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## UNDERSTANDING THE TREATY OF LISBON

Clive H. Church, David Phinnemore\*

**Abstract<sup>1</sup>.** *The entry into force of the Treaty of Lisbon comes at a time of continuing lack of agreement about its significance thus justifying a new and less polarized assessment. The article looks at previous assessments, including those that see the Treaty as a major breakthrough for efficiency backed by a new political dynamic and as the unnecessary and undemocratic imposition of a superstate and noxious policies. The article assesses the status, structure and style of the treaty and its contents, highlighting its provisions on values and rights, powers and policies, institutional changes, democratization and enhanced external activity. These, like assessments of the treaty, are often contradictory and point to the fact that Lisbon was yet another compromise document and not a master blueprint. Hence the resulting Union is likely to be a messy hybrid, being legalistic, lacking a single power centre, uncertainly democratic and enshrining more constructive ambiguity.*

**Keywords:** *Treaties, Lisbon, European Union, Reform*

On 1 December 2009 the Lisbon Treaty finally came into effect with the derisive jeers of the press ringing in its ears after the appointment of two relatively unknown figures to the two key offices it foresaw – a President of the European Council and the upgraded post of High Representative of the Union for Foreign Affairs and Security Policy. Yet the linked demands that the EU should have appointed star performers suggests that, despite the years of argument over the Lisbon Treaty and its failed inspiration, the Constitutional Treaty of 2004, it is still not very well understood. Indeed, such demands stood many earlier criticisms on their head, requiring the EU to have powers which had long been resisted, and suggested that some critics had come

round to accepting assessments which saw Lisbon as creating a new order. Moreover, Lisbon's coming into force also means that it is now disappearing into the two consolidated treaties which will continue to frame the Union and its activities.

All this suggests that the time is right for a renewed look at the treaty, one which gets away from the polarized interpretations which continue to dominate. Rather than being a great leap forward or a plunge into a disastrous super-state, Lisbon is best understood, as conventional wisdom has been coming to accept, just another complex compromise of which the Union has seen so many. And, as such, it has its own internal contradictions. Detailed

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<sup>1</sup>The authors are grateful for comments from Erhan İçener.

examination makes this clear and exposes the limitations of some of the more extreme claims about it. However, how the treaty will actually be implemented, read and worked remains to be seen. In any case the reformed EU is likely to remain a complicated and ambiguous body.

### Interpretations

Given the way that attitudes have changed, it is worthwhile spelling out the dramatic understandings which many people have had of the treaty. In fact, in the two years since it was signed Lisbon has been very diversely and politically interpreted and often without full attention to the detail of the revisions to the constitutive treaties of the EU which it entails. Assessments have been made more in the light of underlying attitudes to the EU and assumptions about how it is developing than of open-minded analysis. All sides in the political debate over the Union have thus made extreme claims about its significance. In fact, finding a convincing assessment is difficult where both status and contents are concerned.

Much criticism of the Constitutional Treaty focused on the fact that it was, allegedly, a constitution, and an unreadable one at that time. Despite the changes made during its negotiation, the Lisbon Treaty has also been criticised on grounds of its status, still seen by many as constitutional, its structure and its style, seen by some as even worse than that of the Constitutional Treaty. Lisbon has also been criticised for what it said as well as for what it could have been, is, or might be. And while most interpretations,

albeit for different reasons, see it as a very significant breakthrough, some supporters of integration see it as a dangerous failure.

For some supporters of integration, Lisbon was a major backwards step. On the one hand, there are those who saw it as a failure, even a betrayal of the essentials of integration, because it strengthens the role of the member states. Indeed, Guy Verhofstadt, the former Belgian Prime Minister, and Johannes Voggenhuber MEP initially regarded Lisbon as too lacking in ambition to be true. Some went further and saw the Treaty as reflecting the acceptance of one view of the civic malaise which lay behind the two 'no' votes in 2005, with both the French and the Dutch 'bizarrely' allowing their opposition to be transformed into a 'British' view (Ricard-Nihoul, 2007). This allowed aberrations such as supposedly letting the UK escape from the Charter and creating more confused variable geometry through the UK's opt-outs. Delays in implementing new decision-making were also deplored.

All this means that there was too much potential for an *à la carte* Europe. Thus Lisbon allowed member states to secede, to dictate policy, to devise their own forms of cooperation, notably in security, and to opt out from fundamental elements like the acceptance of EU values.<sup>2</sup> Their parliaments were also upgraded at the expense of the EU institutions. Moreover, citizenship was downgraded from an aim of the EU to merely a policy, mentioned only in the secondary Treaty on the Functioning of the European Union (TFEU). For reasons like this Jacques Delors has

<sup>2</sup> See the comment of Patrice Cardot on Giscard, d'Estaing, V. 'Quel est votre avis sur le contenu du traité?', *Blog de Valéry Giscard d'Estaing*, 12 November 2007 (via <http://vge-europe.eu>).

been somewhat dismissive of the Treaty, hinting both that the Union has settled for second best and that he is too kind to give vent to the many criticisms which could be made of it (*Euractiv*, 2009). *The Economist's* Charlemagne has written it off as a 'footling' treat, a fudge and a failure' (*The Economist*, 2009a).<sup>3</sup>

A second element in Lisbon's failure is, on the other hand, the way it reflected strong national egoism. Hence it was seen by several otherwise pro-integration observers as deliberately shot through with a consistent insistence on protecting national powers (Lequesne, 2007; also Aquilar, 2008). Duff pointed to the member states' right of initiative while others saw national parliaments as the real winners (*Euractiv*, 2007a). For others it is a treaty which seeks to be democratic while respecting the member states (Chopin and Bertoncini, 2008). Indeed for Palmer it was deliberately designed to help the UK and other member states to manage globalization (Palmer and Facey, 2008). Some went even further, as London sometimes did, and claimed that the Treaty marks the end of 'federalism'. By restoring power to the member states it leads to a more stable and less invasive form of integration. All this chimes with the UK government's views (Foreign and Commonwealth Office, 2007a; also Donnelly, 2007).

However, the majority of opinion, coming from opposing views, is that Lisbon is a very significant document indeed. This view was, and indeed still is, shared by some pro-integrationists. They saw it as a quantum leap forward, something which was indispensable

and ineluctable according to French MP Pierre Lequillier (Assemblée Nationale, 2008). It did this by securing the gains of the Constitutional Treaty. Hence EU leaders, like José Socrates, the Portuguese Prime Minister, all argued that the Lisbon will make the EU more effective, more democratically accountable and friendlier to citizens. Effectiveness for them came through things like the abolition of the European Community (EC) and the pillar structure, improvements in decision-making, and the strengthening of the EU's external role. Increasing transparency and power for the European Parliament (EP) add to democracy, along with, the Charter of Fundamental Rights, provisions for dialogue, easier access to the Court of Justice (ECJ), the right of petition and access to the European Convention on Human Rights (ECHR) (European Parliament, 2007, 2008a). And increased respect for rights and values, together with the right of petition, also means that the EU will be more responsive to its citizens.<sup>4</sup> Hence, for Duff (2007) Lisbon is as significant as Maastricht in that it has many federalizing opportunities. More recently, Jo Leinen, a fellow MEP, has hailed the Treaty as a major step towards a federal United States of Europe: 'The Lisbon Treaty is better than reported, with it Europe is going forward towards political union' (*Open Europe*, 2009).

A second, and related, supportive view sees Lisbon as being significant less for its contents as such than for its political effects. These are seen essentially as removing blockages and giving the EU a new dynamism. Thus Joseph Daul, then leader of the European

<sup>3</sup> See also *The Economist* (2009b). Charlemagne sees it as a failure because it gives too much power to the European Parliament and could allow the ECJ to cause more mischief by its interpretations of the Charter.

<sup>4</sup> For a full exposition of this attitude, based on the mandate, see Sutton (2008).



People's Party, and Duff saw the Treaty as re-launching the EU's momentum and replacing institutional wrangling and navel-gazing with better legislation and proper politics. Indeed Chopin and Macek (2007) see Lisbon as starting a necessary politicization in the Union (see also Brady, 2007). Equally, Vigo de Mendez MEP said that Europe had shown 'that it can find a solution' to the institutional impasse resulting from the French and Dutch rejection of the Constitutional Treaty in 2005 (European Parliament, 2008b). Fredrik Reinfeldt, the Swedish Prime Minister, and others saw it as opening the way to real policy development in areas which matter to citizens: energy, trade, and environment (*Agence Europe*, 20 February 2008, 21 February 2008). All told, Lisbon, seen from this perspective, adapts the EU to its new remit for a changing world.

Sovereignist opposition also saw, and continues to see, Lisbon as a major wrong turn. Such criticisms of the new Treaty's contents have often highlighted its alleged intention to subordinate national sovereignty and democracy to a 'super-state'. For many critics Lisbon is a constitutional transfer of powers from the member states to 'Brussels' even though there are counter claims and evidence to the contrary. This transfer, it is alleged, makes the Treaty inherently undemocratic. Such criticisms conveniently disdain the contribution which Lisbon makes to democratizing the EU through various new instruments and commitments. Nor does the Treaty establish a super-state, whatever this

means, as Vaclav Klaus, Coughlan (2007, 2009) and others maintain.<sup>5</sup>

The sovereignist view levelled four other charges against Lisbon. The first was that it was not necessary because the EU was working well, despite enlargement. And the solutions offered represented old thinking. Instead, the future lay with decentralized and networked structures of cooperation amongst states. The second was that Lisbon was a fundamentally anti-democratic imposition on the peoples of Europe. For Libertas – once a decisive force in the Irish debate on Lisbon– and many others, notably in the UK, the Treaty represented yet another deceitful and arrogant imposition of a revolutionary federalist agenda by the European elite aimed at minimizing national sovereignty and ignoring the clearly expressed desires of the European peoples (Open Europe, 2008: 8). For them the deceit lays in pretending that Lisbon was different from the Constitutional Treaty. It carried forward 95% of the latter so that it is a constitution by any other name. And the text was made deliberately obscure in order to hide its true meaning and origins so as to smuggle the Constitutional Treaty through. In denying all this political elites were trying 'to pull a fast one' on the peoples of Europe. This meant that a referendum was the only honourable way to ratify it.

Thirdly, its provisions were a threat to the sovereignty of nations. It transferred too many powers to already over mighty institutions which will enable them to grow even more powerful aided by qualified majority voting (QMV), the

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<sup>5</sup> Coughlan calls Lisbon a constitutional revolution by stealth which, given the many public denunciations of the Treaty's potential dangers over the years, is a surprising assessment. Interestingly, both the German and Czech constitutional courts dismissed the super-state claim.

passerelle clauses and the Treaty's self-amending nature. For many the President of the European Council was effectively the President of the new European state. So the member states lost vetoes, Commissioners and the protection provided by the pillar structure. The granting of legal personality to the EU and the creation of an embryonic diplomatic corps threatened national sovereignty in foreign affairs. Hence the nation was in danger of being absorbed by a European leviathan; the new right of secession being simply a diversionary tactic. Nor did the new provisions on national parliaments provide any meaningful balance. Hence, for Austin Mitchell, the UK MP, and Geoffrey van Orden MEP Lisbon would create a super-state imposed over the nations and peoples of Europe (*Hansard*, 11 December 2007, Col. 239; *Hansard*, 21 January 2008, Col. 1296; *Agence Europe*, 19 February 2008, 3). Coughlan (2007) argues that this is concealed by calling the new body the 'Union' because Lisbon is based on the assumption that there is a European people who can sustain a united polity. But there are no European demos. And, since legitimacy lies only with states, and hence with the Council (Bechtel, 2007), the EP is not worthy of the name and the Commission is subject to none of the controls found in normal western democracies. Nor can anyone remove the Commission. Nor could individual citizens use the ECJ in the way they can their national courts.

Finally, the new Treaty was seen as a policy threat, to business, government and people (Cash *et al*, 2008). The City of London is seen as especially

vulnerable. More specifically, 'national' policy areas such as health, criminal law, social security and energy are all seen as at risk (Open Europe, 2008). This is because the Treaty, by making the Charter legally-binding and supposedly removing commitments to undistorted competition, was seen as strengthening the right to strike, damaging the free market and encouraging retrograde and mercantilist policies. There are also worries about what the special protection given to public services will do. And, in all this, the UK government's red lines and alleged safeguards were seen as far too weak to be effective.

Perversely, however, some of those who feared the EU as a super-state also did so because it offers too few social guarantees. Indeed, some UK trade unions wanted to vote it down because new opt-outs would deny UK workers the legitimate and necessary protection of the Charter of Fundamental Rights.<sup>6</sup> This tied in with another left-wing critique which is that, despite its new stress on protecting EU citizens in the world economy, the Treaty reinforces anti-social attitudes. For George (2008), it is a Stalinist document imposing a specific – and highly capitalistic – economic policy rather than just laying down institutional rules. Equally the Young Federalists saw it as establishing a Europe in which citizens are merely the audience and cannot influence affairs. And Sinn Fein and other Irish opponents largely echoed all this, regarding the Treaty as not only too militaristic, and therefore inimical to Irish neutrality, but also as insufficiently social. Notably it criticised Lisbon for doing too little for workers' rights and

<sup>6</sup> See the comments of Brendan Barber of the Trades Union Congress quoted in *Euractiv* (2007b).

public services while also undermining the CAP.<sup>7</sup>

Though they come at it from opposing points of view, such opinions all seemed to believe that Lisbon made dramatic changes to the EU. And they do so usually because of their own political positions. But, as many saw at the time, the truth is that Lisbon is not susceptible of one simple interpretation, because it is a typical EU package deal. In other words it is more of a curate's egg treaty or one offering only partial answers.<sup>8</sup> For many (e.g. Brady, 2007) Lisbon was a matter of tidying up and moving on. As a result it has both strengths and weaknesses (Palmer and Facey, 2008). On the one hand, it is often argued that it is a modest affair that does not transfer many new powers to the EU but is designed to make it work better (Brady and Barysch, 2007; Hofmann and Wessels, 2008). Hence, many of the myths Lisbon have encouraged, most of which were deployed against earlier treaties, are less than half-truths (see Foreign and Commonwealth Office, 2007b; BBC, 2004).

On the other hand, it definitely has a number of weaknesses. It is not easily readable, even in a consolidated version. Moreover, it does not produce a single text. More significantly, it postpones much needed reforms, it allows too many exceptions. It also left a number of questions unanswered such as how the roles of the Commission President, the President of the European Council, the High Representative and the rotating Presidency of the Council will be coordinated.

However, this does not mean that Lisbon is a wholly insignificant piece of tidying up. As the House of Commons Foreign Affairs Committee (2008) observed, while there is much continuity, the changes it makes should not be downplayed. And, as Donnelly (2007: 2) said, although a 'reasonable debate' can be had on whether Lisbon maintains the pace and even the quality of integration, compared to other preceding treaties 'the new Treaty emphatically does not represent a change of integrative direction'. The view presented here is that Lisbon is certainly significant but by no means as dramatic as both out-and-out supporters and opponents believe. A fair assessment is that of Graham Watson MEP who described the Treaty as 'a step forward for Europe but a victory for nobody' (Euractiv, 2007b). That said, as the total contradictions in interpretation and analyses of the first Irish referendum have showed there remains both a lack of understanding of the treaty and persistent tendency to confuse it with existing policies.<sup>9</sup> This points to the continued need for a nuanced analysis of the status and contents of the Treaty and what they mean for the Union.

### **The Treaty of Lisbon: Status, Structure and Style**

As a document the Constitutional Treaty was attacked on three grounds: status, structure and style. Given that the Treaty of Lisbon emerged against this background, we might have assumed that a new draft would have remembered the criticisms and offered a text which

<sup>7</sup> See, for example <http://No2Lisbon.ie/en/topic6> (accessed 13 December 2007).

<sup>8</sup> For nuanced assessments see Mulver (2007) and European Policy Centre (2007).

<sup>9</sup> As well as the Millward Brown (2008) report, see the *Flash Eurobarometer* of 18 June.

avoided such pitfalls. This has not been the case. Hence the same kind of criticisms are still being made, often more vigorously.

In terms of status there was great emphasis – both from supporters and opponents – on the Constitutional Treaty's constitutional nature, even though it was nowhere near a real constitution (Church and Phinnemore, 2006) and, as many pointed out, given the controversial inclusion of Part III, it was far too long to be a useable framework constitution. There was also quasi universal condemnation of its style: too prolix, too difficult to follow and needing too much interpretation. Even though Lisbon eschews all obvious constitutional references, the similarity of content leads many to see it as still a constitution. Nigel Farage of UKIP indeed still consistently refers to it as the 'European Constitution'. The apparent fact that Lisbon restructures the EU, while transferring powers to 'Brussels', thus telling member states what they can and cannot do, and creating powerful new institutions to monitor them, is held to justify this view. For many eurosceptics, it is a constitution re-branded under another, misleading, name. Yet such arguments are equally applicable to previous treaties, all of which had constitutional dimensions.

What Lisbon does is to continue a process of constitutionalisation, but without a constitution (Donnelly, 2008). It is part and parcel of what some authorities see as an evolving EU constitution on British lines and one that

is often amended because of its detailed nature (Besselink, 2007).<sup>10</sup> In any case, to others, and probably correctly, the dropping of the constitutional claims and colouring is more than just a matter of 'rhetoric and legal form'.<sup>11</sup> Not to recognize that there is a major change is to ignore the way that the Treaty evolved. Doing away with many claims, aspirations and symbols while no longer repealing the old treaties was a major concession, and one regretted by many (Duff, 2007). From this point of view Lisbon is a sad return to tradition, even if, in reality, it does enhance the constitutional nature of the Union as the consolidated versions make clear.

Second, in terms of length and structure, some – on both sides of the argument – would say there are still problems. The Treaty is certainly longer than some of its predecessors. Thus the complete *Official Journal* version took up 271 pages. The Treaty of Amsterdam, by contrast, was only 144 pages long and the Treaty of Nice 87 pages (*Official Journal*, 1997, 2001, 2007). According to arch Eurosceptic Daniel Hannan MEP it amounts to 76,250 words, compared to the 67,850 words in the Constitutional Treaty, and only looks shorter on paper because of the use of smaller type (Hannan, 2008). But, in a way, nationally-minded critics have only themselves to blame for some of this since so much of the Treaty is taken up by protocols and declarations seeking to address Polish, British and, eventually Czech fears.

In any case, such differences should

<sup>10</sup> Some authorities would, however, argue that the removal of the most obvious 'constitutional' symbols and features does not wholly deconstitutionalize Lisbon.

<sup>11</sup> But see also Chalmers (2007) who sees the Treaty as marking a return to European liberal democracy and ordinary EU law instead of constitutionalism.

not be interpreted as signalling greater legal and political change. Much of the content is designed to clarify as opposed to expand what the EU does. And to do this, much of the text in the Treaty on European Union (TEU) and Treaty establishing the European Community (TEC) and their associated Protocols is revised to produce a somewhat clearer and more logically structured set of provisions setting out what the member states have empowered the EU to do and how. Various obsolete or outdated provisions are either removed, revised or have references updated; many provisions are moved to more obvious locations; and numerous references to institutions or other bodies, procedures or mechanisms are adjusted to accommodate formal title changes. Hence the consolidated versions are somewhat more manageable than they were.

Nonetheless, the result was a very detailed and, for many, overly technical treaty that many believe cannot be understood by anybody other than the most expert of lawyers and treaty 'anoraks'. Yet, somewhat confusingly given the comments on its length, Lisbon itself is actually quite simple in structure, consisting of only seven articles (Official Journal, 2007). And, in the manner of the Treaty of Amsterdam, these have already disappeared now that it has come into effect. The seven articles were composed almost entirely of instructions to amend the TEU and TEC, doing this not by adding a separate Part but by integrating new material at relevant points, thus bringing the two treaties more overtly, if incompletely, into a functional relationship, thanks to the renaming of

the TEC as the more prosaic Treaty on the Functioning of the European Union. The title change is necessary because of the abolition of the EC. This is a simplification of a kind. It may explain why there was less policy based opposition to Lisbon than in 2005.

Nonetheless, Lisbon's provisions can be lengthy. Article 1 contained 61 numbered instructions to insert or amend specific TEU provisions. Article 2 ordered similar amendments to the TEC, with eight 'horizontal amendments', generally updating terminology, and making 286 'specific amendments' to things like the competences of the EU, revised institutional and procedural arrangements, and 'new' or adjusted policy provisions. The article also renamed the TEC. With these changes all references to the 'Community' disappear. Like the European Coal and Steel Community before it, the EC passes into history. And, for Craig (2008) the architecture of the TFEU has benefited more from Lisbon than the TEU.

The Treaty of Lisbon's remaining five articles were short and functional. Article 3 confirms that the Treaty is concluded for an unlimited period, and Article 4 notes two specific protocols which amend existing protocols and the *Treaty establishing the European Atomic Energy Community* (TEAEC). Article 5 was redolent of the Treaty of Amsterdam, since it provided for a renumbering of the amended TEU and TFEU in line with an annexed table of equivalences.<sup>12</sup> Article 6 provides for ratification while Article 7 confirmed the 23 languages in which authentic versions of the Treaty exist. Names and signatures follow.

<sup>12</sup> All except five of the current 55 articles in the TEU gain new numbers as do all TFEU provisions

In addition to the text of the Treaty itself, there were 13 legally-binding Protocols, an Annex, a Final Act (with 68 more signatures and 65 individually numbered Declarations). Five of the Protocols – covering the role of national parliaments in the EU, subsidiarity and proportionality, the euro group, permanent structured cooperation and the EU's planned accession to the ECHR – were originally part of the Constitutional Treaty. The remainder were new, confirming the importance of competition for the internal market, regulating the application of the Charter in opt out states, interpreting the exercise of shared competences and expanding on 'services of general interest' (i.e. public services). Many of these testify to the way that responding to member state doubts and demands, as is the norm in traditional negotiations, makes the Treaty structurally much more complicated. The final two Protocols repealed ten existing Protocols, adapted more than 24 others to reflect changes brought about by the Treaty, and amended the TEAEC.

The Final Act next listed the texts that the 2007 IGC agreed and printed 50 Declarations relating to provisions in the TEU and/or the TFEU and 'adopted' by all the member states and 15 interpretive statements made by one or more states. Declaration (52) is of note since it affirms the attachment and allegiance of 16 member states to the various symbols not taken over from the Constitutional Treaty. In all this Lisbon is structurally no different to earlier amending treaties like.

Understanding what the EU looks like now the Treaty is in force requires consolidated versions of the TEU and TFEU

incorporating the myriad amendments. Unofficial versions existed even before Lisbon was signed, provided by various public bodies (e.g. Assemblée Nationale, 2007 Foreign and Commonwealth Office, 2008). Other versions followed (e.g. Broin, 2008) while, earlier than in the past, the Council eventually made available online consolidated versions in all official languages in mid-April 2008 which were subsequently published in the Official Journal (2008).<sup>13</sup> A further version was promised for early 2010.

What all these versions revealed was a neater and better structured formal legal account of what the EU will hence forward be able to do. While lacking the clearer division into 'Parts' contained in the Constitutional Treaty, Lisbon bequeaths the EU more readable basic treaties. As one commentary insists, it brings 'real added-value in terms of reading logic' by differentiating between the more constitutive and structural dimensions of the EU in the TEU and relegating detailed functional matters to the more accurately, if less appealingly, named TFEU (Gros-Verheyde, 2007: 6). Thus the amended TEU is not dissimilar to Part I of the Constitutional Treaty and offers a reasonably brief starting point for understanding the EU. It sets out, among other things, the EU's aims, values, principles, and structures plus provisions on external and cooperative action, treaty amendment, membership and withdrawal. Excluding the preamble, this runs to 6275 words, two-thirds of the length of the French Constitution and one quarter of that of the German *Grundgesetz*.

<sup>13</sup> Whether by design or coincidence publication was on 9 May, Europe Day, one of the symbols of the EU contained in the abandoned Constitutional Treaty.



However, style also remains an issue. Indeed some critics have come to say that they actually preferred the infinitely more comprehensible Constitutional Treaty. In fact Lisbon is clearly less readable precisely because the signatories were responding to popular clamour in 2005, were no longer seeking a constitution as such, and were following the norms of international treaty negotiation particularly those necessary to encourage 27 parties to agree amendments to existing texts. For one Irish critic at least, the resulting text was simply 'gobbledegook' (Browne, 2008).<sup>14</sup> Equally, Wyles (2007) remarks that 'the constitutional treaty reads with the clarity of a children's fairy tale compared to its extraordinarily lifeless progeny'. Sceptics also made much of Giuliano Amato's wry comment that in order to make the Treaty seem non-constitutional, it had been written in deliberately unreadable language (Hague, 2007).<sup>15</sup>

Yet, very often the implication to be drawn from such criticisms is that the existing treaties are easily comprehended, which is hardly the case. However, as will be seen, things do become clearer if the consolidated versions are used. That said, and on a par with Maastricht, Amsterdam and Nice, Lisbon does little to move the text beyond what is often regarded as impenetrable legalese (e.g. *The Times*, 2007), especially if the text is read on its own and not through the consolidated versions. In any case, to

expect more reader-friendly language is to ignore the fact that EU treaties are negotiated and ultimately approved by sovereignty-conscious member states generally intent on retaining as much control as possible over the activities and direction of the EU. Achieving this necessitates detailed and often complex, if not always precise, legal language.

To sum up, the Treaty of Lisbon needs to be seen as disappearing treaty, lacking what most people would see as a direct constitutional dimension. It amends, consolidates and reshapes the existing treaties and then vanishes, leaving behind treaties which may be complex but which are still more cohesive and comprehensible (Dinan, 2008). Lisbon leaves behind a TEU which will be more of a guiding document. It also revises the former TEC which, despite renaming, remains closer to the past than the TEU.

### **The Contents of the Treaty of Lisbon**

For many sovereignists the Treaty of Lisbon should have been rejected not simply because it is a rambling, inaccessible and largely constitutional text but also because of what it actually contains and what this means for an already despised EU. Equally supporters have welcomed the changes it brought to an EU which they saw as plethoric and ineffective.

In fact the Treaty of Lisbon has introduced a range of reforms to the EU, few of which are particularly radical.<sup>16</sup>

<sup>14</sup> Much the same was said of Maastricht when it was circulated without a consolidated version of the TEC to accompany it.

<sup>15</sup> According to the *Free Europe website* ([www.freeeurope.info](http://www.freeeurope.info)): 'The 27 member governments agreed in Lisbon October 18, 2007 on a new version, called the Reform Treaty, renamed to the Lisbon Treaty - the same content but extremely difficult to read. Why? They wanted to avoid new referenda'.

<sup>16</sup> For discussions of the Treaty, see: Gros-Verheyde (2007); Kurpas et al (2007); Kurpas (2007); Sauron (2008); Fisher (2008); Hofmann and Wessels (2008); Poncins (2008).

And, even when they do represent a notable change to the *status quo*, as with the creation of a President of the European Council and the formal transfer of legal personality from the Community to the EU, their projected significance has often been exaggerated. Commentators and critics alike are thus prone to sloppily de-contextualizing and misrepresenting the relevant treaty amendments. For example, as the selection of Mr Van Rompuy shows, the President of the European Council will not be an 'EU President' and legal personality does not turn the EU into a super-state.<sup>17</sup> However, Lisbon introduces many practical changes which, if successful, should result in a better functioning EU. It also helps simplify the EU, thus increasing the prospects of it being better understood. Equally, however, in addressing their particular demands, it complicates further the relationship of some member states, notably the UK, with the EU.

The changes fall under six broad headings: *the structure of the EU*, values and rights, powers and policies, institutions and decision-making, democracy and external action. On the first of these, the structure of the EU, an obvious consequence of Lisbon is the formal restructuring of the EU to remove the 'pillars' and abandon the EC, thus bringing reality into line with everyday parlance.<sup>18</sup> From now on there will simply be the EU with all policies except

the Common Foreign and Security Policy being pursued using the one institutional framework provided by Commission, Council, EP and ECJ. And the EU now inherits legal personality from the EC, just as it does external representations. Lisbon neither creates nor significantly extends this to the detriment of national sovereignty as has often been suggested. However, the EU is still not clarity personified. New and extended opt-out arrangements, particularly for the UK, on newly communitarised Justice and Home Affairs (JHA) matters, mean that some member states remain less engaged than others.<sup>19</sup> Moreover, thanks to a relaxation of the rules on enhanced cooperation, there is a stronger possibility of groups of member states pursuing such cooperation in external and other fields. The euro group also gains more solidity. Furthermore the separation of the executive between Commission and High Representative and Council could prove problematic, as could the role of national parliaments in challenging alleged breaches of subsidiarity. In other words, this is no streamlined superstate structure.

A second effect of the Treaty is to give greater emphasis to the EU's *values* and the *rights* of its citizens. The former are expanded to include minority rights and supplemented with a list of further values and then given greater prominence in a new Article 2 TEU. Applicant states are

<sup>17</sup> Much media coverage of the new 'President' was particularly sloppy. Even respected media outlets misrepresented the post. See, for example: *The Economist* (2008); *International Herald Tribune* (2008).

<sup>18</sup> This is a slight oversimplification. The Treaty of Lisbon did not do away with the European Atomic Energy Community (EAEC/Euratom). It lives on and the TEAEC is amended to reflect various changes affecting the EU institutions. There is also a Declaration (54), adopted by five member states, calling for the content of the TEAEC to be brought 'up to date' and for an IGC to this end to be convened 'as soon as possible'.

<sup>19</sup> A planned referendum in Denmark in late 2008 had in fact to be called off although it might have resulted in a number if not all of the Danish 'opt-outs' being rescinded.



also now expected to promote them as well as fulfilling any requirements laid down by the European Council before being admitted. Member states, unhappy with their lot may withdraw from the EU, although the understanding is that they will negotiate an agreement on future relations before withdrawal becomes effective. As for the latter, the Charter of Fundamental Rights, proclaimed again on 12 December 2007, is given 'the same legal value' as, even if it is not written into, the TEU. Furthermore, Lisbon commits the EU itself to acceding to the ECHR. All this is important, at least symbolically. Its longer term impact on the development of the EU legal system remains to be seen, although the effects of the pre-existing rights contained in the Charter are circumscribed and more so in the case of the Czech Republic, Poland and the UK, thanks to a dedicated Protocol.<sup>20</sup>

The protocol reflects the wariness of many member states about extending the *powers and policy competences* of the EU; what Hofmann and Wessels (2008: 7-8) call the 'sovereignty reflex'. Lisbon provides plentiful evidence of this. Thus the Treaty formally introduces the principle of conferral as the basis for the EU's powers: the EU has competence to act only where its member states have formally conferred

on it such a competence.<sup>21</sup> In all other cases 'competences not conferred upon the Union in the Treaties remain with the Member States' (Articles 4(1) and 5(2) TEU). Furthermore, clarification of the nature of EU responsibilities is provided by labelling competences as either 'exclusive' (i.e. customs union, competition, monetary policy for the eurozone, conservation of marine biological resources under the common fisheries policy, and the common commercial policy), 'shared' with the member states,<sup>22</sup> or designed 'to support, coordinate or supplement' the actions of the member states' (Articles 2-6 TFEU). Renewed emphasis is also given to the EU acting in accordance with the principles of subsidiarity and proportionality. Furthermore, certain member state competences are made explicit. Thus, 'national security remains the sole responsibility of each Member State' (Article 4(2) TEU). As Hofmann and Wessels (2008: 8) observe, the Treaty is more explicit than before about 'taboo zones' and 'domaines réservées'.

Regarding the EU's policy competences, Lisbon provides for only very limited extensions. On the internal, domestic level the lists of areas for 'action' are extended to include space and humanitarian aid (shared competences) and sport and administrative cooperation

<sup>20</sup> The government of Donald Tusk which came to power in October 2007, so after the Treaty of Lisbon was agreed but before it was signed, initially considered abandoning the protocol as part of its efforts to reduce Poland's sense of isolation in the EU following the hard-nosed, veto-threatening behaviour of the Kaczynski twins: Prime Minister Jaroslaw and President Lech prior to and during the 2007 IGC. The latter continued to press the point but finally settled for a non-binding statement about sovereignty alongside the Ratification Bill which then went through Parliament easily enough in early April 2008. However, the President delayed signing it until the Irish ratified. Soon afterwards the Czechs got similar gains as a sop to President Vaclav Klaus who had brought up an alleged threat from the Charter to the Benes decrees which enshrined the take over of property from expelled Germans in 1945.

<sup>21</sup> In order to convince President Klaus, this point was forcefully restated by the European Council decision of November 2009 which set up the Czech guarantees about the Charter.

<sup>22</sup> Sensitivities over the meaning of 'shared' led to the adoption of the Protocol on the *exercise of shared competence*.

(supporting competence). These, as well as the existing 'spheres' for 'measures' of energy, civil protection and tourism are also given dedicated treaty provisions detailing what is envisaged at the EU level. Only in the case of energy does Lisbon expand the EU's competence to any significant degree. In the future the EU is to act in a 'spirit of solidarity' to ensure a functioning energy market, promote energy efficiency and secure supplies (Article 194 TFEU). Where established competences are concerned, the one area of real note is the environment. In Article 174 TFEU Lisbon inserts a new and explicit call on the EU to promote measures at the international level aimed at 'in particular combating climate change'. Here Lisbon responds to recent public concerns and desires. In other cases, like the references to space and the European Research Area, the effect is to give expression to existing practice agreed by the member states. Lisbon also gives more prominence to the Union's role in matters of policing and justice, notably in asylum and immigration. Similarly it innovates in its mention of 'services of general interest'. This is one of a number of areas where it tries to respond to the social concerns which lay behind many 'no' votes in 2005. Indeed the treaty now includes a horizontal clause requiring the Union to bear the social dimension in mind in all its legislation. Also, decisions taken in these areas, and under the revised powers, are no longer to be described as 'laws' as they were in the Constitutional Treaty. Interestingly, the Treaty also makes provision for a reduction of EU

competences, to the benefit of member states through new treaty amendments, mainly under the ordinary mode of revision.<sup>23</sup>

In terms of *institutions and decision-making*, the EP is once again a major beneficiary from treaty reform. In making co-decision – renamed 'the ordinary legislative procedure' – the default decision-making procedure and extending it to more than 50 new treaty provisions, Lisbon increases the EP's formal role in policy-making. For the first time, for example, it will co-decide details of the Common Agricultural Policy and the Common Fisheries Policy with the Council. It also sees its assent role – renamed 'consent' – extended to new areas, notably to the Multi-annual Financial Framework through which the EU is funded, the establishment of a European External Action Service, and certain treaty amendments. Similarly, it gains equal rights over the budget with the Council plus powers to propose treaty amendments or block the implementing powers of the Commission whose President it will now also 'elect' thus potentially politicising EP elections.

For the Commission, the abolition of the EU's pillar structure means that it – and the EP – gains a greater role across all areas of EU competence in JHA. There will now be a fully 'communitarised' area of freedom, security and justice including residual pillar three activities concerning police and judicial cooperation in criminal matters. Extensions of EU competences also increase the areas in which the Commission can be active. There is a change too regarding the

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<sup>23</sup> It could also be argued that the Treaty conceives of the EU giving up legislating in areas of shared competence, thus allowing states further freedom of action.

Commission's composition. Since 1 December 2009 a Vice President and Commissioner for external relations has been 'double-hatted' as the High Representative of the Union for Foreign Affairs and Security Policy. The size of the Commission, originally supposed to decrease from 2014 to the equivalent of two-thirds of the number of member states, will remain at one member per member state thanks to an agreement reached by the European Council in June 2009 in advance of the second Irish referendum.

The upgraded High Representative is, however, no longer also Secretary-General of the General Secretariat of the Council, a task handed in November 2009 to the Deputy Secretary General. The High Representative is, however, responsible for chairing meetings of the Foreign Affairs Council. Neither this nor the creation of the post of President of the European Council results in the abolition of the rotating Presidency of the Council as is commonly assumed. Each member state will have its turn at chairing other Council meetings and co-running the Presidency, albeit now more formally as part of a three strong team Presidency. Meetings of the European Council, conversely, will be chaired by its President 'elected' for a two-and-a-half year term, renewable once, by a qualified majority vote of the Heads of Government and State in the European Council. Mr Van Rompuy and his successors are now to be responsible for 'driving forward',

preparing and ensuring the continuity of the European Council's work, facilitating 'cohesion and consensus' within the European Council and ensuring the external representation of the EU on CFSP issues.<sup>24</sup>

If the new post may help to raise the profile of the European Council, much of the EU's day-to-day decision-making will continue to take place in the Council with an increased emphasis on QMV, the use of which Lisbon extends to a further 61 treaty provisions notably concerning the now 'communitarised' third pillar activities and most other existing JHA matters. For sovereignists this means the scrapping of the largest ever number of treasured national vetoes (Open Europe, 2008: 8). For the signatories, it is part of Lisbon's aim of enhancing the EU's efficiency. In practice it is neither. Both views ignore the fact that, in many instances, the shift to QMV concerns appointments and policy areas where there is usually a clear consensus among the member states on what the EU should do. Moreover, in areas where some member states did not want to see QMV used, unanimity has been retained (e.g. for tax harmonization, CFSP, treaty revision), 'emergency brakes' introduced (e.g. for social security and criminal justice matters) or opt-outs secured. So the degree of change should not be overstated. Moreover, the consensus norm so prevalent in the Council tends to negate the impact of any formal shift to QMV. Votes are only taken on between

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<sup>24</sup> The job description was initially criticized as vague and ill-thought out, and not really justifying more than a part-time appointment, especially as it created unnecessary overlaps with the roles of the High Representative and the Commission President. However the press soon came to terms with the change and, as already noted, lambasted the EU for seeking conciliators, able to work within the new rules, rather than freebooting – though never actually identified – super celebrities.

10 and 22 per cent of decisions annually (Hagemann de Clerck-Sachsse, 2007: 13).

Things may change as a consequence of the replacement in 2014 – five years later than envisaged in the Constitutional Treaty – of the current QMV system by double-majority voting. This will see the Council formally adopting decisions on the basis of support from 55 per cent of the member states (currently 15 or more) representing 65 per cent of the EU's population. A blocking minority will require at least four member states. This is undoubtedly a simpler system to understand even if its implications for reaching a decision remain unclear (Kurpas *et al*, 2007: 59-80; Hofmann and Wessels, 2008: 17-18). Its potential to contribute to greater transparency is somewhat marred, however, by the decision, included at Poland's insistence, to allow member states to continue with the existing QMV system until the end of March 2017 and to invoke a revised version of the Ioannina Compromise even after this. Further transparency is expected to come from the requirement that the Council meet in public when deliberating and voting on draft legislative acts, although this could stymie debate or result in more substantive negotiations at the Permanent Representatives level.<sup>25</sup> Whether this will make the EU better understood by its citizens and others remains to be seen.

A renaming of the EU's Court of First Instance as the 'General Court' helps clarify its purpose, as does the re-designation of judicial 'panels' as 'specialised courts'. The title of the senior

Court of Justice remains unchanged, although an additional Advocate-General is, envisaged. Lisbon leaves the courts' roles essentially untouched after their overhaul in Nice. However, their jurisdiction is extended with the collapsing of the EU's pillars and the granting of legal personality to the EU, although restrictions remain, notably regarding the CFSP from which the Courts are generally excluded and police operations concerning the internal security of member states. A declaration (17) also recalls the established primacy of EU law over the law of the member states. Beyond the Court of Justice, Lisbon identifies, possibly against its will, the European Central Bank as an EU institution and introduces some changes to its procedures. It also introduces a Protocol setting out the composition and purpose of the Euro Group. It provides too for member states to establish, unanimously and with the consent of the EP, a European Public Prosecutor's Office charged with investigating offences against the EU's 'financial interests' (Article 86 TFEU).

Many of the institutional changes are designed according to the Treaty's rather brief preamble, to enhance the EU's efficiency. Equally prominent is the signatories' desire to enhance the '*democratic legitimacy*' of the EU. To this end, Lisbon brings to the EU a greater emphasis on promoting democratic input. In part this is addressed by the increased powers given to the EP whose role is, not surprisingly, stressed in a dedicated and prominent section on 'Democratic Principles' in the TEU. These evoke the

<sup>25</sup> The new transparency is widely seemed to have failed its first test when in December 2009 the Council went into confidential 'bilateral' huddles to decide financial legislation.

equality of EU citizens, the 'representative democracy' foundations of the EU and a commitment on the part of the institutions to actively seek the views of citizens and 'representative associations' whether through Commission consultations or an 'open, transparent and regular dialogue' between the EU institutions and civil society. A 'citizens' initiative' mechanism is also introduced. How many initiatives will collect the one million signatures from EU citizens from 'a significant number' of member states to propose treaty amendments so as to achieve unfulfilled Union aims is uncertain.<sup>26</sup> Other changes which are said to increase citizens' rights and influence include easier access to the European courts, dialogue between EU and 'social partners', a greater facility for suing EU agencies, the Charter and EU subscription to the ECHR. Participatory democracy as such is, however, not mentioned.

In parallel with this, Lisbon seeks to respect and involve national democracy through a dedicated Protocol on national parliaments and the Protocol on subsidiarity and proportionality. Thus it introduces a 'yellow card' procedure which allows national parliaments from, in most instances, at least one third of the member states to force a review of any Commission proposal within eight weeks. It also provides for the automatic communication of Commission proposals and Council agendas and minutes to national parliaments. This is an improvement on the *status quo* and

the changes signal willingness on the part of the member states to address the democratic legitimacy problems the EU faces, at least through national legislatures (see Barrett, 2008). Again, whether parliaments will succeed in using the procedure successfully remains to be seen.

A final formal aspiration of the member states in concluding the Treaty of Lisbon was to improve the coherence of what the EU does, particularly with regard to its *external action*. This is reflected in a number of policy and institutional developments. In considering these, it should be noted that the Treaty keeps the provisions on the CFSP firmly within the TEU and, in doing so, through its own 'specific rules and procedures' (Article 24(1) TEU) retains much of the existing intergovernmental framework for its operations. This was demanded by the UK, among others, which also secured a Declaration (14) emphasizing that the CFSP provisions affect neither the powers nor responsibilities of a member state to decide its own foreign policy nor its position within the United Nations (UN).<sup>27</sup> Despite this some voters in Ireland assumed that this meant that neutrality would have to go and would be replaced by conscription into an EU army. Hence the Declaration has not encouraged integrationists (Bendiek, 2007).<sup>28</sup>

In terms of content, Lisbon brings the TEU up to date by spelling out the EU's CFSP aspirations and recognizing

<sup>26</sup> Various citizens' networks are already operating and a petition demanding a single seat in Brussels for the EP had attracted more than 1.2 million signatures by mid-February 2008. See [www.oneseat.eu](http://www.oneseat.eu). For examples of active groups, see: [www.citizens-initiative.eu](http://www.citizens-initiative.eu) and [www.european-citizens-consultations.eu](http://www.european-citizens-consultations.eu).

<sup>27</sup> The last point was important for torpedoing unfounded media assertions that the UK would have to surrender its Security Council seat.

<sup>28</sup> See also Rossioli in Agence Presse Europe, 8 March 2008, p. 4

the actual substance of its activities. Due recognition is given to what hitherto has been known as the European Security and Defence Policy. It is now the Common Security and Defence Policy (CSDP). The Petersberg tasks are expanded to include conflict prevention, joint disarmament operations, military advice and assistance tasks, peace-keeping and post-conflict stabilization. So as to implement the CSDP, member states are now required to make civilian and military capacities available to the EU and progressively to improve the latter. To this end the European Defence Agency, established by the Council in 2004, is to identify 'operational requirements' and promote measures to satisfy them. Moreover, member states may pursue 'permanent structured cooperation'. Moves to create so-called 'battlegroups' to implement CFSP measures requiring military action are an existing example of such cooperation. And a 'common defence' can be created if the European Council, acting unanimously, so decides.

In practice, therefore, some of what is 'new' under the CFSP banner simply gives formal legal recognition to what is already taking place on the basis of agreements reached by the member states within the European Council. There are exceptions, notably the new obligation for member states to assist, in line with the UN Charter, another if it is a victim of armed aggression on its territory. As with the CSDP generally the provision does not prejudice the 'specific character of the security and defence policies of certain Member States', code for the 'neutral' member states and particularly Ireland where opponents claimed that Lisbon, like previous treaty amendments, will lead to a further 'militarisation' of the EU and undermining of Irish neutrality (e.g.

Higgins, 2008). Such claims cannot be dismissed out of hand, even if the emotive language of 'militarisation' is suggestive of a more aggressive reality than the one to which the EU aspires or is likely to achieve. Moreover it tends to ignore the unanimity requirement for all CSDP and most CFSP decisions and the fact that the EU has neither military resources nor even a budget for CSDP operations, relying on member states for both. Nonetheless, the 'guarantees' secured by Ireland in June 2009 in advance of a second referendum contained a reassurance that the Treaty did not negate neutrality.

The most significant institutional changes in this area concern the expanded role and enhanced standing of the current High Representative. Although the title of the post has not been changed to Union Minister for Foreign Affairs as originally envisaged most of the other developments contained in the Constitutional Treaty have been carried over. So the renamed High Representative of the Union for Foreign Affairs and Security Policy, as well as chairing the Foreign Affairs Council, will also 'conduct' the CFSP and 'ensure' more generally the consistency of the EU's external action. And, as noted, she will be assisted by a European External Action Service (EEAS) comprising Commission and Council officials and seconded staff from member state diplomatic services. Reviled by opponents as a nascent EU diplomatic corps, and hence further evidence that the EU is assuming the trappings of statehood, the EEAS will work in cooperation with member state diplomatic services. Such institutional developments clearly have the potential to improve the EU's capacity to project itself internationally. However, much will depend on the ability of the High



Representative to overcome the political as well as logistical challenges of being a uniquely double-hatted functionary operating, initially at least, amidst the continued uncertainties associated with the development of the CFSP and in an environment of institutional novelty and competition, notably where the President of the European Council is concerned.

To summarize, what we have in the Treaty of Lisbon is an array of reforms that go some way to addressing the goal of 'enhancing the efficiency and democratic legitimacy of the EU Union and to improving the coherence of its action' set out in the Treaty's preamble.<sup>29</sup> The reforms are in many cases identical to those contained in the Constitutional Treaty. This was intentional (Church and Phinnemore, 2009). When the German government, holding the Presidency of the Council, set out in 2007 to prepare the mandate for the IGC that would 'negotiate' a replacement 'reform' treaty it was intent on retaining as much of the Constitutional Treaty as possible, ditching only what were seen as the truly unpalatable elements, removing all hints of constitutional colouring and adding only enough modifications to satisfy national needs to avoid referenda and ensure, as far as was possible, trouble-free parliamentary ratification. The fact that opposition continued showed that the constitutional dimension actually counted for much less than seemed to be the case in 2005.

The result is the Treaty of Lisbon, a traditional amending treaty which, in contrast to most of its predecessors, notably Maastricht, is a relatively

uninspiring compromise document containing functional and essentially pragmatic reforms. It is not without its contradictions and does not justify descriptions of it as a Machiavellian blueprint to transform the EU into either a superstate or a clean-cut federal polity. And it remains at best a poorly understood document, at worst a misrepresented and misunderstood document. Indeed a not insignificant number of Irish voters in 2008 voted in the mistaken belief that the Treaty contains measures which would force the abandonment of Ireland's neutrality, facilitate abortion and impose conscription. It is, however, significant, and will bring change even if not in the ways, or to the extent, either assumed by extremist commentators or intended by its drafters. All this begs the question as to how, whether in terms of its content or symbolism, Lisbon heralds the dawn of a new EU.

### **The Treaty of Lisbon and the 'New' Union**

For some critics, the Treaty of Lisbon will establish the feared super-state or, as Coughlan (2007) argues, a fundamentally new EU separate from, and superior to, its member states, overriding their national law, values and policies on citizenship, immigration and taxation.<sup>30</sup> For supporters, it will signify, as Merkel declared: 'a successful re-founding of the EU' (cited in Hofmann and Wessels, 2008: 4 – authors' translation). The former seems as unlikely now as when it was lugubriously announced at every previous treaty revision. Indeed, some see the new Treaty as ending the search for

<sup>29</sup> This is the view of the leader writer in *Agence Europe*, 1 December 2009, p. 3.

<sup>30</sup> The views of C oir, as found at [www.lisbonvote.com](http://www.lisbonvote.com)

state-like constitutional arrangements.<sup>31</sup> This is possible, but it is hard to be certain since the Treaty does not provide the final word on many of its reforms, being somewhat contradictory and sometimes sketchy. This forced the member states in early 2008 to come up with answers to a range of questions concerning whether the President of the European Council should have dedicated support staff, pending legislative proposals should be dealt with under co-decision where this is provided for in the Treaty, and whether the Foreign Affairs Council, chaired by the High Representative, should also deal with non-CFSP external affairs matters such as trade and development aid (*EU Observer*, 2008). And preparatory work and political positioning have not stopped since then.

What we can say is that post-Lisbon integration will be slightly more comprehensible since there will be no 'European Community' and no pillars. But Lisbon does not offer a complete definition of what the Union will be. Obviously it will be a body based on history, principles, values, treaties and the specific powers and functions conferred on it by the member states. Hence it is a body whose nature and existence is much less taken for granted than is the case with a nation state. As a result there is more in Lisbon on aims than is usually the case with national constitutions. In fact, as a polity, or governance system, the EU is defined by the treaties and what it does. It cannot, in other words, just 'be' as can a nation. Hence its powers are both specified and, increasingly,

circumscribed. And, as already noted, they could be withdrawn.<sup>32</sup>

The treaties show the EU to be a legalistic affair, subject to rules and guidelines about operation, principles and relationships, not an untrammelled super-state. Indeed, the ratification process has added a new element in the increasing recourse being made to national constitutional courts to clarify national-EU relations. The EU thus remains a body with a push-me-pull-you relationship with the member states. Even though critics like *Open Europe* deny this, it is a voluntary body, which states can both join and, now explicitly, leave. And the TEU and TFEU are shot through with references to sustaining and respecting the member states, not to mention the principles of subsidiarity and proportionality. The long list of Declarations also makes it clear that when member states are difficult, they have assurances. Also, the EU can only revise its rules in the new simplified process if member states agree. And it can only use the 'catch-all' Article 308 TEC (Article 352 TFEU) within narrow limits as specified in Declaration 42. To this extent integrationist critics have justice on their side. There is little sign in all of this, as the Czech Constitutional Court recognized, of the end of sovereignty.

Despite the frequent talk of 'Brussels', the 'new' EU actually has no single centre of power, let alone an executive President. Indeed, by making the EP a co-legislator in a large number of cases, Lisbon increases the extent to which the EU is a matter of permanent negotiation

<sup>31</sup> For true Federalists like Leinen and Kreutz (2008), Lisbon is not only not fully federal but marks a step backwards towards state control while emphasizing that the EU is parliamentary and not presidential.

<sup>32</sup> It will be interesting to see whether an incoming Tory government in the UK is able to utilize this facility.



and lobbying, whether in or between the Commission, Council and the EP. Member states have to go on seeking allies and compensations in order to share in the joint decision-making process where consensus is likely to continue to be the norm, despite the introduction of new voting procedures from 2014.

While the Treaty as such does not steer the EU towards Europe-wide popular involvement, it does seek to move on the question of democratization, though clearly nowhere near as much as its critics would have wished. It places much stress on the Charter which, everywhere other than in the UK and occasionally Poland and the Czech Republic, is seen both as a protection and as a gesture towards the people. Whether the new mechanisms for engaging national parliaments in scrutinizing the work of the EU will, along with other communication measures, enhance the EU's democratic credentials, remains to be seen. There is some recognition of the problem and some potential for politicizing the Union in a traditional way, but whether this works and is accepted will depend both on the way the new rules are used and how public opinion responds. Here, as elsewhere, the Union's essential, constructive ambiguity, remains.

In other words, to take up the analysis of Laffan and Sudbery (2007), the EU remains an amalgam of problem-solving, quasi-political arrangements and diversity management.<sup>33</sup> In accepting that all is not well with the *status quo*, Lisbon rejects the arguments both for politicizing Europe and for setting boundaries to it. Rather it tries to develop, in a pragmatic and still somewhat piecemeal

way, the strange messy hybrid web of functional governance, supranational, intergovernmental and national, which is the EU. The Union is still a matter of member states essentially keeping external sovereignty while sharing some of their internal sovereignty. And it looks as though this will continue to be accepted by most. The EU generally only tries to grapple with problems which most think are best tackled in common so there is no obvious market for the loose, repatriating inter-governmental league desired by many sovereignists. This is especially so if this were to be based on ultra-liberal socio-economic stances.

Despite this, the EU's messy and hard-to-penetrate nature remains a complication. The EU's ambiguity, coupled with the general deficit of understanding amongst both opponents and the inert and ineffective governmental supporters of the Treaty, means that the differences of interpretation continue. And no doubt they will come to the surface as the new arrangements bed down. In other words the post-Lisbon Union is not a brand new order, merely a reworking of the old one. Nonetheless there has been sufficient change and sufficient political crisis for many to hope that the process of treaty reform will be halted.

Yet, even if there is now a feeling that big bang or omnibus treaty reforms are not wanted for the foreseeable future, the Treaty of Lisbon is unlikely to be the end of the line. With Lisbon, as its preamble claims, the process covering Amsterdam and Nice aimed at enhancing the EU's efficiency and democratic legitimacy and improving the coherence

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<sup>33</sup> See also Kurpas *et al* (2007).

of its action has been completed. Indeed, in recalling its signing the European Council in December 2007 declared that the Treaty provides the EU with 'a stable and lasting institutional framework' and that EU leaders expected 'no change in the foreseeable future' (Council of the European Union, 2008: point 6).

However four factors suggest that the process of reforming the EU will not come to a dead end. To begin with, the Treaty is not, as already said, a precise blueprint and applying it could well throw up new problems and developments. Indeed the Spanish government has already pressed for an amendment to allow it to fully enfranchise the extra MEPs it was awarded but who could not be seated before the Treaty came into effect. Secondly, there will be political pressures for rethinking what the EU does. Ironically, these are less likely to come from supporters of integration than from

opponents. Sovereignists in particular will not end their efforts to halt or even reverse integration. Indeed, the British Conservatives have already made their intentions plain in this regard and some believe that the German constitutional court could play a similar role. Third, concessions to Ireland and the Czech Republic to secure ratification mean that further changes will accompany enlargement.

Finally, change is in the nature of the EU. Because it is not a state it is essentially defined by its own constitution. And this is a dynamic and always temporary affair. In other words there was no possibility that Lisbon could ever be a new 'Philadelphia'. So the reformed EU resulting from Lisbon has to be understood as a work in progress. It may last for longer than its predecessors but it is unlikely to bring real finality.

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## LA LIBÉRALISATION DES MARCHÉS DE L'ÉLECTRICITÉ ET DU GAZ NATUREL AU NIVEAU EUROPÉEN – ENJEUX ET DÉFIS ACTUELS

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**Abstract.** *The creation of an internal energy market at the European level becomes nowadays a sine qua non condition for a single and coherent voice on energy issues at the global level for the EU. One essential step to be done is the liberalization of energy sectors, such as electricity and natural gas. This process of liberalization for the electricity and gas market should have been totally and homogeneously accomplished by the mid of 2007 by the member states of the EU, goal established by the European Commission through two legal instruments, more precisely the Directive 2003/54/EC and the Directive 2003/55/EC. Despite the European legislative settlement and despite the existence of common institutions of regularization, the liberalization has its limits. How these limits can be explained and which are the factors for the heterogeneous degree of liberalization of the electricity and gas markets at the European level? This article is focusing on the specific economic and political factors through which the limits of liberalization of energy markets can be explained.*

**Keywords:** *energy policy, gas and electric energy markets, internal market, liberalization, regulation*

**JEL:** Q4

### Problématique

Un problème avec lequel on se confronte aujourd'hui et auquel on essaie d'apporter des perspectives nouvelles est défini par la transformation graduelle et continue du secteur énergétique, phénomène qui a suscité beaucoup d'esprits et de controverses au niveau international. Les marchés énergétiques du monde entier sont soumises de

nos jours aux réformes radicales vu les changements technologiques et vu les besoins de plus en plus élevés des consommateurs en matière d'énergie<sup>1</sup>.

A cette situation on ajoute les effets que le processus de globalisation ait sur le marché international énergétique. Les alliances établies entre les compagnies productrices d'énergie des pays différents et le développement des réseaux de transmission d'énergie sur le territoire

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<sup>1</sup> Daniel Jentsch MÜLLER, *The development of electricity markets in the Euro-Mediterranean area : trends and prospects for liberalization and regional integration*, The World Bank, Washington DC, 2001, p.1.

des plusieurs Etats<sup>2</sup> sont deux faits réels qui rendent visible les effets de la globalisation en matière énergétique. Voilà donc, que le secteur d'énergie devient une question de négociation entre les pouvoirs étatiques au niveau international étant donné le besoin de conclure des accords et de prendre des engagements à cet égard. De nos jours, les questions énergétiques dépassent les frontières des Etats. L'implication des entités étatiques dans les affaires énergétiques doit être conçue au niveau d'une interdépendance entre celles-ci, puisque il y a d'autant plus d'efforts au niveau international de confectionner des programmes et des stratégies à cet égard. Donc, les relations entre les Etats commencent à être pensées autour des affaires énergétiques<sup>3</sup>.

Le secteur de l'énergie au niveau de l'Union Européenne ne fait pas l'exception, puisqu'il est soumis de nos jours à un processus de changement et de transformation à long terme. Ce changement va dans le sens de la création d'un marché européen énergétique fort afin de se protéger par rapport aux autres marchés énergétiques du monde entier<sup>4</sup>. A cette idée on ajoute une autre, étroitement liée à la première, celle d'avoir une position cohérente et renforcée en matière énergétique au niveau international. Ce sont deux objectifs prioritaires pour la construction européenne, qui se trouve elle-même dans un processus continu de réforme institutionnelle.

Les deux derniers vagues d'intégration (2004, 2007) ont ajouté à la construction européenne douze pays de l'Europe de l'Est. Une fois ces pays acceptés dans l'Union Européenne ils ont dû adopter le cadre législatif préexistant dans le domaine de l'énergie. Dès les années 1990, la création du marché commun de l'énergie apparaît comme l'une des priorités pour les Communautés Européennes. Pour l'accomplissement de ce projet, la législation communautaire invite les Etats membres d'ouvrir leurs marchés énergétiques à une concurrence libre afin que la compétition entre les compagnies productrices et distributrices d'énergie soit renforcée et que le choix multiple pour les consommateurs soit garanti.

La libéralisation du marché énergétique est engendrée des nos jours seulement pour le secteur du gaz et de l'électricité<sup>5</sup>. Les autres sous secteurs énergétiques, tels que l'énergie nucléaire ou les énergies renouvelables ne sont pas visés par la libéralisation. D'un côté, la production de l'énergie nucléaire est une affaire qui reste pour l'instant sous la coordination de chaque Etat membre. Le secteur nucléaire se trouve sur l'agenda communautaire sous les termes de la sécurité de production. De l'autre côté, les énergies renouvelables représentent un type d'énergie qui se trouve en plein processus de consolidation afin de remplacer dans l'avenir proche les sources énergétiques traditionnelles (le charbon ou le pétrole).

<sup>2</sup> Franz-Lothar ALTMAN, John LAMPE, *Energy and the transformation process in Southeast Europe*, Bertelsmann Foundation Publishers, Gütersloh, 2000, pp.99-100.

<sup>3</sup> Pour Altman et Lampe «Les guerres et la paix du XXI-ieme siècle seront conclus autour des questions énergétiques » (propre trad.) Franz-Lothar ALTMAN, John LAMPE, op.cit., p. 99.

<sup>4</sup> Ali M. EL-AGRAA, *The European Union. Economics and Policies*, Prentice Hall, Financial Times, Harlow, 2004. p.271.

<sup>5</sup> *Ibid.*, p.276



Conformément à la législation communautaire en vigueur le processus de libéralisation pour les marchés de l'électricité et du gaz devrait être achevé en 2007<sup>6</sup>. Ce n'était pas le cas. Une estimation optimiste soutient qu'une libéralisation totale des marchés d'électricité et de gaz est prévue pour l'année 2012<sup>7</sup>.

### Question de recherche

Etant donné le cadre législatif communautaire existant, le processus de libéralisation des marchés de l'électricité et du gaz au niveau de l'Union Européenne connaît des degrés très différents de libéralisation. L'étude apporte des explications analytiques afin que ces degrés différents de libéralisation des marchés de l'électricité et du gaz soient expliqués. Pourquoi les Etats membres n'ont ils implémenté d'une manière uniforme et complète la législation en vigueur dans la matière jusqu'à la date prévue – juillet 2007 ? Autrement dit, quels sont les facteurs d'ordre économique et politique qui ont rendu la libéralisation du marché européen de l'électricité et du gaz difficile d'être accomplie ?

### Thèse

La thèse de cette étude part du constat que la libéralisation du marché d'électricité et du gaz s'est réalisée

différemment dans les Etats membres de l'Union Européenne. Ce sont plusieurs les facteurs explicatifs et causaux qui puissent justifier cette réalité. Bien qu'on ait des instruments législatifs communs, des institutions de réglementation uniques et une infrastructure similaire au niveau européen, la libéralisation pour les deux secteurs économiques au niveau des Etats membres reste un chapitre inachevé sur l'agenda communautaire. L'accomplissement du processus de libéralisation du marché d'électricité apparaît comme une condition *sine qua non* pour garantir un comportement unitaire de l'Union Européenne au niveau international. La libéralisation a été réalisée différemment dans chaque Etat membre, la situation n'étant pas de tout homogène sur l'ensemble de la communauté européenne. Dans cette logique ci, l'étude s'interroge sur les facteurs causaux qui se trouvent à la base de la libéralisation lente et défectueuse du marché européen d'électricité.

Les hypothèses suscitées par la question de recherche s'engagent autour de deux logiques différentes : la première fait appel aux facteurs extérieurs, indépendants de la construction européenne, tandis que la deuxième s'interroge sur les facteurs internes spécifiques aux Etats membres de l'Union Européenne.

La première hypothèse admet le fait que le processus de libéralisation en matière énergétique s'est réalisé

<sup>6</sup> Parlement Européen et le Conseil, *Directive 2003/54/CE du 26 juin 2003 concernant des règles communes pour le marché intérieur de l'électricité et abrogeant la directive 96/92/CE*, Bruxelles, le 26 juin 2003, JO L176 du 15.07.2003.

Parlement Européen et le Conseil, *Directive 2003/55/CE du 26 juin 2003 concernant des règles communes pour le marché intérieur du gaz naturel et abrogeant la directive 98/30/CE*, Bruxelles, le 26 juin 2003, JO L176 du 15.07.2003.

<sup>7</sup> Daniel Jentsch MÜLLER, *op. cit.*, pp.1-2.

différemment dans les Etats membres en fonction de la séparation existante sur le continent européen entre l'Europe de l'Ouest et celle de l'Est<sup>8</sup>.

De nos jours une ligne *imaginaire* de démarcation entre l'Europe de l'Ouest et celle de l'Est se trouve à l'ordre de l'évidence. Quand même, le climat économique, politique et social dans lequel la libéralisation des marchés de l'électricité et du gaz s'est réalisée reste bien différencié pour les pays de l'Ouest et pour ceux de l'Est. En dépit des effets de la politique de développement durable et de la cohésion pour laquelle l'Union Européenne alloue des sommes importantes d'argent, il y a des différences visibles entre l'Ouest et l'Est de l'Europe à l'égard des résultats de la libéralisation pour ce secteur.

D'une part, la tradition démocratique existante dans les pays de l'Ouest de l'Europe tout comme l'existence d'un marché libre ont influencé d'une manière positive le processus de libéralisation. De l'autre part, même après la chute du communisme, les pays de l'Est ont eu des difficultés à l'égard de l'établissement d'un régime démocratique – des mécanismes propres à faire bouger le système entier vers les valeurs et les principes démocratiques. Dans cette région là, le processus entier du passage d'une économie planifiée à une économie libre a rencontré beaucoup d'obstacles que les pays ont dû surpasser. Donc, une fois la libéralisation du marché européen de l'électricité et du gaz commencée, un grand nombre de problèmes apparaissent dans l'Est de l'Europe à cet égard : l'inexistence d'une tradition du marché libre, les attitudes

conservatrices des appareils étatiques et des citoyens envers la libéralisation.

Une deuxième hypothèse part du présupposé que la libéralisation du secteur énergétique s'est réalisée différemment dans les Etats membres, puisque une réglementation interne particulière à chaque Etat membre existe. Cette réglementation interne spécifique à chaque pays membre de l'Union Européenne est complétée avec la nature du gouvernement en place et avec la pratique institutionnelle de l'appareil étatique dans lequel les compagnies productrices ou distributrices d'énergie sont intégrées.

D'une part, une réglementation interne plus permissive accompagnée par un gouvernement dont les politiques suivies s'intègrent dans la spécificité libérale va assurer un climat interne propice pour l'accomplissement de la libéralisation des marchés de l'électricité et du gaz. De l'autre part, un gouvernement conservateur et une législation interne restrictive ne vont pas dans la logique d'un soutien pour le processus de libéralisation.

Etroitement liée à la nature du gouvernement des Etats membres et à la législation interne relative à la réglementation de la libéralisation des marchés de l'électricité et du gaz est la perspective inter gouvernementaliste. Si on tient compte de la perspective réaliste, les Etats sont des acteurs internationaux égoïstes qui défendent à tout prix leur intérêt national. Restant dans cette logique ci, la situation hétérogène sur le marché européen énergétique peut être expliquée tout en utilisant l'inter gouvernementalisme, comme perspective

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<sup>8</sup> George W. HOFFMAN, Milford, B. GREEN, "The European Energy Challenge: East and West", *Geographical Review*, Vol. 75, No. 4, 1985, pp. 499-501.

avec laquelle quelque uns des Etats membres de l'Union Européenne s'identifient. L'inter gouvernementalisme explique la résistance de quelques Etats de libéraliser leurs marchés de l'électricité<sup>9</sup>. D'habitude il y a la tendance de s'opposer à la libéralisation, puisque ce processus entraîne avec soi « une forte compétition et une déréglementation significative du marché »<sup>10</sup>. Donc, l'intérêt national d'un pays est toujours pris en considération pendant les négociations en matière de libéralisation du marché d'électricité lors des réunions du Conseil de l'Union Européenne.

### La méthodologie

Il y a deux sens en fonction desquels on peut définir la politique énergétique de l'Union Européenne. Dans son sens large, la politique énergétique de l'Union Européenne est un ensemble unitaire qui comprend à la fois un cadre législatif commun en matière d'énergie, un cadre institutionnel commun et un cadre d'action commune. Dans un sens restreint, la politique énergétique de l'Union Européenne englobe toutes les politiques communes initiées soit par la communauté européenne, soit par les Etats membres afin de définir les nouvelles priorités pour les questions énergétiques.

La libéralisation du marché européen d'électricité et du gaz naturel apparaît dans le contexte de la création du marché intérieur énergétique. Autrement dit, la libéralisation est une étape qui doit être accomplie afin qu'on puisse parler d'un marché intérieur pour le secteur d'électricité et du gaz<sup>11</sup>.

Le marché d'électricité et du gaz naturel comprend trois niveaux à partir desquels on peut définir ce terme : la production, le transport (la transmission et/ou la distribution) et la consommation<sup>12</sup>. L'ensemble d'activités entreprises autour de ces trois niveaux soit par les Etats membres, soit par l'Union Européenne apporte une définition du marché européen énergétique. De plus, le marché intérieur d'électricité et du gaz naturel suppose deux choses essentielles : d'une part, l'intégration des tous les marchés nationaux - le processus de libéralisation intervient ici et d'autre part la séparation stricte entre ces niveaux, c'est-à-dire entre « la production et le transport »<sup>13</sup>. A son tour la libéralisation est un processus qui se définit par l'intermède de plusieurs indicateurs<sup>14</sup>, tels que : l'ouverture du marché, le nombre des compagnies (les producteurs ou les distributeurs), les imports et les exports d'électricité et/ou de gaz naturel, la capacité de production et de consommation d'un pays et ainsi de suite.

<sup>9</sup> Rainer EISING, "Policy Learning in Embedded Negotiations: explaining EU electricity liberalization", *International Organization*, Vol. 56, No. 1, 2002, pp. 86-87.

<sup>10</sup> *Ibid.*, p.87.

<sup>11</sup> Ali M. EL-AGRAA, op.cit., p.277.

<sup>12</sup> OCDE (Organisation de coopération et de développement économiques) Trade Policy Studies et la Banque Mondiale, *Liberalisation and Universal Access to Basic services. Telecommunications, Water and Sanitation, Financial Services and Electricity*, Washington, 2006, p. 232.

<sup>13</sup> *Ibid.*, p. 231.

<sup>14</sup> OXERA et al., étude réalisée pour la Commission Européenne, Directeur Général pour l'Energie et le Transport DG TREN, *Electricity liberalisation indicators in Europe*, Bruxelles, Octobre 2001, accessible à [http://ec.europa.eu/energy/electricity/publications/index\\_en.htm](http://ec.europa.eu/energy/electricity/publications/index_en.htm), consulté le 12 janvier 2010

A l'égard des limites engendrées par la recherche il faut faire les précisions suivantes. L'étude analyse le processus de libéralisation du marché d'électricité pour la période 2003-2009. Même si le processus de la création du marché intérieur d'électricité et de gaz naturel commence au début des années 1990, la libéralisation de celui-ci se trouve sur l'agenda communautaire depuis 2003. C'est le moment où, les directives 2003/54/CE et 2003/55/CE<sup>15</sup> qui portent sur les règles à suivre pour la libéralisation du marché d'électricité et de gaz entrent en vigueur. Toujours les deux directives fixent le mois de juillet 2007, la date limite pour que le marché européen d'électricité et de gaz soient libéralisés totalement. On est intéressé donc par cette période dans laquelle l'implémentation de la directive dans les Etats membres s'est réalisée.

### **La législation communautaire concernant le secteur d'électricité et de gaz naturel**

La législation primaire a un caractère général de réglementation en ce qui concerne le secteur énergétique. Les textes législatifs des traités font appel d'une part à l'énergie, comme secteur unitaire dont les principes du fonctionnement sont y établis, d'autre part aux sous secteurs énergétiques particuliers – le charbon et l'énergie nucléaire. Les secteurs d'électricité et de gaz naturel ne sont pas réglementés par la législation primaire. De plus, dans les textes des traités, des références concernant le

marché d'électricité et de gaz naturel ou tout aspect y relié – voir la libéralisation du marché – restent limitées. Mais l'idée de la création d'un marché commun intérieur pour le charbon et pour les ressources nucléaires existe en tant qu'objectif prioritaire à accomplir.

Avant 1990, le secteur énergétique était réglementé par la législation de chaque Etat membre, chacun d'entre eux responsable pour le bon fonctionnement de celui-ci. La situation change tout au début des années 1990 au niveau européen aussi bien qu'un niveau international. Pourquoi les années 1990 sont-elles considérées comme le moment clé pour le commencement du processus de libéralisation du secteur de l'énergie au niveau européen ? Premièrement, la chute du communisme dans les pays de l'Europe de l'Est a entraîné avec soi le début du processus de démocratisation accompagné ensuite par des vagues successives de privatisation en masses et de libéralisation des marchés. Deuxièmement, la libéralisation peut être liée à la limite avec au autre processus dont les sources se trouvent au début des années 1990 – la globalisation<sup>16</sup>. Autrement dit, la Communauté Européenne devrait se doter avec une politique commune en matière d'énergie afin d'avoir une position unitaire sur la scène des relations internationales, qui commence à devenir de plus en plus dynamique. Troisièmement, les problèmes liés à la sécurité énergétique au niveau de l'Europe doivent être prises en considération<sup>17</sup>. Ce n'est pas par hasard

<sup>15</sup> Le Parlement Européen et le Conseil, *Directive 2003/54/CE du 26 juin 2003 concernant des règles communes pour le marché intérieur de l'électricité et abrogeant la directive 96/92/CE*, Bruxelles, le 26 juin 2003, JO L176 du 15.07.2003.

<sup>16</sup> Franz-Lothar ALTMAN, John LAMPE, *op.cit.*, pp.99-100.

<sup>17</sup> Ali M. EL-AGRAA, *op.cit.*, p.277.

que l'effort de la Commission Européenne d'intégrer les pays de l'Europe de l'Est dans la Charte Européenne de l'Energie<sup>18</sup> est venu tout au début des années 1990.

Les débats de cette période là commencent à s'interroger sur le besoin d'accomplir les nouvelles demandes du marché énergétique européen - la construction européenne se donne comme but principal d'établir « une coopération forte avec les pays de l'Europe de l'Est afin d'assurer la sécurité d'approvisionnement en matière énergétique »<sup>19</sup> et de les aider à redresser leurs économies internes. Etant données les nouvelles modifications de la charte de l'Europe au début des années 1990, la politique en matière de l'énergie devrait être pensée sous la forme d'un transfert des responsabilités des entités gouvernementales étatiques vers les institutions supranationales communautaires.

Il y a trois moments importants qui ont marqué d'un point de vue législatif la libéralisation des marchés de l'électricité et du gaz naturel. Tout au début des années 1990 la législation secondaire s'interroge sur la transparence des prix pour le secteur énergétique. Les années 1996 marque le moment où la législation dérivée se penche vers un set de règles à suivre en vu d'établir le marché intérieur d'électricité et de gaz au niveau européen. Un dernier moment essentiel est celui de 2003, quand l'acquis communautaire en matière d'électricité et de gaz naturel

va établir les conditions à remplir pour l'accomplissement d'une libéralisation totale de ce marché.

### **La libéralisation du marché d'électricité et de gaz naturel – libéralisation totale/partiale/limitée**

Par ailleurs, la libéralisation du marché énergétique est définie comme une étape impérativement à parcourir afin qu'un marché interne soit réalisé pour ce secteur. Mais qu'est qu'on comprend par le marché interne ? Le marché interne ou le marché commun est la troisième étape sur l'échelle linéaire de l'intégration économique européenne<sup>20</sup>. Tout au début, l'Union Européenne était un projet d'intégration dont la composante économique y était présente. La mise en commun des ressources du charbon et de l'acier entre la France et l'Allemagne a été le premier pas fait dans la direction de la création d'une zone de libre échange où les frontières tarifaires entre ces deux pays avaient été effacées.

*Grosso modo*, le marché interne est caractérisé par l'élimination des barrières tarifaires auxquelles on ajoute les quatre mouvements libres (des personnes, des capitaux, des biens et des services)<sup>21</sup>. A son tour de rôle, les avantages du marché interne sont plusieurs. Premièrement, l'élimination des barrières tarifaires conduit à « l'intensification de la concurrence »<sup>22</sup> soit sur le territoire des

<sup>18</sup> CECA et Euratom du Conseil et de la Commission, *Décision 98/181/CE concernant la conclusion par les Communautés européennes du traité sur la Charte de l'énergie et du protocole de la Charte de l'énergie sur l'efficacité énergétique et les aspects environnementaux connexes*, Bruxelles, 23.09.1997, JO L 69 du 09.03.1998.

<sup>19</sup> Parlement Européen, *Résolution sur les résultats de la réunion spéciale du Conseil européen tenue à Dublin les 28 et 29 avril 1990 (17 mai 1990)*, Journal officiel des Communautés européennes (JOCE), Bruxelles, 18.06.1990.

<sup>20</sup> Les cinq étapes de l'intégration économique européenne sont : la zone de libre échange, l'union douanière, la marché commun/interne, l'union monétaire et économique et l'union fiscale.

<sup>21</sup> Dominique REDOR, *Economie européenne*, Hachette, Paris, 1999, pp.21-22.

<sup>22</sup> *Ibid.*, p.23.

pays membres de l'Union Européenne, soit entre les entités étatiques y présentes. Implicitement l'ouverture des marchés implique « une meilleure division du travail »<sup>23</sup> sur les marchés nationaux, puisque chaque Etat va se spécialiser sur les produits pour lesquelles il est relativement le plus efficace.

Toujours sous les termes du général, on parle d'abord d'une *libéralisation totale*<sup>24</sup> (totalement accomplie) qui signifie que la production de l'électricité et/ou du gaz naturel est séparée de la distribution et ensuite séparée des ventes. Donc, les trois processus qui font bouger le marché d'électricité – la production, la distribution et les ventes deviennent des sous secteurs indépendants, étant soumis à « une séparation verticale »<sup>25</sup>. La séparation verticale fait référence à une séparation entre plusieurs sous secteurs à l'intérieur d'un même domaine.

La *libéralisation partielle*<sup>26</sup> signifie que l'un de ces trois éléments (la production, la distribution et les ventes) du marché énergétique se trouve sous le contrôle et l'administration du pouvoir étatique. Donc, l'Etat peut détenir le contrôle monopolistique soit sur un secteur (par exemple la production), soit sur les deux sous secteurs (par exemple la distribution et les ventes). C'est en effet, le contrôle étatique exercé sur une compagnie productrice ou distributrice d'électricité qui détient une position dominante

sur le marché. Mais, il y en a d'autres compagnies sur le marché d'électricité dont l'Etat n'exerce pas un contrôle direct.

La *libéralisation limitée* se définit comme étant la situation où toutes les trois activités du marché d'électricité et/ou de gaz naturel se trouvent sous le contrôle et la gestion du pouvoir étatique. Cette situation est caractérisée d'habitude par la position monopolistique d'une seule compagnie qui est à la fois fournisseur et distributeur d'électricité. Celle-ci est fortement contrôlée par le pouvoir étatique. Donc, on a d'une part le contrôle de l'Etat sur le marché énergétique, d'autre part la position du monopole d'une seule compagnie qui détient un pourcentage élevé (si non totale) de la production et de la distribution d'électricité et de gaz naturel sur le marché respectif.

#### **La libéralisation du marché d'électricité et de gaz naturel en fonction des niveaux distincts: production/distribution/ventes**

Les études sur la libéralisation du marché énergétique démontrent que la participation du secteur privé sur le marché de l'électricité et de gaz naturel ne va faire que maximiser la compétition entre les entités économiques y présentes<sup>28</sup> (les producteurs et les distributeurs) afin de permettre aux consommateurs des prix plus équitables qu'auparavant.

<sup>23</sup> *Ibidem*.

<sup>24</sup> OCDE (Organisation de coopération et de développement économiques) Trade Policy Studies et la Banque Mondiale, *op.cit.*, p. 230.

<sup>25</sup> *Ibidem*.

<sup>26</sup> *Ibid.*, p. 231.

<sup>27</sup> *Ibidem*

<sup>28</sup> Zhang Y. PARKER et al (2002), *Electricity Sector Reform in Developing Countries: an economic assessment of the effects of privatization, competition and regulation*, Aston Business School Research Institute, Novembre, Working Paper no.31, University of Manchester *apud* OCDE (Organisation de coopération et de développement économiques) Trade Policy Studies et la Banque Mondiale, *op.cit.*, p.230.



Ici intervient le problème au niveau de chaque Etat membre qui est forgé d'accepter les droits et les obligations qui découlent du cadre législatif préexistant à la création et à l'établissement d'un marché d'électricité libéralisé. Le cadre législatif en matière de libéralisation du marché énergétique engendre à son tour un autre problème – il prescrit des règles générales à suivre, mais celles-ci doivent être adaptées au contexte particulier de chaque Etat membre.

Le marché européen d'électricité et de gaz naturel suppose plusieurs activités enchaînées afin que celui-ci fonctionne d'une manière efficace – c'est-à-dire, l'approvisionnement (la production), la distribution (le transport) et la consommation. Plus ces activités connaissent une séparation plus accentuée, plus le marché d'électricité est plus libéralisé.

Tout en restant sur une perspective large du terme, il y en a quatre segments spécifiques au marché d'électricité et de gaz naturel<sup>29</sup>: la production, le transport (la transmission et la distribution), le marché et les services associés (par exemple, l'expertise des ingénieurs d'améliorer la qualité des infrastructures énergétiques d'électricité). On va s'arrêter sur les particularités engendrées par chacun d'entre ces quatre segments.

*La production* est le plus important segment du secteur d'électricité et de gaz naturel et elle a été ouverte au secteur privé à partir des années 1990. La manière selon laquelle le secteur privé est impliqué dans la production d'électricité et de gaz naturel dépend directement

de la libéralisation engendrée par les Etats membres<sup>30</sup>, plus exactement des politiques permissives ou contraignantes promues au sein de chaque Etat membre. Même s'il y a un cadre législatif général (voir les directives et les règlements de la Commission Européenne et du Conseil), chaque Etat membre, par ses politiques intérieurs, peut limiter la participation du secteur privé sur le segment de la production de l'électricité et/ou de gaz naturel. Il y a des modèles des politiques libérales qui offrent plus de possibilités à la participation privée dans le segment de production, tandis qu'il y a des politiques restrictives qui limitent l'intervention du secteur privé sur le segment y engendré.

Les politiques restrictives des Etats membres en matière de production d'électricité et/ou de gaz naturel comprennent quelques limites. Premièrement, le producteur est limité d'habitude de vendre le produit - l'électricité et/ou le gaz naturel - soit aux distributeurs, soit directement aux consommateurs. Dans la plupart de cas, le producteur est forcé de fournir le produit à une seule compagnie distributrice qui se trouve sous le monopole de l'Etat. Cette situation était rencontrée dans les pays de l'Europe de l'Est avant 1990 où il y avait une tradition faible à l'égard de l'indépendance des compagnies productrices l'électricité et/ou de gaz naturel.

*Le transport* tout en engendrant la transmission et la distribution de l'électricité et/ou de gaz naturel peuvent se trouver soit sous la forme du pouvoir monopolistique de l'Etat, soit sous la

<sup>29</sup> OCDE (Organisation de coopération et de développement économiques) Trade Policy Studies et la Banque Mondiale, op.cit. p.233.

<sup>30</sup> *Ibidem*.

forme des plusieurs entités privées qui s'en occupent. La libéralisation pour ce segment s'accomplisse dans la mesure où on fait « le passage du monopole étatique vers une pluralité de compagnies privées »<sup>31</sup> dont la tâche principale est la réalisation du transport d'électricité entre le producteur et les consommateurs. Le nombre d'intermédiaires sur le marché d'électricité est beaucoup plus significatif que celui des fournisseurs d'électricité. Il y a la possibilité qu'un fournisseur d'électricité détienne une position de monopole sur le marché d'électricité dans la situation où une compagnie singulière détient la production et la distribution d'électricité.

A l'égard des services associés, on peut citer la recherche et la vérification faites pour la maintenance d'une qualité et d'une fonctionnalité hautes des infrastructures d'électricité et/ou de gaz naturel.

### **La libéralisation du marché d'électricité en fonction des indicateurs afin d'établir le degré de libéralisation du marché européen d'électricité**

Il est bien de noter que la libéralisation suppose des transformations aux plusieurs niveaux : au niveau législatif (la création d'un cadre législatif, qui ne doit pas avoir un caractère contraignant, mais plutôt un caractère de prescription des conditions

et des directions à suivre), au niveau institutionnel (la création des institutions supranationales de réglementation et de coordination du marché d'électricité), au niveau infrastructurel (la création et le développement des réseaux pour la production et la distribution d'électricité) et dernièrement au niveau des consommateurs (assurer la protection et garantir la sécurité).

Ensuite, la libéralisation du marché d'électricité et de gaz naturel de l'Union Européenne est définie par l'intermédiaire des plusieurs indicateurs<sup>33</sup> qui doivent être considérés afin qu'on a un aperçu pluridimensionnel et rigoureux sur ce phénomène. Il y a plus d'une dizaine d'indicateurs qui puissent être utilisés pour l'établissement du degré de libéralisation du marché énergétique de l'Union Européenne. Parmi ceux-ci, on identifie : l'ouverture du marché, la concentration du marché, les imports et les exports de la quantité d'électricité et/ou de gaz naturel, la capacité de production et de consommation d'électricité et/ou de gaz naturel d'un Etat membre et ainsi de suite.

La libéralisation du marché énergétique de l'Union Européenne considère plusieurs indicateurs. Pour avoir une image fidèle sur ce que la libéralisation est on doit entamer l'analyse de ces indicateurs dans un contexte plus large afin de saisir leur interdépendance. Les études empiriques consultées<sup>34</sup> prennent

<sup>31</sup> Ibid., p.234.

<sup>32</sup> Ibid., p.239.

<sup>33</sup> John GOERTEN, Emmanuel CLEMENT, *European Electricity market indicators of the liberalization process 2005-2006*, 88/2007, Eurostat, CE, Luxembourg, 2007.

<sup>34</sup> John GOERTEN, Emmanuel CLEMENT, *Competition indicators in the electricity market of the European Union and Norway*, 07/2005, Eurostat, CE, Luxembourg, 2005.

Eurostat, Commission Européenne, *Energy, Transport and environment indicators*, Luxembourg, 2007. Eurostat, Commission Européenne, *Gas and electricity market statistics : 1990-2006*, Luxembourg, 2006.

John GOERTEN, Emmanuel CLEMENT, *European Electricity market indicators 2006*, 6/2008, Eurostat, CE, Luxembourg, 2008.



en compte un nombre significatif d'indicateurs, mais les dates statistiques et les informations offertes par les Etats membres sont quelques fois insuffisantes ayant un caractère confidentiel, motif pour lequel j'ai choisi de m'arrêter sur deux indicateurs qui bénéficient d'une forte documentation empirique rigoureuse.

L'ouverture du marché est le premier indicateur qu'on considère ; celui-ci s'identifie avec « le pourcentage de la consommation totale d'électricité et/ou de gaz naturel pour les consommateurs qui peuvent choisir librement leurs fournisseurs d'électricité »<sup>35</sup>. Le but initial de l'établissement d'un marché interne d'électricité et/ou de gaz naturel au niveau européen a été de créer des interconnexions entre les réseaux nationaux afin de garantir le libre choix aux consommateurs. L'ouverture du marché signifie la capacité d'interconnexion, indicateur qui prend en compte « la valeur exprimée en pourcentage de la capacité de transfert d'énergie »<sup>36</sup>. L'ouverture du marché est liée d'une manière logique avec la *participation étrangère sur le marché d'électricité et/ou de gaz naturel*, phénomène qui se définit comme la quantité totale de l'électricité et/ou de gaz naturel importée du dehors d'un Etat membre rapportée à la production totale d'électricité<sup>37</sup>. Ce rapport est exprimé toujours en pourcentage. Brièvement dit,

l'ouverture du marché fait appel d'une part aux interconnexions existantes entre les marchés des Etats membres et d'autre part à la possibilité offerte pour les compagnies étrangères d'entrer sur le marché respectif.

Un deuxième indicateur qu'on considère dans l'analyse est la *concentration du marché*<sup>38</sup>. Cet indicateur est défini par deux éléments : d'une part, c'est le nombre de compagnies qui produisent l'électricité et/ou le gaz naturel<sup>39</sup> et d'autre part, c'est le partage du marché national (de chaque Etat membre) entre les compagnies productrices d'électricité et/ou de gaz naturel.<sup>40</sup> Autrement dit, la concentration du marché fait appel à la fois au nombre des compagnies présentes sur le marché et ensuite au pourcentage détenu par chacune de ces compagnies sur le marché énergétique engendré.

Cet indicateur nous permet de savoir quel est le degré de libéralisation du marché énergétique, puisque on sait quelle est la situation du partage du marché national d'électricité et/ou de gaz naturel entre les producteurs. Le numéro de compagnies est significatif dans la mesure où on l'associe avec le pourcentage détenu par une compagnie ou plusieurs sur le marché d'électricité/gaz, au cas contraire, l'interprétation de celui ci reste bien limitée.

<sup>35</sup> OXERA et al., étude réalisée pour la Commission Européenne, Directorate Général pour l'Energie et le Transport DG TREN, op.cit, pp. 38-39.

<sup>36</sup> *Ibidem.*, la capacité de transfert d'électricité = la valeur maximale (%) de l'échange d'électricité entre deux régions ayant des standards de sécurité semblables ; cette valeur est calculée pour les jours de travail de la semaine et pour les heures du sommet, voir OXERA et al., étude réalisée pour Commission Européenne, Directorate Général pour l'Energie et le Transport DG TREN, op.cit, pp. 38-39.

<sup>37</sup> OXERA et al., étude réalisée pour Commission Européenne, Directorate Général pour l'Energie et le Transport DG TREN, op.cit., p.147.

<sup>38</sup> *Ibid.*, p.52.

<sup>39</sup> *Ibid.*, pp.53-54.

<sup>40</sup> *Ibid.*, pp.58-59.

La concentration du marché peut être analysée à la fois pour les compagnies productrices d'électricité, mais le même raisonnement est appliqué aux compagnies distributrices d'électricité et/ou de gaz naturel.

### **Le modèle d'analyse de la libéralisation du marché d'électricité et de gaz naturel au niveau de l'UE**

Ce modèle d'analyse se propose être un outil sur la base duquel on va construire l'argumentaire afin d'apporter des unités explicatives pour la situation hétérogène du marché européen d'électricité et de gaz naturel. On établit quatre degrés différents de libéralisation du marché d'électricité et de gaz naturel de l'Union Européenne - faible, moyen, fort et fort total. Pour l'encadrement définitoire de ces quatre degrés de libéralisation on utilise deux variables indépendantes : l'ouverture du marché et la concentration du marché. En fonction de ces deux variables tout en utilisant les données empiriques fournies par l'Eurostat<sup>41</sup>, on construit le modèle d'analyse. Chacun de ces quatre degrés de libéralisation comprend *grosso modo* un nombre variable des pays de l'Union Européenne qui réunissent les mêmes caractéristiques définitoires.

Ainsi, le premier type – le degré de libéralisation faible se caractérise par une ouverture restreinte et une concentration grande sur le marché d'électricité et/ou de gaz naturel. Le deuxième type, celui d'une libéralisation *moyenne* comprend une ouverture et une concentration du marché petites et limitées. Ensuite, un

degré de libéralisation *fort* suppose une ouverture et une concentration grandes du marché d'électricité et/ou de gaz naturel. C'est le miroir en revers du deuxième type. Le dernier type est celui d'un degré *fort total* de libéralisation qui est défini par une ouverture significative et une concentration petite du marché d'électricité. C'est la situation qui s'oppose au premier type engendré.

Le modèle d'analyse qui respecte la logique ci-dessus mentionnée est engendré par le Tableau 1. Chaque degré de libéralisation du marché d'électricité de l'UE est défini tout en tenant compte de l'ouverture du marché (A) et de la concentration du marché (B). L'ouverture du marché peut être à la fois petite (A-) ou grande (A+). La même logique est appliquée pour la concentration du marché – une concentration petite (B-) ou grande (B+). Ces encadrements (A-, A+, B-, B+) ont été établis en fonction des données empiriques ramassées dans les deux annexes à la fin de cette étude.

Un premier facteur explicatif pour les différents degrés de libéralisation du marché d'électricité des Etats membres de l'Union Européenne renvoie à la théorie et à la tradition démocratique présente sur le continent européen d'une façon discontinue et disproportionnée.

Avant 1989, l'Union Européenne concentrait douze pays chacun d'entre eux ayant une tradition démocratique libérale occidentale. Après la chute du communisme en Europe Centrale Orientale qui a entraîné avec soi la désintégration des Etats multinationaux – l'Union Soviétique et l'Yougoslavie et la séparation plus tard de la Tchécoslovaquie

<sup>41</sup> Les données empiriques sont brièvement présentées dans les deux annexes à la fin de cette étude.

**Tableau 1 : Les degrés de libéralisation du marché d'électricité et de gaz naturel en fonction des variables indépendantes (l'ouverture du marché et la concentration du marché)**

Le degré de libéralisation du marché d'électricité de l'Union Européenne (faible/moyen/fort/fort total)	FAIBLE	MOYEN	FORT	FORT/TOTAL
L'ouverture du marché d'électricité (A)/ La concentration du marché d'électricité (B)	(A -)/(B +)	(A -)/(B -)	(A +)/(B +)	(A +)/(B -)
Les Etats membres de l'Union Européenne	Chypre	Bulgarie	Belgique	Allemagne
	Estonie	Hongrie	<b>France</b>	Autriche
	<b>Grèce</b>	<b>Italie</b>	Irlande	Espagne
	Malte	Lettonie	Luxembourg	Danemark
		Lituanie	<b>République Tchèque</b>	Finlande
		Roumanie	Pologne	<b>Grande Bretagne</b>
			Slovaquie	Pays Bas
			Slovénie	Portugal
				Suède

(1993)<sup>42</sup>, le projet européen commence à s'interroger sur la possibilité d'y intégrer cette partie de l'Europe. De nos jours l'idée d'une Europe unie est devenue une réalité, même avec les limites qu'elle comporte. En dépit des évolutions considérables de la construction européenne (institutionnelles, législatives, économiques, idéologiques), des différences perceptibles entre les Etats membres de l'Europe de l'Ouest et ceux de l'Est se ressentent dans la coordination des politiques communautaires.

Ces différences d'implémentation sont visibles aussi dans le secteur énergétique, notamment si on fait référence au processus de libéralisation du marché d'électricité et

de gaz naturel. Suivant le tableau ci-dessus, on observe bien que tous les pays membres de l'Union Européenne qui ont connu avant 1989 l'expérience communiste ont un degré de libéralisation petit ou moyen. Quand même, c'est bien vrai que les marchés d'électricité des pays tels que la République Tchèque, la Pologne, la Slovaquie ou la Slovaquie ont un degré fort de libéralisation, mais la tendance dans ces pays se situe à la frontière avec le degré moyen de libéralisation.

Le deuxième facteur explicatif qu'on considère est le type de pouvoir en place de l'Etat membre de l'Union Européenne dans lequel le processus de libéralisation se

<sup>42</sup> Erhard BUSEK et Werner MIKULITSCH, *Uniunea Europeană și drumul spre Răsărit*, trad. par Mihai Grigoras, Gabriela Ghindea, Laura Cocis et Erwin Weiss, Institutul European, Iași, 2005, pp.41-42.

déroule. On est intéressé plus précisément de l'appareil institutionnel au niveau national chargé de l'implémentation de la législation communautaire et de la surveillance de celle-ci. Ensuite, l'orientation du gouvernement en place sous lequel le processus de libéralisation est commencé et développé doit être considérée aussi.

En ce qui concerne l'appareil institutionnel lié aux problèmes énergétiques au niveau national de chaque Etat membre de l'Union Européenne, celui-ci est bien différent si on tient compte de la manière dans laquelle ses responsabilités et ses tâches sont distribuées. Quand même, l'institution de régulateur est le point commun de tous ces appareils, puisque conformément à la législation communautaire, le régulateur en matière d'électricité doit se retrouver dans tous les pays membres. Celui-ci a la responsabilité de veiller au bon fonctionnement du marché d'électricité<sup>43</sup> afin qu'il soit totalement libéralisé et de fournir les données demandées aux institutions supranationales (Eurostat, la Communauté Européenne).

A part cette structure, le gouvernement joue un rôle très important dans l'accomplissement de la libéralisation du marché d'électricité et/ou de gaz naturel. D'une part, la structure de l'appareil gouvernemental doit être prise en considération dans la mesure où le changement du gouvernement modifie la structure et la distribution des tâches entre les ministères. D'autre part l'orientation politique du gouvernement

compte elle aussi pour l'aboutissement de la libéralisation du marché d'électricité et de gaz naturel au niveau national. Celle-ci est reliée avec le niveau d'implication du gouvernement sur le marché énergétique. C'est-à-dire il y a des gouvernements fortement impliqués dans la coordination et dans la réglementation de la libéralisation de leurs marchés énergétiques, il y en a d'autres dont l'implication s'y fait peu ressentie.

Un troisième facteur explicatif qui est lié au deuxième prend en considération la perspective inter gouvernementaliste au niveau de l'Union Européenne. Conformément à cette perspective, les mauvais résultats de la libéralisation du marché d'électricité peuvent être expliqués par les positions différentes des Etats membres à cet égard. Brièvement dit, les Etats membres de l'Union Européenne ont des intérêts pas convergents en matière de libéralisation en fonction de leurs résultats économiques et leurs intérêts nationaux à suivre<sup>44</sup>. Les intérêts des Etats membres de l'Union Européenne à l'égard de la libéralisation du marché énergétique sont indépendants, dans la majorité de cas différents de ceux de la communauté européenne<sup>45</sup>. A ce niveau ci intervient un conflit entre l'incidence que les décisions des structures supranationales communautaires ont sur la prise de décisions des entités nationales en matière de libéralisation.

Quand même, si on engendre le secteur d'électricité, la perspective inter gouvernementaliste fait appel à une coopération entre les Etats membres,

<sup>43</sup> Commission Européenne, *Décision 2003/796/CE de la Commission du 11 novembre 2003 instituant le groupe des régulateurs européens dans le domaine de l'électricité et du gaz*, Bruxelles, le 11 Novembre 2003, JO L296 du 14.11.2003.

<sup>44</sup> Rainer EISING, *op.cit.*, p. 86.

<sup>45</sup> *Ibid.*, p. 95.

chacun d'entre eux tout en défendant sa position en fonction des intérêts économiques spécifiques. De l'autre côté, la perspective supranationale fait référence à la capacité des institutions communautaires de faire respecter la législation existante sur le domaine du marché d'électricité et de gaz naturel. A ce niveau ci, intervient un autre problème, celui de la possibilité des Etats membres d'adopter les directions prescrites à leurs réalités économiques.

### Conclusions

Suite aux observations y faites, la libéralisation des marchés de l'électricité et du gaz reste une provocation pour un grand nombre de systèmes économiques des pays membres. Les asymétries entre les Etats membres sur les questions de libéraliser leurs marchés d'électricité restent de nos jours visibles, tout en encourageant une fragmentation du marché énergétique européen dans son ensemble.

Les deux indicateurs y engendrés pour définir le degré de libéralisation des marchés de l'électricité et du gaz c'est-à-dire l'ouverture et la concentration du marché synthétisent les difficultés auxquelles la construction européenne doit faire face à l'égard de l'accomplissement de la libéralisation du secteur énergétique. Autrement dit, les faibles interconnexions entre les réseaux nationaux d'électricité et du gaz naturel et la concentration de plus en plus grande des compagnies sur leurs marchés nationaux représentent les principaux défis pour les résultats limités de la libéralisation.

*Primo*, une tradition démocratique et un bon fonctionnement des institutions démocratiques représentent un facteur qui favorise la libéralisation du marché

d'électricité des Etats membres. C'est le modèle des démocraties occidentales où le processus de libéralisation est accompli d'une manière totale. Les pays du Sud (Italie, Grèce) et de Centre Est de l'Union Européenne (Pologne, République Tchèque, Slovaquie, les trois pays baltes, Roumanie, Bulgarie, Hongrie, Chypre, Malte) connaissent un degré moyen et petit de libéralisation, vu un régime démocratique qui a subi récemment une période de transition ou qui subisse encore la transition.

*Secundo*, un gouvernement d'orientation libérale favorise à son tour le développement de la libéralisation du marché d'électricité, tandis que un gouvernement qui se dirige plutôt vers une idéologie conservatrice ne va pas être intéressé par le renforcement de la libéralisation pour ce secteur. A part le gouvernement en place des Etats membres, un autre acteur institutionnel qui joue un rôle important dans l'aboutissement de la libéralisation du marché d'électricité est l'institution du Régulateur européen. Si cette institution détient une certaine légitimité au niveau du marché national d'électricité, la libéralisation tend à évoluer d'une manière ascendante. Au cas contraire, le marché d'électricité sera peu réglementé, donc par conséquence la libéralisation ne va pas être renforcée.

*Tertio*, la perspective inter gouvernementaliste va plutôt dans la direction d'un rejet de la part des pays membres d'ouvrir leurs marchés aux compagnies étrangers et de les libéralisés par la suite. La perspective supranationale va de pairs avec la capacité des institutions communautaires d'imposer la législation existante sur le sujet de la libéralisation du marché d'électricité.

Les trois facteurs explicatifs y apportés doivent être regardés dans leur interdépendance par rapport au processus de libéralisation. Un traitement singulier et isolé de ces trois facteurs ne conduira pas de tout à une compréhension analytique de la libéralisation des marchés de l'électricité et du gaz.

Le processus de libéralisation des marchés de l'électricité et du gaz est une étape qui doit être accomplie d'une manière totale et uniforme dans tous les

Etats membres de l'Union Européenne, afin qu'un marché intérieur d'énergie devienne une réalité pour la construction européenne. A part cet objectif que l'UE se donne, il y en a deux autres, c'est-à-dire assurer la sécurité de l'approvisionnement et le développement durable. Ce sont les priorités fixées par l'Union Européenne en matière des enjeux énergétiques qui vont représenter les points de débats futurs à cet égard.

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\* Note : Toutes ces ressources électroniques ont été consultées entre Janvier 2009 et Mars 2010.



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\* Note : Toutes ces ressources électroniques ont été consultées entre Janvier 2009 et Mars 2010.

## ANNEXE 1 - La libéralisation du marché d'électricité de l'UE en fonction des indicateurs utilisés

LES ETATS MEMBRES DE L'UNION EUROPEENNE	LES INDICATEURS DE LA LIBERALISATION DU MARCHE D'ELECTRICITE									
	a. L'ouverture du marché d'électricité (2008)		b. Le nombre de producteurs (2008)		c. La concentration du marché d'électricité (2008)		d. Le nombre de distributeurs (2008)		e. La concentration du marché d'électricité (2008)	
	a.1. Degré de l'ouverture (%) <sup>1</sup>	a.2. Degré de libéralisation (faible/moyen/fort) <sup>2</sup>	b.1. au moins 95% <sup>3</sup>	b.2. au moins 5% <sup>3</sup>	c.1. le % détenu par les producteurs d'électricité (au moins 5% sur leur marché national*)	b.2+c.1. Degré de libéralisation (faible/moyen/fort)**	d.1. au moins 95% <sup>3</sup>	d.2. au moins 5% <sup>3</sup>	e.1. le % détenu par les distributeurs d'électricité (au moins 5% sur leur marché national*)	d.2+e.1. Degré de libéralisation (faible/moyen/fort)**
Allemagne	100	fort/total	> 450	4	77	moyen	1042	3	43	fort
Autriche	100	fort/total	91	4	54	fort	136	8	73	fort
Belgique	90	Fort	4	2	88	faible	23	3	77	moyen
Bulgarie			15	5	76	moyen	13	9	90	moyen
Chypre	34	faible	1	1	100	faible/monopole	1	1	100	faible
Danemark	100	fort/total	> 1000	2	72	fort	65	8	pas disponible*	
Espagne	100	fort/total		4	81	moyen	51	4	75	moyen
Estonie	11	faible	2	2	96	faible	43	1	94	faible
Finlande	100	fort/total	28	5	64	fort	>100	3	pas disponible*	
France	70	moyen	5	1	89	faible (exception)	160	1	pas disponible*	
Grande Bretagne	100	fort/total	18	6	68	fort	26	7	90	moyen
Grèce	61	moyen	1	1	95	faible	4	1	100	faible

LA LIBÉRALISATION DES MARCHÉS DE L'ÉLECTRICITÉ ET DU GAZ NATUREL AU NIVEAU EUROPÉEN – ENJEUX ET DÉFIS ACTUELS

Hongrie	moyen	68	moyen	85	4	73	fort	12	4	92	faible
Irlande	fort	100	fort/total	4	4	79	moyen	9	4	94	faible
Italie	moyen	79	moyen	92	5	69	fort	380	3	52	fort
Lettonie	moyen	75	moyen	2	1	95	faible	4	1	100	faible
Lituanie	moyen	74	moyen	7	4	88	moyen	7	2	95	faible
Luxembourg	fort	83	Fort	>12	2	pas disponible*		12	4	92	faible
Malte	faible	0	faible/ inexistant	1	1	100	faible/ monopole	1	1	100	faible
Pays Bas	fort/total	100	fort/total	400	5	67	fort	38	5	80	moyen
Pologne	fort	80	Fort	51	5	45	fort	168	6	72	fort
Portugal	fort/total	100	fort/total	77	3	74	moyen	4	1	80	moyen
République Tchèque	fort	74	moyen	16	1	74	faible (exception)	285	3	95	faible
Roumanie	moyen			12	7	86	moyen	18	9	73	Fort
Slovaquie	moyen	79	moyen	7	2	85	faible (exception)	35	5	86	Moyen
Slovénie	moyen	76	moyen	4	2	90	faible (exception)	13	6	96	Faible
Suède	fort/total	100	fort/total	11	3	85	moyen	119	3	51	Fort
<b>Degré de libéralisation (UE) en fonction de ces indicateurs</b>	<b>moyen</b>	<b>78,16</b>			<b>3,19</b>	<b>79,62</b>	<b>moyen</b>		<b>3,93</b>	<b>83,33</b>	<b>Moyen</b>

## ANNEXE 2 - La libéralisation du marché de gaz naturel de l'UE en fonction des indicateurs utilisés

LES ETATS MEMBRES DE L'UNION EUROPEENNE	Le degré de libéralisation du marché de gaz naturel de l'UE (faible/moyen/fort/fort total)		a. L'ouverture du marché de gaz naturel		b. Le nombre de producteurs (2008)		c. La concentration du marché de gaz naturel (2008)		d. Le nombre de distributeurs (2008)	
	a.1. Degré de l'ouverture (%) <sup>1</sup>	a.2. Degré de libéralisation (faible/moyen/fort) <sup>2</sup>	b.1. au moins 95% <sup>3</sup>	b.2. au moins 5% <sup>3</sup>	c.1. le % détenu par les producteurs de gaz naturel (au moins 5%) sur leur marché national*	b.2+c.1. Degré de libéralisation (faible/moyen/fort)**	d.1. au moins 95% <sup>3</sup>	d.2. au moins 5% <sup>3</sup>		
Allemagne	100	Total	20	7	700	1	8	Fort (exception)		
Autriche	100	Total	5	3	28	4	90	Moyen		
Belgique	86	Faible	3	2	41	3	79	Moyen		
Bulgarie		Moyen	4	3	Non disponible*	Non disponible*	93	Faible		
Cipre	Non disponible*		Non disponible*	Non disponible*	Non disponible*	Non disponible*	100	Faible		
Danémарque	100	Total	1	1	5	3	Non disponible*			
Espagne	100	Total	15	6	40	5	74	Moyen		
Estonie	93	Fort	2	2	23	1	78	Faible		
Finlande	85	Fort	28	1	30	1	95	Faible		
France	68	Moyen	13	3	36	3	94	Faible		
Grande Bretagne	100	Total	23	7	18	7	81	Moyen		
Grèce	0	Inexistant	1	1	4	1	89	Faible		
Hongrie	64	Moyen	6	3	16	7	95	Moyen		
Irlande	84	Fort	8	4	4	1	99	Faible		
Italie	100	Fort	38	3	415	4	71	Fort		
Lettonie	0	Inexistant	1	1	1	1	100	Faible		
Lituanie	85	Fort	5	4	5	1	95	Faible		

Luxembourg	Fort	80	Fort		2	1	6	2	90	Faible
Malte	faible	Non disponible*		Non disponible*		Non disponible*		Non disponible*	100	Faible
Hollande	Total	100	Total			5	21	6	89	Moyen
Pologne	Fort	70	Fort	13		1	57	7	93	Faible
Portugal	Moyen	0	Inexistant	1		1	11	4	92	Moyen
République Tchèque	Moyen	63	Moyen	6		1	10	7	94	Faible
Roumanie	Moyen	75	Moyen	12		4	39	6	91	Moyen
Slovaquie	Moyen	70	Moyen	1		1	1	1	100	Faible
Slovénie	Moyen	86	Fort	2		1	17	2	81	Faible
Suède	Moyen	93	Fort	1		1	7	5	98	Faible
<b>Degré de libéralisation (UE) en fonction de ces indicateurs</b>	<b>Moyen</b>	<b>75,08</b>				<b>2,68</b>		<b>3,46</b>	<b>87,26</b>	<b>Moyen</b>

### Notes

<sup>1</sup> John GOERTEN, Emmanuel CLEMENT, *European Electricity market indicators of the liberalization process 2005-2006*, 88/2007, Eurostat, CE, Bruxelles, 2007, p.1.

<sup>2</sup> faible(0-35)/moyen(36-79)/fort(80-100), voir OXERA et al, étude réalisée pour la Commission Européenne, le Directorat Général de l'Énergie (TREN), *Electricity liberalisation indicators in Europe*, Bruxelles, Octobre 2001, p.148.

<sup>3</sup> au moins 95%/5% de la production/de la distribution totale d'électricité au niveau de chaque Etat membre de l'UE (2006), voir John GOERTEN, Emmanuel CLEMENT, *European electricity market indicators 2006*, 06/2008, Eurostat, CE, Bruxelles, 2008, p.1.

\* Ibid., pp.3-4.

\*\* fort(43-73)/moyen(74-90)/faible(91-100), OXERA et al, *op.cit*, pp.59-60.

Note 1 : Les exceptions justifient l'existence d'une seule ou de deux compagnies productrices d'électricité et/ou de gaz naturel sur le marché d'électricité d'un pays membres de l'UE.



## NOT SO WIDE, EUROPE: RECONSIDERING THE NORMATIVE POWER OF THE EU IN EUROPEAN FOREIGN POLICY

Scott Nicholas Romaniuk\*

**Abstract.** *Through the use of political conditionality, the European Union (EU) exercises what Ian Manners has termed ‘normative power’, which many scholars and political analysts have regarded as the primary force behind the speedy democratization process of the 2004 enlargement of the EU. The two most recent enlargements of the EU have extended the Union into a new neighbourhood bordering still relatively democratically infant and unstable states such as Belarus and Ukraine. Following the relative success of conditionality during the enlargement process, the ENP was developed in 2003 to once again take advantage of conditionality to spread EU ‘norms’ and secure political stability at its borders, this time without the incentive of membership. This article analyzes the ability of the EU to exercise normative power in Eastern Europe. It presents the argument that despite systematic attempts to spread EU policies, or so-called ‘norms’ beyond the Union’s external borders, disparities in norm-adoption among ENP target-states exemplifies incongruence in the success of the EU’s normative power in foreign relations. To address the question of whether the EU demonstrates normative power through its application of the Neighbourhood Policy, the authors’ analysis will address the cases of Ukraine and Belarus. .*

**Keywords:** *Acquis communautaire, European Neighbourhood Policy (ENP), Normative Power, democratization, discursive power, transformative policy, ‘norms’, membership*

### I. Introduction

The EU as a normative power has an ontological quality to it – that the EU can be *conceptualized* as a changer of norms in the international system; a positivist quantity to it – that the EU *acts* to change norms in the international system; and a normative quality to it – that the EU *should* act to extend its norms into the international system.<sup>1</sup>

– Ian Manners, 2002

The European Neighbourhood Policy (ENP) is hailed by élites in the European Union (EU) as a “transformative policy” with “strong normative powers.”<sup>2</sup> The EU as a normative power in international relations, as argued by EU policy-makers and European integration scholars, has been successful in promoting democratization and economic liberalization as not only international norms, but also pre-requisites for Union membership. In May 2004 the remarkable enlargement in the history of the European Union took place.

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<sup>1</sup> Ian MANNERS, “Normative Power Europe,” *Journal of Common Market Studies*, Vol. 40, No. 2, (2002), 252.

<sup>2</sup> Herdina, ANDREAS, “Approximation of Laws in the Context of the European Neighbourhood Policy—A View from Brussels,” *European Journal of Law Reform*, Vol. 9, No. 3, (2007), 502.

Subsequently, this round of enlargement has been considered one of the EU's stunning achievements, particularly when the immoderate reforms in terms of democracy and market economy that had taken place in these states during the association period is taken into consideration.

The political conditionality, as a fundamental ingredient, made it possible for the EU community to apply pressure on the candidate countries to yield necessary democratic, legal and economical reforms. In this regard, the EU offered the classic carrot-incentive in terms of membership to the Union. Accordingly, conditionality, together with the presupposition of asymmetrical power, has arisen as a powerful policy instrument of the EU through which normative power can be exercised. Following the collapse of the Soviet edifice, Western Europe strove to assist Central and Eastern European Countries (CEECs) with their transition to democracy, through a process of conditionality that offered rewards (including membership) for compliance with the proposed 'European norms'. For the Soviet-successor states involved in the 2004 and 2007 EU accessions, the requirements defined by the *acquis communautaire* for the most part provided an undisputed set of guidelines that were met to achieve the ultimate final promised reward of membership.

European Neighbourhood Policy was created with the purpose of promoting stability, democracy, and economic growth in periphery of the EU, but without promising future membership for the countries concerned. The two most recent enlargements have extended the EU into a new neighbourhood bordering still relatively democratically infant and unstable states such as Belarus and

Ukraine. Following the relative success of conditionality during the enlargement process, the ENP was developed in 2003 to once again take advantage of conditionality to spread EU 'norms' and secure political stability at EU borders, this time without the incentive of membership. Ian Manners argues, "[...] not only is the EU constructed on a normative basis, but importantly [...] this predisposes it to act in a normative way in world politics." The ENP is hence a manifestation of the Union's attempt to re-create the success of its normative influence in foreign policy towards the new 'European' neighbourhood. To question the influence of EU 'norms' or more specifically, the strength of EU normative power, the analysis in this article will apply Manners' concept of a 'Normative Power Europe' (NPE) in the context of the ENP as a tool of European foreign policy. The argument is presented that despite a conscious attempt to spread EU policies, or so-called 'norms' beyond the Union's external borders, disparities in 'norm'-adoption among ENP target-states exemplifies incongruence in the success of the EU's normative power in foreign relations.

To address the question of whether the EU demonstrates normative power through its application of the ENP, the analysis will focus on two case studies: those of Ukraine and Belarus. As former Soviet republics of similar size, which both share borders with EU members states – Belarus bordering with Poland, Lithuania and Latvia, and Ukraine bordering with Poland, Slovakia, Hungary and Romania – both states are also among the three initial neighbours to sign Partnership and Co-operation Agreements (PCAs) with the European Community (EC) in 1995. Since that time Ukraine has signed a Joint Action Plan (JAP) under the ENP in February

of 2005<sup>3</sup>, and initiated negotiations for a New Enhanced Agreement (NEA) in March of 2007.<sup>4</sup> In contrast, the PCA ratification process with Belarus was frozen by the EU following what was labeled a “deteriorating democratic and human rights situation”<sup>5</sup> following the 1995 parliamentary elections.

While the door to the ENP remains open to Belarus, its government has failed to demonstrate initiative to move in that direction. Based on similar contexts, yet varying levels of EU ‘norm’-adoption and participation in the ENP, both Ukraine and Belarus will serve as a basis for an analysis of the EU’s normative power. This analysis will begin with an examination of the concept of normative power in the context of the ‘norms’ that the ENP proposes to extend. A brief background of the Neighbourhood Policy will follow with the intention of contextualizing the implementation of EU ‘norm’ diffusion. The penultimate section of this article will address the ENP as it pertains and is applied to the two cases. In the final section reasons behind the disparities in the effectiveness of the EU’s normative influence in the ENP will be addressed.

## **II. The EU’s ‘Transformative Policy’: Politics on the Periphery**

### ***Classifying Europe’s Normative Power***

The first scholar to characterize the European Union as a normative power was Ian Manners, who argues that the traditional English School classification of

states as actors exercising either hard or soft power is insufficient in characterizing Europe’s normative power.<sup>6</sup> Given the fact that the EU has exemplified the application of power in terms other than the outright use of military force, a general propensity exists to view the Union as a civilian power. However, some scholars have reproached such a claim on the basis that the EU more accurately rests along a spectrum between two ideal types of civilian and military powers. Manners asserts that with development that has taken place in the scholarly field of international relations during the 1990s, the EU has rushed headlong into a new approach to foreign policy that transcends these traditional claims.

Manners emphasizes the difference between the EU and other historical empires or contemporary global powers that promote their norms as being the exceptional historical context in which the EU was created. The devastation of the European continent following the second major conflagration in the twentieth century compelled many to re-consider the interaction of states in Europe. Robert Schuman is one such individual who reasoned that the idea of making these countries dependent of each other by communalizing the production of coal and steel would ultimately preserve and resultantly strengthen the peace of Europe. Manners argues that these principles in combination with states’ willingness to disregard Westphalian conventions is the

<sup>3</sup>Iryna SOLOMONENKO, “The European Union as Democracy Promoter: The Case of Ukraine,” *Romanian Journal of Political Science*, Vol. 5, No. 2, (2005), 65.

<sup>4</sup> Commission of the European Communities, *Joint Evaluation Report: EU-Ukraine Action Plan* Brussels/Kyiv: European Union, 2008, 1.

<sup>5</sup>Frank SCHIMMELFENNIG, *European Neighbourhood Policy: Political Conditionality and Its Impact on Democracy in Non-Candidate Neighbouring Countries*, Paper Prepared for the EUSA Ninth Biennial International Conference: 2005, 20.

<sup>6</sup>Karen SMITH, *Still “Civilian Power EU?”*, European Foreign Policy Unit Working Paper, 2005, 16 and 17.

core of the Community's commitments of placing universal norms and principles with member states and with external actors. Subsequently, how the EU affects political ideas as opposed to simply questioning whether the means are civilians or military-based should also be taken into consideration.

### ***Changing the 'Norms' in International Politics***

In the context of policy-making, the ENP is a cross-pillar initiative, co-ordinating between numerous policy areas and institutions. It is co-ordinated by the European Commission, which is also responsible for following-up on ENP members' progress through regular state reports. One of the initial areas of co-operation, and an expected incentive for the participating states has been trade, including in many cases the goal of a Free Trade Area (FTA). This has traditionally been a first pillar (Community) policy area over which the Commission has jurisdiction in addition to (i) energy; (ii) environment, (iii) transport; as well as other general areas of interest that are targeted by the ENP.

As a response to increased security concerns in Europe following the 2004 enlargement, the ENP also covers two other major areas of EU external relations, which include co-operation in foreign, security and defence policies, and co-operation in areas of freedom, security and justice.<sup>7</sup> These areas involve the second and third pillars. Hence, when addressing

the EU in the context of the ENP, the significance of the Council of Ministers, the European Council, and to a lesser degree the European Parliament must also be taken into consideration. However in the context of Manners' 'Normative Power Europe', the EU is seen not through the institutions that are necessarily involved in exerting each particular case of power, but rather through the international identity that the EU has developed as a whole, based on common values and ideologies that have been promoted as representing the Union in the past.

The EU is capable of changing the concept of what is 'normal' in international politics by "[s]imply by existing as different in a world of states and relations between them [...]".<sup>8</sup> While understanding that states' positive intentions do not necessarily or always translate into positive practice, Manners reasons, "the EU is normatively different to other polities with its commitment to individual rights and principles".<sup>9</sup> To illustrate this point, Manners suggests that we imagine "[...] the ideational impact of the EU's international identity and role as representing normative power."<sup>10</sup> The EU we speak of when interpreting its use of normative power is not referencing a specific actor or institution, but rather the conceptual and ideational identity that it possesses on an international level or in the context of the ENP, its identity as perceived by the neighbouring states.

Normative power, for the purpose of this analysis, claims that the international

<sup>7</sup> Christopher HILLION, "Mapping-Out the New Contractual Relations between the European Union and Its Neighbours: Learning from the EU-Ukraine 'Enhanced Agreement'," *European Foreign Affairs Review*, No. 12, (2007), 173.

<sup>8</sup> Ian MANNERS. "The Normative Ethics of the European Union," *International Affairs*, Vol. 84, No. 1, (2008), 65.

<sup>9</sup> Ian MANNERS. "Normative Power Europe," *Journal of Common Market Studies*, Vol. 40, No. 2, (2002), 241.

<sup>10</sup> *Ibid.*, 238.

processes, agreements and organization in which the EU is involved and that which it promotes, has the power to construct the interests and identities of its neighbours.<sup>11</sup> It is able to define international standards of 'appropriate behaviour'<sup>12</sup> or in political parlance, to create international 'norms'. Such 'norms' thence shape external identities through non-coercive means separate from economic, military or even civilian power. The influence "[...] is exerted by [the] norms themselves."<sup>13</sup> To understand the theoretical conception of the EU as a normative actor, one must also consider and understand what is meant by 'norms'.

#### **European 'Norm'-Promotion vis-à-vis Conditionality**

'Norms' are common standards on both an international level and internally within states. Manners defines an international norm as "shorthand for what passes as "normal" in international relations."<sup>14</sup> Accordingly, normative power should be understood as the ability to shape or change what passes for normal.<sup>15</sup> Manners states nine such 'norms' that he asserts the EU promotes beyond its borders: sustainable peace, freedom, democracy, human rights, rule of law, equality, social solidarity,

sustainable development and good governance.<sup>16</sup> These same 'norms' can be traced back to the Neighbourhood Policy, where they are all presented as conditions for co-operation with the European Union. In developing a neighbourhood policy to apply following the 2004 enlargement, the Commission published a paper on *Wider Europe*, whereby the policy as a "[...] means to promote stability, security and sustainable development" is promoted.<sup>17</sup> The 2007 Commission publication on the implementation of the policy lists political dialogue and reform, socio-economic reform, and sectoral reform as areas where change is needed in order to deepen relations with the Union.<sup>18</sup> The ENP can therefore be seen as a cardinal vehicle of European 'norm'-promotion through the use of conditionality. The 'norms' promoted by the EU are conditions for deeper co-operation under the ENP. Manners emphasizes that it is not simply these 'norms' that are of importance, but that "[...] the way in which the EU promotes these principles [...] slowly and on the basis of partnership,"<sup>19</sup> which defines the EU's power. In this case, the ENP makes an ideal case study through which to further examine the influence of 'Normative Power Europe'.

<sup>11</sup> Michael BARNETT, "Social Constructivism," in *Globalization of World Politics: An Introduction to International Relations*, Ed. John Baylis and Steven Smith. (London, UK: Oxford University Press, 2005), 253.

<sup>12</sup> *Ibid.*, 265.

<sup>13</sup> Thomas DIEZ and Ian MANNERS, "Reflecting on Normative Power Europe," in *Power in World Politics*, Ed. Felix Berenskoetter and M. J. Williams. (New York, NY: Routledge, 2007), 175.

<sup>14</sup> Ian MANNERS, "Normative Power Europe: The International Role of the EU". *European Union Studies Association (EUSA) <Biennial Conference> 2001 (7th)*, May 31-June 2, 2001, pages 30, Madison, Wisconsin, 10.

<sup>15</sup> *Ibid.*, 10.

<sup>16</sup> Ian MANNERS. "The Normative Ethics of the European Union," *International Affairs*, Vol. 84, No. 1, (2008), 66.

<sup>17</sup> Commission of the European Communities, *Wider Europe: A New Framework for Relations with our Eastern and Southern Neighbours*, (Brussels: European Union, 2003), 4.

<sup>18</sup> Commission of the European Communities, *Implementation of the European Neighbourhood Policy in 2007*, Brussels: European Union, 2008, 3-6.

<sup>19</sup> MANNERS, Op. Cit., 66.

Asking not simply why a neighbouring country would agree to adopt these 'norms' and how they are spread, but what makes them adhere to the new states once they have been accepted into the rhetoric of the ENP participant states is crucial. As a policy, the ENP similar to enlargement policy has been designed to function on the basis of 'carrots' for co-operation and 'sticks' or the loss of offers from the EU in response to a lack of co-operation. The concept of conditionality neatly fits Frank Schimmelfennig's and Ulrich Sedelmeier's 'external incentives model' of rule adoption. In their model, which was developed to explain adoption of the *acquis communautaire* during the 2004 enlargement, countries will adopt EU rules following a cost-benefit analysis in which they deem the incentives offered by the EU to be greater than the costs of co-operation.<sup>20</sup> However, if conditionality is to be credited for the acceptance and enforcement of EU 'norms' beyond EU borders, then it still fails to account for the disparities between ENP target states in their levels of what can be called 'Europeanization'."

As the two cases studies presented in this analysis will illustrate, rule adoption, especially when driven by the 'external incentives model' does not necessarily entail identity change or ideological identification with these 'norms' themselves. However, Manners' conceptualization of normative power is of a power that, "[...] works through ideas,

opinions and conscience,"<sup>21</sup> in a way that shapes the identities of the actors involved as well as international conceptions of what is normal. Writing with Manners, Thomas Diez correctly emphasizes that the EU is in fact most likely to 'shape conceptions of the normal' in scenarios where the perceived economic and political benefits of co-operation are the major factors for compliance with EU 'norms', as in the case of enlargement.<sup>22</sup> In this case, it is national self-interest on behalf of the neighbouring states that encourages them to formally adopt EU 'norms' as their own. However, it is a separate dynamic that explains why and in which context these 'norms' develop the *power* to change the fundamental ideological identities of non-EU actors to successfully stimulate genuine processes of democratization, socio-economic and political reform.

Once introduced into the rhetoric and the discourse of government actors, followed by NGOs, and other societal players, these 'norms' have the capacity to shape processes and identities through a type of 'rhetorical spillover'. "[R]epeated invocation of the norm, even if it is just lip-service, will boost the 'norm's resonance and lead to greater chances for 'norm'-internalization."<sup>23</sup> If this holds true then European normative power is only effective in cases where EU 'norms' are given access to national discourse and make their way into national rhetoric. Therefore the most likely cases for the promotion of democracy and other such

<sup>20</sup> Frank SCHIMMELFENNIG and Ulrich SEDELMEIER, "Introduction: Conceptualizing the Europeanization of Central and Eastern Europe," in *The Europeanization of Central and Eastern Europe*. (Ithica, NJ: Cornell University Press, 2005), 10.

<sup>21</sup> Thomas DIEZ and Ian MANNERS, "Reflecting on Normative Power Europe," in *Power in World Politics*, Ed. Felix Berenskoetter and M. J. Williams. (New York, NY: Routledge, 2007), 175.

<sup>22</sup> *Ibid.*, 176.

<sup>23</sup> Paul KUBICEK, "The European Union and Democratization in Ukraine," *Communist and Post-Communist Studies*, No. 38, (2005), 273.



'norms' are those countries that are already on a path to democratization and governed by "reform-minded leaders."<sup>24</sup> Once these ideas make it down to the general public, even if the government spreading them was only doing so for political gains, they will begin to resonate amongst the population progressively stimulating a change in ideals.

The more signing of the PCA, prior to the implementation of the Neighbourhood Policy, as in the case of Belarus, without it entering into Belarus' political discourse on a sizable scale, is not enough to make the EU's normative power effective. Similarly, former Ukrainian president, Leonid Kuchma made it clear to the EU that he desired further integration with the Union for Ukraine. Under Kuchma, in 1998 Ukraine adopted a national Strategy of Integration into the EU. However, the Kuchma Government still had problems with state corruption and although it called itself a democracy, there were still fundamental inconsistencies in the democratic process. It was not until after 2005 that the "[...] Ukrainian leadership began to demonstrate the political will necessary to pursue reforms required by European integration."<sup>25</sup> Since the democratic revolution did in fact coincide with the official implementation of the ENP's first Action Plan, the increased success of EU 'norm'-adoption could be attributed to the ENP itself. What must not be overlooked is the fact that incoming President Viktor Yushchenko made

tremendous efforts to bring the EU into the centre of political discourse in Ukraine following 2005. Days after Yushchenko assumed-office, he explained to the Council of Europe that his plans for reform were geared towards the "strategic foreign policy of EU membership,"<sup>26</sup> and that he would do whatever possible to make "the democratic changes...irreversible."<sup>27</sup> Not only is Yushchenko interested in the incentives of EU-Ukraine co-operation, but he is also reform-minded enough to allow the EU into Ukraine political rhetoric where its normative power has already begun to take shape. Michael Emerson, the former Head of the EU's Delegation in Moscow illustrated this well when he said that, "[...] EU power to influence its neighbours is clearly strongest for those European states that have membership aspirations, even when this is not reciprocated for the time being by the EU."<sup>28</sup>

The idea of rhetorical spillover is effectively illustrated through Michel Foucault's concepts of exerting power through the use of discourse. He claims power that is exerted through the shaping and influencing of popular discourse as opposed to exerting power through the use of discourse. He claims power that is exerted through the shaping and influencing of popular discourse as opposed to exertion through military capacity, for example, is most effective:

What makes power hold good,  
what makes it accepted, is simply  
the fact that it does not only weigh

<sup>24</sup> Krisit RAIK, "Promoting Democracy in the Eastern Neighbourhood—The Limits and Potential of ENP," *The International Spectator*, Vol. 41, No. 3, (2003), 43.

<sup>25</sup> Iryna SOLOMONENKO, "The European Union as Democracy Promoter: The Case of Ukraine," *Romanian Journal of Political Science*, Vol. 5, No. 2, (2005), 67.

<sup>26</sup> British Broadcasting Company, 2005, *Yushchenko Seeks EU Membership*, BBC News, January 25 <<http://news.bbc.co.uk/go/pr/ft/-/2/hi/europe/4204149.stm>> .

<sup>27</sup> *Ibid.*

<sup>28</sup> SOLOMONENKO, *Op. Cit.*, 61.

on us as a force that says no, but that it traverses and produces things, it induces pleasure, forms knowledge, produces discourse. It needs to be considered as a productive network that runs through the whole social network.<sup>29</sup>

The EU's normative power, as presented in this analysis is a form of discursive power. In order for it to be effective, the EU 'norms' being promoted must first enter into discourse and political rhetoric at the national level of the ENP target country. Through such diffusion of power, the EU is able to a certain degree to construct the identities of neighbouring states by building-up popularly accepted conceptions of what is 'normal'.<sup>30</sup>

### III. Failing to Democratize *The Limits of Normative Power*

For EU normative power to take effect, multi-dimensional and multi-directional power relations are involved, rather than a top-down process where 'norms' are simply passed-down from EU institutions and member state governments to the ENP participants through different means. All six factors that Manners lists as fostering 'norm'-diffusion – contagion, informational diffusion, procedural diffusion, transference, overt diffusion and the cultural filter – suggest top-down approach to power relations.<sup>31</sup> As will be illustrated through the ENP, the neighbouring state

governments are initially in a position of power to decide not only whether or not to engage in co-operation with the EU and the ENP, but more importantly how much the national discourse will adopt said 'norms'. Only once a national government has admitted these 'norms' into its everyday rhetoric, whether out of self-interest or resulting from genuinely shared values, these EU 'norms' begin to shape ideas on a national level.

The Union's normative power relies on discursive power to hold, in the case of the ENP, it depends on its ability to enter its 'norms' into the political discourse of neighbouring states whether directly, through NGOs, or on a grassroots level. Since this power in international relations is to a degree constrained by its target actors, this analysis will illustrate that Manners' conceptualization of normative power exaggerates its strength and potential impact. Manners argues that, "[...] the ability to define what passes for 'normal' in world politics is, ultimately, the greatest power of all,"<sup>32</sup> and claims that the EU may be one of the most important normative powers in the world.<sup>33</sup> Examining the impact of the ENP to shape conceptions of 'normal' in Belarus and Ukraine will reveal that there are limits to such power.

Before proceeding to the case studies, it is necessary to briefly look at the ideas behind the ENP and how the EU conceptualizes it. In the formation states of the ENP, the communication from the

<sup>29</sup> Michel FOUCAULT, "Truth and Power: Interview with Michel Foucault," *The Foucault Reader*, Ed. Paul Rabinow, (New York, NY: Pantheon Book, 1985), 61.

<sup>30</sup> Ronnie D. LIPSCHUTZ, "On the Transformation Potential of Global Civil Society," in *Power in World Politics*, Ed. Felix Berenskoetter and M. J. Williams (New York, NY: Routledge, 2007), 229.

<sup>31</sup> Ian MANNERS. "Normative Power Europe," *Journal of Common Market Studies*, Vol. 40, No. 2, (2002), 244 and 245.

<sup>32</sup> Ian MANNERS. "Normative Power Europe," *Journal of Common Market Studies*, Vol. 40, No. 2, (2002), 244 and 253.

<sup>33</sup> Ian MANNERS. "The Normative Ethics of the European Union," *International Affairs*, Vol. 84, No. 1, (2008), 80.

Commission to the Council of Ministers and European Parliament (EP), *Wider Europe*, proposes, “[...] the EU should aim to develop a zone of prosperity and a friendly neighbourhood—‘a ring of friends’—with whom the EU enjoys close, peaceful and co-operative relations.”<sup>34</sup> It is also suggested that a stake in the EU’s internal market be offered in return for “[...] concrete progress demonstrating shared values and effective implementation of political, economic and institutional reforms, including ... aligning legislation with the *acquis communautaire*, [...]”<sup>35</sup> In essence, the Commission writes that the Neighbourhood Policy should entail very similar requirements to those of European enlargement policy as conditions for much smaller gains.

In spite of emphasizing the mutual gains of the ENP, what the *Wider Europe* communication fails to address are the Unions self-interested motivations behind a common policy for its neighbours. As the 2004 Eastern Enlargement approached, Western European media was bombarded with reports on a variety of crimes and corruption including human, drug and weapons trafficking and organized crime, all on what was soon to be the new border of the European Union.<sup>36</sup> Unless those borders can be secured, then crime that makes it past the borders of the EU’s Eastern periphery becomes an EU problem. With the elimination of international borders within the EU-15 that would eventually

involve dissolving internal borders between these and the new EU member states, the security of the Eastern borders became a significant area of concern. The commission may promote ‘democracy and good governance’ as well as ‘the promotion of human rights’<sup>37</sup> as two of the main goal of the ENP; however the overarching goal is ultimately to address security concerns at the borders of the enlarged Union. Rather than taking an approached that exerts traditional forms of power through increased policing of the borders for example, the ENP attempts to use political conditionality to spread EU ‘norms’ across its borders and defend itself from trans-border crime by changing the identities of its neighbours to be more like itself.

The policy’s potential success rests on the allowance for differentiability in the EU’s approaches to different countries under the umbrella of the ENP. Each individual country under the ENP is ‘tailor-made’ an Action Plan specific to the issue of EU concern in that particular country. The further a given country is willing to go in adopting EU ‘norms’, the greater the financial, political and strategic assistance the EU provides, the further that country will be brought into the EU’s own policies including the potential for a more liberalized Schengen visa régime, preferential trade benefits. In this way, rather than appearing to impose a particular EU model from the outside, the

<sup>34</sup> Commission of the European Communities, *Wider Europe: A New Framework for Relations with our Eastern and Southern Neighbours*, (Brussels: European Union, 2003), 4.

<sup>35</sup> *Ibid.*, 4.

<sup>36</sup> Elisabeth JOHANSSON-NOGUES, “The EU and It’s Neighbourhood: An Overview,” in *Governing Europe’s Neighbourhood: Partners or Periphery?*, Ed. Katja Weber et al. (Manchester, UK: Manchester University Press, 2007), 22.

<sup>37</sup> Sylvia MAIER and Frank SCHIMMELFENNIG, “Shared values: Democracy and Human Rights,” in *Governing Europe’s Neighbourhood: Partners or Periphery?*, Ed. Katja Weber et al. (Manchester, UK: Manchester University Press, 2007), 39.

ENP aims to utilize the Union's normative power to "[...] [sow] seeds of change at the inside."<sup>38</sup> The Neighbourhood Policy was formally implemented in 2005 when the first Action Plan entered into force, amongst these Ukraine.

### ***The EU's Unfinished Success Story: The Case of Ukraine***

On 5 February 2010, Yulia Tymoshenko became the bitterly defeated but still defiant opponent of newly elected President Mr. Victor Yanukovich in the latest Ukrainian national election. Subsequently, the Orange Revolution, the dream of a Ukraine free from Russian power, and free from an élite group of highly-corrupt oligarchs, had seemingly dissolved. The result of the election has produced a jaded society of Ukrainians who appeared as believers in the democratic system of political independent Ukraine. Observers are now demonstrating signs that Ukrainians are losing hope in realizing a politically-sound Ukraine. Democracy has faced a difficult time establishing itself in Ukraine since the fall of Stalin's wall, and Ukraine's democratic institutions have failed to sustain themselves in many fashions. On one hand, Ukraine may be seen as a battleground in which democracy has waged a commendable campaign to establish itself in the aftermath of totalitarianism. On the other hand, as the various forms of government in Ukraine's post-Soviet history have stridently failed to maintain a constitution that guarantees basic personal and political rights, fair and free elections, and independent courts of law, the assertion can be made that modern democracy in Ukraine has failed, and therefore Democratic Ukraine has faded drastically.

The political outcome in Ukraine will considerably change the geo-political portrait of Eastern Europe as well as the Caucasus. With the loss of Ukraine to Russia and the destruction of the Orange Revolution forces, many are now wondering how this will impact the scope of geo-politics in the region. In Eastern Europe, Poland and the Baltic States have good reason to become alarmed as Russia regains its historical base in Ukraine. It is possible that a new line will be drawn in the sand, and a notable lack of support from EU players in Western Europe will become palpable in the near future. The recent change will also have an impact on the NATO alliance as well. Thus, the recent political change in Eastern Europe will require members of both NATO and the EU to fill in the compromised economic and political positions of one another as time goes on. In many ways a realignment of foreign policy objectives by Europe, as well as actors external to the European continent, will likely take place.

Despite instances of disillusionment with the EU, Ukraine, for the most part, can be considered one of the Neighbourhood Policy's unfinished success stories. Relations between the EU and Ukraine at present are governed through the Partnership and Co-operation Agreement (PCA) whereby all the neighbouring Commonwealth of Independent states (CIS) concluded with the EU some years after the fall of the Soviet Union. The PCA was ratified in 1998 injecting the treaty with an addition 10 years of life. However, the ENP has been made an addition to the previous agreement, and currently talks between Ukraine and the EU are taking place regarding an Enhanced Agreement.

<sup>38</sup> Esther BARBE and Elizabeth JOHANSSON-NOGUES, "The EU as a Modest 'Force for Good': The European Neighbourhood Policy," *International Affairs*, Vol. 84, No. 1, (2008), 87.

The Joint Evaluation Report on the EU-Ukraine Action Plan commends Ukraine for having made progress over previous years of the plan's implementation. Areas of 'major achievement' mentioned by the Commission include, among others, successful democratic parliamentary elections, the finalization of Ukraine's accession to the World Trade Organization (WTO) as well as progress in the areas of climate change, transport, education and research.<sup>39</sup> Though, the EU may call into question the legitimacy of the Ukrainian democratic election system with the recent outcome in Ukraine's political constellation. Based on Ukraine's commitment to adapting to specified EU 'norms' as well as the results of regular consultations during the EU-Ukraine summits, and meetings of the EU-Ukraine Co-operation Council and EU-Ukraine Ministerial Troika, the EU has maintained its agreements to deepen political and economic relations. Ukraine has already aligned itself with much of the EU's foreign policy declarations in line with the Common Foreign and Security Policy (CFSP). To demonstrate commitment to meeting the guidelines of the Action Plan and to furthering EU-Ukraine relations, Ukraine participated in EU police missions in the Former Yugoslav Republic of Macedonia and Bosnia-Herzegovina.<sup>40</sup>

Due to Ukraine's relatively consistent co-operation, trade between the two countries has increased over past years

of the ENP, largely as a result of an agreement on steel and textiles. European Union visa facilitation and re-admission agreements were also entered into force in January 2008 after Ukraine agreed to introduce visa-free treatment for EU member-state nationals. This agreement promises to facilitate access to EU visas and introduces waivers of visa and visa fee requirements for certain categories of people.<sup>41</sup> However, this co-operation has not come without problems. Prospective ENP partner countries, especially Ukraine had marked expectations of the policy in 2003 when the Commission's first ENP communication initially mentioned extending its 'free circulation of persons' to neighbouring states that would co-operate in implementing EU 'norms'.<sup>42</sup> Knowing that a membership invitation may not be extended to Ukraine anytime soon and the ENP is currently the only means for closer EU-Ukraine relations, Yushchenko remained determined and optimistic in an address to the EP supporting enhanced co-operation specifying that "[...] [t]he format of our ties should proceed from the recognition of Ukraine as an inalienable part of united Europe."<sup>43</sup> Following such optimism, the Union's visa facilitation and re-admission agreements were met with disappointment. In practice, the promised exemption from visa requirements only benefits a marginal cross-section of Ukraine's population including only very specific categories such as students and business people. Up

<sup>39</sup> Commission of the European Communities, *Implementation of the European Neighbourhood Policy in 2007*, Brussels: European Union, 2008, 8 and 9.

<sup>40</sup> Commission of the European Communities, *Joint Evaluation Report: EU-Ukraine Action Plan* Brussels/Kyiv: European Union, 2008, 2.

<sup>41</sup> *Ibid.*, 3-5.

<sup>42</sup> Esther BARBE and Elizabeth JOHANSSON-NOGUES, "The EU as a Modest 'Force for Good': The European Neighbourhood Policy," *International Affairs*, Vol. 84, No. 1, (2008), 89.

<sup>43</sup> *Ibid.* 32.



to ninety-five per-cent of the population is excluded.<sup>44</sup> Such disillusionment has not significantly damaged Ukraine's initiative at applying ENP Action Plan goals as well as negotiations for New Enhanced Agreement are under way to replace the Action Plan which has expired in 2009.

With this progress in mind, it is important to differentiate between the legal adoption of EU 'norms' and the adoption of these 'norms' into mainstream ideology as normative power would suggest. Practical implementation of these 'norms', especially when followed by EU-related policies that are visible to the public, will, to a degree, bring them into everyday political, if not popular, discourse and with time shape Ukrainian normative identity in a direction that conforms with that of the EU. The popular Orange Revolution was, "[...] a widespread reaction against corrupt and discredited leaders, and a popular call for a new political culture;"<sup>45</sup> a movement that was already mobilized before the ENP had been implemented. The new leadership under Yushchenko is committed to the democratization process. Despite his obvious leaning towards integration with the European Union, it is difficult to determine how much of this common 'European' identity shared with the EU is a direct influence of the presence of EU 'norms' from the ENP and the PCA that preceded it, and how much is home-grown out of frustration with the previous régime. One such line of

argumentation, developed by Kristi Raik, suggests that the reason behind success of EU 'norm' adoption can be explained by the simple fact that it was already a case of 're-transition' when negotiations for co-operation began in the 1990s.<sup>46</sup> Thus, the democratization process may have been to a degree shaped by EU 'norms', but it was not born of them.

In spite of signing the PCA in 1995 and announcing to the Council of Europe that Ukraine aimed to become a member of the EU, the government under President Kuchma did not take integration seriously at the national level.<sup>47</sup> These gestures were, for the most part, simply strategic political moves. In contrast, the domestic policy prior to the revolution illustrates that the government did not share the EU's basic democratic values and "[...] merely used pro-EU policy and rhetoric to legitimize themselves in the eyes of the European democratic community."<sup>48</sup> Once this rhetoric made it in to the national discourse at the domestic Ukrainian level, especially following the Commission's 2003 ENP communication, it began to shape the 'norms' of Ukrainian society. Although it is unlikely that this was the reasons behind the movements leading-up to the Orange Revolution, yet lack of concrete action on them, led to greater dissatisfaction with Ukraine's political scenario. This supports the earlier argument that the European normative power is a type of discursive power that in addition to

<sup>44</sup> Esther BARBE and Elizabeth JOHANSSON-NOGUES, "The EU as a Modest 'Force for Good': The European Neighbourhood Policy," *International Affairs*, Vol. 84, No. 1, (2008), 89.

<sup>45</sup> Kristi RAIK, "Promoting Democracy in the Eastern Neighbourhood—The Limits and Potential of the ENP," *The International Spectator*, Vol. 41, No. 3, (2006), 33.

<sup>46</sup> Kristi RAIK, "Promoting Democracy in the Eastern Neighbourhood—The Limits and Potential of the ENP," *The International Spectator*, Vol. 41, No. 3, (2006), 32.

<sup>47</sup> Iryna SOLONENKO, "The European Union as Democracy Promoter: The Case of Ukraine," *Romanian Journal of Political Science*, Vol. 5, No. 2, (2005), 57 and 58.

<sup>48</sup> *Ibid.* 67.

adequate incentives for adoption requires the 'norms' to penetrate into neighbour countries' political and popular discourses in order to genuinely hold.

Conditionality will be seen to have the most effect only if five elements are in place: (i) rules and conditions are determinate; (ii) rewards are certain, high, and quickly distributed; (iii) threats to withhold rewards are credible; (iv) adoption costs are low; (v) players with the capacity to exercise veto power is low. What remains inherently difficult to exemplify when determining the potential effectiveness of conditionality when it comes to the case of Ukraine, lies innately in the areas of democracy, rule of law, and human rights. However, simply recognizing the existence of a legal framework for democracy, rule of law, and human rights, does not imply that these principles are guaranteed. Conditionality is propitious only amid the backdrop of formal democratic institutions that have been recognized as legitimate and have proven themselves to function accordingly.<sup>49</sup> However, an existing and consolidated democratic institutional framework may be considered palpably advantageous for the preservation of democratic values and principles more so than if none had existed at all.

### ***Resisting 'EU-ropean' Norms: The Case of Belarus***

Following this line of reasoning, one develops an understanding for why Belarus which, on the outside appears like it should be a similar scenario to that of

Ukraine, has resisted not only increased co-operation with the EU, but also the influence of EU 'norms' on its identity. It is wise to begin with Raik's differentiation of Belarus from Ukraine by identifying it as an 'outright authoritarian régime'<sup>50</sup> at the time of the EU's initial attempts at negotiating co-operation. Without a democratization movement already underway, it is difficult for EU 'norms' to penetrate the identities of Belarusian government and society. In the case of the government under Kuchma in Ukraine, which at the very least attempted to appear democratic, despite a lack of practical action towards co-operation with the EU, rhetorical mention of such initiatives made it down to a societal level. Both media and government picked-up on the promises of the Neighbourhood Policy as it was being developed and the Commission published its first communication on the topic.

In the face of signing a PCA with the EU in 2005 in Belarus, the régime under Alexander Lukashenko was never rhetorically supportive of the West, nor claimed that it sought EU approval. Political discourse on a national level, rather than supporting Belarus' 'EU-ropean' qualities, emphasizes the lack of a need for Belarus-EU co-operation. In a public speech Lukashenko told his citizens that, "[...] despite all the problems in our relationship with the EU, its countries account for almost half of our export, and our export to the EU grew 28 percent in 2006 [...]"<sup>51</sup> With public successes like these, whether or not they are true, it is no

<sup>49</sup> Janine REINHARD, *EU Democracy Promotion through Conditionality: The Temptation of Membership Perspective or Flexible Integration? A Case Study on Ukraine*, 2008 Working Paper, 84.

<sup>50</sup> Kristi RAIK, "Promoting Democracy in the Eastern Neighbourhood—The Limits and Potential of the ENP," *The International Spectator*, Vol. 41, No. 3, (2006), 32.

<sup>51</sup> Grigory IOFFE, *Understanding Belarus and How Western Foreign Policy Misses the Mark* (Toronto: Rowman & Littlefield Publishers, Inc., 2008), 187.



surprise that despite probable falsification of national elections, independent polls suggestion that Lukashenko has legitimate support of at least half of the Belarusian population.<sup>52</sup> It is likely that the government control of the mass-media and harassment of journalists<sup>53</sup> can largely account for the absence of EU 'norms' in Belarusian political discourse despite its direct proximity to the Union. It is also no surprise that the Lukashenko régime is keeping these 'norms' out. Liberal democratic 'norms' such as free and fair elections for example, which are promoted by the European Union through the ENP, will naturally act to limit autonomy and power of authoritative governments are prohibited exactly those measurement that Lukashenko relies on to preserve his own power.<sup>54</sup> The problem is not that the EU has been inconsistent with its use of conditionality. In fact, EU-Belarus relations were stalled in 1996-7 following undemocratic Belarusian elections, and the PCA, a requirement for participation in the ENP, has not been ratified to this day.<sup>55</sup> The ENP now remains closed to Belarus unless the government agrees to reform, something that is unlikely to happen any time soon. To Lukashenko, the Union's offers of a potential Free Trade Area and freer movement of people for example, are simply not worth losing his authoritative hold over the country.

This reinforces the argument that European 'norms' must first penetrate into national discourse in order for normative power to take effect. Being a discursive form of power, it is undermined by the neighbouring country's own 'power' to decide whether or not to allow these 'norms' in. Only once these 'norms' gain access to discourse on a national level in the Union's neighbourhood, can the EU's normative power be exercised. Therefore, Manners' claim with regards to the strength and influence of 'Normative Power Europe' is to a degree exaggerated and simplified. He does mention that, "[...] normative power in general, and the EU's normative power in particular is sustainable only if it is felt to be legitimate by those who practice and experience it."<sup>56</sup> However, if EU normative power is to be considered legitimate then this presupposes a certain degree of shared 'norms' even before the Union's power is exercised; a concept that Manners fails to elaborate on.

There remains a relative consensus among democratization scholars that domestic factors determine the success, failure or absence of democratic reforms.<sup>57</sup> Therefore, a successful democratic movement, as was the case with Ukraine, is unlikely to occur in Belarus unless Lukashenko's popularity declines. Only then will EU 'norms' be able to both gain access to national discourse and be

<sup>52</sup> Kristi RAIK, "Promoting Democracy in the Eastern Neighbourhood—The Limits and Potential of the ENP," *The International Spectator*, Vol. 41, No. 3, (2006), 36.

<sup>53</sup> Commission of the European Communities, Non-Paper: "What the European Union Could Bring to Belarus," November, 2006. 3.

<sup>54</sup> Sylvia MAIER and Frank SCHIMMELFENNIG, "Shared values: Democracy and Human Rights," in *Governing Europe's Neighbourhood: Partners or Periphery?*, Ed. Katja Weber et. al. (Manchester, UK: Manchester University Press, 2007), 44.

<sup>55</sup> Commission of the European Communities, *Wider Europe: A New Framework for Relations with our Eastern and Southern Neighbours*, (Brussels: European Union, 2003), 15.

<sup>56</sup> Ian MANNERS. "The Normative Ethics of the European Union," *International Affairs*, Vol. 84, No. 1, (2008), 66.

<sup>57</sup> Kristi RAIK, "Promoting Democracy in the Eastern Neighbourhood—The Limits and Potential of the ENP," *The International Spectator*, Vol. 41, No. 3, (2006), 33.

seen as a viable alternative to Belarus' current political identity. These factors are necessary before normative power can be successfully exercised in shaping the direction of Belarusian normative identity change. For the time being, the current régime is relatively stable and Lukashenko is taking direct measures to keep the population content and to prevent social unrest. Despite over half of the country's industry being estimated to operate at a loss, for example, the régime avoids closing down the factories and introducing structural reform in order to mitigate unemployment and maintain relative political stability.<sup>58</sup> As long as Belarus' relations with the Russian Federation continues to provide oil and gas at prices drastically below international market value, subsidizing worker salaries at unsustainable levels will remain impossible.

Belarus currently has no income disparities as compared with Russia, and earnings are comparable to those of Latvia, a European Union member state.<sup>59</sup> For European 'norms' to take hold there must first be a democratic movement originating from within the state. Based on the relative level of stability of the current situation in Belarus, this is unlikely to occur in the near future. Without nationally-driven democratic reform, it is unlikely that EU 'norms' will be considered legitimate or even be able to penetrate discourse at the national level. In the meantime, the EU is making a wise decision to refrain from admitting the Belarusian government into the Neighbourhood Policy, and is instead strengthening its support for Belarusian civil society. If the 'norms' are being

blocked at the government level, their introduction into discourse at a grassroots level will not be very effective, though it does have the potential to stimulate home-grown democratic movements and perhaps even revolution in the future.

#### IV. Conclusion

Through an analysis of the European Neighbourhood Policy's levels of success in promoting EU 'norms' in the cases of Belarus and Ukraine, this article examined the concept of 'Normative Power Europe'. Based on the two case studies presented herein, and with the assumption that normative power is discursive in form, the strength of the EU's capacity to influence the direction of identity change in its neighbourhood and to stimulate processes of democratization lacks dimension, and simply overstated.

Power in international relations cannot be easily classified into top-down processes of influence, from more to lesser powerful actors. Rather, influence in foreign policy is much more complex. It is a multi-dimensional process of power relations between multiple actors. In order for the European Union's 'norms' to be able to exert their discursive power over the existing 'norms' in the EU's neighbourhood, the actors in question are in an initial position of power to decide whether or not to allow such 'norms' to permeate their own discourse based on self-interested external incentives. Only upon external actors exercising their own power to herald discourse at a national level, can the EU truly begin to exercise normative power.

<sup>58</sup> *Ibid.*, 36.

<sup>59</sup> Grigory IOFFE, *Understanding Belarus and How Western Foreign Policy Misses the Mark* (Toronto: Rowman & Littlefield Publishers, Inc., 2008), 171.

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## REASSESSING EUROPEAN UNION LIMITS: WHAT ROLE FOR THE NEW REGIONAL PARTNERSHIPS?

Adriana Berbec\*

**Abstract.** *As every enlargement brings new neighbours to the European Union, the European Neighbourhood Policy is facing new challenges regarding its policy towards the countries in its proximity. Although the ENP does not offer perspectives for accession, nor does it preclude it, new forms of cooperation between the EU and its neighbours are taken into consideration as an alternative to full membership. This essay will analyze how the latest enlargements have brought new opportunities and challenges to the EU in relation to its new neighbours, the role of the “Eastern Partnership” and the “Union for Mediterranean” initiatives in fostering cooperation with the contiguous countries and whether these community projects, together with the ENP, can have a contribution to the understanding of what the EU limits are.*

**Keywords:** *European Neighbourhood Policy, enlargement, regional cooperation, conditionality, EU-Russia relations*

Since the last two enlargements in 2004 and 2007, the European Union (EU) frontiers have extended to a list of new neighbours, bringing it much closer to the countries of Eastern Europe and posing new challenges on how the EU should tackle its external boundaries. The new Union of 27 gained new neighbours to the East, Belarus, Ukraine and Moldova and moved closer to the countries of Western Balkans\*\*. In order to deal with the countries in the immediate proximity of the EU, the European Neighbourhood

Policy (ENP) has been put in place and great efforts have been made since its beginning to enhance the cooperation with these countries.

The ENP looks at providing economic and political cooperation and assistance to its new neighbours and at strengthening stability and security for all concerned<sup>1</sup>, without necessarily giving them the official applicant status to the EU. Although the ENP does not help with providing an answer on how large the EU should become, it is useful in understanding the

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\*\* The countries of Western Balkans are either candidate countries or potential candidate countries and are therefore excluded from the ENP.

<sup>1</sup>European Commission, *European Neighborhood Policy* [Online] (Updated 25.06.2009). Available at [http://ec.europa.eu/world/enp/policy\\_en.htm](http://ec.europa.eu/world/enp/policy_en.htm) [Accessed 03.09.2009].

limits of enlargement as it also concerns countries that are keen on joining the EU. Moreover, if some of the countries currently part of the ENP will become EU members in the future, this will push the boundaries further, requiring a more coherent, differentiated and efficient policy towards its neighbours.

In order to establish if the countries willing to join the EU are eligible for accession, the Union has put in place a set of conditionality criteria that will prepare the candidate state to become part of the European family. In June 1993, the Copenhagen European Council has set out the conditions for EU membership and since then conditionality has become central to the issue of enlargement. The three conditions set out in the Copenhagen criteria are: 1) fully functional democratic systems, including respect for human rights and the rule of law, 2) market-based economy capable to cope with the competitive pressure and market forces coming from the EU and 3) ability to take on the obligations of membership<sup>2</sup>. Furthermore, the issue of being part of Europe as an element of EU membership is causing disputes among some Member States and countries that signalled their desire to join the EU. According to article 237 of the Treaty of Rome, any European country that respects the principles of the EU can become member of the Community. This has become Article

O, and later article 49 of the Treaty of European Union 1993 (Maastricht), now reading "Any European State may apply to become a member of the Union"<sup>3</sup>. But given the fact that Europe is more a cultural and a political distinction than a geographic one, it is hard to tell which countries are allowed to join the EU and which should stay outside. As some of the countries are not European geographically (e.g. Cyprus)<sup>4</sup>, but have strong European identities, the answer whether a country should be European or not is subject to political assessment. A clear definition of Europe would help assess which countries are European or not. One should bear in mind though that 'the great difference of course between 'Europe' and the 'European Union' is that while one is defined by culture, history and geography, the second is defined by treaties, policies and laws'<sup>5</sup>.

## II. The European Neighbourhood Policy

The ENP was first drawn in March 2003 when the Commission presented its Communication on "Wider Europe–Neighbourhood: A new Framework for relations with our Eastern and Southern Neighbours", followed by a more developed Strategy Paper on the European Neighbourhood Policy published in May 2004<sup>6</sup>. This document lays down the strategies on how the EU intends to

<sup>2</sup> Michelle CINI (2003), *European Union Politics*. Oxford University Press, New York, p216.

<sup>3</sup> Publication Office of the European Union, *Treaty of Maastricht on European Union*, Official Journal C191, 29 July 1992 [Online] Available at <http://eur-lex.europa.eu/en/treaties/dat/11992M/htm/11992M.html> [Accessed 13.09.2009]

<sup>4</sup> Cyprus is sometimes included in Europe, but is very often defined as being part of Western Asia. *The Times Atlas of the World* places Cyprus in Asia.

<sup>5</sup> Danuta HÜBNER (2006), *The "Club of Three"*, Conference on the Frontiers of Europe, Warsaw, [internet] 3 November. Available at: <http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/06/58&format=HTML&aged=0&language=EN&guiLanguage=en> [Accessed 13.09.2009].

<sup>6</sup> European Commission, *European Neighbourhood Policy* [Online] (Updated 25.06.2009). Available at [http://ec.europa.eu/world/enp/policy\\_en.htm](http://ec.europa.eu/world/enp/policy_en.htm) [Accessed 03.09.2009].



work the bordering countries in areas like political and security issues, economic and environmental matter, integration of transport and energy networks, scientific and cultural cooperation. In December 2007, the Commission released a Communication entitled "A Strong European Neighbourhood Policy" (also known as "ENP plus"), which foresees a number of actions like the facilitation of legitimate short-term travel, tackling frozen conflicts in EU's neighbourhood and support for partner countries in the area of energy, climate change and transport<sup>7</sup>.

At the beginning, the ENP included just the immediate neighbours- Algeria, Belarus, Egypt, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, the Palestinian Authority, Syria, Tunisia and Ukraine, but in 2004, it was extended to also include the countries of the Southern Caucasus- Armenia, Azerbaijan and Georgia. As Turkey was recognised as a candidate country at the Helsinki European Council in December 1999, it is therefore not covered by the ENP. Regarding Russia, although it is close to the borders of the EU, it has refused to participate, preferring to be part of the Strategic Partnership program covering four "common spaces", as defined at the St Petersburg summit in May 2003: 1) economy, 2) freedom, security and justice, 3) external security and 4) education and research.

A key element of the ENP is represented by the bilateral Action Plans (APs) mutually agreed between the EU and each partner country. They are political documents tailored for each

individual partner country which set out an agenda of political and economic reforms by means of short and medium-term priorities<sup>8</sup>. The APs cover areas like political dialogue, justice and home affairs, energy, transport, information society and environment and have a minimum duration of three years. Other programs aimed at enhancing cooperation with the EU neighbours were the TACIS assistance program (for the CIS) and MEDA (for the southern Mediterranean neighbours). As of January 2007, as part of the reform of EC assistance instruments, the MEDA, TACIS and various other programmes have been replaced by a single instrument – the *European Neighbourhood and Partnership Instrument*.

Albeit the ENP is not about enlargement and does not necessarily offer an accession perspective, it offers incentives for reforms that will bring benefits in terms of economic and social development, deeper political cooperation and economic integration. Or as former Commissioner Benita Ferrero-Waldner stated it, the ENP is "not an enlargement policy. It does not prejudge prospects for European countries that may at some future point wish to apply for membership, but it does not provide for a specific accession prospect either"<sup>9</sup>. Thus, the ENP will bring these countries closer to EU, without embarking on further commitments to them, but preventing at the same time 'the emergence of new dividing lines, through a variety of means including more cross-border cooperation'<sup>10</sup>.

<sup>7</sup> European Commission, 2007. *Communication from the Commission: A Strong European Neighbourhood Policy*, [Online]. Available at [http://ec.europa.eu/world/enp/pdf/com07\\_774\\_en.pdf](http://ec.europa.eu/world/enp/pdf/com07_774_en.pdf) [Accessed 28.08.2009]

<sup>8</sup> *Ibid*

<sup>9</sup> Benita FERRERO-WALDNER (2004), *Speaking note at the press conference to launch first seven action plans under the European Neighbourhood Policy*, Brussels, 9<sup>th</sup> of December.

<sup>10</sup> Karen SMITH (2005), *The outsiders: The European Neighbourhood Policy*, *International Affairs*, 4 (81), p. 763



### III. The European Neighbourhood Policy towards Eastern Europe

In order to avoid the emergence of new dividing lines in Europe after the big enlargement in 2004, the EU has attempted to include its neighbours in the European system and has encouraged the cross-border cooperation through the implementation of ENP. Because of the political instability that characterizes some of its neighbours, the EU has a large interest in fostering its policies on external borders to address the security challenges which come from the geographical proximity of these countries. This interest has been reflected in the proposals outlined in the “ENP plus” through the tackling of frozen conflicts (e.g. Transnistria), engagement in political dialogue or enhancement of free trade agreements.

#### Ukraine

The interest shown by EU towards its Eastern neighbours dates back to 2002, when, at the Copenhagen European Council the EU announced its policy to allow Ukraine, Belarus and Moldova to come closer to the EU, without actually becoming members<sup>11</sup>. Ukraine has been stating its intention to become member of the EU since the mid 1990s, but the debate on its prospects for membership still continues. In return, Brussels has been using the attractiveness of the internal market as the main “carrot” for Ukraine to engage more thoroughly in economic reform. The finalization of Ukraine’s WTO accession process on 5<sup>th</sup> of February

2008<sup>12</sup> has led to the initialization of free trade agreement (FTA) negotiations between EU and Ukraine, increasing the country’s chances to gain access to the EU internal market. Until the recent elections in February 2010, Ukraine has seen EU and NATO membership as an escape from Russian’s influence and securing real access to the EU market for Ukrainian goods and services could have been an efficient tool in this way. Nonetheless, the newly elected President Viktor Yanukovich is now seeking a more balanced approach between East and West in an attempt to improve political and economic relations with Russia. While NATO aspirations have sunk, pursuing EU membership remains a priority. As such, Ukraine has outline again its main objective relating to the conclusion of a fully-fledged Association Agreement with the EU, especially when the incentive of FTA has not proved as powerful as the prospect of membership.

#### Belarus and Moldova

Belarus, while covered by the ENP, does not participate fully in it. The principal objectives of EU cooperation with the country are to support the needs of the population, encourage democratisation and mitigate the effects of the self isolation of Belarus on its population<sup>13</sup>. Since the ENP has not brought much progress in respect to democracy, human rights or the promotion of civil society, Belarus’ involvement in the Eastern Partnership might be a positive step in this respect. Although the Partnership does not envisage

<sup>11</sup> Dlvaylo GATEV (2004), The EU’s new neighbourhood policy towards Ukraine. European Foreign Policy Conference, LSE, 2-3 July, p. 1

<sup>12</sup> European Commission, 2008. “EU and Ukraine launch free trade agreement negotiations”, [Online] 18 February (Updated 02-08). Available at [http://ec.europa.eu/trade/issues/bilateral/countries/ukraine/pr180208\\_en.htm](http://ec.europa.eu/trade/issues/bilateral/countries/ukraine/pr180208_en.htm) [Accessed 09.10.2009]

<sup>13</sup> European Commission, European Neighbourhood and Partnership Instrument, [Online]. Available at [http://ec.europa.eu/world/enp/pdf/country/enpi\\_csp\\_nip\\_belarus\\_en.pdf](http://ec.europa.eu/world/enp/pdf/country/enpi_csp_nip_belarus_en.pdf) [Accessed 27.09.2009]

the membership perspective, it can lead to openness, reform and gradual integration with the EU.

Moldova signed a Partnership and Cooperation Agreement with the EU in November 1994 providing for a basis of cooperation in the political, economic, legal and cultural areas. The Partnership entered into force on 1st of July 1998 for a period of 10 years. In 2008, when the Partnership expired, Moldova expressed its interest in getting access to the “four freedoms”, especially the free trade and visa liberalization regime. Although the country is keen to join the EU, with 70 to 75%<sup>14</sup> of its citizens in favour of such an idea, the 2009 events that took place in Moldova seemed to have reduced, at some point, its chances to become closer to a European perspective. The widespread accusation of fraud in the elections that took place in April 2009 and the mass street protests in Chisinau that followed up have revealed the vulnerabilities of Moldovan democracy and its respect for human rights. Slow progress in addressing them will hamper its chances to become an EU member. However, following the political deadlock in the Parliament caused by the boycotting of votes on a new president, anticipated elections took place in July 2009 that saw the pro-EU opposition parties winning an absolute majority. This change might move Moldova closer to the European family, without alienating Russia whose desire to retain influence in the Transnistria region will most probably disturb relations between the country and the EU.

### **The Eastern Partnership Programme**

Since EU membership prospective has become a distant goal and risks losing its appeal, Moldova has joined the “Eastern Partnership” Programme initiated by the foreign minister of Poland with the assistance of Sweden. The project was inaugurated at the Prague Summit on 7<sup>th</sup> of May 2009 and it is meant to complement the existing Black Sea Synergy and the Northern Dimension, but also to counterbalance the Union for the Mediterranean (UM). Although the initiative aims at facilitating visa agreement and free trade deals, it does not offer prospective for accession for its participating countries like Armenia, Azerbaijan, Georgia, Moldova, Ukraine and Belarus. Fears that the Programme might be counterproductive towards other forms of cooperation like the Black Sea Synergy have been expressed by Romania and Bulgaria, while France and Germany articulated their concerns that the initiative will open the doors towards future membership.

The Partnership is an expression of the shortcomings of the ENP which fails to provide a coherent set of shared values for the participating countries as guidance for reform. Although the Action Plans are differentiated between countries, the lack of mutual principals can not stimulate them to work towards a common goal. As a result, new forms of regional cooperation have been mushrooming lately, each of them defining the homogeneity and similarity of the participating countries. Rather than creating a “ring of friends”, the EU is now surrounding itself by a “ring of friends among some friends”, each of these neighbours regrounding themselves

<sup>14</sup> Igor BOTAN (2008), “Republica Moldova trebuie să adere la UE, cîndva, cumva”, Adept [internet] 30 June. Available at <http://www.e-democracy.md/comments/political/20080630/> [Accessed 01.10.2009]

according to some elements of mutual interests or common identity. One could argue here that the EaP is not necessarily a grouping of homogeneous countries, as the Partnership was actually received with reluctance by Moldova and Ukraine who expressed their disagreement with the decision to place them under the same roof with the South Caucasus countries. On the other hand, one should bear in mind that these forms of cooperation could also be the expression of the interests of current member states in the respective regions, like Poland in Eastern Europe and France in the Mediterranean.

It can be asserted here that these countries, in spite of their willingness to become EU members and in spite of being labelled as European countries, do not fulfil entirely the conditions underlined in the Copenhagen criteria that could attract more benefits from ENP and smooth their path to EU membership. Furthermore, Russian's influence in Ukraine, Belarus and Moldova could limit their chances to become members of the EU or, if that were to happen, it will definitely have a significant impact on EU-Russia relations. These countries rely on Russia for their energy supply and raw materials; they are characterized as flawed democracies or authoritarian regimes<sup>15</sup> and are sometimes classified as failing states. Any attempt to move these countries closer to the EU will irritate Russia because of its ambition to preserve its weight and presence in the area. Relating to the Eastern Partnership initiative, Moscow accused the EU of trying to acquire a new sphere of influence

in a territory that Russia perceives as its own. Despite the political and economic leverages that Russia is able to use in the area, it still feels threatened by the EU and responds to any attempt that could bring the former Soviet region closer to the European family. However, since Russia is the biggest neighbour of the EU, this calls for stronger cooperation between the two, especially when taking into account "the growing economic interdependence of Russia and the EU [...] and the fact that Russia and the EU share similar positions on major issues pertaining to the formation of world law and order"<sup>16</sup>.

External factors, like Russia's influence in the contested regions, ethnic divisions, underdeveloped civil society and the reluctance of some Member States to take action that might upset Russia, contribute to the worsening of the situation and act as an impediment to their transition to fully functioning democracies. Few possibilities might arise from this situation: a) the problematic countries in the immediate proximity of the EU might develop other forms of regional cooperation with its own common rules and elements of common identity; or b) Russia will continue to exercise power in these countries, leaving them with the status of just neighbours of the EU, diminishing their chances to join the European bloc.

#### IV. The Union for the Mediterranean

The Union for the Mediterranean is the new formulation of the Euro-Mediterranean Partnership which was established in 1995. The creation of such a Union was guided

<sup>15</sup> The Economist, 2008. *The Economist Intelligence Unit's Index of Democracy 2008*. [Online] Available at <http://a330.g.akamai.net/7/330/25828/20081021185552/graphics.eiu.com/PDF/Democracy%20Index%202008.pdf> [Accessed 31.01.2010]

<sup>16</sup> Yuri BORKO (2004), *Rethinking EU-Russia Relations, Russia in Global Affairs*, 10 August. [Online] Available at <http://eng.globalaffairs.ru/numbers/8/591.html> [Accessed 28.08.2009]

mainly by the need to develop policies to fight against terrorism while strengthening security in the Southern Mediterranean and the Middle East. The Partnership, formerly known as the Barcelona Process, was re-launched in 2008, at the proposal of French President Sarkozy, as the Union for the Mediterranean (UM). Although the community project is built on the existing *acquis* of the Barcelona Process, it offers more balanced governance, increased visibility to its citizens and a commitment to tangible, regional and trans-national projects<sup>17</sup>.

By establishing the Partnership, the EU is looking to develop a framework of relations with the Mediterranean countries in order to reduce the risks of instability in its borders, but the likelihood of these countries to join the EU in the foreseeable future is very low. These countries are caught up in a vicious circle where crime and corruption slows down their perspectives on economic and social progress. Even if the Mediterranean countries were to launch profound political and economic reforms, they do not fulfil the requirement of Article 49 of the Treaty of the European Union which increases the feeling of exclusion, especially when the refusal of membership is based on geography (like in the case of Morocco). This was clearly expressed by the Polish Foreign Minister, Radoslaw Sikorski during the presentation of the Eastern Partnership initiative: “to the East, we have European neighbours, whereas to the South, there are

just neighbours of Europe”.<sup>18</sup> The statement denotes that these countries do not share European common values and identity that would make them eligible to become EU members. However, the pressure coming from some of the Mediterranean contiguous countries could have other reasons than that of becoming EU members as they could be ‘... more interested in improving their trade and economic cooperation with the EU rather than engaging in a political dialogue with the EU, and even less in reforming their political systems in order to qualify for EU membership’<sup>19</sup>.

The French proposal has been seen by many critics as a way to extend the EU foreign policy to another instrument distinct from the enlargement strategy that took the form of a regional cooperation, having mainly been used as an effort to fight illegal immigration. It was even perceived as an alternative to Turkish accession to the EU and even though the final declaration of the UM confirms that Turkey is conducting membership negotiations with EU, “the geopolitical orientation of Turkey, its relationship to the West and the nature of its ties with Europe remain uncertain”<sup>20</sup>.

The creation of the UM touches upon the issues of the limits of the European Union, the mapping of its borders based on geographical and cultural aspects as it creates a new dividing line between Europe and Africa, between Christians and Muslims.

<sup>17</sup> European Commission, *The Euro-Mediterranean Partnership*, [Online] (Updated 10.07.2009) Available at [http://ec.europa.eu/external\\_relations/euromed/index\\_en.htm](http://ec.europa.eu/external_relations/euromed/index_en.htm) [Accessed 07.09.2009]

<sup>18</sup> Renata GOLDIROVA (2008), “Eastern Partnership” could lead to enlargement, *Poland says*, EUObserver, May 27, [Online]. Available at: <http://euobserver.com/9/26211> [Accessed 09.10.2009].

<sup>19</sup> Michele COMELLI (2005), *The approach of the European Neighbourhood Policy (ENP): distinctive features and differences with the Euro-Mediterranean Partnership*, Paper presented at the IGC Net conference “The European Union as an International Actor Challenges and Options for the Future”, Brussels, 17 November.

<sup>20</sup> Jean-Sylvestre MONGRENIER (2008), *The Union for the Mediterranean : The Turkish issue unresolved*, Institute Thomas Moore, 15 July, [online] available at <http://institut-thomas-more.org/showNews/236> [Accessed 23.08.2009]

## V. Conclusions

On the basis of the analysis provided above, a set of conclusions can be drawn up. Firstly, if countries that are European, but do not satisfy the Copenhagen criteria, launched a profound political and economic reform, the EU would have to open its doors and let them in. In this case, it is possible that the EU will use the issue of conditionality as it did with the new Member States that joined in 2004 and 2007. Before the accession of the twelve new countries, the EU did not have such strict restrictions for the candidate countries. But the more intense political and economic reforms were the new applicant countries facing with, the tougher the restrictions became and it is likely that conditionality will hold back the new neighbours to become members of the EU in the foreseeable future.

Secondly, the EU should clearly state what the ENP will bring to the new neighbouring countries and if this cross-border cooperation will increase their chances to become EU members. If the EU decides to close its doors to the bordering countries, a better defined and improved proximity policy should become the instrument to deal with the new neighbours. For the time being, membership is delayed through ENP and implicitly through financial incentives. Nevertheless, "any amount allocated will still not be enough to 'buy' the regime change in the countries concerned, since a deep reform touching upon all the spheres of organisation of the state is likely to cost the ruling elites infinitely more"<sup>21</sup>. Brussels is aware that without EU membership there will not be any incentive domestically to push for reform. The "carrot" of

membership has proven successful for the countries of Central and Eastern Europe that joined the EU in 2004 and 2007, and it might prove again efficient with some of the neighbours interested in becoming EU members.

Lastly, as differentiated forms of regional cooperation are arising in the Southern and Eastern vicinity of the EU, the Union should develop more coherent and targeted policies towards these regions that would take into consideration the geographical and identity differences between them. Although distinct in terms of approach, their principles should be common. Placing the East and the South under the same roof might not deliver the expected results. In other words, while the objective of pursuing good governance, strong democracy and respect for human rights should be common, the tools intended to strengthen commitment to these values should be more differentiated. The Action Plans, while tailored to each individual country, are not strong enough to create a common identity and a common objective for all the countries in the ENP. Also, these new dimensions should be accompanied by a clear-cut message of what these new forms of cooperation will bring to them in respect to their relations with the EU in the future. Unless the vision towards these new forms of cooperation is clear and they are treated either as an idea of "soft" enlargement or just as an alternative to full membership, the EU will not be able to define its boundaries.

Since the launch of the ENP in 2004, many changes have occurred and few initiatives aimed at strengthening the current policy have been put on the table. Some of them have been received with

<sup>21</sup> Dimitry KOCHENOV (2009), *The Eastern Partnership, the Union for the Mediterranean and the remaining need to do something with the ENP*, CRCEES WP 2009/01, p.23.



criticism, some of them with enthusiasm. The most important fact is that EU is making efforts for improving its cross-border cooperation and relations with its neighbours. The new regional partnerships that differentiate between the Eastern and Southern neighbours represent a new vision on a wider Europe. One could argue that these new initiatives are in fact the beginning of the end of the European Neighbourhood Policy<sup>22</sup> as we have come to know it today.

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<sup>22</sup> Grzegorz GROMADZKI (2008), *Piec tez o Europejskiej Polityce Sasiedztwa [Five Theses about European Neighbourhood Policy]*, Policy Brief, Batory Foundation, p. 3

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## ROMANIAN SECURITY IN AN EVOLVING EUROPEAN CONTEXT

Mircea Micu\*

**Abstract\*\*:** *With the arrival of formerly Soviet-dominated Central Eastern European countries in the EU, the conceptualisation of European security was yet again challenged, this time by different perceptions of old threats, instead of different readings of modern threats. The evolving (Western) European security culture has tended to address the challenges stemming from beyond EU's borders, while, in this process, the new EU member states brought with them security concerns sprung from within EU's borders and EU's taboo neighbourhood (Russia). Romania was such a country, which, in spite of fully subscribing to the Western perspective on (rather politically neutral) modern threats, also displayed a conservative 'territorial defence' attitude rooted in its recent adverse history and compatible, to a great extent, with American conceptions of security matters. Lessening the European East-West mismatch over defining and addressing Europe's security challenges may occur through a process of asymmetrical adaptation to each other's security concerns, though this mismatch may equally endure over time and even generate centrifugal forces at the heart of EU's security policy-making.*

**Keywords:** *Romanian foreign policy, European security culture, transatlantic relations*

### Romanian security traditions

*Historical context: Russia, the Europe's 'other'*

Romania's understanding of its long and often adverse exposure to Russia has played a significant role in the evolution of the country's security culture. Assuming that "many national security interests depend on a particular construction of self identity in relation to the conceived identity of others" (Jepperson, Wendt and Katzenstein 1996: 33-78), a rich literature on Russia's relationship with its European neighbours has portrayed the persistence

of the Russian 'other' as a threat to Europe and to the countries situated in its closest vicinity, in particular. The Russian danger was presented not just in terms of geography, as a border case, but also in terms of Europe's cultural superiority over Russia's "nomadic and barbarian" nature (Reynold 1950: 25-28). Moreover, Russia's "[singular] totalitarian civilisation" was seen as the "radical negation of the West" (Kundera 1984: 36).

Specifically, Central Eastern Europe under Soviet domination was portrayed as an "*Occident kidnappé*", a "European civilisation under siege by Soviet barbarians"

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(Kundera 1984: 33-38; Neumann 1999: 103-109). As a consequence, in the post-Soviet era, Central Eastern European countries (CEECs) sought protection under the transatlantic security umbrella, emphasizing their 'Europeanness' by opposition to Russia's lack of 'Europeanness' (Roberts 1964: 386-388), and even more, by "play[ing] up the alterity of Russia in order to increase the integration of the European self" (Neumann 1999: 110-112). Thus, while Western Europeans saw post-Cold War threats shifting to issues like terrorism, proliferation of weapons of mass destruction (WMD) and "other dangers that emanate[ed] from beyond Europe's borders", CEECs looked at NATO membership "as a protection against a resurgent Russia", continuing "to think of security in terms of territorial defence" (Larabee 2006: 117-131).

Western Europeans seemed to perceive the Russian threat from a less dramatic angle, in part because of the wider geographical space separating them from Russia, and partly because their passage into the post-modernism of 'soft power' was backed by the 'hard power' of the US, country which could not have afforded the luxury of making the same passage. On top of that, Western Europe's inward-looking attitude and departure from the territorial defence culture was also justified by its anti-war psychology and the challenges of a very difficult and heavy integration agenda (i.e. pursuing peace dividends in a post-1989 era; Kagan 2003).

Romania's foreign policy was designed to reduce the Soviet Union's influence in the region, during communist years, and to ensure quick integration with the West (NATO and EU accession) in the years following the collapse of the Soviet block.

Under Ceaușescu's regime, Romania was known as the awkward partner of

the West, being shown a "world-wide respect [that] it had seldom enjoyed in its history" for its independent "splendid performances" abroad (Brown 1988: 263; Shafir 1985: 193). Romania advocated a higher degree of autonomy for the Soviet Union's satellites in the Moscow-led Council for Mutual Economic Assistance, and the Warsaw Treaty Organisation, NATO's opposite number. It was assertive in relations with Yugoslavia, China, North Korea, African and Non-Aligned Movement countries, and it was instrumental in seeking international settlements (i.e. between Israel and Arab countries, China and the Soviet Union, etc.). In addition, Romania was the only member of the Warsaw Pact to denounce the 1968 Soviet aggression on Czechoslovakia, the first communist country to be visited by American and French presidents, to be granted the most-favoured nation status by the US (along with Poland), to be offered membership in GATT (1971), IMF and the World Bank (1972), and the Group of 77 (1976). However, as Western criticism of Romania's human rights record grew stronger in the 1980's, Romania became more and more isolated on the international stage (Iordachi 1996).

With the fall of the Berlin Wall, and after a short period of hesitation, Romania unambiguously chose the path of integration into the Euro-Atlantic structures. In doing so, it was pushed by the re-emergence of ethnical conflicts in the Balkans and by Russia's attempts to inherit the Soviet Union's regional and global influence. Romania stirred up its repressed identity of 'European', 'Latin' and 'Western', by also playing up the Russian threat and by attempting to dissociate itself from the pejorative labels of 'Eastern European' or 'Balkan' country (Hosu 2002). Romania's support to NATO allies in the Kosovo

war of 1999 contributed significantly to securing NATO membership (in 2004). In the security-military field, during the entire post-communist period, cooperation with the US was central and reached ever higher levels.

*The Romanian public: uninformed, unaccounted for, and unthreatened*

One of the most comprehensive surveys on public perceptions of Romania's foreign and security policy (Voinescu and Dobre 2005), revealed that Romanians had little interest in, but little information about, the country's foreign affairs (4.7 on a scale from 1 to 10). They looked down on the way in which Romanian foreign policy was conducted. A majority of Romanians also felt that their opinions were not taken into consideration by foreign policy makers. Both the public and interviewed elites acknowledged that the most influential actor in foreign policy making was the President. On this note, however, the primary formal responsibility of conducting foreign policy appears to lie with the Government, whose governing strategy (including in the area of foreign policy) is endorsed by the Parliament at inauguration. The President is the Commander-in-chief, the head of the National Defence Supreme Council, has a say in nominating (foreign and defence) ministers and appoints ambassadors. Notwithstanding the constitutional ambiguity in the division of competencies in the foreign policy area, governing elites have demonstrated, in post-communist years, a solid unity on Romanian foreign policy goals and means.

When asked about their identity, 51% of Romanians defined themselves as European, 23% as world citizens and 16% as South-Eastern/Balkan people. About 35% of the respondents considered

that no neighbouring country should receive a special attention, 25% favoured stronger relations with Moldova, 18% with Hungary and 7% with Ukraine. The countries towards which Romanians felt most affectionate were Italy, Spain, France, the United States, Germany and the UK. The least liked were Russia and Arab countries. More than 55% supported the ongoing strategic relationship with the US.

Almost 70% of the respondents shared the view that Romania was not facing any major threat. Of the 21% of Romanians: 80% saw themselves threatened by terrorism, 65% by organised crime, 54% by WMD proliferation, 44% by separatist tendencies, 42% by Black Sea tensions and 34% by the expansionist attitudes of neighbouring countries. By contrast, 15 out of the 18 interviewed elites considered that Romania was facing major threats, giving equal importance to terrorism, organised crime and Black Sea conflicts. In spite of feeling close to the US, most Romanians thought that the US was responsible for the current international tensions (43%). Arab countries came second (23%), while only 1% blamed Russia.

The majority of Romanians (70%) looked favourably on NATO and the EU and perceived them as the two inseparable halves of the transatlantic fabric. They associated NATO with military security attributes and the EU with political emancipation and enhanced economic prosperity. The presence of Romanian troops abroad was endorsed by roughly 50% of the population. In their view, the military's objectives should be humanitarian and peace-keeping operations. Only 17% agreed with the use of military force to oust a foreign country's political leaders accused of committing international crimes. In contrast with the public perception, all interviewed elites

supported Romanian military presence in international theatres of operations, applying the same humanitarian/peace-keeping logic.

### *Challenging neighbourhood*

Romania's relations with neighbouring countries were often riddled with animosities, mainly ethnical and territorial – a constant feature of Central Eastern Europeans, in general. Such tensions deprived Romania of the capacity to generate or boost the regional political, social and economic cohesion that usually foments a security community.

Apart from the lingering culturally-motivated dislike of **Russia** in the Romanian common psyche (Glenny 1999), contemporary Romanian-Russian relations are characterised by relatively modest political, economic, cultural and diplomatic exchanges. In the past 20 years, the Romanian president paid four visits to Moscow, while the Russian president visited Bucharest only once (on the occasion of the 2008 NATO Summit). Bilateral trade between the two countries is heavily dominated by gas imports from Russia (almost 90% of total trade).

A treaty on friendly relations and co-operation between Romania and Russia was signed only late, in July 2003. The most difficult items on the agenda were the condemnation of the Molotov-Ribbentrop Pact of 1939, which provided for the annexation of Romania's eastern part of Moldova by the Soviet Union, and the recovery of Romania's multi-billion worth treasure sent for safe-keeping to Russia during World War I. An agreement on how these pending matters should be further dealt with was mentioned in a

separate annex to the Treaty.

The object of more recent harsh Romanian-Russian exchanges and disagreements has been Romania's accession to NATO, the stationing of Russian troops in Transnistria (the break-away region of the Republic of Moldova), the stationing of US troops on the Romanian Black Sea coast, Romania's participation in the revised US missile defence programme, and Romania's proposals for the creation of alternative energy routes that would decrease Europe's reliance on Russia's natural resources. In addition, at different moments in time, unfriendly rhetoric on both sides fuelled furthermore negative perceptions of each other.

Bilateral relations with **Moldova** were among the most complicated. Moldova, a former part of Greater Romania before World War II, [until recently]<sup>1</sup> governed by Russia-friendly communists, perceived Romania as a serious threat to its sovereignty. Moldova claimed that the hints at the Romanian origins of the majority of its population, and at the shared language, alluded to Romania's unionist hidden agenda. Also, Moldova accused Romania of interfering in its domestic politics in the violent aftermath of the legislative elections of April 2009. The climax was reached when Moldova expelled the Romanian ambassador (and rejected the appointment of a new one) and imposed a stricter visa regime on Romanians, coming thus to odds with its commitments towards the EU. Since September 2009, after the demise of the governing Communist Party, and its replacement by a pro-Western coalition, Romanian-Moldovan relations experienced dramatic positive developments both in terms of discourse and policy.

<sup>1</sup> In August 2009, a coalition of four pro-Western parties pushed the long-time governing Communist Party into opposition.

In spite of strained relations with the regime in Chişinău for most of the post-communist period, Romania has paid special attention to Moldova, with which it shares a common history, language and culture. It has adopted the principle 'one nation, two states' and taken up the "political and moral duty" of supporting Moldova's European and transatlantic perspective (Romanian Security Strategy 2007 (RSS)). The presence of Russian troops in the break-away region of Transnistria has been thought to be a direct threat to Moldova's sovereignty and territorial integrity, and by extension, a threat to Romania's security.

It is believed that, indirectly, the lingering 'frozen' conflicts in Romania's neighbourhood, may feed into its own domestic separatist/anarchical tendencies (i.e. the Hungarian minority's recurring calls for autonomy in Transylvania), situation which is portrayed by the RSS as a major threat to the national security, which needs to be tackled in a systematic and preventative manner.

Relations with **Ukraine** have lacked a "diplomatic culture", as described by a senior Romanian official<sup>2</sup>. At present, there seems to be considerable resentment in Kiev towards Romania, fuelled by Romania's recent success before the International Court of Justice in a maritime delimitation dispute. Also, Romania's attempts to expose internationally Ukraine's illegal channel building in the Danube Delta, and its claims of unfair treatment of Romanian minority groups living in Ukraine, added to the tension between the two countries.

Romanian-**Turkish** relations have steadily improved for the past 20 years, driving the parties into discussions over the

sealing of a formal strategic partnership. Both countries are NATO members, Romania is an outspoken supporter of Turkey's EU accession, Turkey is Romania's third largest trade partner (7-8 billion Euros per year) and plays a key role in the Nabucco gas pipeline project which is fervently defended and promoted by Romania as an alternative energy route. However, Romania's bid for greater influence in the Black Sea region has been met with ambivalence by Turkish authorities, given Turkey's more assertive foreign policy agenda of present days.

Relations with the other two neighbouring new EU member states, **Hungary** and **Bulgaria**, have not been fully harmonious, as one might have expected. A considerable well-organised Hungarian minority in Romania, ambiguously supported by some politicians in Budapest, regularly called for greater autonomy for Hungarian-dominated counties in Transylvania. Bulgaria, too, was not hesitant in suggesting to Brussels, during pre-accession years, that its preparations for EU membership be dissociated from Romania's, when it appeared that Romania was lagging behind (Dăianu 2003). Furthermore, Bulgaria remained "passive" when Romania struggled to mould a Black Sea dimension of the EU's neighbourhood policy (Hatto and Tomescu 2008: IV).

Paradoxically, Romania's friendliest neighbour, **Serbia**, was reluctantly and temporarily alienated in the late 1990's in order to boost the country's NATO and EU membership credentials. Romania fully supported NATO attacks on Milosevic's Serbia and attempts to put a stop to atrocities in Kosovo. The situation reversed after becoming a NATO and EU member state. At present, Romania is

<sup>2</sup> Unnamed Romanian high-ranking official (in an April 2007 interview in Bucharest).



one of the staunchest and few supporters of Serbia's territorial integrity, in the context of Kosovo's 2008 declaration of independence (curiously enough, in the same camp with Russia, and at odds with its Euro-Atlantic partners).

*Romania's most delicate security concerns: sovereignty and territorial integrity*

Apart from fully endorsing the Western reading of modern security challenges (terrorism, WMD proliferation, regional conflicts and organised crime), the latest Romanian Security Strategy (RSS 2007) explicitly and unequivocally points at the pre-eminence of NATO in collective defence arrangements, and at the importance of functional complementarity between the EU and NATO in the field of security and defence. The RSS calls for the development of a distinct role for Romania in the transatlantic security matrix, that of creating a more vigorous European and Euro-Atlantic presence in the Black Sea region. This has been seen critical for at least two reasons: to neutralise the dangers generated by regional separatist conflicts; and to advance bold energy projects aimed at diversifying European supply sources.

Both objectives indirectly allude to the need for a firmer international stance towards Russia, country which has been chastised for fuelling democratic deficits in the region and undermining the sovereignty of its neighbouring states (by illegally maintaining troops on their territories and/or by sponsoring separatist regimes). In addition, Russia has been criticised for using energy supplies to exert political influence over energy-dependent countries.

In this context, Romania has advocated measures meant to trim conventional weapons in the region and to bring to an

end the illegal stationing of military forces on the territories of neighbouring countries in several multilateral frameworks such as the own-bread Black Sea Forum for Partnership and Dialogue, OSCE and the EU's Black Sea Synergy. So far, it has achieved only limited results.

With regard to energy security, Romania persistently lobbied for a bolder EU energy policy that would provide for the diversification of supply routes, by connecting Europe with the Caucasus and Caspian regions via the Black Sea. The Nabucco gas project and the Pan European Oil Pipeline (PEOP) represent the core elements of this strategy, though they do not seem to enjoy a clear-cut political and financial support from the rest of the EU. Furthermore, Romania (together with Poland) even suggested the creation of an 'Energy NATO' to set up the basis for military action aimed at securing energy routes, thereby irritating Russia, and further driving away European partners.

### **The East-West tension at the heart of the evolving European security culture**

#### *The Western European security culture*

In parallel with the lingering Romanian perceptions of threat and following unworkable Western attempts to forge a European defence community somewhat detached from NATO, a distinct European security identity loomed with the Petersberg tasks agreed by WEU members in 1992, and taken over by the EU in 1999, at the same time with the consolidation of the ESDP within the CFSP framework. Western Europe came to the conclusion that it became necessary to start employing limited military force to sustain humanitarian/rescue missions, peace-keeping operations, crisis management and even peace-making missions.

The EU/NATO dichotomy was alleviated to some extent by the Berlin agreement of 1996-allowing for a European Security and Defence Identity within NATO, and the Berlin Plus compromise of 2002, which granted the EU the prospect of accessing NATO assets and capabilities, under certain conditions, in order to carry on ESDP missions. Furthermore, the EU decided to boost up its own capabilities by pledging to meet the (revised) Helsinki Headline Goals until 2010 (Cornish and Edwards 2001: 587-603; Cornish and Edwards 2005: 801-820).

On the ideological front, and closely related to the development of the CFSP/ESDP, the EU released, in 2003, its first security strategy paper (European Security Strategy - ESS), describing the ways in which Europe should tackle the modern challenges and threats to European and international security: terrorism, proliferation of WMD, regional conflicts, failed states and organised crime.

*...alienated Eastern security concerns?*

The fact of welcoming Eastern newcomers to the EU with a ready-made version of a European security strategy, immediately sparked off a sense of frustration among the new members, which felt that their most serious security concerns, those related to sovereignty and territorial defence, were completely missing from the Western mindmap.

From an Eastern perspective, not mentioning the 'elephant' in Europe's room (Russia) in security-related talks, was simply unacceptable. Ideally, the new enlarged EU should have naturally accommodated Eastern security concerns in a way in which EU's CFSP 'soft power' instruments could have been speedily employed in order to generate a robust EU response every time Russia challenged one

or more or all of the EU members. New member states have, of course, attempted to fire up EU's commitment to its new Eastern neighbourhood, achieving so far only modest results. These attempts were discretely thwarted by other member states which were reluctant to any initiative that, even remotely, might have looked confrontational towards Russia (e.g. Black Sea Synergy, Eastern Partnership).

Furthermore, the perception that an autonomous European defence was still pondered in some quarters of Western Europe represented an additional concern to the new member states. Firstly, becoming independent of US military capabilities, was already a very challenging ambition. Secondly, in spite of potentially acquiring new capabilities, CEECs did not appear confident enough that those capabilities might also be deployed in their desired direction. Thus, their allegiance to NATO/US seemed unshakable, despite noticeable changes in NATO's purpose and the implications of the participation of some NATO members in places like Iraq and Afghanistan.

*Romania's making contact with the Western security culture*

Even today, Romanian high ranking officials still share the view that their country has not yet resolved its ambivalent stance towards Europe. On the one hand, Romania has proclaimed its 'Europeanness' and natural right of 'returning to Europe', in order to break away from the various unflattering identities and dangers associated with the Balkans and the East. On the other hand, Romania has remained suspicious about, and untrusting of, Western Europe's commitment to the security of its Eastern peers, who have historically seen themselves as victims of the shrewd horse trading between superpowers.



In this context, NATO (a euphemism for the US security pledge in Central Eastern European eyes) plays the leading role in the making of the Romanian security strategy. The recollection of past territorial losses and the perceived ongoing Russian threat keep Romanians locked into a 'territorial defence' state of mind which contrasts sharply with the evolving 'Russia-free' security culture espoused by Western countries.

During the post-communist years, Romania has sensed that its security concerns could realistically be alleviated by the US only via NATO, "falling in love with Article 5" of the North Atlantic Treaty (as the incumbent presidential national security adviser himself put it<sup>3</sup>). It appears that Romania would side with the US every time a major transatlantic rift emerges, the cost of alienating its European allies being seen as bearable. The realisation that the evolving (Western) European security culture may be departing from the conventional territorial defence thinking determined Romania not to shy away from fully supporting the US, which pledged to provide what the Europeans were falling short of.

Nevertheless, transatlantic divergences were painful to countries like Romania, which found them caught between the heavy-weights of the same family. Both NATO and EU accessions represented *sine qua non* objectives through which Romania would attain the long craved-after security and economic prosperity and would rekindle its Euro-Atlantic identity. Thus, a Romanian security strategy that should accommodate a Europe and an America at odds with each other has so far been unthinkable and inconceivable. Nevertheless, efforts to mitigate transatlantic divergences should not entail a loss of

American vigilance in a part of Europe that has not yet parted with its past perceived threats (as former heads of states of CEECs have pointed in an open letter to US President Obama<sup>4</sup>).

Consequently, a tit-for-tat exchange, in various degrees and at various levels, has started to take place between new and older member states: on one side, older member states critical of the newcomers for not being able to forget the past and realise the importance and dimension of the new security threats, and on the other side, new member states pointing at older member states' failure to notice the dangers still posed by a resurgent Russia (proven at the moment, by Russia's military conflict with Georgia and energy-related confrontation with Ukraine, among others).

The East-West tension over identifying European security challenges has already been portrayed as a complication of the EU enlargement process, which increases the odds of making contact with "zones of intractable conflict", but only to the extent to which the EU might have to respond to regional identity/religious conflicts with low-level military force (Richmond 2000: 42; Cornish and Edwards 2001: 598-599). It has been acknowledged that the EU played a significant role in bringing the Russian-Georgian conflict of 2008 to an end by employing persuasion and its good offices rather than military force, but in many Central Eastern European societies, the recognition of independence of the two break-away regions of Georgia by Russia represented another proof that attack on the sovereignty and territorial integrity of one country is still possible in the 21<sup>st</sup> century's Europe.

<sup>3</sup> Interview with I. Fota (presidential national security adviser) in *Ziua*, 11 June 2009

<sup>4</sup> *Gazeta Wyborcza*, 15 July 2009

More worryingly than the lack of an EU firm stance on issues of sovereignty and territorial defence are the EU actions that appear to run counter to Romania's most sensitive interests. Such a situation was generated by the decision of a large number of EU member states to recognise Kosovo's declaration of independence, which Romania considered illegal under international law. From the very beginning, Romania argued that the recognition of Kosovo's self-determination would constitute a dangerous precedent to the sovereignty of many states of Europe which were still confronted with latent and unhealed tensions of ethnical origin. In this context, EU's determination to deploy a consistent ESDP mission to Kosovo (EULEX), which could eventually take over the responsibilities of the UN Interim Administration Mission in Kosovo, might equate with a de facto EU contribution to state-building activities in Kosovo. Given Romania's strong participation in EULEX, authorities in Bucharest insisted that EU's operations in Kosovo should remain under the UN authority in order to avoid being proven a de facto contributor to state-building efforts.

Romania has supported the vast majority of CFSP initiatives, during and after pre-accession years, and its participation in ESDP missions was vigorous, especially on those occasions when the EU/NATO Berlin agreements were activated. Romania's attachment to the CFSP/ESDP stems from a real interest in the stability of its neighbourhood, but also from a sheer desire to be perceived as a true European, thus reviving an identity that was undermined during almost five decades of self-divesting communism. The modern challenges to European/international security advocated by the ESS are definitely high on Romania's

agenda, but the sense of frustration triggered by the repudiation of the main culturally-sanctioned security threat from the community's security strategy is still acute.

*The power of socialisation...giving in or resisting it?*

It appears that the projection of Eastern security concerns to the EU level is a very difficult endeavour. The other option to bridging the East-West rift over security priorities is a top-down process of socialisation whereby the new members states in the East would gradually let go the chimeras of the past and join in the progressive mainstream of EU member states. However, this latter perspective as well, may not be easy to materialise. An adaptation of such magnitude would require a shift in the way in which Eastern countries perceive threats and a positive track record of developments on the ground that should refute older security concerns and endorse the challenges of modern times.

In this context, Poland, the largest new EU member state and one of the staunchest Atlanticists, is thought to have undergone a process of metamorphosis from America's protégé to a constructive European (Zaborowski 2004). The factors favouring such a development have been: the alleviation of old geopolitical and historical threats (Germany became Poland's ally, and Russia, while still a "state of concern", no longer represented a serious danger); the growing dissatisfaction over US's unilateralism and lack of concrete benefits from Poland's military incursion in Iraq; and the realisation that Poland could be one of the EU's movers and shakers, after proving its effectiveness in shaping an Eastern dimension of the EU, especially towards Ukraine and Belarus.

By comparison, Romania appears to be a lingering, die-hard Atlanticist. Indirectly, Russia-fuelled regional 'frozen' conflicts and energy crises are still perceived as a threat to the country's security. Romania's attachment to US security pledges is as strong as ever, Romania's presence in Iraq being seen more as an act of duty rather than a source of potential (economic) gains. With respect to Romania's capacity to influence EU actions in the Black Sea region, Romania has, so far, not shown the same degree of dexterity displayed by Poland, for various reasons: not being as big, becoming a EU member state three years later, experiencing slower institutional adaptation to the EU 'ways of doing things', and being geo-strategically closer to "zones of intractable conflict".

### **Concluding remarks**

It is clear that Romania's 'territorial defence' concern is satisfactorily addressed within a NATO/US framework only. Nevertheless, Romania's expectations regarding a more spirited EU involvement in its Eastern/Black Sea neighbourhood are not necessarily linked to EU's physical

potential, but rely mostly on the political will needed to generate a coherent, unified EU stance towards this particular geographical area.

A deadlock in gathering support for such an assertive EU role may determine a change of attitudes in either direction: those opposing it could, over time, become convinced about the opportunity and advantages of an EU common action; or those promoting it, may appreciate the difficulty of reaching a compromise on the matter and either admit the infeasibility of the EU project or pursue a policy of its own, detached from the EU.

In the given circumstances, and following the Polish example, it looks like Romania should be the one lowering down, and adapting, its expectations and ambitions for a more determined EU involvement in regional security arrangements. At the same time, the reality on the ground has not made it easier for Romania to perform that change, but on the contrary, it has reconfirmed and reinforced its worst fears, driving it even deeper into the apparently sole zone of comfort cultivated by the US and NATO.

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## L'OPÉRATIONNALISATION EN ROUMANIE DE L'ACQUIS COMMUNAUTAIRE DANS LE DOMAINE DE LA COOPÉRATION POUR LE DÉVELOPPEMENT

Victor Negrescu\*

**Abstract:** *The European Union is the main contributor to the global development assistance funds for assistance to developing countries. By entering this club, Romania has undertaken EU's objectives in this field and must allocate in the coming years up to 0.33% of its GDP to official development assistance funds. Understanding how the acquis communautaire in terms of development cooperation was operationalized in Romania will enable us to realize how it was understood the new donor status of the country. The operationalized system will be integrated in the theoretical concepts of international relations regarding the cooperation for development.*

**Keywords:** *Developing countries, official funding for development cooperation, national interest, neoimperialism, acquis communautaire*

**JEL:** O20

L'intégration de la Roumanie dans l'Union Européenne, le 1 janvier 2007, a amené plus de responsabilités et d'engagements au niveau européen. Parmi ceux-ci on peut citer la politique de coopération pour le développement, appelée également *Assistance Officielle pour le Développement* (ODA).

L'ODA comprend les flux officiels de financements alloués préférentiellement aux pays en cours de développement, en vue d'aider au développement économique et des conditions de vie de la population. Les pays en cours de développement regroupent les Etats qui enregistrent des déficits de développement

économique et humain dans le sens établis par le Programme des Nations Unies pour le Développement – PNUD.

Dans ces conditions, la Roumanie est devenue, après l'adhésion à l'UE, un des pays contributeurs au système d'assistance internationale pour le développement et membre d'une Union qui assure plus de la moitié des fonds destinés aux pays en cours de développement. L'adaptation à ce nouveau statut de pays donateur, impose à l'Etat roumain d'adopter une série de mesures législatives et normatives, en vue d'opérationnaliser les politiques de coopération pour le développement.

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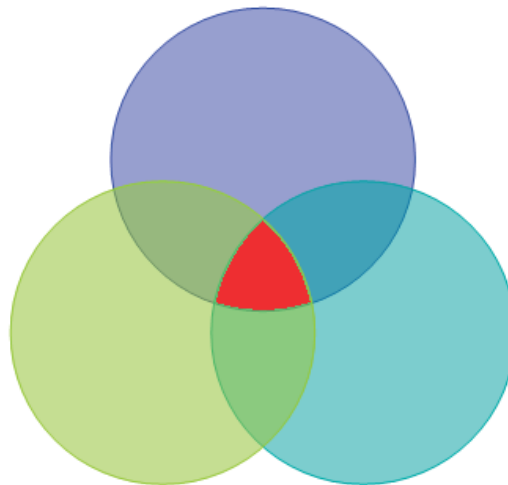
Notre analyse va décrire la modalité dans laquelle la Roumanie a implémentée l'acquis communautaire dans le domaine de la coopération pour le développement et en quelle mesure les politiques ODA nationales sont corrélées à celles existant au niveau européen. Dans ce sens, on va tout d'abord présenter le débat théorique concernant la coopération pour le développer pour ensuite se concentrer sur les politiques européennes de coopération pour le développement et la politique ODA de la Roumanie, en vue d'établir la modalité dans laquelle on a réussi à opérationnaliser ce domaine au niveau national.

### **La coopération pour le développement: entre logique humanitaire et néoimpérialisme**

Les rapports entre les pays développés et les pays en cours de développement ont généré plusieurs modèles explicatifs des différentes relations de pouvoir et d'intérêts qui unissent les deux acteurs de la coopération pour le développement. Les interprétations données sont, pourtant, la plus part du temps déterminés par la perspective idéologique adoptée.

La perspective réaliste, introduite par Hans Morgenthau<sup>1</sup>, se réfère à l'existence de rapports basés sur l'intérêt national des Etats donateurs développés qui utilisent l'assistance pour le développement comme moyen d'exercer leur pouvoir au niveau

### **Modèle 1: Facteurs déterminants dans l'établissement des stratégies de coopération pour le développement**



#### Légende

- Intérêts nationaux: maximisation du pouvoir
- Intérêts internationaux: le maintien de la paix et de la sécurité
- Intérêts des acteurs non-étatiques : le principe humanitaire
- Le concept de coopération pour le développement

<sup>1</sup> Hans J. MORGENTHAU, *Politics Among Nations: The Struggle for Power and Peace*, New York NY: Alfred A. Knopf, 1948.



mondial. En accordant cette assistance, les Etats les plus développés placent les pays en cours de développement dans leur sphère d'influence, contribuant ainsi au maintien des rapports de forces sur le plan international qui pourrait changer avec l'émergence de nouvelles puissances ou group de pays associés. Cette interprétation est dilué par le concept de « soft power », de Joseph Nye<sup>2</sup> qui en voit d'avantage un mécanisme informel d'exercer l'influence sur les pays en cours de développement.

Des exemples, comme la présence économique importante du Japon en Amérique du Sud ou les investissements massifs en infrastructure de la Chine en Afrique, illustrent un certain désir des grandes puissances de projeter leur pouvoir au niveau international. De même, on peut étendre cela au niveau des organisations internationales qui, sans s'intéresser au concept classique réaliste de pouvoir, sont désireuses de projeter leur vision et leur modèle à l'étranger et utilisent comme moyen de communication les organisations non-gouvernementales.

Francis Fukuyama<sup>3</sup> considère qu'après les événements du 11 septembre 2001 les Etats les plus puissants sont passés au remodelage du système international. Même si dans ce processus de redéfinition on peut inclure les actions militaires des Etats Unis en Afghanistan et Irak, le principe se réfère surtout à la diffusion du modèle économique et politique occidentale. Désormais la coopération pour le développement devient un mécanisme central de ce processus de remodelage international déterminé par l'intérêt réaliste de sécurité.

Pourtant, pour les libéraux, la coopération pour le développement a avant tout un objectif humanitaire de solidarité internationale. Ce concept est déterminé par le désir des pays développés à maintenir la paix au niveau international, et la coopération pour le développement permet de réaliser cette vision kantienne par le développement de la démocratie et de l'économie des pays en cours de développement. En se développant ces pays et les populations affectés par la pauvreté ne vont plus représenter un risque d'instabilité au niveau mondial.

Cette conception voit dans la démocratie la solution la plus simple pour maintenir la paix. Michael Doyle démontre cela en utilisant l'ensemble des arguments apportés par les partisans de la *pax democratica*<sup>4</sup>.

- les démocraties ne se battent pas entre elles. Les contraintes institutionnelles (Morgan et Campbell), le rôle de l'opinion publique (Owen), l'influence démocratique du marché (Doyle) et les évolutions culturelles (Maoz et Russet) constituent des freins plus efficace à l'activité guerrière des démocraties;

- les démocraties ont tendance de définir leurs intérêts d'une manière dans laquelle la coopération avec les autres démocraties est indispensable (Owen), les conduisant ainsi à participer aux mêmes alliances dont la principale fonction est le maintien de la paix (K. Deutsch) et la stabilité régionale (complexe de sécurité de Buzan).

La vision radicale critique ce point de vue en expliquant que les pays en cours de développement n'ont pas connu un

<sup>2</sup> Joseph S. NYE, *Soft Power: The Means to Success in World Politics*, Public Affairs, 2005

<sup>3</sup> Francis FUKUYAMA, "State Building", in *Gouvernance et Ordre du Monde au XXIe siècle*, La Table Ronde, Paris, 2005

<sup>4</sup> Michael DOYLE, "Kant, Liberal Legacy and Foreign Affairs", in *Philosophy and Public Affairs*, Part I, vol. 12, no 3, Summer 1983, pp. 205-235

développement important à cause de cette assistance pour le développement qui maintient ces Etats au statut d'assisté face aux pays développés. Les auteurs radicaux décrivent un néoimpérialisme exercé par les pays riches qui par les mécanismes de coopération pour le développement généralisent les valeurs culturelles propres au détriment de ceux des pays en cours de développement et empêchent leur développement économique en limitant l'accès au progrès technologique et industriel en vue de maintenir ces Etats au niveau de pays producteurs de matière première.

Samir Amin considère qu'au niveau international il existe un cercle vicieux par lequel les Etats du Sud sont destinés à être principalement des Etats producteurs de matière première<sup>5</sup>. C'est pour cela que ces Etats restent sous-développés et ne peuvent pas bénéficier d'un développement économique et social sain. Il va même jusqu'à donner trois explications au sous-développement: 1. l'existence d'inégalités sectorielles de productivité liés à l'absence de diffusion du progrès technique vers ces Etats à cause des mécanismes de protection des droits et des coûts que le progrès technique implique; 2. les disparités économiques et de développement à l'intérieur de ces Etats limitent les possibilités de développement; 3. la spécialisation inégale entre le Centre et la Périphérie dans le sens où les pays du Sud sont principalement des producteurs de matière première.

#### **A. La politique européenne de coopération pour le développement**

Historiquement, la coopération pour le développement est un domaine relativement nouveau, qui trouve ces

racines dans le Plan Marshall, réalisé par les Etats-Unis en 1948, en vue d'aider les pays européens après la fin de la Deuxième Guerre Mondiale.

Désormais, le principe de l'assistance internationale et de la coopération pour le développement a été adapté et s'applique au niveau des pays en cours de développement. L'Union Européenne représente le principal contributeur mondial à l'assistance officielle pour le développement, allouant, constamment les dernières années, plus de 50% du volume total de l'assistance. L'Organisation pour la Coopération et le Développement Economique estime que les 15 anciens pays membres de l'UE (membres avant 2004) ont alloué toutes seules en 2006, pas moins de 57% de l'assistance globale pour le développement, l'équivalent à 0,43% de leur revenu national brut cumulé.

De plus, l'Union Européenne s'est assumée comme objectif d'allouer jusqu'en 2010, 0,56% de leur revenu national brut cumulé aux politiques de coopération pour le développement. Il est donc important d'analyser les instruments et la stratégie européenne dans le domaine de l'assistance pour le développement pour comprendre l'action internationale de l'Union Européenne.

#### **1) L'évolution de la coopération pour le développement**

Les premiers signes des politiques de coopération pour le développement sont apparus avec la transformation de la relation entre les pays développés et les anciennes colonies. La relation de protectorat a évolué avec la croissance de l'interdépendance entre les pays pour devenir un partenariat de coopération sectoriel. Par exemple, en 1945, la

<sup>5</sup> Samir AMIN, *L'Accumulation à l'Echelle mondiale*, 2ed, Anthropos, Paris, 1988

Grande Bretagne structure l'assistance pour le développement par l'Acte pour le Développement et le Bien-être des Colonies ("Colonial Development and Welfare Act"). De même, la France crée, en 1946, les Fonds d'investissement économique et social des territoires d'outre-mer - FIDES.

Au niveau de la coopération européenne, le Traité de Rome, de 1957, représente la première étape dans l'établissement d'une politique européenne dans le domaine de l'assistance pour le développement, par la création du Fond Européen pour le Développement des Pays et des Territoire d'Outre-mer dans le cadre des Communautés Economiques Européennes. Trois ans plus tard, à l'initiative de plusieurs Etats européens et des Etats-Unis, naît le Group pour l'Assistance et le Développement (GAD), qui va devenir le forum de consultation des pays contributeurs qui assurent l'assistance pour les pays en cours de développement.

Les membres fondateurs sont : la Belgique, la France, le Canada, l'Allemagne, l'Italie, le Portugal, la Grande Bretagne, les Etats-Unis et la Commission des CEE. Les premières rencontres ont été destinées à la conception d'un mode d'évaluation de la contribution de chaque Etat à la coopération pour le développement.

Le 14 décembre 1960, l'Organisation pour la Coopération Economique Européenne (OEEC), qui administre le Fond Marshall, est réorganisée pour devenir l'Organisation de coopération et de développement économiques (OCDE), indiquant ainsi sa nouvelle dimension en ce qui concerne la coopération internationale. L'organisation va avoir un Département pour le Développement, composé de deux structures: le Département pour le Financement du

Développement et le Département pour la Coopération Technique.

Convaincus par la nécessité d'aider les pays sous-développés en augmentant l'assistance économique, financière et technique et de les corrélés aux nécessités des pays bénéficiaires, les membres GAD proclament, le 26 mars 1961, à Londres, « la Résolution pour un Effort Commun d'Aide ». En même temps, la Banque Mondiale crée l'Association pour le Développement International (IDA), avec un fond initial de 900 millions de dollars destinés à assurer des prêts préférentiels aux pays les plus pauvres.

Les Etats européens ont soutenu, dès le début, la nécessité d'une politique cohérente et globale dans le domaine de la coopération pour le développement. Pour créer un cadre institutionnel, la France va devenir le premier pays qui, en 1961, va désigner un Ministre pour la Coopération qui va assurer l'assistance des pays indépendants en cours de développement (surtout de l'Afrique). La même année, la Suède va créer l'Agence pour l'Assistance Internationale qui, en 1965, va changer de nom dans l'Autorité Suédoise pour le Développement International (SIDA).

Les efforts d'institutionnalisation de la coopération pour le développement continuent au niveau mondial, l'OCDE créant en 1964 le Centre pour le Développement, et le GAD adopte dans la même période la Résolution concernant les Termes et Conditions de l'Aide, qui prévoit que les pays membres du GAD allouent des financements en rapport aux nécessités individuels de chaque pays. En 1964, a lieu la première Conférence Yaoundé entre la CEE et l'Association des Etats Africains et Madagascar, qui établit un deuxième Fond Européen pour le Développement.

Dans les années qui vont suivre, le GAD va tenter de conceptualiser et d'évaluer le niveau de coopération pour le développement. L'indice d'évaluation va devenir le pourcentage du Produit National Brut. En 1969, le GAD va adopter la définition officielle de l'ODA, qui est valable encore aujourd'hui, en le séparant des Autres Flux Officiels (OOF). Conformément à celle-ci, l'ODA consiste dans les flux alloués aux pays en cours de développement et aux institutions internationales en provenance des agences officielles, incluant les Etats et les gouvernements locaux, ou de la part d'agences exécutives, qui respectent les principes suivants: sont alloués en vue de développer l'économie et les conditions de vie de la population sur un principe concessionnel dans le sens où au moins 25% des fonds ne sont pas remboursables et le reste de la somme est calculée à un taux d'intérêt de maximum 10%.

En 1970, l'Organisation des Nations Unies a établis comme objectif les 0,7% du PNB pour l'ODA au niveau des pays en développement, objectif atteint par la Suède en 1974, suivie par les Pays-Bas (1975), la Norvège (1976) et le Danemark (1978).

Après une période de remise en cause de l'efficacité et du rôle de la coopération pour le développement<sup>6</sup>, le Sommet de Cancun de 1981, qui a réuni 22 chefs d'Etat et de gouvernement dans les principaux pays du Nord et du Sud, a marqué le début du dialogue sur les politiques au niveau bilatéral entre les pays donateurs et les pays bénéficiaires.

La tentative d'augmenter l'efficacité de la coopération pour le développement va conduire à créer le Principe de l'Evaluation du Projet, permettant ainsi d'allouer des fonds dans des domaines et vers les pays qui nécessitent la plus grande aide.

La chute du communisme va déterminer l'OCDE a réalisé, en 1990, le Centre pour la Coopération avec les Economies Européennes en Transition (CCEET). En même temps, se crée la Banque Européenne pour la Reconstruction et le Développement.

Le Traité de Maastricht, signé en 1991 et entré en vigueur en 1993, prévoit un chapitre concernant la coopération pour le développement, plaçant ce domaine au niveau des autres politiques communautaires. Le chapitre prévoit une complémentarité entre les politiques d'assistance au niveau national et celles communes, une coordination des Etats membres et de la Commission, une croissance de la cohérence et une définition des objectifs de la CEE dans le domaine.

Plus exactement, la CEE se propose d'accorder l'assistance pour le développement sociale et économique en s'axant particulièrement sur la réduction de la pauvreté et les pays sous-développés, en intégrant les pays en cours de développement dans l'économie globale, en assurant la promotion et la défense des droits de l'Homme, de la démocratie et de la bonne gouvernance.<sup>7</sup>

<sup>6</sup> Veronique DIMIER, *Constructing Conditionality: The Bureaucratization of EC Development Aid*, Kluwer Law International, 2006

<sup>7</sup> Helmut FÜHRER, *The story of official development assistance - a history of the development assistance committee and the development co-operation directorate in dates, names and figures*, Organisation for Economic Co-operation and Development, Paris, 1996

## 2) Le cadre institutionnel européen pour la coopération pour le développement

La politique de coopération pour le développement représente une politique spéciale de l'Union Européenne, par l'intermédiaire de laquelle elle alloue des fonds d'assistance aux pays en cours de développement. L'allocation des fonds d'assistance au niveau de l'UE se fait soit dans un cadre bilatéral soit multilatérale, par l'intermédiaire de subventions, de crédits, d'assistance technique ou autres formes de coopération en vue du développement.

L'objectif des politiques de coopération pour le développement est la réalisation des Objectifs de Développement du Millénaire qui comprend la réduction de la pauvreté sévère, la réalisation de l'accès universel à l'éducation primaire, la promotion de l'égalité de genre et l'affirmation des femmes, la réduction de la mortalité infantile, l'amélioration de la santé maternelle, le combat contre le HIV/SIDA, la malaria et autres maladies, la protection de l'environnement et la création de partenariats globaux pour le développement.<sup>8</sup>

Pourtant, même si l'assistance pour le développement représente un domaine important au niveau de la politique extérieure de l'Union Européenne, elle n'est pas encore communautarisée, ses prérogatives étant divisées entre la Commission et les Etats membres. Malgré cela, « Le Traité sur l'Union Européenne » (Maastricht, 1993) a créé par les articles 177-181, une base légale et de réglementation pour le domaine de la coopération pour le développement au niveau européen.

La stratégie au niveau de l'Union Européenne est établie par les ministres désignés au niveau des pays membres, dans le cadre du « Conseil Affaires Générales et Relations Externes – CAGRE » (composante développement), alors que de l'implémentation des politiques de coopération pour le développement s'occupe la Commission Européenne.

Les Etats qui bénéficient des programmes communautaires de coopération pour le développement connaissent des déficiences de développement et des problèmes graves dans le domaine de la santé, de l'éducation, du niveau de vie, du développement économique et de la garanti des principes démocratiques. L'Organisation pour la Coopération et le Développement Economiques (OCDE), par l'intermédiaire du Comité d'Assistance pour le Développement, est l'organisme qui établit les critères d'allocation des fonds, en respectant deux principes fondamentaux, un critère géographique – axé sur des régions prioritaires (la zone Méditerranéenne, l'Asie et l'Amérique latine, l'Afrique sub-saharienne), et un critère thématique ou sectoriel – axé sur les Objectifs de Développement du Millénaire.<sup>9</sup>

Les politiques de coopération pour le développement se base sur des accords bilatéraux (ex. Accords de coopération et d'association signés avec les Etats du Maghreb) et les accords multilatéraux (ex. Accord Cotonou). Parmi les instruments juridiques se trouve également le « Système Généralisé de Préférence » (SGP), qui facilite l'accès aux produits originaires des Etats en cours de développement sur le marché de l'Union Européenne.

<sup>8</sup> *The Millennium Development Goals Report*, ONU, New York, 2007

<sup>9</sup> European Commission, *Speeding up progress towards the Millennium Development Goals - Policy Coherence for Development*, SEC(2008)434, 9.4.2008, Brussels

En ce qui concerne les sources de financement au niveau de l'UE, ceux-ci sont représentés par le budget de l'Union, par l'intermédiaire de l'instrument de Coopération pour le Développement (DCI), et le Fond Européen de Développement (FED) alimenté par les Etats membres et la Banque Européenne d'Investissement (BEI) en vue d'allouer des prêts avec un taux d'intérêt préférentiel.<sup>10</sup>

La politique de coopération pour le développement au niveau de l'Union Européenne se base sur des principes établis dans le cadre du Consensus Européen pour le Développement, par la déclaration commune du Conseil, de la Commission et du Parlement Européen.

Le premier principe est celui du dialogue politique, vue comme un instrument de promotion des objectifs des politiques communautaires dans le domaine. Ceci signifie une implication importante de la société civile, comme facteur de développement et de promotion de la démocratie et des droits de l'Homme dans les pays en cours de développement. L'allocation des fonds de coopération pour le développement se fait sur un principe de partenariat dans le sens où l'Union Européenne cherche à offrir de l'assistance en rapport avec les efforts des Etats partenaires, qui assument la responsabilité pour une bonne coopération. Ainsi, l'Union va se concentrer spécialement sur les Etats les plus fragiles et les plus affectés par la pauvreté. Un accent important va être également mis sur l'égalité de genre dans les pays en cours de développement.

Récemment, l'Union Européenne s'est assumée l'objectif d'allouer, jusqu'en 2010, 0,56% du Produit National Brut à l'assistance

pour le développement. Les anciens pays membres se sont proposés d'atteindre jusqu'en 2015 les 0,7% alors que les Etats intégrés après 2004 vont accorder en 2010 autour de 0,17% pour atteindre en 2015 une contribution de 0,33%.<sup>11</sup>

### 3) La stratégie européenne pour la coopération pour le développement

La stratégie européenne de coopération pour le développement est établie par les ministres de ressort des Etats membres et est mise en application par la Commission Européenne. En dehors des objectifs assumés par l'Union Européenne concernant les Objectifs de Développement du Millénaire et l'allocation d'une somme importante vers l'assistance internationale, la stratégie européenne de coopération pour le développement respecte un principe souverain, celui d'allocation des fonds principalement vers les pays les plus fragiles et affectés par la pauvreté.

En 2005, les pays membres ont signé la Déclaration concernant le Consensus Européen dans le domaine du Développement qui mentionne le désir de l'UE d'éradiquer la pauvreté et de construire un monde équitable et stable. Le consensus identifie les valeurs, les objectifs, les principes et les engagements communs que la Commission et les Etats membres de l'UE vont implémenter dans les politiques de développement. Celles-ci sont la réduction de la pauvreté, en respectant les Objectifs de Développement du Millénaire, le développement des valeurs démocratiques européens et l'assistance en vue d'assurer les moyens de développement des pays bénéficiaires.<sup>12</sup>

<sup>10</sup> Karin ARTS, Anna K. DICKSON, *EU Development Cooperation: From Model to Symbol*, MUP, Manchester, 2004

<sup>11</sup> C.C. CHANG, E. FERNANDEZ-ARIAS, L. SERVEN, "Measuring Aid Flows: A New Approach. Washington: World Bank, Development Economics Research Group", *European Foreign Affairs Review*, 11: 263-280, 2006

<sup>12</sup> *Joint statement by the Council and the representatives of the governments of the member states meeting within the Council, the European Parliament and the Commission 'The European Consensus on Development', Brussels, 2005*



Les fonds de l'UE vont être alloués en spéciale vers les pays les plus fragiles, les pays avec un nombre restreint de contributeurs et les populations pauvres des pays avec un revenu moyen. De même, la Commission et les Etats membres se sont proposés de coordonner l'activité et les positions au niveau de l'ONU et au niveau des institutions financières pour s'exprimer de façon unitaire.

La déclaration est divisée en deux parties: la vision commune de l'UE concernant le développement et les politiques qui guident l'implémentation de la vision au niveau communautaire. Elle établit également les neuf domaines principaux d'action : les échanges commerciaux et l'intégration régionale ; l'environnement et la gestion des ressources naturelles, et surtout de l'eau ; l'infrastructure, les communications et le transport ; l'énergie ; le développement rural ; la gouvernance, la démocratie et les droits de l'Homme ; la cohésion sociale et le chômage. Dans le même sens, l'UE va accroître son implication dans des domaines comme la démocratie et la bonne gouvernance, l'égalité de genre, le développement durable et la lutte contre le HIV/SIDA.

La Commission réalise un rapport tout les deux ans sur le processus enregistré et le soumet aux discussions dans le Parlement Européen, avec la société civile et avec les pays en cours de développement. L'analyse des dernières années indique une diminution des fonds alloués à l'Europe et à l'Amérique en terme de volume financier, ce qui reflète le respect des principes élaborés dans le cadre du Consensus Européen pour le Développement.<sup>13</sup>

L'analyse de la coopération pour le développement au niveau européen nous a permis d'appréhender un processus de communautarisation du domaine qui semble être influencés tant par les Etats membres que par les Etats bénéficiaires et la société civile qui désirent ainsi augmenter l'efficacité des fonds destinés à l'assistance pour le développement. Il résulte donc qu'au niveau européen il existe un processus de déstructuration des intérêts nationaux au niveau de l'opérationnalisation de l'ODA au profit d'un intérêt communautaire commun qui se veut être plus humanitariste.

Désormais la perspective libérale semble l'emporter sur le réalisme méthodique en transformant l'assistance pour le développement dans un mécanisme de rayonnement culturel et politique de l'UE de type « soft power ». De plus, la présence de plus en plus grande du Comité Economique et Sociale et de la société civile dans l'élaboration des politiques d'assistance pour le développement de l'UE ajoute une dose supplémentaire d'humanitarisme kantien alors que les objectifs et les conditions d'allocation des fonds ODA de l'UE commencent à être réglementer d'avantage en incluant la démocratie au premier plan.

Il est donc intéressant de voir comment la Roumanie a opérationnalisation ses politiques de coopération pour le développement et les axes centrales de sa stratégie en se rapportant aux objectifs européens dans le domaine.

<sup>13</sup> *International Development Statistics 2001*, OECD, Paris, 2001 (voir Annexe 1)

## **B. L'opérationnalisation des politiques de coopération pour le développement en Roumanie**

L'intégration dans l'Union Européenne a amené à la Roumanie plus de responsabilités dans le domaine de la coopération pour le développement. En dehors des 0,17% du PNB qu'elle doit allouer pour l'ODA, l'Etat roumain doit développer les mécanismes nécessaires à la coopération pour le développement, de même qu'une stratégie dans le domaine.

La principale institution responsable de la coordination et l'implémentation des politiques nationales d'assistance pour le développement est, conformément à la Décision du Gouvernement nr. 624 du 20 juin 2007, le Ministère des Affaires Etrangères, par la Direction Relations Externes de l'UE et d'Assistance pour le développement (DREAD), qui fonctionne dans le cadre de la Direction Générale Union Européenne.

Il est donc intéressant de voir le rapport existant entre l'implémentation des politiques roumaines de coopération pour le développement les intérêts nationaux de politique étrangère et de sécurité de la Roumanie.

### **1) Le cadre juridique de la coopération pour le développement**

Le Ministère des Affaires Etrangères est l'institution qui coordonne la politique de coopération pour le développement nationale. Le MAE dispose d'une ligne budgétaire séparée d'assistance pour le développement, dans le cadre de laquelle est incluse et l'assistance humanitaire, établie par la Loi nr. 404/2006.

En adhérant à l'UE, la Roumanie s'est assumée les Objectifs de Développement du Millénaire jusqu'en 2015, établies dans le cadre du Sommet de l'ONU en

2000. La Roumanie est ainsi devenu un de pays donateurs du système international d'assistance pour le développement.

La stratégie nationale concernant la politique de coopération internationale pour le développement et le plan d'action dans le domaine ont été établis par la Décision du Gouvernement nr. 703, du 31 mai 2006 qui établie les priorités géographiques (l'Europe de l'Est, les Balkans de l'Ouest et le Caucase du Sud) et sectorielles (la bonne gouvernance, la consolidation démocratique, l'Etat de droit, le développement économique, l'éducation et la formation professionnelle, l'emploi, la santé, le développement de l'infrastructure et la protection de l'environnement).

Le budget et le mode de financement de l'assistance pour le développement sont établis dans la Loi nr. 404/2006 adoptée par le Parlement de la Roumanie le 17 octobre 2006. De même, l'Ordonnance du Gouvernement nr. 747, entrée en vigueur le 2 août 2007, régleme le cadre institutionnel de programmation de l'assistance pour le développement, comme le cadre financier d'allocation de l'assistance. Les types d'assistance pour le développement dont dispose la Roumanie sont : l'assistance financière non remboursable, l'assistance humanitaire, l'assistance technique, l'assistance destinée à l'éducation pour le développement, de même que les activités de conscientisation publique dans le domaine du développement.

La Roumanie s'est également assumée les objectifs de l'Accord Cotonou concernant le partenariat avec le Group de Pays Africains, des Caraïbes et du Pacifique (ACP) signé au Bénin le 23 juin 2000 pour une période de 20 ans, en le ratifiant en 2008. De même, l'Etat roumain va contribuer, dans la période 2008-

2013, au 10<sup>ième</sup> Fond Européen pour le Développement (FED 10), principal instrument financier extrabudgétaire de la relation de l'UE avec ces Etats.<sup>14</sup>

## **2) La stratégie nationale de coopération pour le développement**

En s'assurant les politiques européens de coopération pour le développement la Roumanie a été amenée à concevoir sa propre stratégie nationale qui tient compte des facteurs internes et des intérêts nationaux et commerciaux de l'Etat roumain.

Ainsi, dès septembre 2007, on a approuvé la somme de cinq millions d'euro pour le financement des projets de coopération internationale et d'opérationnalisation de la stratégie nationale d'assistance pour le développement. Les axes prioritaires dans la politique de coopération pour le développement ont été discutés avec les organisations non gouvernementales dans le domaine et les acteurs diplomatiques, quelques mois après l'adhésion.

Les pays prioritaires de politique de coopération pour le développement établis par la Roumanie sont la République de Moldavie, la Géorgie et la Serbie, et les pays en attention, sont l'Irak et l'Afghanistan. Même si cela n'exclut pas les actions dans d'autres pays, la décision a été largement motivée par le fait que l'expérience de la Roumanie peut mieux être utilisée dans la région, ayant en vue les intérêts de l'Etat roumain pour la zone de la Mer Noire. De même, on a tenu compte du possible adhésion de ces Etats à l'Union Européenne, des communautés des roumains dans la région, de même que du partenariat stratégique avec les Etats-Unis, qui a généré à la Roumanie des intérêts dans plusieurs zones de conflit.

Par le Mémoire interne nr. B1-3/4946, du 30 octobre 2007, le Ministère des Affaires Etrangères a alloué à la fin de l'année 2007, pas moins de 4.675.000 euro au financement multilatéral des projets de coopération pour le développement. Plus exactement, 2.325.000 euro ont été destinés, pour la période 2007-2009, au PNUD Roumanie afin de dérouler des programmes d'assistance pour le développement dans les pays prioritaires pour la Roumanie, alors que 2.350.000 euro ont été destinés à diverses organisations et structures internationales. Il en résulte que la Géorgie a reçu 300.000 de euro, la Serbie 400.000 de euro, et la République de Moldavie a reçu 800.000 de euro par le PNUD, et 2,1 millions d'euro sous forme d'assistance humanitaire.

## **3) Les acteurs de la coopération pour le développement en Roumanie**

La politique nationale de coopération pour le développement est réalisée sur différents plans, en coopération tant avec les acteurs institutionnels qu'avec la société civile.

Au niveau du dialogue institutionnel interne a été créée la Commission pour la Coopération Economique et pour le Développement Internationale par la Décision du Gouvernement nr. 747/2007, qui se subordonne au Conseil Interministériel pour les Relations Etrangères et les Affaires Européennes. La présidence et le secrétariat de la Commission sont assurés par le Ministère des Affaires Etrangères. Dans ce forum sont discutés les principaux axes de développement des politiques dans le domaine, de même que la relation avec l'OCDE concernant l'assistance pour le développement.

<sup>14</sup> MAE - <http://www.mae.ro/index.php?unde=doc&id=26427&idlnk=1&cat=3>

En Roumanie, les organisations actionnant dans le domaine de la coopération pour le développement se sont réunies, dès le 16 octobre 2006, dans le cadre de la Fédération des Organisations Non gouvernementales pour le Développement en Roumanie – FOND. L'Organisation, construite avec l'aide du TRIALOG et de l'Organisation Non gouvernementale pour le développement de la société civile – CONCORD, se propose d'attirer l'attention de l'opinion publique et des décideurs sur les problèmes rencontrés par les pays en cours de développement et la nécessité d'une participation plus importante de la Roumanie et de la société civile autochtone aux projets d'assistance pour le développement. FOND comprend désormais pas moins de 37 organisations et s'est impliqué activement dans la réalisation du cadre législatif et financier dans le domaine.

Au niveau de l'Union Européenne, la Direction Générale Développement de la Commission UE a comme partenaire CONCORD. En vue de soutenir le ONG pour le développement (ONGD) des nouveaux Etats membres de l'UE et des Etats en cours de développement, CONCORD a créé une plateforme appelée TRIALOG.

L'intégration de la Roumanie dans la communauté européenne a signifié la participation de l'Etat roumain aux réunions et aux institutions européennes qui gèrent le domaine de la coopération pour le développement : le Comité pour le Fond Européen pour le Développement (FED), les réunions du Conseil Affaires Générales et les Relations Etrangères sur le domaine du développement, le Comité pour l'Instrument de Coopération pour le Développement, le Comité pour l'Assistance Humanitaire (HAC), de même

que les réunions informels des ministres pour le développement.

De même, la Roumanie est devenue un contributeur au système UE généralisé de préférences et va allouer près de 83,9 millions d'euro, dans la période 2008-2012, au 10ième Fond Européen pour le Développement.

Parmi les partenaires internationaux de la Roumanie se trouvent également les agences de l'ONU dans le domaine, la Banque Mondiale, l'Organisation Mondiale pour le Commerce, de même que l'OCDE ou le PNUD.

### **Nationalisation de la coopération pour le développement**

L'Union Européenne a tenté dans les dernières 30 années d'élaborer une politique de coopération pour le développement au niveau européen. Même si elle a enregistré des succès sur tous les plans, le domaine n'est pas encore complètement communautarisé, beaucoup de mécanismes restant encore à l'attitude des Etats membres.

L'intégration de la Roumanie dans l'UE a signifié l'adoption des objectifs de l'Union dans le domaine de la coopération pour le développement mais également des responsabilités nationales qui reviennent aux pays membres. L'élaboration d'une stratégie nationale et l'adoption des mécanismes européens dans le domaine ont représentés pour l'Etat roumain un premier pas dans cette direction.

Même si la Roumanie a alloué des sommes importantes au domaine de la coopération pour le développement, ces fonds ont été distribués par des mécanismes de coopération multilatérale. De même, la Roumanie doit encore enregistrer des efforts au niveau de la conscientisation de l'opinion publique sur la nécessité de l'assistance pour le développement dans

les conditions où le pays se confronte à son tour avec beaucoup de problèmes de développement.

Un autre problème rencontré est l'adaptation au statut de pays contributeur ou donateur au système international de coopération pour le développement qui implique la participation aux organismes internationaux en rapport au niveau de contribution, de même que la soutenance des intérêts nationaux au niveau de l'allocation des fonds.

Même si la Stratégie nationale dans le domaine de la coopération pour le développement a établi les zones des Balkans et de la Mer Noire comme zone principale pour la Roumanie, on peut mentionner que les Etats inclus ne correspondent pas toute à fait aux Etats les plus fragiles au niveau mondiale avec le niveau de pauvreté le plus important.

Dans ce contexte, on peut s'interroger si la stratégie nationale de la Roumanie dans le domaine a bien été déterminée par les objectifs humanitaires de la coopération pour le développement d'aide aux pays en cours de développement, surtout que

les pays prioritaires pour la Roumanie bénéficient également de l'assistance de l'UE par les Politiques de Voisinage de l'Union Européenne.

En même temps, le classement de certains pays comme la Géorgie, la Serbie, l'Afghanistan ou l'Irak parmi les pays bénéficiaires de l'assistance pour le développement roumain, indique une influence importante des facteurs externes et des partenariats militaires dans l'établissement de la Stratégie nationale de Coopération pour le Développement.

Dans ce sens, on peut dire que la Roumanie a réussi l'implémentation de l'acquis communautaire dans le domaine de la coopération pour le développement, mais son opérationnalisation indique une adaptation évidente des principes humanitaires de l'assistance pour le développement au niveau des intérêts nationaux réalistes de la Roumanie, ce qui peut contredire les principes même de la solidarité internationale et illustrer les limites de la politique communautaire dans le domaine.

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### **Références légales**

- Décision du Gouvernement Roumain nr. 703, du 31 mai 2006
- Décision du Gouvernement Roumain nr. 747, entré en vigueur le 2 août 2007
- Décision du Gouvernement Roumain nr. 624 du 20 juin 2007
- Loi nr. 404/2006 adopté par le Parlement Roumaine le 17 octobre 2006
- Mémoire interne MAE, Nr. B1-3/4946, du 30 octobre 2007

### **Ressources informatique - site**

- FOND - <http://www.fondromania.org>
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- OECD - <http://stats.oecd.org/wbos/Index.aspx?DatasetCode=ODA>

### **RECIPIENT REGION**

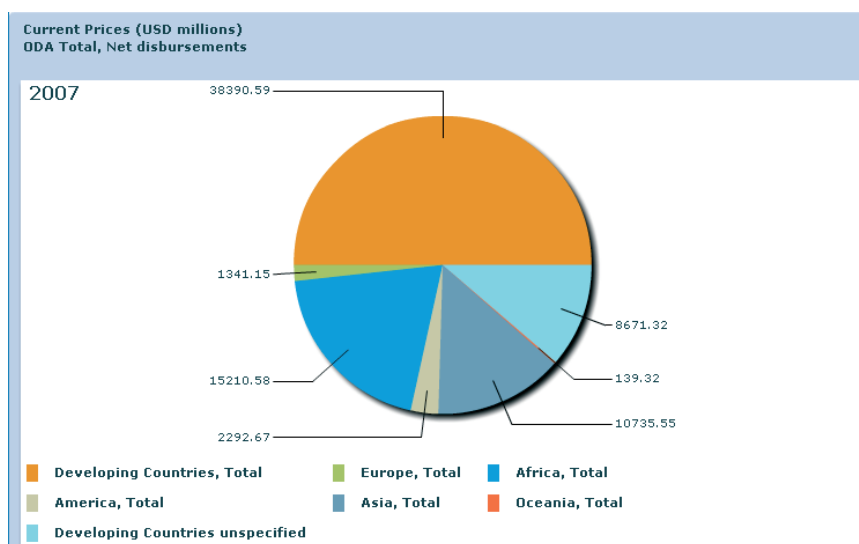
- TRIALOG - <http://www.trialog.or.at/start.asp?ID=89>



ANNEXES

Annexe 1 : Répartition par région de la contribution à l'ODA des pays membres de l'UE en 2007<sup>15</sup>

Base de donnée : 2b. ODA par régions bénéficiaires		
Donateurs		Membre UE DAC, Total
Somme		Prix courants (USD millions)
Type d'aide		ODA Total, financement Net
Année		2007
Bénéficiaire		
Pays en cours de développement, Total		38390,59
Pays en cours de développement, Total	Europe, Total	1341,15
	Afrique, Total	15210,58
	Amérique, Total	2292,67
	Asie, Total	10735,55
	Océanie, Total	139,32
	Pays en cours de développement non spécifié	8671,32
données extraits le 2009/02/01 21:15 de Statistique de l'OCDE		



<sup>15</sup> OECD - [http://stats.oecd.org/wbos/Index.aspx?DatasetCode=ODA\\_RECIPIENT\\_REGION](http://stats.oecd.org/wbos/Index.aspx?DatasetCode=ODA_RECIPIENT_REGION)

## Annexe 2 : Répartition de la contribution à l'ODA de la Roumanie en 2007<sup>16</sup>

Contribution vers les différents fonds et organismes internationaux:

1.	Fond Global pour le combat du HIV/SIDA (BIRD)	300.000 EURO
2.	Fond Education pour Tous (BIRD)	300.000 EURO
3.	Fond des Nations Unies pour le Maintien de la Paix (PBF)	100.000 EURO
4.	Fond des Nations Unies pour la Démocratie (UNDEF)	200.000 EURO
5.	Fond des Nations Unies de réaction rapide en cas d'urgence (CERF)	250.000 EURO
6.	Le programme alimentaire mondial des Nations Unies (PAM) – Opération pour la Géorgie	100.000 EURO
7.	Office du Haut Commissariat de l'ONU pour les Droits de l'Homme (OHCHR)	200.000 EURO
8.	Fond Spécial des Nations Unies pour les Changements Climatiques (UNFCCC)	100.000 EURO
9.	Fond des Nations Unies pour la Population (FNUAP)	100.000 EURO
10.	Fond des Nations Unies pour les Enfants (UNICEF)	100.000 EURO
11.	Fond des Nations Unies pour l'assistance électorale	150.000 EURO
12.	Agence des Nations Unies pour les réfugiés (UNHCR) – Programme pour les réfugiés/ personnes déplacés de Géorgie	100.000 EURO
13.	Agence des Nations Unies pour les Réfugiés Palestinien dans le Moyen Orient (UNRWA)	150.000 EURO
14.	Organisation des Nations Unies pour l'Education, la Science et la Culture (UNESCO)	100.000 EURO
15.	Fond Global pour les investissements dans l'Agenda DOHA (OMC)	100.000 EURO

Contribution financière au PNUD Roumanie:

1. République de Moldavie	Total:	800.000 EURO
2. Géorgie	Total:	300.000 EURO
3. Serbie	Total:	400.000 EURO
4. Programme d'éducation et d'information dans le domaine du développement	Total:	500.000 EURO
5. Croissance des capacités institutionnelles de Roumanie en matière d'assistance pour le développement	Total:	325.000 EURO

<sup>16</sup> MAE - <http://www.mae.ro/index.php?unde=doc&id=26427&idlnk=1&cat=3>

Autres contributions du MAE, rapportés à l'ODA:

1. Cotisation annuelle au Centre du Développement: **29.963 EURO**
2. Participation aux élections surveillées par l'OSCE/ODIHR et le Conseil de l'Europe en Albanie, R. Moldavie, Kazakhstan, Kosovo Serbie, Kirghizstan – total: **26.590 EURO** et **15.840 USD**
3. Contribution au programme du Conseil de l'Europe pour la formation des jeunes leaders de la République de Moldavie, avec la somme de **17.250 Euro**;
4. Contribution au budget ordinaire de l'ONU (partiellement rapportable à l'ODA): **1.400.528 USD**
5. Bourses Eugène Ionescu: **500.000 EURO**
6. Contribution OIF: **58.870,16 EURO**
7. Contribution au budget de l'OCEMN (partiellement rapportable à l'ODA): **120.300 USD**
8. Financement de l'étude BSECAO (Black Sea Central Asian Outlook): **200.000 EURO**
9. Financement d'un programme de formation dans le domaine de l'Etat de droit, des pénitentiaires, pour 2 spécialistes irakiens (25 novembre – 8 décembre 2007) – **15455 RON** (autour de 4500 Euro)

Assistance humanitaire: République de Moldavie. **2,1 millions EURO**

**Vasile Boari and Sergiu Gherghina (eds.),** *Weighting Differences: Romanian Identity in the Wider European Context*, Newcastle upon Tyne: Cambridge Scholars Publishing, 2009, 272 pages, ISBN: 978 1443810012

**Book review by Ionuț Constantin Trăistaru\***

In an era marked by accelerated globalization and extended European integration, there is an increased tendency to overlook the national identity. This topic, of major concern for scholars especially after decolonization and disintegration of federal states (e.g. USSR, Yugoslavia), continues to reveal unknown facets when studied in the environment of contemporary challenges. In such a framework it is embedded the volume edited by Vasile Boari and Sergiu Gherghina, which focuses on Romanian identity and puts together the contributions of relevant scholars. The multidisciplinary character of the book, ranging from anthropological and historical to political science and economic perspectives, allows a more comprehensive approach of the subject. The goal of the editors is to provide answers to a few interconnected questions about the essence of Romanian identity, the historical development of the main features of the Romanian people, and to what extent existing identity perceptions share behaviours. All these issues are examined within the broader European perspectives, the reader being thus confronted with a general multi-level analysis.

These lines of reasoning are also indicated by the clear structure of the book that is divided in three logical-deductive parts, each of them with four or five contributions. The first part theoretically discusses the multi-level identities with two main directions of investigation. On

the one hand, the substantive elements of identity models and crises are debated from two different perspectives – economic and moral – by Daniel Dăianu and Vasile Boari. On the other hand, identity is analysed at three interconnected levels - ethnic, national, and regional – each of them with specific implications (Mihai Spariosu). The second part narrows the analytical spectrum from transnational to national level, emphasizing types of identity concern (Adrian-Paul Iliescu), particularities of nation-building and development (Toader and Simona Nicoară), and conceptual dilemmas (Gabriel Andreescu). The final part addresses the Romanian case in detail, combining qualitative (Virgil Ciomoș) and quantitative (Sergiu Bălțătescu) perspectives. The analysis is not limited to the territorial borders, but it transcends them in the attempt to shed light on attitudes of the Romanians abroad. In this respect, the historical and cultural perspectives about the position occupied by Romania in Europe, belonging to Ioan-Aurel Pop and Lucian Boia, are complemented by an in-depth look at the Romanian Diasporas in the United States (Andrada Costoiu).

The book is a useful reading and a relevant asset for the literature on Romanian identity for at least three reasons. First, given its multidisciplinary approach and extensive information included in its 13 chapters (plus a thorough introduction), it is a valuable source of knowledge for students and

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researchers interested to conduct studies in the field. Unique points of view and analytical frames are provided and carefully explained in deductive-nomological reasoning throughout the entire book. Moreover, original data are provided through interviews, in-depth comparisons (e.g. Aziliz Gouez's contribution), and statistical techniques. In other words, the rich descriptive and analytical insights are supplemented by exhaustive evidence that supports claims and persuades the reader.

The clarity of the arguments, the coherence of the book, and the accuracy of each theoretical and/or empirical analysis are the second major merit of *Weighting Differences*. Despite a broad spectrum of topics and choices of subjects, the book is connected by a clear-cut read thread (i.e. the Romanian identity) and the chapters are positioned like new bricks in a solid construction. As a consequence, the contributions complement each other and provide a broader picture that gets closer to the general aim of the book. To take only one example, the second part of the book starts with a theoretical underpinning on the types of identity concern (Adrian-Paul Iliescu). Practically, the next chapters reveal facets of this argumentation and lay them out on spatial and nation-building dimensions. Thus, the initial claims are strengthened by multiple evidence and new consistent arguments are brought to nuance debated concepts.

The third substantial merit is represented by the combination of top-down and bottom-up approaches to the Romanian identity. In this book, the extremes can be considered Europe – the broader frame in which the discussion is embedded – and the individual identity. The inclusion of diverse chapters allows the editors to move back

and forth on the continuum that results. Moreover, the reader has the opportunity to closely examine multiple dynamics of acquiring, modelling, changing, and shifting identities. When reading the book, students of anthropology, cultural studies, history, and political science can easily notice the commonalities of their subjects of study in approaching a highly-debated theme like the identity. Conversely, they understand that one-dimensional analyses are incomplete and cannot cover its complexity.

The volume not only reaches its goal by providing a few explicit answers to the initial questions, but also raises new question marks to be dealt in future studies. Of equal value there are the implicit answers that the reader can find by reading every contribution. Conclusions are both mentioned in the texts, but most of the times there are numerous logical linkages to be drawn by the readers themselves upon previous lectures. In this context, an advantage for some can be seen as a possible shortcoming for others. The multitude of theoretical points of view may prove inefficient for empiricists that would like to have the living proof of the mentioned ideas. A few chapters may justice in this direction and further studies can surely explore more. Summing up, the book is a valuable and enjoyable reading to be included in the lists of references of many subjects taught in universities. As the literature on Romanian identity is quite reduced in English, it represents a relevant starting point for future in-depth analyses on the topic. Its general and contextual approach helps both understanding the current dynamics and leaves room for alternative explanations to be consciously documented.

## Guidelines for Authors

**Romanian Journal of European Affairs** (RJE) is a publication that deals with a wide range of topics pertaining to the realm of European Affairs. Its articles focus on issues of significance in the EU today (institutional building, economic policies, energy, migration etc.), the effects of the European integration process on the new member states (with a particular focus on Romania), as well as the EU's relations with other global actors.

Issued on a quarterly basis by the **European Institute of Romania**, the journal has been largely distributed both in Romania and in prestigious universities and research centers across Europe. Since 2007, the Journal has been scientifically evaluated by the National University Research Council (RO – CNCSIS) as „**B+**” category and its articles have been included in various academic electronic databases, such as Social Science Research Network. Starting with the first issue of 2010, RJE is included in **ProQuest** database.

**We warmly welcome submission of articles or book reviews.** Each article received for publication enters a thorough selection procedure before being accepted or rejected. All articles under analysis are made anonymous and handed over to two referees whose reports shall be synthesized by the editorial team and provide the basis for acceptance or rejection. Even when an article is accepted, the editorial board reserves the right to ask for changes, both in form and scope. Within the evaluation procedure, there are several factors, both quantitative and qualitative, that are taken into consideration. The main selection criteria are: scientific excellence, originality, novelty and potential interest for the journal's audience.

The ideal length of an article (in English or French) is from 4 000 to 8 000 words, including a 200-word abstract in English and a very brief autobiographical note. Book reviews should be no longer than 2 000 words. All articles should be presented in Microsoft Office Word format, Times New Roman, 12, at 1.5 lines, and will be sent to the address [rjea@ier.ro](mailto:rjea@ier.ro) mentioning “For RJE”.

Please send your contribution before **February 1<sup>st</sup>, May 1<sup>st</sup>, August 1<sup>st</sup> and November 1<sup>st</sup>** respectively.

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**Jean Monnet**



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