



THE EVOLUTION OF THE EUROPEAN NEIGHBOURHOOD POLICY AND THE CONSISTENT EVOLVEMENT OF ITS INCONSISTENCIES

Nariné Ghazaryan
Brunel University

Abstract

The paper traces the evolution of the European Neighbourhood Policy (ENP) since its origins until the present day. The ENP was initiated in 2003 attracting vast institutional and scholarly interest in its various aspects. The extraordinary events of the “Arab Spring” revolutions in the Southern neighbourhood prompted a renewed interest towards the ENP despite the internal economic turmoil faced by the European Union (EU) and its Member States. The EU institutions undertook a substantive revision of the policy in 2011 in addition to the regional split that had taken place previously. The legal framework of the ENP, comprising its objectives, methodology and instruments, is analysed to reveal the various stages of the existence of the policy and the shortcomings undermining its success. The initial stage of policy formation, the subsequent impact of the Treaty of Lisbon, and the most current state of affairs with a regional emphasis will be addressed in sequence.

Introduction

Nearly a decade since the start of the European Neighbourhood Policy (ENP), its credibility and efficiency have been questioned. Initiated in 2003, the ENP intended to achieve a number of simultaneous objectives, under a common umbrella of comprehensive cooperation in many areas of European Union (EU or Union) competences. On the surface, the ENP aimed at solving the “inclusion-exclusion” dilemma faced by the EU after the 2004 enlargement by creating an alternative to the accession process (Smith 2005).

Alongside the enlargement aspects, the ENP coincided with the attempts of the EU to address global security concerns in the post 9/11 era. The neighbourhood posed threats of its own with unresolved conflicts both in the East and South, chiefly political instability emanating from autocratic states or states in transition. Similarly to enlargement, the economic development pattern promoted through the ENP was intended to enhance the political stability of the neighbourhood, and therefore to guarantee the Union’s security. The European Security Strategy of 2003 stressed that “geography is still important” to the role of the EU in tackling global security threats (Solana 2003). It has even been suggested that the ENP is a regionalization of the European Security Strategy (Hillion 2008).

Although the launch of the initial “Wider Europe” policy was chiefly directed at Russia, Ukraine, Moldova and Belarus, it was stretched to include the neighbours in the South (European Commission 2003). Russia’s unwillingness to cooperate with the EU on any platform other than that of equal partnership resulted in a separate framework of cooperation. A Strategic Partnership was therefore established with Russia, which in its name and substance offered Russia a distinct pattern of cooperation (Council of the European Union 2004). The ranks of the ENP partner states were further revised when the three South Caucasian states were recommended for inclusion by the ENP Strategy Paper. This was due to the significance attributed to the region in the European Security Strategy Paper, the Rose Revolution in Georgia, as well as the position of the European Parliament and the then High Representative for Common Foreign and Security Policy (Press Release, 2004). The final number of ENP addressees ultimately reached 16¹.

Ratified in 2009, the Treaty of Lisbon expected to simplify the legal framework for the conduct of the EU’s external relations, a process from which the ENP would have benefited. The new Article 8 of the Treaty on European Union (TEU) (2010), arguably signifies a novel commitment on behalf of the EU vis-à-vis its neighbours.

In parallel with the ratification of the Lisbon Treaty, a regional split has taken place within the ENP. The Union for the Mediterranean (UfM) and the Eastern Partnership (EaP) were initiated in the South and East respectively throughout 2008 and 2009. The subsequent events in the wake of the “Arab Spring” revolutions have renewed EU interest towards the EU foreign policy in its backyard. Crucially, the EU emphasized that the developments at its doorstep are of immediate concern for the Union and its Member States, and therefore there should be a constructive continuous engagement with the neighbouring states.

Despite the internalization of EU policies in the wake of the financial crisis and the “Damoclean sword” hovering above the Eurozone countries afflicted by austerity, the issue of neighbourhood integration has persisted on the agenda of the EU. Engagement with the neighbourhood is not an option: it is the form and the substance of this engagement that is a matter of choice and concern. In the past, the main attraction of the Union for non-Member States has been its successfully functioning internal market. Despite its economic crisis, the EU

¹Ukraine, Belarus, Moldova, Georgia, Armenia, Azerbaijan, Egypt, Tunisia, Morocco, Jordan, Syria, Lebanon, Algeria, Libya, Israel, and Occupied Palestinian Authorities.

is still important to its neighbours whether due to its role as a major trading partner, a source of financial aid, or as a transporter of norms.

The ENP has attracted vast scholarly attention focusing on a variety of aspects, including its substantive elements, regional dimensions, security issues within the neighbourhood and legal aspects of the policy (Cremona and Hillion 2006; Kelley 2006; Magen 2006; Dannreuther 2006; Baracani 2005; Lynch 2005). A variety of issues have been identified regarding the objectives, methodology, and implementation issues of the ENP in both the Southern and Eastern neighbourhoods. This paper aims to trace the evolution of the ENP via three stages. It asks the question whether the policy has undergone a significant transformation in terms of its constituent elements. Is the ENP of 2012 different from the original policy? Has the Lisbon Treaty transformed the policy in substantive terms? What is it that the ENP tries to achieve in the neighbourhood currently? To answer these questions the objectives, instruments and the methodology of the policy are analysed at various stages of ENP implementation. The term “stages” does not signify clear cut periods in time. Rather, it refers to a distinct set of political and/or legal developments. The “stages” are at times overlapping and coexistent.

The first part of the paper will address the initial stage of the ENP formation. The impact of the Lisbon Treaty and its significance for the neighbourhood policy will then be discussed. This section will also address the suitability of these developments as a means to compensate for previously identified drawbacks of the ENP. The challenges faced by the EU in its Eastern and Southern neighbourhood will be considered further to reveal the extent to which the current legal framework has evolved since the initiation of the policy in 2003. The paper will be summarized with brief conclusions.

The Initial Stage of Policy Formation: Incorporating Mismatches

Bilateral in nature, the ENP did not create a new multilateral framework for its neighbours. Rather, it offered ENP countries a common pattern of cooperation. The Western Newly Independent States and the South Caucasian states did not have a common framework of cooperation at that stage, and were treated with a noticeable distinction previously within the existing bilateral framework (Hillion 1998; Maresceau and Montaguti 1995)². Alternatively the neighbours in the South had a multilateral cooperation framework with the EU under the Barcelona Process, which established—the Euro-Mediterranean Policy (EMP) (Barcelona Declaration 1995).

Such an extensive geographic stretch meant that the same objectives were to be achieved, and the same instruments and methods used throughout the EU vicinity. It is therefore not surprising that the objectives of the policy were so broadly. The choice of the instruments and methodology also appears to be linked to the same motive, which is to enhance flexibility in terms of political manoeuvre. However, in securing such flexibility the policy suffered a syndrome of mismatches of its objectives, methodology, and legal framework.

As noted in the introduction, the creation of the policy had an instrumental aim of securing a comprehensive framework for developing relations with the states surrounding the EU. However, formulating such a policy within a short period of time required relying on pre-existing strategies and instruments, which happened to be the pre-accession strategy. Although it excludes the possibility of EU membership, the ENP offers a certain level of political and

² The Partnership and Cooperation Agreements [hereinafter PCA], adopted between the EU and its Member States on the one hand and Russia, Ukraine and Moldova on the other, are different from the PCAs adopted with the states of the South Caucasus in that *inter alia* they provide for a prospect of free trade area.

economic integration based primarily on the pre-accession mechanisms and instruments (Prodi 2002; European Commission 2003; 2004; 2006). The policy suffered from ambiguity by undergoing a significant reformulation with ever changing incentives and promises. This included sharing “everything but institutions,” a “stake in the internal market,” and the possible creation of a neighbourhood common area. Although, the ENP Strategy Paper preserved the language of the “stake in the internal market,” the incentives of cooperation, in particular with the Council’s involvement, were “gradually watered down” (Kelley 2006; Kochenov 2008). The free movement of persons as one of the pillars of the internal market has been reduced to visa facilitation prospects, thus signalling that the intentions of the EU are yet to be clearly defined.

This predisposition dictated the acceptance of the conditionality mechanism as the main driving force behind the integration. As described by Smith (2005), conditionality is the linking by an international organization or a state of benefits on offer to another state’s performance in meeting certain economic and/or political conditions. In the EU context, most conditionality is generally understood to describe the positive conditions that the candidate states must satisfy to become members of the Union, i.e. the so called Copenhagen criteria, now enshrined in Article 49 of the TEU (European Council 1993). Adopting enlargement-like conditionality was supposed to equip the ENP with a similar “transformationist rationale”, which would instigate major political and economic reforms in the partner states (Comelli, Greco, Tocci 2007). The speech made by Romano Prodi in 2002 signalled that conditionality would be the basis for cooperation, which was subsequently confirmed in the ENP documents. (Hillion 2004).

However, borrowing the conditionality principle is not straightforward. First of all, the accession criteria have been replaced with “the discourse on common values,” where most of the ENP policy documents have adopted the language of “shared values” (Tulmets 2006; European Commission 2003). Nevertheless, the requirement to adhere to “shared values” - already an ambiguous concept - did not correspond with the security concerns of the ENP, thus revealing one of the inconsistencies embedded in the ENP at the outset. An emphasis on the security of the Union surfaced at the beginning of the new millennium, marked by the aftermath of the events of 9/11 and the anticipation of its most extensive enlargement, transforming the borders of the EU and bringing it closer to new neighbours (Delcour 2007).

The Solana/Patten letter which initially circulated the idea of neighbourhood integration stressed the vital link between EU Security and the well-being of its neighbours, by recognizing that the action should start from outside (Patten and Solana 2002; Lynch 2005). The importance of stability and security around the EU, and the concerns of the EU citizens regarding security, migration, and economic growth were central to the ENP agenda, prompting an interpretation that the initiative is more concerned with the changes occurring in the Union due to its new geographical location (Ferrero-Waldner 2006; European Commission 2003; Del Sarto and Schumacher 2005). Thus, the prosperity of the neighbours and their socio-economic development is instrumental in achieving the security and stability of the Union itself.

Despite the presence of security on the ENP agenda, the ENP has been considered “the example par excellence of civilian power in Europe,” where the security element is “devoid of

military component” (Khasson, Vasilyan, and Vos 2008, 220, 223). The instruments of the policy are clearly civilian, focused on “persuasion and negotiation”, and based on the EU’s economic power without a threat of using force (Smith 2000). However, this characteristic does not nullify the rationalist presumption that stabilizing the neighbours will guarantee the security of the EU and allow it to pursue its own political interests. The prosperity and well-being of the neighbouring states is merely a means to an end of securing Europe.

It is this rationale that could not rest solely on the conditionality mechanism. To secure its interests and achieve the cooperation of the neighbours, conditionality was complemented by “more compromising measures,” i.e. the principles of joint ownership and differentiation (Tulmets 2006). These principles are envisaged to ensure a so called “tailor-made” approach to ensure a mutual process of cooperation. Incorporating these principles can be viewed positively due to the flexibility accorded to the EU in taking a notice of its neighbours’ interests. Alternatively they are inconsistent with the “transformationist” rationale of the conditionality element. In combination with the security concerns of the ENP, these principles are capable of trumping the EU’s normative image, embodied in the conditionality. This is especially evident in neighbours, where the power asymmetry is unmarked or insignificant.

Another identified weakness of the ENP is that its legal framework is comprised primarily of soft law instruments. Article 288 of the Treaty on the Functioning of the European Union (TFEU) (2010) specifies the hard and soft law legal acts to be adopted by the Union. While regulations, directives, and decisions are binding and create legal commitments, recommendations and opinions are specifically excluded from having a binding force. The latter constitute the so called “soft law” instruments. A commonly accepted definition of soft law refers to the absence of legally binding force, i.e. absence of legal obligations, in a certain set of rules, while at the same time these rules can have a practical or possibly even indirect legal effect (Senden 2004, 112). In addition, the non-binding instruments mentioned in Article 288 of the TFEU are classified as “non-legislative,” since they are adopted without recourse to the legislative procedures identified in the Treaties (Dougan 2008, 638).

The types of soft law acts adopted by the EU institutions are not confined to those mentioned in Article 288 of the TFEU. Communications, strategy papers, action plans, and progress reports which shaped the instrumental basis of the ENP all belong to the category of soft law instruments, and are therefore not binding on the EU, or its partners. Despite this major setback, certain advantages are linked to the choice of soft law instruments.

A central advantage of the EU decision making process is the avoidance of competence complications. The lack of EU legal personality and the multi-pillar structure of its constitutional order during the initiation of the ENP were the obvious reasons informing this preference for soft laws. Soft law instruments also offer significant flexibility and simplicity, which were important factors enabling the progressive shaping of the policy (Trubek, Cottrell, and Nance 2006, 74). However the downside of these soft law characteristics is that they promote ambiguity in the EU’s message to its neighbours.

The main policy documents, chiefly the Action Plans (AP), which set out the priority areas for cooperation have been adopted for the majority of the ENP states. However, due to the lack of binding legal force, their implementation is left to the political will of the associate state. Moreover, the APs’ generally lack a clear vision of the overall picture of the reforms that the neighbours should undertake (Kochenov 2008; Magen 2006). Monitoring of ENP country performance is annually conducted through the Commission’s Progress Reports.

One of the few hard law instruments is the Regulation on the European Neighbourhood and Partnership Instrument (ENPI), which establishes the framework for providing financial assistance to the states concerned (European Parliament 2006). The importance of this document is linked to the negative conditionality element, whereby the EU can suspend its financial assistance if the partner state fails to observe the values of the EU (European Parliament 2006, Art. 28). Another set of hard law instruments are the agreements concluded prior to the initiation of the ENP. Partnership and Cooperation Agreements (PCA) were concluded with the Eastern neighbours in the 1990s, with the exception of Belarus. Although they can be characterized as mere trade agreements (Hillion 1998), the PCAs also appeared to be advantageous due to the incorporation of a political dialogue previously lacking (Peers 1995). In the South, Association Agreements were signed within the Barcelona process, which allegedly offered a far-reaching cooperation. The possibility of signing new agreements with the neighbouring states, “neighbourhood agreements,” has been included in the documents initiating the ENP. However, only at a later stage will this promise gain a practical significance for some neighbours.

It can therefore be concluded that the initial stage of shaping and forming the ENP policy was marred by significant inconsistencies. The objectives behind the ENP were multifaceted and complicated, and their achievement required distinct methods of cooperation. The methods chosen did not sit well with one another. The principles of differentiation and joint ownership were capable of trumping the transformationist objectives to be achieved by the conditionality element, against the rationalist objectives of the ENP. The chain of consistency was weakened by the choice of soft law instruments to formulate and implement the policy, further undermining its transformationist agenda.

The Lisbon Treaty and its Impact on the ENP

To a certain extent, the Treaty revision was expected to resolve various concerns regarding the legal framework for conducting EU foreign policy. Although Article 47 of the TEU recognizes for the first time the legal personality of the EU, the revised TEU preserves the intergovernmental nature of the decision making in the Common Foreign and Security Policy (CFSP), one of the thorniest issues in conducting efficient foreign policy. The security rationale of the ENP dictated the inclusion of CFSP related matters within its framework, which in its turn suggests that the so called “mixity” is a present feature of the ENP. It will be particularly prominent during the conclusion of new agreements, where the presence of the Member States alongside the EU will be necessitated. But will the Lisbon Treaty herald a new change in regards to the inconsistencies of the ENP?

The main significance of the Treaty for the ENP is the incorporation of the new Article 8 of the TEU. Certain scepticism has been expressed as to the legal value of Article 8 where it is viewed to be a political provision (Van Elsuwege and Petrov 2011). Although it does not specifically refer to the ENP, Article 8 codifies the current experience of the ENP, apparent in its use of language and terminology of previous ENP documents. The first paragraph of Article 8 reads:

The Union shall develop a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union and characterised by close and peaceful relations based on cooperation.

The argument that Article 8 codifies the ENP experience can be deduced from the following observations, which to a certain extent support the view of Van Elsuwege and Petrov (2011). Article 8 stands separately from the TEU Title V on External Action of the EU and CFSP, and is included in the Common Provisions in Title I of the TEU. Such separation might suggest a special significance the EU attributes to its neighbourhood: the relations with neighbours can no longer be overlooked. However, it can also be proposed that the exclusion of Article 8 has other ulterior motives. Providing an article expressly referring to the neighbours of the EU in the first part of the TEU is aimed at accentuating the alternative character of this policy to the accession process (Cremona 2003). Others view this provision as potentially capable of functioning as a “pre-pre-accession” stage in a certain context (Bechev and Nicolaides 2010). Given the current political climate such interpretation is rather credible. However, the former opinion is more in line with the present reality: providing a separate clause on neighbourhood policies, without any reference to the Copenhagen criteria as in Article 49 of the TEU, sends a signal that the ENP is a distinct and alternative policy to the enlargement. In other words, Article 8 offers a margin for avoiding the application of Article 49 of the TEU.

Moreover, unlike the Draft Constitutional Treaty (2004), where the corresponding Article I-56 was closely followed by the article on membership, the Lisbon Treaty clearly avoided similar textual approximation. Perhaps, taking into account that the ENP still did not manage to restrict some states in their keenness to join the EU, the Lisbon Treaty attempted to highlight the very distinct nature of the cooperation on offer.

Article 8 offers a “special relationship” with a possibility of concluding a new agreement with reciprocal rights and obligations based on the “values of the Union.” Although this provision does not specify the type of agreement to be concluded, the terminology of “special relationship” is linked to the association agreements as defined by the Court of Justice in *Demirel* (Hillion 2007; Cremona 2008; Van Elsuwege and Petrov 2011). This can be considered a confirmation of the previously existing practice with the Southern neighbours, some of which had signed Association Agreements before the initiation of the ENP. In addition, Article 8 bears a general character with no reference to procedural rules unlike its counterpart in the initial version of the Draft Constitutional Treaty, which made reference to the procedure of concluding agreements in Article III-227 (currently Article 218 TFEU) (European Convention 2003). However, this initial reference was excluded from the final text of the Draft Constitutional Treaty, and did not find a place in the Lisbon Treaty, thereby leaving the article without much elaboration (Conference 2003).

Regarding the value of Article 8 as a legal basis, the question that inevitably arises is, can the article be used as such in its own right? According to certain commentators, there is nothing in the Treaties to rule out the possibility of Article 8 being used as a sole legal basis (Van Elsuwege and Petrov 2011). However, it seems improbable the EU will rely on some type of an agreement of “a general nature” based solely on Article 8, as suggested by Van Elsuwege and Petrov (2011). The EU would prefer instead to fallback on its already tested types of agreements, such as the association agreements. In fact, all the agreements initiated in the East will take the form of an association, which I will be discuss further. Therefore, an obvious choice for a legal basis will be Article 217 of the TFEU on the conclusion of association agreements. However, if the EU wishes to opt out in favour of a low-key agreement as opposed to an association agreement, Article 216 of the TFEU will be an appropriate channel as it provides for a competence to conclude international agreements when the Treaties provide for such a possibility or when the achievement of a Treaty objective so requires. Thus, Article 8 ultimately guarantees certain

flexibility as to the TFEU legal bases, allowing for provision-shopping, which can ultimately affect the level of cooperation a given agreement will offer.

The mixed nature of the ENP in terms of the delimitation of the EU and Member State competences will also require a reliance on the CFSP legal grounds, in particular Article 24 of the TEU. For the first time, the Lisbon Treaty provides a uniform procedure for negotiating and concluding international agreements in Article 218 of the TFEU with certain variations (TFEU 2010, arts 218(3), 218(6), 218(8); Piris 2010, 88). Thus, Article 8 is not *stricto sensu* necessary for concluding an agreement with a neighbouring state, as other Treaty provisions would be used in its absence.

As to the methodology of the cooperation, Article 8 clarifies the conditionality element of the ENP by making a reference to the “values of the Union” instead of ENP “shared values” as the basis for the cooperation with the non-members. For the first time, the Lisbon Treaty defines the values of the Union in Article 2 of the TEU to include “respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities.” Thus, it can be argued, that Article 8 strengthens the conditionality element by specifying its normative basis. However, despite the direct reference to the EU values, it is not clear whether the adherence to the latter will be a prerequisite for concluding a new agreement. As noted above, Association Agreements have been in force with certain Southern neighbours despite a lack of commitment to the values of democracy and human rights. Nevertheless, the recent example with the Ukrainian Association Agreement can be interpreted as a result of non-adherence to the EU’s values as required by Article 8. The ratification of the agreement has been put on hold due to the political developments in Ukraine, including those related to the criminal prosecution of the former Prime Minister Yulia Tymoshenko (EU Observer 2012a).

The policy objectives articulated in Article 8 also strike us as familiar. They are focused on establishing “an area of prosperity and good neighbourliness [...] characterised by close and peaceful relations based on cooperation.” In addition, Article 8 should be viewed within the wider framework of the EU foreign policy objectives, defined in Article 21 of the TEU, which includes both strategic and normative objectives. Article 21 appears to preserve the status quo, as no particular priority will be given to the promotion of the EU values in comparison with the security-oriented objectives. Perhaps to ensure that none of the objectives are undermined or prioritized, Article 21(3) makes it clear that consistency should be ensured between the different areas of its external action and between the external and internal policies.

The ENP requires multidimensional consistency. Consistency between the approaches of different institutions is required, as well as vertical consistency between the Union and the Member States (Chalmers et al 2010). Consistency should also be guaranteed in relation to various elements of the policy, as well as its methodology. Substantive elements of the policy can be undermined by *realpolitik* considerations. In this sense, consistency can be synonymous with continuity. For instance, the conditionality element of the ENP loses credibility when the relations between the EU and one of the neighbouring partners progress due to the EU’s desire to a presence in its vicinity, despite the conditionality element. An example of this is the EU’s swift turn to negotiations of a visa facilitation agreement with Georgia in 2008 (European Council 2008). The talks were initiated immediately after the 2008 August war with Russia in order to express the EU’s support to Georgia.

The presence of common objectives, binding all institutions and Member States, will not automatically ensure a unified vision of EU’s role in the neighbourhood. It is particularly the

Council and the Commission, assisted by the High Representative of the Union for Foreign Affairs and Security Policy that shall cooperate to ensure such consistency. The permanent position of the Presidency of the European Council and the High Representative assisted by the External Action Service introduced by the Lisbon Treaty, are key factors that will impact the conduct of EU policies abroad (European Council 2010). The most recent documents on the ENP have emanated jointly from the Commission and the High Representative demonstrating the operation of the “double-hatting” element of the EU foreign policy in this area. Such positioning creates complexities for policy implementation and representation, however the discussion of these issues is beyond the scope of this paper (Ghazaryan 2012).

A positive result of the Lisbon Treaty is that it has legalized the EU’s commitment to its neighbours and clarified the element of conditionality by making a reference to the EU values in Article 8 of the TEU. However, it does not prioritize the element of conditionality, and does not impact the variety of the objectives pursued through the ENP. It does not add any novelty in terms of the legal instruments of the policy as the conclusion of new agreements was previously on the ENP agenda.

East and South: What next?

As noted earlier, the “Arab Spring” revolutions demonstrated just how important the state of affairs in the vicinity is for the EU. The economic conditions and social injustice which inter alia led to the uprisings were partly indicative of the failure of the EU policies to create prosperity in its Southern neighbourhood (Hollis 2012). These issues have been on the agenda of cooperation with the EU since the 1995 Barcelona Declaration. In fact, it was the uprisings that prompted the EU “to look afresh at the EU’s relationship” with its neighbours, and made the necessity for the review “even more compelling” (European Commission 2011a).

This is not the first time the EU has acknowledged a need to revise the ENP, although it is doubtful whether the revisions were undertaken in order to address the inherent inconsistencies the ENP to be strengthened through a revision by the Commission in 2006, however no substantive changes were (European Commission 2006). The unsuitability of an all-inclusive approach towards the Eastern and Southern neighbours led to a natural split in the policy according to its regional dimension, as predicted by Missiroli (2007). The old Member States, particularly France, favoured a separate approach towards their historic partners in the South. Meanwhile Sweden and Poland championed a distinctive approach towards the Eastern partners in response to their European aspirations, thus recognizing a different agenda that should be pursued at this front. Consequently, the UfM and the EaP emerged as the two wings of the ENP in 2008 and 2009 respectively.

The Union for Mediterranean and the Southern Outlook

The UfM was devised as a continuation of the Euro-Mediterranean Partnership by adding a multilateral framework of cooperation to the hitherto bilateral ENP. In addition to the addressee states, it also includes Turkey and the Balkan states, acknowledging their shared interest in the regional cooperation.

Structurally, the UfM was noted to be more of “a regression” from the EMP than an improvement (Bechev and Nicolaidis 2010), due to the system of co-presidency, where an Arab and a European head of state preside jointly in addition to a secretariat in Spain. Although the

UfM is intended to upgrade the political dialogue by ensuring high level political representation, its format led to a situation where the European leaders would side with autocratic leaders of certain Southern neighbours. In fact, no summits have taken place in the last two years.

As to its objectives, although the initiative intended to create more visibility and concreteness in the partnership by establishing large scale regional and sub-regional projects relevant for the population of the region, it failed to address issues including economic development and regional security (European Commission 2010). Instead, the UfM prioritizes a set of commercial projects to be undertaken jointly in areas such as energy, infrastructure, transport, and the environment.

Nonetheless, the creation of the multilateral framework does not affect the conditionality element of the ENP. Hollis argues that here the EU has failed to recognize that the *acquis* does not have the same value for the neighbours: it does not necessarily make sense beyond the EU, “especially when adopted piecemeal and selectively” (Hollis 2012). Noting the lack of attraction of the EU model in the South, Johansson-Nogues (2011) finds the reason for the complacency of the EU among autocratic regimes, as stemming from an unwillingness to accept the EU’s “preaching” model, as well as the diminishing prominence of the liberal elements in the society. Indeed, little progress has been achieved in undertaking the reforms envisaged in the APs. Moreover, no APs have been established with Libya, Algeria or Syria. The Southern neighbours have no illusions regarding EU membership, which would compel the adoption of the *acquis*. They are interested in the EU assistance to develop vital sectors of their economy, such as agriculture or small and medium enterprises. The rejection of the Morocco’s EU membership bid in 1987 signified that the EU expansion to North Africa was ruled out. The subsequent EMP and ENP confirmed this signal sent earlier.

In addition, the EU appears to be in need of reinventing the same policy in different packages. In March 2011, a Partnership for Democracy and Shared Prosperity in the Southern Mediterranean was promised, seemingly to remind the neighbours that the EU is willing to cooperate with “pro-democratic” forces (European Commission 2011b). Reactionary in nature, it promises to focus on issues of concern for the partner states, such as institution building and sectoral development, including agriculture. At the same time the key concerns for the citizens of the EU, such as migration and mobility issues, will be central to the cooperation.

Thus, within nine years of the ENP’s implementation in the South, the policy has undergone a number of transformations. These transformations are often lacking retrospective and prospective vision and are reactionary in nature. Not only did the UfM not eliminate the inconsistencies of the ENP, it further undermined the credibility of the policy and the EU itself.

The Eastern Partnership and the Reinforced Commitments

The EaP nominally separates the Eastern neighbours from the South promising a higher level of cooperation. It intends to reciprocate the aspirations of the Eastern neighbours to be politically and economically closer to the EU. This is embedded in the prospect of signing association agreements with each of the partners aimed at establishing a Deep and Comprehensive Free Trade Area (DCFTA). The initial Commission Communication went so far as to mention the possibility of creating a Neighbourhood Economic Area (European Commission 2008).

In addition to promising deeper bilateral engagement, the EaP also created a multilateral framework of cooperation to promote cooperation, open dialogue, and the exchange of best practice and experiences (Council of the European Union 2009). A number of thematic platforms

have been established to pursue dialogue in the areas of democracy and good governance, economic integration, energy security, and contacts between people.

In terms of policy objectives, one could suggest that grouping the Eastern partners in a separate multilateral framework amounts to recognizing the “Europeanness” of Ukraine, Moldova, Belarus, and the states of the South Caucasus as opposed to the South Mediterranean and North African states. However, the official EaP documents are careful to avoid such characterization. Instead, the Eastern Partnership Communication mentions that the policy is “without prejudice to individual countries aspirations for their future relationship with the EU,” further heating the debates on the perspective of membership of the Eastern neighbours. Nevertheless, the presence of Article 8 of the TEU and its separate status from Article 49, serves as an assurance of the EU’s prerogative to dictate the nature of the cooperation by opting out for one of these legal bases for developing the relations with any neighbouring state.

A more promising objective voiced initially by the Commission was the possible creation of a network of Free Trade Areas that would eventually evolve into a Neighbourhood Economic Community “taking inspiration from the European Economic Area where appropriate” (Eastern Partnership Communication). The subsequent Council Declaration and the Joint Declaration of the Eastern Partnership Summit remained silent on this prospect, merely referring to the establishment of a “network of deep and comprehensive free trade areas” (Council of the European Union 2009). The 2011 EaP Summit made a cautious reference to the possibility of creating an economic area with the EU without further elaboration. Such a prospect is ultimately dubious given the fact that the principles of differentiation and joint ownership are preserved in the EaP methodology. These principles of cooperation will dictate variations in the level of economic cooperation among the partner states, whereas establishing a common economic area will require a common denominator in terms of economic regulation.

Alongside the differentiation and joint ownership, the principle of conditionality also has found continuity in the EaP. It is central to the EaP, at least on paper. The initial EaP Declaration referred to the commitment of the partners to “the principles of international law and to fundamental values, including democracy, the rule of law and the respect for human rights and fundamental freedoms”, as well as to, “market economy, sustainable development and good governance” (Council of the European Union 2009). However, there is nothing to suggest that this document signifies a stronger commitment on behalf of any of the parties or brings any new conditions to the fore. It can be argued that EaP conditionality would have been different from the original if the cooperation incentives were defined to offer significantly more benefits to the partner states. However, the EaP repeated the ENP in that it created uncertainty as to what is ultimately on offer.

In addition, it should be noted that the conditionality principle is applied by the EU selectively and not always consistently. For instance, Belarus has benefited little from the ENP and the EaP due to the stance of the autocratic President Lukashenko. No AP has been implemented and negotiations to conclude an association agreement are non-existent. Moreover, in March 2012, new sanctions were enforced against Belarus in the light of the treatment of political prisoners and repressions of civil society. In addition, all EU ambassadors were withdrawn from the country in early 2012 in response to Belarus’s expulsion of the EU and the Polish ambassadors (EU Observer 2012b). Arguably as a result of this pressure, a number of opposition leaders were freed in April 2012. However, others are still imprisoned, which allows President Lukashenko to retain a certain level of bargaining power.

Nevertheless, in the same region the EU willingly cooperates with Azerbaijan, where such power asymmetry is not present. Although officially Azerbaijan is beginning to adopt the values of the EU, in practice the political regime is infamous for its autocratic tendencies. However, this neighbour is too important to ignore regardless of its lack of adherence to EU values. Azerbaijan is rich in natural resources and its geographic location has made it an energy corridor for a number of pipelines supplying EU Member States. Further, the prospect of negotiating an association agreement has been acknowledged at the latest EaP Summit in 2011.

The possibility of concluding association agreements has been reinstated in the EaP. However, since this possibility was featured previously, this has not added utility to the existing ENP legal framework. Instead, it merely confirmed the widely held presumption that the EaP will take the form of an association agreement. In addition, the replacement of the outdated PCAs did not prove to be a speedy process, as the partner states were required to undertake certain reforms prior to launching the DCFTA. Currently the relevant negotiations have been finalized only with Ukraine, although the ratification of the agreement is barred by major political obstacles as noted earlier. Negotiations with the Republic of Moldova were launched in 2010 with expectations of certain recommendations being adopted before any further progress. Negotiations with the South Caucasian Republics have been delayed since July 2010.

The EaP has also paved the way for a number of target initiatives to offer possible sectoral arrangements including visa facilitation and readmission agreements, energy partnership or participation in EU programmes and agencies, and common aviation area agreements. In addition, the initiative has proliferated into a number of specific initiatives, including the EaP Small and Medium Enterprise facility, Euronest Parliamentary initiative,-among others. It might seem that this multiplication of projects and tasks poses a risk to a common path of comprehensive development. However, such proliferation to a certain extent compensates for the much criticised approach the EU has taken in the past i.e., the rather centralized and top-down pre-accession practice on which the ENP was built.

It is thus argued that similar to the UfM, the EaP failed to compensate for the inconsistencies of the ENP, which have found continuity in the Eastern dimension of the policy.

Integrating the Neighbourhood: A Vision for the Future?

So, where does the ENP stand currently? Taking a closer look at the recent ENP documents, a number of observations should be made (European Commission 2011a).

Facing the changes and challenges in the neighbourhood, a more enhanced outlook has been envisaged for a closer partnership to build democracy, pursue economic development and manage migration (2011a, 1). Although democracy building has always been on the agenda of the ENP, it is nevertheless surprising to see this commitment expressed in a language of “the new approach.” This might be viewed as an EU declaration of adherence to its own values, not only for the notice of the neighbours, but also for the sake of its credibility in view of its willingness in the past to cooperate with authoritarian regimes. A similar stance was taken by the European Council in March 2012 regarding the role of the EU in “promoting and supporting the democratic transformation in its Southern neighbourhood and across the wider Middle East and Gulf region” (European Council 2012).

The second objective of closer economic integration is mostly likely to be reciprocated by the neighbours. This perspective seems more realistic in the long term in the East, with the focus of the EaP on the conclusion of the DCFTAs. Although the option of establishing DCFTAs with the

“willing and able partners” is envisaged, such discourse is lacking in the South. Here it seems the EU will respond to particular areas of concern such as industrial, agricultural, and rural development (European Commission 2011a, 8, 16). The security objectives of the ENP have not disappeared and are reinforced due to the presence of a number of conflicts in the neighbourhood. Migration is a persistent problem stemming from the neighbourhood, which might be argued to be one of the main reasons for increasing efforts to promote economic prosperity in the concerned states.

Regarding methods of partnership advancement, the Commission is still keenly in favour of the promotion of the EU model. However a shift in the position has taken place, as the Commission now recognizes that the EU *acquis* will not be transposed “wholesale.” However, since no better alternative is available, the *acquis* will remain the main point of reference for future reforms (European Commission 2010). The fact that despite the financial crisis, there has been no retraction from reforms, at least in those Eastern neighbour states which have embarked on the mission of aligning their policies with those of the EU, is a minor guarantee that the EU model retains certain attraction.

Conclusion

The start of the ENP was marred by obvious inconsistencies due to the complexity and multiplicity of the objectives the Union tried to achieve.

To a certain extent the ENP has been reactionary in nature since its foundation. The policy’s reactionary nature has been apparent in the objective of overcoming the post-2004 enlargement challenges in the external front. Moreover, the policy was to address different forms of instability at the regional level and enhance the security of the EU, while simultaneously striving for the political and economic transformation of the partner states. The indecisiveness as to which members should be included, what should be on offer and other substantive issues were indicative of the ambiguity surrounding the policy. The mismatch of policy objectives, methodology, and instruments also left an impression of a hasty approach. The methods chosen did not necessarily complement each other and the central principle of conditionality was not well suited for guaranteeing the security of the EU. Further, the soft law nature of the main policy instruments did not instigate the commitment required for major political and economic reforms.

The ENP required a structural and substantive revision to become more focused and perhaps more manageable. The structural revision came in the form of a regional split led by the Member States, emphasizing the differences between the two geographical fronts of the policy. However, the newly created multilateral frameworks of cooperation did not entail significant changes in terms of substantive issues, thus it retained the original inconsistencies.

Although the EU’s commitment to its neighbours has become irrevocable since the inclusion of Article 8 in the Lisbon Treaty, the latter appears to be largely a codification of the ENP. In addition, the new institutional arrangements are hoped to create a united front for foreign policy implementation and representation based on common objectives and the principle of consistency. The 2011 Joint Communication published by the Commission and the High Representative, serves as a reference point for assessing the most recent development stage of the ENP. Although the policy was created to emphasize the EU’s commitment towards its neighbourhood and to, reinstate its normative image, its revision was a response to the uprisings in the South. The EU’s traditional tendency to make grand promises continues in this document. In the age of austerity

in Europe and of the Eurozone crisis, the realities and practicalities of offering what cannot be guaranteed should be taken into account. In addition, the Middle Eastern revolutions have offered a good lesson for the EU to once again rethink its role in international relations and to reconsider the place the ENP should occupy in the view of that role. The EU's legal commitment to the advancement of its values in the neighbourhood and globally, established in the Articles 8 and 21 of the TEU, should be a primary concern for any such reconsideration.

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Contact:

Carleton University
The Centre for European Studies
1103 Dunton Tower
1125 Colonel By Drive
Ottawa, ON
K1S 5B6
Canada

Tel: +01 613 520-2600 ext. 1179; E-mail: rera-journal@carleton.ca

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