represent relevant proportions. However, adding up the four categories we observe that 80% of the lists are filled with individuals belonging to one of them. Consequently, such a clustering around four major categories should not be neglected. However, the second conclusion is a paradox revealed by figure 4(b) in the light of the above discussed pattern from 4(a): the majority of the candidates (one third) have no prior public experience. This percentage is higher than the sum of people acting as or working for MP or MEP is the past (each representing 15%).

These aspects change when we look at the differences that occur between the elected candidates and the rest. Tables 3 and 4 reveal these discrepancies, both at pooled and party level. Starting with the background of the candidates (table 3), we observe at general level a weak tendency to favor those candidates acting in politics: almost half of those elected and only a quarter of the unsuccessful have this feature. Thus, although those candidates with political

background hardly represent a quarter of the lists, they are placed in front. In this respect, UDMR and PSD+PC are the forerunners, the former having all its representatives elected from those with a political background (and only 40% among unelected candidates), whereas the latter is closer to the general average with almost half elected MEPs holding a political background (and only 16% of the unelected candidates displaying the same feature). Contrary to this trend, PRM and PDL appear to have extremely weak preference to promote politicians in front of other backgrounds. Summing up, although the rough picture presents a quite balanced distribution of candidates' occupational background, the differences between successful and unsuccessful candidates reveal a weak tendency to favour the political background in top positions of the electoral list.

The situation with political experience is more clear-cut than with the background. The general tendency, revealed in table 4, is to have as MEPs individuals with experience in the representative bodies at domestic and European level. Thus, the picture

Table 3: The Background of the Euro-Candidates (percentages)

		Background					
		Politics	Business	Academia	Administrative	Civil society	Other
Pooled analysis	Elected	47	19	13	6	9	6
	Not elected	23	18	22	18	3	16
PSD + PC	Elected	46	36	0	9	-	9
	Not elected	16	13	23	25	-	23
PDL	Elected	30	10	30	10	20	0
	Not elected	3	28	35	31	0	3
PNL	Elected	60	0	20	0	20	0
	Not elected	21	18	16	26	0	19
UDMR	Elected	100	0	0	0	0	0
	Not elected	40	12	18	12	13	5
PRM	Elected	33	33	0	-	-	34
	Not elected	28	18	23	-	-	31

drawn after seeing figure 4(b) has major shortcomings and hides what really happens: although the number of people with no experience in public institutions is high, they did not get access in the EP, being positioned poorly on the list. Only 10% of the elected candidates fall in this category (one from PDL and two from PRM), whereas more than a third of the unelected lack prior experience. The relationship between experience and being elected as MEP is strong at the level of all candidates with almost two thirds of the elected MEPs holding previous experience as MEP or working for one. Only 6% of those having such an experience failed to enter the EP, most of them from PDL. Also, it is relevant to notice that no candidates that acted before in the local councils or as mayors were elected and only isolated cases of prior experience in the decentralized local administration agencies or as MPs were successful.

At party level, UDMR and PNL are the clearest examples of preferring experience as a representative to other types of experience when deciding who gets the eligible seats. All UDMR's new MEPs have European experience, whereas PNL has four MEPs with the same profile and one originating in the national legislature. PSD + PC also clearly favors this type of experience having three quarters of its elected MEPs fitting the profile. PRM is the only party where no relationship can be established, with two thirds of its elected MEPs lacking any political experience and only one former MEP succeeding in these elections (i.e. the president of the party). In a nutshell, excepting PRM, all parties clearly favor European level experience in top positions. As a result, almost two thirds of the current Romanian MEPs acted within the framework of the EP before and are socialized and acquainted with its workings.

Table 4: The Experience of the Euro-Candidates (percentages)

		Experience							
		Lack	Local council	Mayor	Decentralized local admin	County council	National gov. agency	MP	MEP
Pooled analysis	Elected	10	0	0	3	9	9	6	63
	Not elected	36	9	6	3	13	11	16	6
PSD + PC	Elected	0	0	0	0	18	0	9	73
	Not elected	29	10	3	3	26	10	13	6
PDL	Elected	10	0	0	10	10	30	0	40
	Not elected	21	9	6	0	15	12	12	25
PNL	Elected	0	0	0	0	0	0	20	80
	Not elected	34	10	10	3	8	16	16	3
UDMR	Elected	0	0	0	0	0	0	0	100
	Not elected	29	10	10	8	11	16	13	3
PRM	Elected	67	0	-	-	0	0	0	33
	Not elected	60	5	-	-	7	3	25	0

Statistical robustness

Table 5 includes the correlation coefficients for tables 1-4. As all variables are ordinal we use *sommer's d* as statistical coefficients to indicate the strength of relationships. They basically confirm the conclusions reached in the previous paragraphs. According to the coefficients, education and background establish weaker relationships with the success of candidates at the general level. The variables that differentiate the most between the two groups are the wealth and the (level of) prior experience.

The statistical coefficients for education reflect the weak general tendency towards higher educated elected MEPs. In the entire cohort, PNL is the party that favors the most such

a situation, placing candidates with more education than the rest on the winning seats. By contrast, PRM and UDMR favour the presence of the less educated individuals on winning seats with BA graduates as forerunners on the list and MA and PhD candidates failing to get elected. Out of all parties, PDL is the only case in which there is no relationship between education and being a successful or unsuccessful in the European elections. The coefficients for the background of candidate support the above conclusions referring to a weak tendency to favour the political past of the candidate (-0.29).²⁰ The parties that consider this variable in appointing candidates on top positions are UDMR and PSD+PC, each with statistically significant relationships.

²⁰ The coefficient is negative as the political background was coded 1.

Table 5: Correlation coefficients for all indicators

Variable	Wealth					
	Pooled analysis	PSD+PC	PDL	PNL	UDMR	PRM
Education	0.21**	0.28	0.04	0.46**	-0.24*	-0.19
Wealth	0.57***	0.6***	0.55***	0.36*	0.6*	0.94**
Background	-0.29**	-0.48**	-0.12	-0.36	-0.6*	-0.09
Experience	0.62***	0.78***	0.23	0.94***	0.97*	0.07
N	215	43	43	43	43	43

* significance at 0.1, ** significance at 0.05, *** significance at 0.01

Regarding wealth, there is a general increased tendency to place wealthier candidates on eligible positions (0.3). The extremes are represented by PRM (0.94) that does it the most compared with the other competing parties and PNL (0.36) that favors the smallest discrepancies between elected and non-elected candidates. The other three parties have similar tendencies to do so, around the average (0.55 PDL and 0.6 PSD+PC and UDMR). The degrees of significance indicate that the relationship is a robust pattern (i.e. not accidental at all) for the entire cohort, PSD+PC, PDL, and PRM. For PNL and UDMR the probability of an accident in detecting this pattern is smaller, but still significant at a probability of 90%. Finally, the level of prior experience appears decisive for many parties in assigning top positions. UDMR and PNL value such a profile to a maximum extent preferring former MEPs and MPs to any other type of activity. The figures for PSD+PC reveal that the institutional experience plays a crucial role also in its decision-making process.

In the end, as a large part of the analysis is conducted at party level, the political parties deserve a few

words about the differences that occur between elected candidates and the rest from their lists. Far from explaining the mechanisms of selecting and ranking the candidates, our analysis indicates that there are several variables that matter in placing the candidates in top positions. PSD+PC consider experience and wealth as primary indicators for its decision, followed by a background of the candidate (oriented towards politics). The last considered factor is education. A similar prioritization of factors is played by PDL with the only exception that wealth is the major discriminatory factor between elected and non-elected candidates. Experience and background are only marginal, while education does not matter at all. For PNL the experience plays the primary role, followed by the level of education and wealth. UDMR also relies on the level of experience, followed by wealth and inclination towards the political background. PRM is the only party, for which wealth is the sole attribute that makes the difference, being indifferent to all the other indicators. As previously explained, such a situation was to be expected given its limited resources before the elections on June 7.

Conclusions

This study represents the first systematic analysis of the profiles of the Romanian candidates for the EP. We gathered and interpreted data on age, gender, education, occupational background, wealth, experience in public institutions and party career of all the 215 candidates proposed by the five Romanian parties which managed to secure seats. Thus, we had the complete universe of cases, not a representative sample, which is quite rare since the majority of similar studies are, most of the time, limited to the elected candidates. Our first major finding is that wealth seems to be a precondition for a successful candidature to the EP, since 85% of the elected candidates are either rich or very rich. Only one out of ten has an average economic situation and two out of the entire cohort of representatives are extremely rich. This situation can be explained mainly by the fact that the parties choose to delegate at least partially their campaign costs to the eligible candidates, their central budgets being overwhelmed by the five electoral cycles and referenda in the last 2 years.

The second most significant finding refers to the importance that 3 of the parties (PSD+PC, PNL and UDMR) have placed, when ranking their candidates, on the previous institutional experience in the EP. The elected candidates with such experience make up to two thirds of all the new MEPs. The analysis of the occupational background and party careers of the candidates revealed a tendency towards professionalization: almost half of the elected MEPs are professional politicians, who held leadership positions at national or county level of the parties.

Regarding the education of the candidates one has to observe that while almost all have university studies (with only 3 exceptions in the whole cohort), there is a preeminence of elected MEPs with doctoral degrees (38%). The indicator goes in line with the European tendencies, but it should be taken with reservation, since many of the diplomas are granted either by party institutes or by unaccredited programs of phantom universities.

The average age of the 32 MEPs is close to 47 years old, whereas the average age of the candidates that failed to get access to the EP is slightly over 41 years old. For this reason it can be concluded that generally the Romanian politicians do not regard the EP as a pre-pension stage of their career. The gender distribution illustrates a dominance of the male candidates on the lists both at general and party level. Overall, only one in four candidates is a female. The parties that secured the fewest seats UDMR and PRM (three MEPs each) did not place any woman in the eligible positions. This is in stark contrast with the lists supported by the PNL and PSD+PC where 80%, respectively almost half of the MEPs are female politicians.

These contributions have two major implications. On the one hand, we identify selection patterns and sketch the profile of the candidates in the European elections, providing the research bases for further investigation on the causes and mechanisms that lead to their success. Moreover, the identification of certain patterns for selecting candidates allows both political parties and their members to establish specific relationships in the future. For example, those party members that are rich, have high education, important

public experience, and a rather political background become the usual suspects to be nominated on top of the list. The party encourages their presence as they are able to gather votes and campaign donors, whereas these individuals are aware of existing rewards coming from the party. On the other hand, our empirical evidence documents sharp differences between the successful and unsuccessful candidates based on professional and

economic characteristics. To what extent such features help MEPs better fulfil their representation tasks remains an issue to further research. Moreover, our quantitative assessment reveals general trends and needs to be complemented by closer investigation able to distinguish specific models of promotion on electoral lists within party politics.

Appendix 1: Variable Operationalization

Variable	Operationalization
Education	1 = High School, 2 = Bachelor of Arts, 3 = Master of Arts/of Science or equivalent, 4 = Doctor of Philosophy, 5 = Post-doctoral studies.
Experience in public institutions	1 = no experience, 2 = local council, 3 = mayor/vice-mayor, 4 = decentralized, local governmental agencies, 5 = county council, 6 = national governmental agencies, 7 = Member of the Parliament or of an MP's staff, 8 = Member of the EP, or part of MEPs' staff.
Occupational background	1 = politics, 2 = business, 3 = administrative/bureaucracy, 4 = academia, 5 = civil society, 6 = other.
Wealth	1 = poor – no house, no car, no land, no account, 2 = modest – one house/ car, no land or accounts, 3 = average – house, car, accounts smaller than 10,000 Euro or one land, 4 = rich – two houses, car, two lands or accounts between 10,000 and 50,000 Euro, 5 = very rich – three or more houses, lands or accounts larger than 50,000 euro, 6 = tycoon.

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Websites*:

Central Electoral Bureau for the EP elections in Romania: <http://www.bec2009pe.ro/>

PSD' s official campaign website: <http://europene2009.psd.ro/>

PDL' s official campaign website: <http://www.euro-pdl.ro/>

PNL' s official website: <http://www.pnl.ro/>

UDMR's official website: www.udmr.ro

PRM' s official website: <http://www.prm.org.ro/>

Other websites providing information about candidates and recruitment:

www.alegeriparlamentare2008.ro

www.alegeri.tv

www.alegeri-2008.ro

www.infoalegeri.ro

www.stirilocale.ro

www.1001politicieni.ro

www.thinkopolis.eu

*We did not include all the used sites (of county councils, city halls or other central or local institutions), but they can be offered upon request.

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