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Note from the Guest Editor

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Guest Editor

This issue of *CFSP Forum* contains four articles on the EU's relations with its neighbours. All of the authors participated in a seminar on 'Interlocking Dimensions of European Security Neighbourhood: Energy, Borders and Conflict Management' in Barcelona on 9 October 2007, which was organised by the University Institute of European Studies (IUEE), the Cidob Foundation and the IEMed, in the framework of a collective project, EUPROX-Coordination, Integration and Europeanisation in the Proximity of the European Union.

Drawing on the EUPROX theoretical framework, the issue starts with a general conceptualisation of the modes of relationship between the EU and its neighbourhood. The subsequent articles address different dimensions of these relations: Michal Naturski looks at energy relations, Sarah Wolff at border management and counter-terrorism, and Benjamin Kienzle at conflict management.

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Europeanisation, Internationalisation and Coordination in the Proximity of the EU¹

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When the European Neighbourhood Policy (ENP) was launched in 2003, the European Union seemingly found itself at the apex of its 'transformative power'.² Eastern enlargement, which was then in the final stages, seemed to verify the Union's capacity to promote change not only within the European construct (Europeanisation) but also beyond its borders. Romano Prodi, then President of the European Commission, even went so far as to proclaim that the enlargement process constituted 'the most successful and impressive political transformation of the twentieth century'.³ Thus it was perhaps no great surprise that the EU's renewed approach towards the neighbourhood appeared to be much more reliant on a logic of reform and conditionality: the EU would offer deeper integration 'in return for concrete progress demonstrating shared values and effective implementation of political, economic and institutional reforms, including in the alignment of legislation with the *acquis*'.⁴ It would therefore appear that Brussels believes that the high road to transformation as well as peace, prosperity and security in and around the European Union

consists of inducing neighbouring countries to undertake policy convergence.

This being the state of affairs, an important strand of the recent literature on the EU's relations with its neighbourhood has assumed that the aim of the EU is the externalization of its own system of governance.⁵ The possibility of 'Europeanisation beyond Europe' has received increasingly greater attention from scholars, so much so that it is already possible to find enough material for a literature review of the topic.⁶ Others have seen in the EU's attempt to extend its own norms abroad the evidence that EU foreign policy is better described by missionary or civilising ambitions than by an alleged normative or cosmopolitan character.⁷ Certainly, the assumption that the EU is an international actor willing to exert some kind of influence on its proximity is hardly controversial. But to what extent is this influence effectively channelled through the export of the EU's own rules, norms and values? This article emphasises that the EU, like any other actor, pursues policies originating in a variety of contexts, and it is therefore always worth bearing in mind alternative avenues of promoting norms than Europeanisation.

Paths to closer relations between the EU and its neighbours

In this article the idea is defended that we can get a better grasp of the patterns of relations being established between the EU and its neighbours by looking at the sources of the norms on which they decide to base them: the EU's *acquis*, norms produced by other international institutions, and bilaterally-developed norms. As will be detailed below, evidence of effective promotion of every one of these kinds of norms is indicative of a different sort of process developing between the EU and its neighbours – here termed Europeanisation, Internationalisation and Coordination – which in turn may speak of a different character of the EU as a regional actor.

Europeanisation. The use of the term 'Europeanisation' in reference to a neighbouring country should be limited to the eventuality of it adopting parts of the *acquis communautaire* or, more broadly the EU's *acquis politique*, in certain areas. This may appear to be an overly formalistic definition, but we consciously propose it in order to avoid the tendency of considering all EU-driven transfer of rules and practices beyond its boundaries to be Europeanisation. For example, Schimmelfennig states in his literature review article on Europeanisation beyond the EU that "Europeanisation" consists of promoting

regionally integrated liberal democracies'.⁸ However, regional economic integration and liberal democracy, if considered in broad terms, are by no means specifically distinctive features of the EU. In this sense, even the abovementioned author concludes that the EU's promotion of economic regionalism does not always imply that this is done in the image of the EU and that democracy, human rights, and the market economy are principles that are also propagated by non-EU countries and other international organisations. Therefore to better disentangle Europeanisation from the other kinds of processes that will be detailed below, Europeanisation should be confined to those cases where well-codified EU norms and practices are adopted by its neighbours. For example, the Energy Community Treaty, which explicitly aims to extend the EU's internal energy market to the South East Europe region, is a clear case of Europeanisation in action. But Europeanisation is also possible in the domain of the *acquis politique* (e.g. Azerbaijan is committed to 'improving internal legislation in line with the EU Code of Conduct on Arms Exports'⁹), or norms of a more clearly constitutive character, related to specific EU human, social and economic rights (e.g. Moldova agrees to 'closer approximation of the country to EU standards and practices in the area of employment and social policy'¹⁰).

From the perspective of Europeanisation, the EU's role in its neighbourhood might resemble a one-way street that exclusively exports the products of European integration. This would verify that, as Lavenex and Uçarer conclude, the EU 'fulfils an important role as a carrier of ideas, and given its history and the ideals of integration, also acts as a model or normative template for peoples and countries beyond European territory'. This view of the EU would fit more into the concept of the EU as an ethical or civilising power, promoting its own distinctive norms abroad and would portray the development of a Wider Europe community structured around the EU core. But the caveat must be made that Europeanisation should not necessarily imply non-normative, imperialist connotations; if neighbours accepted the application of EU standards in concrete cases as a win-win move, based on appropriate norms and fair relations, Europeanisation could still be seen as a 'normative' result of EU foreign policy.¹¹

Internationalisation. An approach focused exclusively on Europeanisation may run the risk of neglecting the fact that the EU and its neighbours operate in a dense network of international institutions. Indeed, a considerable number of the desired reforms specified in the

ENP Action Plans originate from other international regimes and institutions that establish certain normative prescriptions for their members. These references to international prescriptions include both global norms (UN conventions on a wide range of topics, ILO conventions, WTO regulations, Kyoto Protocol, etc) and regional norms (an assortment of Charters, Conventions and standards mainly from the Council of Europe and the OSCE). The truth has to be said that internationalisation may in practice be more difficult to distinguish from Europeanisation, namely when neighbours agree on the adoption of rules that are both part of the EU's *acquis* and other international institutions – especially in the area of human rights principles, which is widely regulated on an international level. In these cases, the specific task of the researcher should be to look at how the EU and the neighbouring countries justify the promotion or adoption of these rules, that is to say, whether they do so by referring to the EU's standards or to those of international organisations. It could be argued that the EU would prefer to promote certain norms by referring to other international organisations in order to increase the legitimacy of its claims and avoid the perception of foreign imposition on the third party state. However, maintaining the analytical distinction between Europeanisation and internationalisation would still be useful to identify where the EU's role in the region is less EU-specific and more grounded in universal or widely shared principles.

An impact of internationalisation would then depict the EU's role as a transmission belt of international or regional norms, and thus a regionalising or globalising agent. This would introduce some variety into the image of the EU as a centre of gravity in the neighbourhood competing for the power of attraction with other institutions or actors operating in the same area. At the same time, such a role would speak of an EU foreign policy that is closer to a cosmopolitan or universalistic character, although this would of course also depend on the means used by the EU to promote the desired norms.

Coordination. Closer relations between the EU and its neighbours might also originate from norms that do not come either from the EU or from other international institutions, but from bilateral norms designed to regulate actors' relations in a given issue-area. An obvious instance of coordination would be a readmission agreement, for example, between the EU and Ukraine as well as the agreement on visa facilitation conditions that are highly specific to the Ukrainian case. Other examples would include

all areas where open-ended dialogues are established between the EU and different neighbours with the basic aim of sharing information and discussing possible cooperation or even reform, but from a highly case-specific approach.

Evidence of deeper relations based on bilateral coordinative arrangements would suggest that the EU is developing its relations with its neighbours as 'hub-and-spoke'.¹² Bilateralisation and differentiation in the context of ENP has often been criticised for contradicting the idea of multilateralism that the EU has been preaching. But on the other hand, this model would also imply that the EU departs from 'one size fits all approaches', giving in principle more scope for the exchange of ideas, mutual adaptations and understanding; although the more incredulous would interpret this kind of relationship as the result of the asymmetries of power, enabling the EU to better exploit its stronger position vis-à-vis its neighbours, or on the contrary, as the only option possible where the EU is too weak to impose its own rules. But the answer to whether coordination is the result of an accommodating attitude or of a self-regarding pragmatism can only be found through empirical analysis made case by case.

Why is it worth distinguishing?

The above-described patterns of relationships are obviously non-exclusive and may vary considerably even within the same issue area and country. But the purpose of the distinction is not so much to find out which of these models predominate overall, but to help analyse the EU's neighbourhood policies by taking into account the EU and the neighbouring countries, as well as their embeddedness in the international environment.

Regarding the EU, the distinction between the three models of relations might help us to get a better understanding of the EU's purposes when designing concrete policies towards the neighbourhood. Literature on the subject has tended to rely on concepts such as the so-called 'domestic analogy', institutional isomorphism or even the classic concept of 'milieu goals' to emphasise the EU's tendency to expand its own system of governance beyond its borders.¹³ The ENP's professed aims of extending the area of peace and prosperity to the neighbouring countries through their closer integration with the EU are very much in line with these concepts. However, the extent to which the EU pushes for legislative harmonisation, policy convergence and

shared institutions with its neighbours may also depend on the EU's concrete interests and actual possibilities in each particular case. So the scrutiny of the basis of the concrete norms that the EU is trying to promote in neighbouring countries may help us to get a better idea of when the EU aims to externalise its own governance and when it prefers to establish the basis of the relationship on other foundations. Does the EU always opt for Europeanisation in the first place? Or formulated in other terms, are internationalisation and coordination only second-best options chosen when the EU is not powerful enough to impose a take-it-or-leave-it policy or where it anticipates policy failure for other reasons? The distinction between the EU's reasons for Europeanisation, internationalisation and coordination would thus also give a clearer picture of the actual interests of the EU in including/excluding its neighbours from different areas of European integration.

But more crucially, the distinction could be used to better analyse neighbours' responses to EU's policies. Neighbours' assessment of the incentives and appropriateness of these policies should form the core of the analysis. But the distinction between the different models of relationship could help as an heuristic instrument to link the EU's different purposes with its neighbours' perceptions. In this vein, we could find out whether norms based on Europeanisation, internationalisation and coordination score different results in terms of the perceived incentives and legitimacy of EU policies in the eyes of the neighbouring countries. Or, to put it more generally, does it matter for the success of the EU's policies in its neighbourhood whether the neighbouring countries perceive the EU to be an ethical/civilising power, a cosmopolitan/globalising agent or an accommodating/pragmatic partner? Shifting the agenda from the EU's aims to the responses of the neighbouring countries appears to be one of the most pressing challenges involved in the research of the ENP, as it is also a greater contextualisation of the EU's role in its deeply institutionalised international environment. This even seems to be recognised by EU institutions as shown by the fact that two of the main priorities of the Seventh Research Framework Program in the area of Europe in the world are precisely: 'Europe seen from outside' and 'Multilateralism and the new external relations of the EU'.¹

¹ This article is based on the theoretical framework paper of the EUPROX 'Coordination, Integration and Europeanisation in the Proximity of the European Union (Mediterranean and Eastern Europe)' research project funded by the National R+D Plan of the Spanish Ministry of Education and Science

(SEJ2006-03134/CPOL) for the 2007-2009 period. The framework paper, entitled 'Exporting Rules to the Neighbourhood? A framework for the analysis of emerging patterns of Europeanisation, Internationalisation and Coordination between the EU and its neighbours' was elaborated by Esther Barbé, Oriol Costa, Anna Herranz, Elisabeth Johansson-Nogués, Laia Mestres, Michal Natorski and Maria A. Sabiote. For more information on the project, see the website of the Observatory of European Foreign Policy of the University Institute for European Studies (www.iuee.eu).

² For a discussion of the EU as a 'transformative power' see M. Leonard, 'Europe's Transformative Power', Centre for European Reform Bulletin, Issue 40, February/March 2005.

³ R. Prodi 'A Wider Europe - A Proximity Policy as the key to stability', Speech to the Peace, Security and Stability International Dialogue and the Role of the EU, Sixth ECSA-World Conference. Brussels, 5-6 December 2002.

⁴ European Commission, 'Wider Europe -Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours', Communication from the Commission to the Council and the European Parliament, COM(2003) 104 final, Brussels, 11 March 2003.

⁵ S. Lavenex, 'EU external governance in "wider Europe"', *Journal of European Public Policy*, 11, 4, 2004, pp. 680-700; S. Lavenex, and E.M. Uçarer, 'The External Dimension of Europeanization', *Cooperation and Conflict*, 39, 4, 2004, pp. 417-443; A. Jünemann and M. Knodt (eds) *Externe*

Demokratieförderung durch die Europäische Union - European External Democracy Promotion (Baden-Baden: Nomos, 2007); K. Weber, M.E. Smith, and M.J. Baun, *Governing Europe's Neighbourhood. Partners or Periphery?* (Manchester University Press, 2007); M. Emerson and G. Noutcheva 'Europeanisation as a Gravity Model of Democratisation', *CEPS Working Documents*, 214, 1, 2004; M. Farrell, 'EU external relations: exporting the EU model of governance?', *European Foreign Affairs Review*, 10, 4, pp. 451-462.

⁶ F. Schimmelfennig, 'Europeanization beyond Europe', *Living Review of European Governance*, 2, 1, 2007, <http://www.livingreviews.org/lreg-2007-1>.

⁷ For an elaboration of the differences between the ethical and the cosmopolitan character of the EU as an international actor, see H. Sjørusen, 'What kind of power?', *Journal of European Public Policy*, 13, 2, 2006, pp. 170-181. For recent discussion of the differences between EU normative power versus civilising roles in the Mediterranean, see F. Bicchi, "'Our Size fits all": normative power Europe and the Mediterranean', *Journal of European Public Policy*, 13, 2, 2006 pp. 286-303.

⁸ Schimmelfennig, *Op. Cit.*, p. 9.

⁹ EU/Azerbaijan Action Plan agreed in autumn 2006.

¹⁰ EU/Moldova Action Plan agreed at the end of 2004.

¹¹ For very recent discussions of what makes EU behaviour normative depending on the means and results of the impact see E. Barbé and E. Johansson-Nogués, 'The EU as a modest 'force for good': the European Neighbourhood Policy', *International Affairs*, 84, 1, 2008: pp. 16-32; and N. Tocci, 'Profiling Normative Foreign Policy: The European Union and its Global Partners', *CEPS Working Document*, 279, December 2007.

¹² M. Emerson, 'European Neighbourhood Policy: Strategy or Placebo?', *CEPS Working Document*, 215, November 2004.

¹³ The concept of 'domestic analogy' assumes that all actors would prefer to see the international environment organised according to their own values and principles (Jünemann and Knodt, *Op. Cit.*). 'Institutional isomorphism' refers to actors' attempts to promote their own model by default (Bicchi, *Op. Cit.*, p. 287). And the concept of "milieu goals" suggested by Arnold Wolfers in the 1960s referred to the way actors aim to shape favourable conditions beyond their frontiers.

EU Energy Policy in the Neighbourhood: Comparing the Eastern and Mediterranean Dimensions¹

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The energy issue has a prominent place on the current EU agenda in general and its relevance is especially visible in the relations between the European Union and its neighbouring countries. The debate revolves around two main concerns: the incomplete integration of the EU's Internal Energy Market and the lack of a Common External Energy Policy, especially concerning relations with supply and transit countries. From the EU perspective, energy relations with neighbouring countries, including Russia, are of crucial relevance due to the overreaching interdependencies between them. The increasing uncertainties of the global energy market and the behaviour of Russia concerning energy supplies have increasingly triggered concerns among the member states. This situation was most explicitly considered disquieting after the Russia-Ukraine gas supply conflict in early 2006. However, even before this conflict, the EU had started to elaborate a separate concept of energy policy for the Wider Europe, which was later incorporated into the European Neighbourhood Policy (ENP).²

Ukraine and Morocco play a prominent role both in the ENP and in EU energy policy. In terms of energy, both are relevant transit countries for energy resources transported to the European continent but at the same time, their energy sectors remain largely inefficient and constitute a serious burden for the economic development of their countries. In the framework of the ENP these countries were deemed 'willing partners', countries that aspire to cultivate close association with the EU and accept the domestic reform agenda accompanying relations with the EU.³ In view of these similarities, the question is whether the EU employed a similar approach in its policy towards these two countries, both of which have been included in the ENP framework since 2004. The present text aims to assess briefly the outcomes of the EU's policy since it was developed from 2000, and identifies the factors inducing them: the structure of incentives and normative convergence.⁴

Bringing Ukraine closer to the EU energy sector?

Two periods can be distinguished in EU-Ukraine relations in the energy sector. The first period, which lasted until 2005, was mainly characterised by a progressive development of the agenda of relations. The EU's expectations for the reform of the Ukrainian energy sector were generally related to the establishment of a free market. Overall, the impact of the EU on the pace and content of the reforms of the energy sector in Ukraine was highly modest throughout this period. The reforms undertaken in Ukraine were influenced above all by the conditionality of International Financial Institutions whose approach was results-oriented, thus leading to the achievement of concrete reforms, measured by the criteria of Ukraine's macroeconomic performance. Therefore, the relative convergence between the EU and Ukraine in the energy sector achieved during this period, which varies significantly between branches (gas, oil, coal, nuclear, heating, electricity), was a matter of coincidence induced by the activities of other international organisations aimed at the liberalisation of the energy sector on the basis of a similar free market model to that of the EU's markets.⁵ In contrast, until 2004 the EU did not offer any substantial incentives to encourage reforms in the Ukrainian energy sector. Nor was there any clear conditionality or any defined ultimate prospects for the EU-Ukraine energy relationship. As reported by a Ukrainian expert, 'even specialists do not understand the essence of reforms to be made by the countries that aspire to join the EU'.⁶

This changed in 2005, especially after the Memorandum of Understanding between the European Union and Ukraine on co-operation in the field of energy was signed.⁷ The adoption of this document marked a turning point in the EU's policy aims in this domain, which clearly started to be directed towards Ukraine's adoption of rules regulating the energy system originating from the EU's *acquis communautaire*. It is still too early to evaluate the effects of this new approach, but some aspects can be pinpointed.

In early 2007, Ukrainian experts concluded that despite the various shortcomings, both cooperation and the implementation of the ENP Action Plan in the energy field had 'greatly advanced' and reported that in 2005-06, '15 measures were accomplished in full; 36, partially; and 7 not accomplished'.⁸ In the next report, Ukrainian experts assessed as 'significant' both the overall progress of implementation of

the ENP Action Plans and specific measures related to overall Ukrainian energy policy convergence towards EU energy policy objectives and gradual convergence towards the principles of the EU's internal electricity and gas markets.⁹ On the policy level, one of the most important results of the implementation of the Memorandum of Understanding was the EU's support for Ukraine in gaining observer status in the Energy Community Treaty with the prospect of full membership. But additionally, Ukraine's own Energy Strategy foresees adaptation to the EU energy *acquis* as well. Many other concrete legal measures also endeavour to adapt the Ukrainian energy sector in order to fulfil the EU's expectations.¹⁰

On a political level, it might be argued that the EU rules encountered some resonance among influential Ukrainian business groups as justification for the continued expansion of their business operations. Some oligarchs intended to legitimise their activity on the basis of European rules and achieved some domestic resonance when, for example, the narrative was maintained in Ukrainian newspapers that 'private capital played the role of a catalyst for market processes in the energy sector of Ukraine and continues to do so thus moving the sector towards European standards'.¹¹ The developments of the energy sector, and especially the progressive liberalisation of energy prices, have also had an indirect and unintended impact on the relations between the two branches of the executive (government and president) and the parliament. In this case the continued rise in prices and tariffs for gas or electricity induced by Russian policy after the Orange Revolution was the subject of a major controversy between institutions in 2006 and 2007 that, in fact, led to a bitter struggle over the matter of which institution should keep the ultimate control over developments in the Ukrainian energy sector.¹² Paradoxically, the rise in gas prices and tariffs, perceived by Ukraine to be 'punishment' for its distanced policy towards Russia after 2004, has brought Ukraine closer to the market level in terms of prices and tariffs. In consequence, Russian policy towards Ukraine in relation to energy stimulated the reforms of the energy sector towards the market-based models compatible with the 'European' standards and suppression of different subsidy schemes.

Up to now, the EU's impact on the reform of Ukraine's energy sector can therefore be considered moderate. However, there is an incipient trend of implementing reforms induced by the EU in the framework of bilateral energy

dialogue. This conclusion might be associated with the new and clearly stated incentives offered to Ukraine. The ENP Action Plan and especially the Memorandum of Understanding offered Ukraine a clear horizon - integration into the EU internal energy market (through the Energy Community Treaty) conditioned by the adaptation of Ukrainian energy market rules to the EU and progress in cooperation in the field of the security of energy supplies. This element is especially relevant in the context of the continued concerns related to Russia's aggressive energy policy towards Ukraine. Therefore, the integration incentive prevails over limited financial resources employed by the EU for legislative, technical and institutional adaptations. Besides, the mechanisms of bilateral relations introduced in the framework of the ENP Action Plan as well as the bilateral energy dialogue include detailed prescriptions of how to implement the rules and norms agreed in the Action Plan which increase the determinacy of EU expectations and provide a clear blueprint for expected reforms in the energy sector.

Additionally, the mechanisms in place to channel dialogue on energy issues enabled communication and the transfer of norms promoted by the EU (i.e. a framework of socialisation) to Ukrainian officials leading to normative convergence. There is indeed a continued process of institutional relations between high-level officials from the EU and Ukraine in the framework of the PCA bodies. This scope of institutional relations was further extended by the creation of several working groups to observe the implementation of the Memorandum of Understanding. And finally, the EU funded and is planning to fund additional Technical Assistance and twinning projects that consist mainly of the evaluation of the energy sector market in Ukraine and legislative activities to advise the Ukrainian administration. Finally, the implementation of the ENP Action Plan and bilateral energy dialogue increased domestic actors' awareness of the EU's norms in the energy sector. The institutional frameworks of EU-Ukraine relations in this specific sector constituted a relevant benchmark for domestic actors, especially independent Ukrainian experts who consider EU energy rules to be legitimate and suitable for Ukraine due to its aspirations for a 'European perspective'.¹³

Sub-regional approach to the energy issue in relations with Morocco

Throughout the 1990s EU-Moroccan cooperation in the energy field was developed in the form of

the multilateral and sectoral regional framework of cooperation between the EU and all Mediterranean countries. The dialogue concerning energy as part of the Euro-Mediterranean Partnership (EMP) was developed in the framework of multilateral meetings on the level of officials and sectoral ministers. It also seems that during this decade, cooperation in the energy field was not one of the EU's priorities in the framework of the EMP.

In 2001 a change in the EU's approach to cooperation with Mediterranean countries in the energy sector seemed to gain ground. The European Commission clearly stated that 'Mediterranean countries must embark on a global reform process in order to meet the requirements of competitive markets, leading to the creation of an appropriate framework that can meet the international investment criteria'.¹⁴ In December 2003, Algeria, Morocco, Tunisia and the European Commission signed a Memorandum of Understanding on the gradual integration of the electricity markets of the Maghreb countries into the EU's internal electricity market. The realisation of this market would involve the progressive approximation of national policies in the energy sector in order to encourage harmonised rules in the region.¹⁵

Paradoxically, after the adoption of a decision leading to the establishment of sub-regional electricity integration, it was possible to observe a tendency to depart from the sub-regional and multilateral framework of cooperation to focus on bilateral relations. After the adoption of the ENP Action Plan with Morocco, for the first time the EU defined its expectations for the scope of changes in the Moroccan energy sector. The ENP Action Plan included as priority actions the development of the energy sector, including inter-connections and infrastructure and integration of the Moroccan electricity market into the European electricity market according to the previously described Memorandum of Understanding. A joint declaration between the European Commission and Morocco, signed at the margin of the sixth Association Council held in July 2007, established the basis for bilateral relations in energy cooperation. This declaration outlines three priority areas for cooperation: reinforcing Morocco's energy policy in view of the progressive integration of Morocco's energy market with the EU, developing sustainable energy policy and enhancing the security of the energy supply sector.¹⁶

Despite these bilateral tendencies, the mainstream of EU-Moroccan relations in the field

of energy is still being developed in the multilateral framework established between the EU member states and Mediterranean partners. In December 2007, ministers from the EU member states and Mediterranean partner countries signed a declaration on the Euro-Mediterranean Energy Partnership and 2008-2013 Priority Action Plan for Euro-Mediterranean cooperation in the field of energy. The priorities agreed in both documents build on previous commitments; however, the emphasis is put on the energy market reforms and harmonisation of energy policies and regulatory frameworks in order to integrate the Euro-Mediterranean energy markets, energy sustainability and investments, particularly in infrastructures.¹⁷

The reforms of the Moroccan energy sector were actually highly limited in scope and there is still considerable divergence in comparison with the liberalised energy sectors of the EU member states. Despite signs of overall governmental disposition to undertake reforms in the energy sector, it is hard to distinguish any substantial EU induced changes and the scope of divergences between the EU's and Morocco's energy markets is considerable.¹⁸ In fact, the EU mostly pursued the objective of bringing about changes in Morocco's energy sector that would ensure the convergence of this country with other Mediterranean countries. This tendency was somewhat modified when the ENP began to be developed, but the EU's purposes of 'Europeanising' the Moroccan energy market remain somewhat unspecific. The EU's expectations concerning the Moroccan energy sector were rather unclear and inconsistent even in the framework of the ENP Action Plan. There are therefore no clear prospects for Morocco's integration into the EU electricity market and the objective of establishing new platforms for cooperation largely prevails, rather than the promotion of any far reaching reforms. Given this situation, the incentives remained unspecified and limited in the scope to induce any substantial changes to the Moroccan energy sector organised around state-owned monopolies and non-market tariffs for most consumers.

The direct contacts in the framework of the multilateral mechanisms of the Euro-Mediterranean Energy Forum have facilitated discussions of some projects and ideas. Moroccan officials have a greater awareness of the EU as an alternative model of energy sector organisation. However, eventual reforms to the Moroccan energy sector will have to be attributed to domestic and international factors other than the EU.

Conclusion

There is fairly limited evidence of any far-reaching, long-term impact of the EU's energy policies on the transformations of the Ukrainian and Moroccan energy sectors. However, some of the recent reforms undertaken in Ukraine seem to be attributable to the EU's energy policies regarding this country. Developments since 2005 have especially brought about an intensification of the EU's impact on the changes in the Ukrainian energy sector, even though the overall reforms are still limited.

A comparison of the actual outcomes of the EU's policy regarding Ukraine and Morocco in the energy field highlights the differentiated agendas of their relations. This is especially visible after 2005 when the energy issue became the crucial issue for both Ukraine and the EU. In this sense, the EU changed its approach to Ukraine's energy sector and offered clear incentives that, even if attainable only in long term, acted as an impulse for the reforms in Ukraine. Conversely, the EU's policy regarding Morocco does not offer such clear incentives and consistent prospects as in the Ukrainian case. The energy issue is therefore a vivid example of the fact that the ENP, despite certain conceptual uniformity, offers ample room for differentiated policies towards neighbouring countries. ♦

¹ The article is partly based on paper presented at the EUPROX Seminar, 'Interlocking Dimensions of European Security Neighbourhood: Energy, Borders and Conflict Management' in Barcelona on 9 October 2007.

² European Commission, *Communication on the Development of Energy Policy for the Enlarged European Union, its Neighbours and Partner Countries*, COM (2003) 262 final/2, Brussels, 26 May 2003, p. 7.

³ M. Emersonna *et al.*, 'European Neighbourhood Policy Two Years On: Time Indeed for an "ENP plus"', *CEPS Policy Brief*, 126, March 2007.

⁴ This distinction is inspired by F. Schimmelfennig and U. Sedelmeier, 'Introduction: Conceptualizing the Europeanization of Central and Eastern Europe', in F. Schimmelfennig and U. Sedelmeier (eds), *The Europeanization of Central and Eastern Europe* (Ithaca and London: Cornell University Press, 2005), pp. 10-20.

⁵ Ukrainian Centre for Economic and Political Studies (2002), 'Ukraine's Energy Sector: Readiness for European Integration', *National Security and Defence*, 9, 33, pp. 2 – 27; F. Pavel and I. Poltavets, 'EU Energy Sector Reforms: A Benchmark for Ukraine!', *Advisory Papers*, May 2006 (Kyiv: Institute for Economic research and Policy Consulting in Ukraine, German advisory Group on Economic Reform).

⁶ V. Saprykin, 'On Ukraine's State Energy Policy Doctrine up to 2020', *Zerkalo Nedeli*, 8, 332, 24 February – 2 March 2006.

⁷ *Memorandum of Understanding on co-operation in the field of energy between the European Union and Ukraine*, Kyiv, 1 December 2005. In January 2005 Javier Solana and Benita Ferrero-Waldner proposed amendments to the ENP Action Plan presented in December 2004 by stressing the enhanced cooperation in energy and proposed high-level dialogue on energy and related issues as additional incentive offered to Ukraine after the Orange Revolution. Council of the European

Union, *Concrete proposals for ways to strengthen cooperation with Ukraine*, 5799/05, Brussels, 28 January 2005.

⁸ Ukrainian Centre for Economic and Political Studies, 'Public monitoring of the Ukraine-EU Action Plan Implementation: Preliminary Assessments', *National Security and Defence*, 2, 86, 2007, pp. 2-12.

⁹ Ukrainian Centre for Economic and Political Studies, 'Assessment of the EU-Ukraine Action Plan implementation in 2005-2006', *National Security and Defence*, 5, 89, 2007, pp. 11-28.

¹⁰ *Energy Strategy of Ukraine for the Period until 2030*, Kyiv, March 2006.

¹¹ *Zerkadlo Nedeli*, 10 December 2006.

¹² S. Pirani, *Ukraine's gas sector*, Oxford Institute for Energy Studies research paper, July 2007, p. 61, <http://www.oxfordenergy.org/pdfs/NG21.pdf> (accessed 25 September 2007).

¹³ For example, a Ukrainian think-tank consortium is developing an assessment of the Ukrainian implementation of the measures envisaged in the ENP Action Plan on a continued basis. Those experts do not discuss the suitability of the EU Action Plan's measures but rather accept it as being a blueprint for Ukrainian adaptation. Ukrainian Centre for Economic and Political Studies, 'Public Monitoring of the Ukraine-EU Action Plan Implementation: Preliminary Assessments', *National Security and Defence*, 2, 86, 2007; Ukrainian Centre for Economic and Political Studies, 'Assessment of the EU-Ukraine Action Plan implementation in 2005-2006', *National Security and Defence*, 5, 89, 2007.

¹⁴ Commission of the European Communities (2001), *Enhancing Euro-Mediterranean Cooperation on Transport and Energy*, COM (2001) 126 final, Brussels, 7 March 2001, p. 11-12.

¹⁵ *Protocole d'accord pour l'integration progressive des marches d'electricite de l'Algerie, du Maroc et de la Tunisie dans le marche interieur de l'electricite de l'Union Europeenne*, Rome, 2 December 2003.

¹⁶ *Commission to sign a Joint Declaration on priorities for energy cooperation with Morocco*, IP/07/1157, Brussels, 23 June 2007. In comparison to Ukraine the level of the EU's commitment is different. The MoU with Ukraine was concluded on behalf of the EU by the acting president of the Council and the President of the European Commission, while the joint declaration with Morocco was signed by Eneko Landaburu, the director general of the DG Relex.

¹⁷ Council of the European Union, *Ministerial Declaration on the Euro-Mediterranean Energy partnership. Adopted together with its annexes by Ministers at the conference in Limassol, Cyprus on 17 December 2007*, 16709/07 (Presse 300), Limassol, 17 December 2007.

¹⁸ *DECON et al., Regional Energy Project under the Framework of the MEDA Regulation. Reform of the Legal and Institutional Energy Sector Framework, Draft Final Report*, February 2005, pp. 263-286.

Externalising the EU's Internal Security Model to the Mediterranean Neighbours

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In its quest to extend its governance beyond its own borders, the EU has been particularly active in recent years in externalising¹ its model of internal security. Visas, borders, police and judicial cooperation, or readmission agreements have been monopolising the EU's agenda with its closest neighbours. Designed initially as a response to the lifting of internal borders, Justice and Home Affairs (JHA) has increasingly developed a strong external aspect. The JHA external dimension (JHAE)² mixes the different modes of governance described by Barbé and Herranz.³ The JHA *acquis* is indeed being exported to certain neighbours, notably in Eastern Europe, following a *Europeanisation* process, while through a process of *internationalisation*, the EU requires its neighbours to comply with most of the United Nations Conventions on terrorism in the European Neighbourhood Action Plans, for instance. Alternatively, JHAE is also the result of some *coordination* with the neighbours, where bilateral norms such as the Euro-Mediterranean Code of Conduct on Counter-Terrorism are elaborated.

This article aims to explore the reasons that pushed the EU to externalise its internal security governance to its southern neighbours and why issues such as border management and terrorism are at the centre of the Euro-Mediterranean agenda. One must first acknowledge that the security landscape has considerably altered in the last decade. Images of sub-Saharan African migrants landing on the European shores as well as recent terrorist attacks in North Africa by Al-Qaeda in the Islamic Maghreb⁴ have led the EU and its Mediterranean partners to address these issues commonly.⁵ The relationship with the Mediterranean region is therefore very much driven by the ambition to secure the EU itself from southern threats and socialisation of Mediterranean law enforcement actors is perceived as a crucial step in that direction.

But beyond mere security concerns, other institutional factors are at the origin of the development of JHA initiatives in the Mediterranean. Taking an institutionalist

perspective, this article proposes a two-level analysis to better grasp why and how JHA has become an issue on the agenda between the EU and its Mediterranean partners. Firstly, scrutinising successively the cases of border management and the fight against terrorism, the article analyses the extent to which institutional internal factors – member states and European institutions – constrain the modes of externalisation of the EU's internal security governance. Then, a second part looks at the ways Mediterranean partners are taking part in this externalisation.

Border management in the Mediterranean: the lowest common denominator

The development of border management in the Mediterranean is a natural response to the dramatic reality of illegal immigrants risking their lives on makeshift boats, *cayucos* and *pateras*, to come and live the 'European dream'. The EU, confronted with the death of migrants on Spain's beaches and Maltese tuna nets, is striving to find a collective solution to a common problem. But collective solutions seem difficult to find. Although all member states sympathise with the need to tackle this issue, only a minority of them are willing to espouse the concepts of 'burden-sharing' and 'solidarity'. The creation of FRONTEX revealed acutely the differences between member states' preferences and the difficulties encountered in developing a Mediterranean dimension to border management. FRONTEX is a loose form of institutionalisation, since its main mission remains that of coordinating and assisting member states in their activities.⁶ Following the June 2002 Seville summit and the adoption of a 'plan for the management of the external borders of the member states', the Strategic Committee for Immigration, Frontiers and Asylum (SCIFA) was transformed in SCIFA+, which brings together external border practitioners and whose mission consists in coordinating the ad hoc centres of border control. Defending its institutional preference, the European Commission pursued its ambition to create a 'European Border Guard' unit by demonstrating the limits of SCIFA's effectiveness.⁷ In June 2003, the European Council accepted the idea for the need of alternative institutional solutions and decided to create a Border Agency which would continue the work of SCIFA+.⁸ Although the Commission and the European Parliament initially supported the creation of a European Corps of Border Guards, FRONTEX represented the most sensible and realistic option in front of the reluctance of some member states.⁹

Frontex represented the less integrationist option by reducing the transaction costs of the member states who delegated some of their prerogative in the field of border management while restricting this delegation to a mere coordination role. In that sense, this institutional account reflects the explanation given by Mark Pollack, according to which member states, 'in order to reduce the transaction costs of EU decision-making, deliberately design and tailor a wide range of control mechanisms to limit agency discretion and maximize the benefits of delegation across issue areas and over time.'¹⁰ These restrictions put on common border management internally have had consequences externally, the institutional row weakening the EU in its attempt to externalise border management to its Mediterranean partners, and the bilateral option between the partners and the member states remaining more efficient.¹¹

The external dimension of EU's counter-terrorism policy: strengthening the internal dimension

Institutional factors are also crucial in understanding the development of a foreign policy dimension to EU counter-terrorism policy. Indeed, while it is commonly thought that 9/11 was a true 'critical juncture' in developing an external dimension, historical institutionalism reveals rather that 9/11 played the role of a catalyst, bringing to the forefront long-standing proposals of member states and confirming the path taken since the Amsterdam summit towards the completion of an Area of Freedom, Security and Justice. Legislative initiatives adopted in the aftermath of 9/11 involved a common definition of penal sanctions towards terrorism,¹² the adoption of a European list of individuals, groups and entities involved in terrorist acts and whose funds and financial assets must be frozen, and the adoption of the 2002 European Arrest Warrant directive, instituting a more efficient and quicker procedure of extradition amongst the member states, which was a longstanding demand from Spain, confronted for many years with Basque terrorism.¹³

But most importantly, it is at an external level that most of the policy innovations took place, to the extent to which some have described a 'mainstreaming' of the fight against terrorism into external relations.¹⁴ First and second pillar policy tools started to be used to fight terrorism. In particular, CFSP political dialogues with third countries, under the form of partnership and association agreements, but also the EU's active role within the UN have been used to profile the

foreign policy dimension of EU counter-terrorism policy.¹⁵ This mainstreaming of counter-terrorism into external relations resulted in the elaboration of an external strategy for the fight against terrorism as expressed by the European Council of June 2004 in the document, 'Integrating the fight against terrorism into EU external relations policy'¹⁶ and the Declaration on Combating Terrorism adopted by the European Council in March 2004.¹⁷

In parallel, EU's internal structure, traditionally split across the pillars, was reorganised in order to promote coordination and cross-pillarisation. A reform of the working groups in the Council took place. Two groups are now devoted to the fight against terrorism: the Terrorism Working Group, a working group on terrorism which is in charge of the internal aspects and gathers together interior ministers; and the COTER under the CFSP pillar which is in charge of the external aspects and meets at least once a month. A new ad hoc group enabling security and intelligence services to cooperate was created in 2005. The Situation Centre (SitCen) is based in the Council Secretariat and brings in national experts to analyse intelligence information coming from the member states and provides the Council with strategic analysis.¹⁸

Nonetheless, despite these legislative and institutional innovations, internal weaknesses still prevent the EU from having an efficient counter-terrorism policy in its internal and external dimensions. EU member states seem to differ upon the degree of cooperation that should be developed at EU level and some have even pointed to the difficulty 'to gauge to what extent current EU policies in the fight against terrorism are fully supported by all the member states'.¹⁹ Inter-institutional vying between the Council and the Commission was perceptible with the nomination of an EU counterterrorism coordinator, which was foreseen as a necessary actor to encourage greater co-operation between the Commission and the Council. At the time, the member states diverged on the appointment, some member states being willing to develop a true European CIA, whereas Britain, France, Germany, Spain and Italy, remained reluctant to develop such an intrusive agency over their national intelligence services and therefore 'vetoed the idea of a counterterrorism czar and a pan-European intelligence Agency'.²⁰ The post of counter-terrorism coordinator was established in March 2004, following the Madrid attacks. Based in the Council Secretariat, it co-ordinates the work of the latter when it comes to combatting terrorism 'with due regard to the responsibilities of the Commission, [while] maintaining an

overview of all the instruments at the Union's disposal with a view to regular reporting to the Council and effective follow-up of Council decisions'.²¹ This role of enhancing cooperation between the Council and the Commission was regarded suspiciously by the services of the latter, which feared that the counter-terrorism coordinator would act as a Trojan horse for national interests which will try to counter the Commission efforts in the fight against terrorism. These were unfounded concerns since the EU's counter-terrorism coordinator has a very weak position: it does not have any budget, cannot propose legislation, and cannot chair any meetings.²²

Eventually, the lack of coordination and the multiplication of actors in the field of counter-terrorism impede the development of an efficient external dimension of counter-terrorism. Terrorism is indeed a cross-pillar problem which must be tackled both through the financial, social, external relations and security issues. EU member states have proved to be able to agree on common declarations and texts, because terrorism is a cross-border threat, but it still remains very difficult for member states to go beyond declaratory intentions and to pull together effectively the resources and the powers that the EU needs to prevent, identify, investigate and prosecuted terrorist activities.²³ The multiplication of actors evolving around EU's fight against terrorism and agencies involved in its implementation, is a smokescreen for the lack of centralisation of activities. As rightly pointed out by Lugna, there is indeed no single dedicated body in Brussels which deals with all the aspect of terrorism on a full time basis.²⁴ The Coreper has indeed many more matters to deal with other than terrorism, while COTER and the Terrorism Working Group, the two main Council working groups, 'act in separate pillars, are capitals-based and do not feed sufficiently into the Brussels-based discussion and decision-making processes'²⁵ and consequently of any externalisation of JHA norms.

This analysis demonstrates that proper externalisation of EU security governance is constrained by institutional factors, and that internal inefficiencies impact upon the externalisation of EU norms to its neighbours. This is why the cooperation of neighbourhood countries is crucial.

The integration of Mediterranean partners in EU security governance

It is indeed legitimate to question the reaction of the Mediterranean partners to the EU's attempt to

externalise some of its internal security norms and instruments. The EU is seeking the cooperation of its neighbours via bilateral (European Neighbourhood Policy, relations with member states) and multilateral frameworks (5+5, Euro-Mediterranean Partnership) on 'soft security' issues. Hence, if the heart of border management policy lies in maritime operations coordinated by FRONTEX, the other side of the EU approach is to establish partnerships and cooperation with third countries, in particular with African and Middle Eastern transit countries. Faced with internal challenges, the EU is consequently establishing partnerships with the Mediterranean partners in order to share the burden, and to include them in joint patrolling of the maritime borders. As a result, the European Commission recently asked Algeria, Tunisia and Morocco to join FRONTEX missions and to cooperate in terms of experts, aircrafts and ships.²⁶ Another instance of cooperation is the bilateral management of the Spanish-Moroccan border which involves joint patrolling of the maritime borders between the Spanish Guardia Civil and the Moroccan gendarmerie. On the Moroccan side, this involvement in EU's security governance has enabled the government to influence the EU's policy on migration, and to put nail varnish on its image as a credible player in migration policies.²⁷

In the field of counter-terrorism, Euro-Mediterranean partners committed themselves to the fight against terrorism during the 2002 Valencia conference where they gave support to UN Security Council Resolutions 1368 and 1373. It was also the occasion to renew the mandate of the ad hoc group on terrorism which had been formed in 2001 during the Euro-Mediterranean summit on 5 and 6 November 2001 in Brussels, which draws together experts on terrorism from the two sides of the Mediterranean.²⁸ Other instruments to secure cooperation involve the inclusion of counter-terrorism clauses in the Euro-Mediterranean Association Agreements with Algeria and Egypt²⁹ and technical assistance through a 2004 counter-terrorism capacity-building initiative with Algeria, Indonesia and Morocco which tries to bring under a single framework the aid projects financed by the European Commission and the EU member states. Technical assistance is usually provided through the ENP Action plans, the MEDA/JLS programmes, but also through the participation of the EU in UN assistance programmes, which take place in eight areas: drafting of counter-terrorism legislation; financial law and practice; customs law and practice; immigration law and practice; extradition law and practice; police and

law enforcement work; illegal arms trafficking and other assistance related to the implementation of UN Security Council Resolution 1373 (2001). The internationalisation dimension of counter-terrorism is therefore very strong and reflects wider norms externalised to neighbours, probably also due to the internal constraints described above which impede the EU to develop an efficient external dimension to counter-terrorism. It is possible to argue that international norms help the EU legitimise cooperation with Mediterranean partners for whom the issue of terrorism has always been sensitive and is also often instrumentalised for domestic purposes by authoritarian governments. By subscribing to international norms, Mediterranean partners are therefore finding ways to legitimise their own fight against terrorism.

Conclusion

Internal security has become 'a legitimate field for European co-optation'.³⁰ The perception of threats as cross-border problems has led national law enforcement agencies to devote more of their institutional and operational efforts to external relations.³¹ The cases of border management and the fight against terrorism have revealed that the willingness of the EU to externalise its JHA policy and to cooperate with its southern neighbours is also dependent on internal constraints. Member states often opt for the less integrationist options internally, thus impeding the EU to develop a fully-fledged external dimension.

It is also important to be aware that cooperation takes place with neighbours who do not share the same norms of liberty and freedom. Consequently, democratic oversight and the fusion of pillars are fundamental: given the specific nature of JHA policies, the inclusion of Mediterranean partners in EU security governance has much more far-reaching consequences than if the EU was dealing only with economic integration of the neighbours. This is why, in the future, research must keep an eye on the delicate balance between security and liberty which characterises JHA policies when it comes to its externalisation to authoritarian regimes.◇

¹ The term of 'externalisation' is understood as the development of external dimensions to internal policies.

² See G. Mounier, N. Wichmann and S. Wolff, 'The JHA External Dimension- Avenues for Research', paper presented at the workshop on the JHA External Dimension on 21 September 2007 at the London School of Economics and Political Science with the sponsorship of Challenge, Consent and LSE.

³ E. Barbé and A. Herranz, 'Europeanisation,

Internationalisation and Coordination in the Proximity of the EU', *CFSP Forum*, this issue.

⁴ A transnational terrorist group which gathers most of the ex activists of the Algerian Groupe Salafiste pour la Prédication du Combat (GSPC).

⁵ The latest terrorist attack took place in Algiers on 11 December 2007 against buildings of the United Nations.

⁶ Council Regulation no 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, OJ L 349, 25 November 2004.

⁷ C. Costello, 'Administrative governance and the Europeanisation of asylum and immigration policy', in H. Hofman and A. Türk, *EU Administrative Governance* (Cheltenham-UK/Northampton-USA: Edward Elgar) p. 307.

⁸ *Ibid.* p. 307

⁹ H. Jorry, 'Construction of a European Institutional Model for Managing Operational Cooperation at the EU's External Borders: Is the FRONTEX Agency a decisive step forward?' *Challenge, Research Paper*, March 2007, p. 2.

¹⁰ M. Pollack, *The Engines of European Integration: Delegation, Agency and Agenda Setting in the EU* (New York: Oxford University Press, 2003) p. 19.

¹¹ The case of cooperation between Spain and Morocco is analysed at a greater length in a forthcoming article. S. Wolff, 'Border Management in the Mediterranean: Internal, External and Ethical Challenges', *Cambridge Review of International Affairs*, 21 (forthcoming).

¹² Council of the European Union, *Council Framework Decision on Combating Terrorism*. 13 June 2002. p 5.

¹³ Council of the European Union, *Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States*. 2002/584/JHA.

¹⁴ J. Monar, 'The EU's approach post-September 11: global terrorism as a multidimensional law enforcement challenge', *Review of International Affairs*, 20, 2, 2007, p. 276.

¹⁵ *Ibid.* p. 276

¹⁶ Council of the European Union, *Integrating the fight against terrorism into EU external relations policy*. Brussels, 18 November 2004, p. 13.

¹⁷ European Council, *Declaration on Combating Terrorism*. Brussels, 25 March 2004, p. 18.

¹⁸ L. Lugna, 'Institutional Framework of the European Union Counter-Terrorism Policy Setting', *Baltic Security and Defence Review*, 8, 2006, p. 110.

¹⁹ E. Bakker, 'Differences in Terrorist Threat Perceptions in Europe', in D. Mahncke and J. Monar, *International Terrorism. A European Response to a Global Threat?* (Brussels: Peter Lang, 2006), p. 60.

²⁰ See p. 133 of D. Zimmermann, 'The European Union and Post-9/11 Counterterrorism: A Reappraisal', *Studies in Conflict & Terrorism*, 29, 2, pp. 123-145.

²¹ European Council *Declaration on Combating Terrorism*, Brussels, 25 March 2004, p. 18.

²² D. Keohane, 'Implementing the EU's Counter-Terrorism Strategy. Intelligence, Emergencies and Foreign Policy', in D. Mahncke and J. Monar, *Op. Cit.*, pp. 63-72.

²³ Assemblée Nationale, *Rapport d'information sur l'Union européenne et la lutte contre le terrorisme*. Délégation de l'Assemblée Nationale pour l'Union Européenne, Paris, 2 mars 2005, p. 100.

²⁴ L. Lugna, *Op. Cit.* p. 118.

²⁵ *Ibid.*

²⁶ Agence France Presse 'EU asks North African countries to join border patrols', retrieved from <http://www.lexisnexis.com> on 20 July 2007.

²⁷ For more details please refer to S. Wolff, *Op. Cit.* (forthcoming).

²⁸ EuroMeSCo, *Barcelona Plus. Towards a Euro-Mediterranean Community of Democratic States*, Lisbon, April 2005, p. 61.

²⁹ Council of the European Union, Council Decision of 18 July 2005 on the conclusion of the Euro-Mediterranean Agreement

establishing an Association between the European Community and its Member States, of the one part, and the People's Democratic Republic of Algeria, of the other part, OJ L 265, 10 October 2005; Council of the European Union, Council Decision of 21 April 2004 concerning the conclusion of a Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part, OJ L304, 30 September 2004.

³⁰ M. Anderson and J. Apap (eds), *Police and Justice Co-Operation and the New European Borders* (The Hague, London, New York: Kluwer Law International, 2002), p. 3.

³¹ *Ibid.*, p.4.

The European Neighbourhood Policy and Regional Conflicts¹

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The 2004 'big bang enlargement' of the EU not only incorporated successfully ten new member states into the EU's zone of 'peace and stability' but also brought the Union closer to actual and potential trouble spots in new and old neighbouring countries. As enlargement fatigue led to the exclusion of further enlargement as a tool to deal with the problems in these new and old neighbours, the EU was required to develop new policies and instruments. On the eve of the 2004 enlargement, the EU presented, therefore, what is known today as the European Neighbourhood Policy (ENP), which aims at (i) avoiding new dividing lines between the EU and new and old neighbouring states and (ii) establishing a zone of stability and prosperity in its neighbourhood. As part of these overall objectives, the EU has paid special attention to the issue of regional conflicts from the very beginning. Already the European Commission's landmark 2003 Communication on Wider Europe emphasized that 'Greater EU involvement in crisis management in response to specific regional threats would be a tangible demonstration of the EU's willingness to assume a greater share of the burden of conflict resolution in the neighbouring countries.'² But has the EU been able to fulfil its rhetorical commitment on conflict resolution and conflict management in neighbouring countries in practice?

Regional conflicts in the EU neighbourhood

The term 'neighbourhood policy' is at first sight misleading, as it excludes both Russia – the EU's major neighbouring country – and (potential) candidate countries, most notably the Balkan countries and Turkey. This means in terms of regional conflicts that the EU's neighbourhood policy does not deal with such key conflict areas as Kosovo, Kurdistan, Chechnya or Northern Cyprus. Another major conflict – if not the major conflict – in the EU's neighbourhood, the Middle East conflict, is dealt with only partly, as crucial players are excluded from the EU's neighbourhood policy, most notably Iraq, Iran and the Gulf states. In any case, the Middle East conflict is too complex to be analysed within the limits of the present article. This leaves the EU with essentially five unresolved regional conflicts: in Western Sahara, in Transnistria and, since the inclusion of

the South Caucasus countries in the ENP in 2004, in Abkhazia, South Ossetia and Nagorno Karabakh.

All of these regional conflicts are usually characterised as 'frozen conflicts,' where all-out violence has largely turned into an uneasy stalemate between the conflict parties. In no case has a comprehensive peace settlement been achieved, though the United Nations and/or the Organisation for Security and Co-operation in Europe have been active as conflict mediators for many years. Moreover, all the conflicts have wider repercussions in the regions where they are located: the conflict between the Polisario Front and Morocco over Western Sahara has soured relations between Morocco and Algeria, its principal neighbouring state and a supporter of the Polisario Front. The separatist conflicts in Moldova/Transnistria, Georgia/Abkhazia, Georgia/South Ossetia and Azerbaijan/Nagorno Karabakh also involve neighbouring states: Ukraine in the case of Transnistria, Armenia in Nagorno Karabakh and Russia in all four. Furthermore, each conflict has created a number of interrelated security problems in the EU's neighbourhood: first, the humanitarian suffering associated with the conflicts, in particular of refugees; secondly, the destabilisation of weak state structures in the conflict regions – a major stumbling block for the development of the conflict regions; and thirdly, the flourishing of criminal networks and trafficking. In Transnistria and the South Caucasus, the presence of former Soviet and now Russian troops and armaments have also been a key security concern. In sum, the EU is confronted in its neighbourhood with a number of complex conflict situations, which have created various security problems for the EU.

EU involvement in regional conflicts

The ENP envisages a mixture of Commission and CFSP measures to deal with the regional conflicts and the related security issues in the neighbourhood. In fact, since the launching of the neighbourhood initiative, the EU's activity regarding conflict management in its neighbourhood has increased. Prior to 2000-01 the EU's involvement in the conflicts in its periphery was very limited or even non-existent. It was only after 2002, when the major Balkan wars had ended and the unresolved conflicts in the EU's new post-enlargement neighbourhood loomed on the horizon that the EU has adopted numerous conflict management measures in the neighbourhood. However, significant variations exist. On the one hand, the EU's traditional low-profile involvement in the Western Sahara conflict

has barely changed with the ENP. References to the conflict are conspicuously absent from many crucial ENP documents, most notably the EU-Morocco Action Plan, which forms the backbone of the EU's relations with Morocco in the framework of the ENP. On the other hand, the Moldova/Transnistria conflict and – with the exception of Nagorno Karabakh – the conflicts in the South Caucasus have attracted substantially more attention in recent years. In these regions the EU has implemented different conflict management measures such as the appointment of Special Representatives or the launching of EU operations (the EU Rule of Law Mission in Georgia (Eujust Themis) and the Moldova and Ukraine Border Mission).

The case of Moldova/Transnistria particularly demonstrates how the EU has intensified its engagement. EU activities towards Moldova in the 1990s and at the turn of the century were basically limited to the European Commission's economic, financial and technical help for the Moldovan central state. Although this may have strengthened Moldova's weak state structures, it has certainly not contributed to the solution of the Transnistria conflict or associated security problems such as organised crime or the presence of Russian troops on Transnistrian soil. Only in recent years has the Commission started to implement measures that affect directly the Transnistria issue, in particular in the field of border and custom management. These measures are thought to lower the profits in Transnistria from smuggling and trafficking and, thus, to lower the 'vested interests' of Transnistrians and individuals in its neighbouring countries in the status quo. In this regard the EU Border Assistance Mission stands out, which has helped to control the Transnistrian section of the Moldova-Ukraine border since 1 December 2005. It has been also only in recent years that the Council has begun to apply CFSP instruments in relation to the Transnistria conflict.

However, most of these instruments have been 'low-intensity' measures in the area of political dialogue and diplomacy such as declarations and demarches, visits of senior officials or the appointment of a Special Representative. More drastic means such as sanctions or a military or police deployment have been discussed but – with the exception of a travel ban against the Transnistrian leadership – not implemented. Similar conclusions can be drawn from EU conflict measures in the South Caucasus, where the EU has implemented several conflict management measures but has flinched from adopting 'high-intensity' measures. According to Tracey C.

German, '...current EU involvement in conflict resolution in the South Caucasus is limited to political support for existing negotiating mechanisms and financial assistance for rehabilitation within the conflict zones.'³ In sum, five years after the launching of the EU's neighbourhood initiative at the 2002 Copenhagen European Council, EU conflict management has intensified, though only in a limited way.

Morocco, Russia and the limits of EU conflict management

The European Commission itself recognised at the end of 2006 that progress in terms of conflict management and conflict resolution had been limited: 'The ENP has achieved little in supporting the resolution of frozen or open conflicts in the region, notwithstanding certain specific achievements (e.g. in relation to border management in Moldova and the Palestinian Territories). The EU needs to be more active, and more present, in regional or multilateral conflict-resolution mechanisms and in peace-monitoring or peace-keeping efforts.'⁴ However, the Commission fails to analyse properly the reasons for these shortcomings and how they can be overcome. In this regard, two key factors stand out: the EU's relation with Morocco – in the case of Western Sahara – and the EU's relations with Russia – in the case of Transnistria and the conflicts in the South Caucasus.

The EU has kept traditionally a low profile in the Western Sahara conflict, mainly because member states have had difficulties agreeing on a common approach.⁵ However, the EU's ostensibly neutral position of non-involvement has largely favoured Morocco, since it is de facto in control of Western Sahara. In other words, the EU's lack of vigorous conflict resolution policies has supported the status quo of Moroccan control over Western Sahara. This shows that the EU, in particular key member states such as France, have been unwilling to challenge Morocco over Western Sahara. Other considerations such as Morocco's role as a crucial ally in the Arab world or Morocco's contribution to the fight against Islamic terrorism have been more important.

In the case of Russia, there exist influential groups in the Kremlin that see Transnistria and the South Caucasus as strategically important regions for Russia, part of its own 'near abroad' or its main zone of influence. Russia is, therefore, eager – for strategic and prestige reasons – not to permit other actors, e.g. the EU, to become too influential in its 'near abroad'. An absolute taboo topic for Russia is in particular the possibility of

non-Russian military involvement in the region. Consequently, as Charlotte Bretherton and John Vogler point out, '[t]he military instruments of the ESDP would never be deployed in these areas without the support and collaboration of Russia'.⁶ Moreover, due to a changed domestic and international environment, Russian foreign policy in general has become in recent years much more self-confident than in the years before. Consequently, this has led to growing pro-active policies in its neighbourhood with the aim of increasing its dominance in the region. A major pillar of these policies is the support for secessionist entities and the refusal to change the status quo by contributing actively to sustainable conflict settlements – at least as long as conflict settlements do not serve Russian interests.⁷

The EU, for its part, discusses conflict issues with Russia in the framework of the Common Space of External Security during bilateral fora such as the EU-Russia summits, but there are no signs that it actually puts pressure on Russia to solve the conflicts in a cooperative way. Apparently the big (and old) member states, in particular France, Great Britain and Germany, are not willing to challenge Russia in the case of Transnistria and the conflicts in the South Caucasus, especially Georgia. Other interests, principally the question of Iran, the independence of Kosovo and energy security, seem to be more important in the relation with Russia. In the case of Iran, the EU's negotiations with the Iranian regime on its nuclear programme depends to a large extent on Russia's willingness to cooperate with the policies of the EU, as it is Iran's key supplier of nuclear technology and a veto power in the United Nations Security Council. Consequently, the EU-3 (France, Great Britain and Germany), which lead the EU negotiations with Iran, are not eager to jeopardise Russian cooperation on the Iran issue with a more forceful approach towards the frozen conflicts in the neighbourhood. Regarding the Kosovo question, Russian diplomats regularly point out that the unilateral recognition of Kosovo by the EU and the US could trigger the independence of secessionist regions that enjoy the support of Russia, e.g. Transnistria, and put, consequently, the EU under pressure not to push both issues – Kosovo and Transnistria/South Caucasus – at the same time.⁸ In the case of energy security, it is important to highlight that the Kremlin uses its energy resources as a powerful foreign policy tool to accomplish its aims.⁹ The EU and its member states, for their part, have increasingly demonstrated that they are willing to play by Russia's rules of power politics and have failed to pursue vigorously its conflict management policies out of fear of

upsetting Russia and, thus, putting in danger Russian energy supplies to Europe. In short, they have begun to subordinate their interests in sustainable conflict resolution in Moldova to their interest in maintaining secure energy flows from Russia.

Conclusion

Five years after the launching of the ENP, the EU has not lived up to its rhetorical commitment on conflict resolution and conflict management in the neighbourhood. Although the EU has intensified its activities in recent years, especially in Moldova and Georgia, the efforts have been too hesitant to have any substantial impact on the conflicts in the EU's neighbourhood. Moreover, as long as the situation in these conflicts does not deteriorate dramatically, the EU's preoccupation with other actors, in particular Russia and Morocco, will very likely trump any push for stronger EU involvement in the conflicts in its neighbourhood in the future. Rather, the EU will continue its low-profile role without getting involved directly in the conflicts. As the Commission pointed out in its December 2007 Communication on the ENP, 'The EU can make an important contribution by working around the conflict issues, promoting similar reforms on both sides of the boundary lines, to foster convergence between political, economic and legal systems, enabling greater social inclusion and contributing to confidence building' (emphasis in the original).¹⁰◇

¹ The article is partly based on paper presented at the EUPROX Seminar, 'Interlocking Dimensions of European Security Neighbourhood: Energy, Borders and Conflict Management' in Barcelona on 9 October 2007 and on a previous article in the *European Foreign Affairs Review* (E. Barbé and B. Kienzle 'Security Provider or Security Consumer? The European Union and Conflict Management', 12, 2007, pp. 517–36).

² Commission of the European Communities, *Communication from the Commission to the Council and the European Parliament: Wider Europe— Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours*, Brussels, COM(2003) 104 final, 11 March 2003, p. 12.

³ T.C. German, 'Visibly Invisible: EU Engagement in Conflict Resolution in the South Caucasus', *European Security* 16, 3-4, 2007, p. 368.

⁴ Commission of the European Communities, *Communication from the Commission to the Council and the European Parliament on Strengthening the European Neighbourhood Policy*, Brussels, COM(2006) 726 final, 4 December 2006, p. 4.

⁵ See J. Vaquer i Fanés, 'The European Union and Western Sahara', *European Foreign Affairs Review* 9,1, 2004, pp. 93-113.

⁶ C. Bretherton and J. Vogler, *The European Union as a Global Actor* (London: Routledge, 2006, 2nd ed.) p. 210.

⁷ See N. Popescu 'Outsourcing' de facto Statehood: *Russia and the Secessionist Entities in Georgia and Moldova*, CEPS Policy Brief, 109 (Centre for European Policy Studies, 2006).

⁸ See P. Felgenhauer, *The Tactics and Strategic Goals of Russia's Stand on the Independence of Kosovo*, ARI 125 (Madrid: Real Instituto Elcano, 2007).

⁹ See A. Rahr, 'The New Opec: How Russia Aims to Become a Global Energy Power', *Internationale Politik: Transatlantic Edition*, 7, 2006, pp. 69-76.

¹⁰ Commission of the European Communities, *Communication from the Commission: A Strong European Neighbourhood Policy*, Brussels, COM(2007) 774 final, 5 December 2007, p. 6.

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