

Beyond Borders

External Relations of the European Union

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Adam Mickiewicz University
Poznań 2008



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Adam Mickiewicz University,
89 Umultowska Street, 61-614 Poznań, Poland, tel. (061) 829 65 08

ISBN 978-83-60677-51-3

Skład komputerowy – „MRS”

60-408 Poznań, ul. P. Złotowa 23, tel. 061 843 09 39

Druk i oprawa – ESUS Studio, 61-558 Poznań, ul. Wierzbicice 35, tel. 061 835 35 36

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Introduction

International emancipation of the European Union (EU) results in it becoming actively involved in politics beyond its own borders. This is visible in different forms and different geographical directions. With the start of the European Neighborhood Policy (ENP), the political efforts of externally democratizing and consolidating neighboring states have been embedded into a broader frame. During the formation phase of the ENP, much attention has been spent on its structure and instruments. A couple of years after the adoption of the first actions plans, a first evaluation of the new policy instruments has become possible. However, external relations are not only limited to neighboring areas and do not only aim at democratization and consolidation. They also contain overseas territories, unrecognized states, as well as Euro-Atlantic relations.

This book is the result of the cooperation of several European universities coordinated by the Faculty of Political Science and Journalism of the Adam Mickiewicz University in Poznań, Poland. It consists of eleven articles exploring various cases of the EU's presence in territories beyond the borders of its member states.

The publication starts with Manuela Riedel's analyses of minority protection as an attempt at external democratization in the process of accession. Monica Bajan shows Romania's way to the EU. Joanna Cieślińska presents the Eastern Dimension of the European Union in the context of the transformation process of "Wider Europe into European Neighborhoods Policy Plus." Her text is followed by Magdalena Musiał-Karg's investigation presenting Poland's input to the initiative and Jarosław Jańczak's contribution focuses on the historical determinants of the Eastern member states' external initiatives. Przemysław Osiewicz follows the EU's change towards Turkish Cypriots after 2004 enlargement. Tomasz Brańka explains the status of overseas countries and territories within the European order.

The next section is devoted to transatlantic relations. Paweł Frankowski shows the role of New and Old Europe in U.S. foreign policy. Adam Jaskulski compares the European Security Strategy and American National Security Strategy. Finally, Irma Słomczyńska researches on relations between Euro-Atlantic ties and the French vision of defense and security. The book is completed by Piotr Tosiek's text on the EU's makeup after Lisbon Treaty.

The authors' intention was to contribute to the discussion on the international activities of the European Union. They hope that their opinions and findings will strengthen debate on presented topics and encourage further scientists to conduct research in the field.

The EU's External Democratisation Efforts in the Context of EU Accession – Promotion of Minority Protection as an Example

Introduction

This contribution combines legal aspects of minority protection and integration in Europe with observations and ‘lessons learned’ from the accession of post-communist countries to the EU in 2004 and 2007. First, an overview of legal aspects of European minority protection will be given, summing up the impact of the lack of an inherent EU system of protection on EU politics, member states and applicants. The paper then asks in a more general, cross-country perspective whether the EU’s practice of demanding that accession countries improve the life of minorities in various ways without presenting clear guidelines, benchmarks and monitoring mechanisms has worked in the latest enlargement rounds. It will be shown that despite several shortcomings connected to the EU’s strategy vis-à-vis states willing to join the EU, the EU’s conditionality could draw on a power asymmetry whereby the EU could use conditionality as an instrument for ensuring certain outcomes in policy or legislation. In this regard the instrument of conditionality has been described as one of the primary means of ‘democracy promotion’ and the creation of ‘foreign made democracy’ by the EU in the countries of Central and Eastern Europe.¹

From a theoretical point of view, the contribution will be based on conditionality as a central element of Brussels’ strategy towards applicants, showing that despite several shortcomings criticised by scholars and practitioners that for various legal and political reasons the concept might not be enough. Impacts are to be awaited not only for minorities in the new member states but also for the strategies and tactics of applicants.

I. The relationship between democratisation process and EU accession preparations – Conditionality and Europeanization as conceptual backgrounds

1. Conditionality as a measure of influence on democratisation processes

Conditionality is often described as a primary means of democracy promotion and Europeanization in post-communist states, given a clear incentive structure and the

¹ J. Hughes, G. Sasse, *Monitoring the Monitors: EU Enlargement Conditionality and Minority Protection in the CEECs*, “Journal on Ethnopolitics and Minority Issues in Europe” 2003, Issue 1, p. 1; K. Smith, *Western Actors and the Promotion of Democracy*, in: J. Zielonka, A. Pravda (eds.), *Democratic Consolidation in Eastern Europe*, Vol. 2, International and Transnational Factors, Oxford 2001, p. 31.

power asymmetry between the EU Commission and candidate states that leads to a substantial EU influence on structures and policy processes in the latter.² Steunenberg and Dimitrova define the EU's enlargement conditionality as "exchange between the EU and a candidate country in which the EU offers the candidate a (realistic) prospect of EU membership, if the candidate implements a wide range of (EU driven) domestic reforms."³ The so called carrot and stick approach of conditionality involves the withdrawal of the benefits of accession and halting or slowing down the process, if candidate states' governments fail to progress with reforms when adapting to key features of membership such as a stable democratic regime.⁴ At the same time many scholars agree that the political conditions set by the EU do not match with basic principles of an effective conditionality, namely credibility, consistency and continuity over time.⁵ Nevertheless, the completion of the accession processes of all applicants of the 2004 and 2007 enlargement rounds provides evidence that these states remained committed to its obligations, despite the mentioned concerns. So why, from a political science point of view, do states comply? Rationalists argue that candidates accept the high costs and try to stick to Brussels's conditions related to EU accession preparations because costs are small compared to the perceived benefits of EU membership (logic of consequences).⁶ The cost-benefit calculations depend on four factors:⁷ Clarity of conditions, size and speed of incentives related to EU membership, credibility of sanction threats and promises, and the size of adaptation costs.⁸ The credibility of the accession perspective also depends on the priority of conditions as well as on internal conflicts among the member states or institutions related to certain policy areas.⁹ In a similar way Steunenberg and Dimitrova describe three major aspects relating to the effectiveness of conditionality, namely perceived gains, benefits and a long time horizon.¹⁰ According

² G. Sasse, *EU Conditionality and Minority Rights: Translating the Copenhagen Criterion into Policy*, EUI Working Paper RSCAS, No. 2005/162005, p. 4.

³ B. Steunenberg, A. Dimitrova, *Compliance in the EU enlargement process: The limits of conditionality*, European Integration Online Papers (EIoP) 2007, Vol. 11, No. 5, p. 3; <http://eiop.or.at/eiop/texte/2007-005a.htm>, downloaded 04.01.2008.

⁴ *Ibidem*.

⁵ G. Sasse, *EU Conditionality and Minority Rights: Translating the Copenhagen Criterion into Policy*, EUI Working Paper RSCAS, No. 2005/16, p. 4.

⁶ F. Schimmelfennig, U. Sedelmeier, *The Europeanization of Central and Eastern Europa*, Ithaca NY 2005, p. 10.

⁷ *Ibidem*, p. 12 f.

⁸ *Ibidem*. The authors propose four hypotheses for the described factors: "The likelihood of rule adoption increases, if rules are set as conditions for rewards and the more determinate they are; if size and speed of rewards as well as credibility of threats and promises." It decreases "with the number of veto players incurring net adoption costs (opportunity costs, welfare and power losses) from compliance," see pp. 13–17.

⁹ *Ibidem*, p. 13.

¹⁰ B. Steunenberg, A. Dimitrova, *Compliance in the ...*, p. 10. Acc. to them the instrument of conditionality reaches its limits when certain reforms are seen as very unpopular in the candidate states which could lead to a postponement or a merely symbolic implementation of reforms in these areas or even to a stop of accession preparations, see p. 3. Also Steunenberg and Dimitrova claim that at the moment the EU announces a date for accession, conditionality reaches its 'expiration date' and will no longer be an effective tool of reform which means that a candidate's performance may be negatively affected by the intervening period between signing the accession treaty and the moment of actual

to the social learning model compliance with EU norms and values by a candidate state depends on the degree to which the collective identity and norms and values of the state correspond to EU standards (logic of appropriateness).¹¹

The lesson-drawing model assumes that a non-member state might adopt EU rules without inducement from the EU in the sense of a policy transfer in which knowledge of EU rules is used in the development of rules in the political systems of the CEECs.¹²

2. Transformation and Europeanization

Generally, Europeanization¹³ has rather been confined to member states with little attention to accession countries and how they react, but there is a strong case for arguing that such countries, joining the EU and undergoing a fast-track adoption of EU legislation, are most likely to reveal intensive Europeanization.¹⁴ The EU here has had and has more opportunity for a formative influence than in states with established and functioning institutions.¹⁵ If applied to post communist applicant states, Europeanization in this sense is often described as “export” of European values, institutions and norms from the West to the “importing” East of Europe, which not only leads to policy changes but also causes problems.¹⁶

membership and that the EU needs to use another mechanism to induce compliance with remaining conditions, see p. 10; <http://eiop.or.at/eiop/texte/2007-005a.htm>, downloaded 04.01.2008.

¹¹ F. Schimmelfennig, U. Sedelmeier, *The Europeanization of...*, p. 18.

¹² *Ibidem*, p. 20.

¹³ Generally, Europeanization stands for a process in which European rules, mechanisms and collective understandings interact as independent variables with given domestic structures, see J. Caporaso, *The Three Worlds of Regional Integration Theorie*, in: P. Graziano, M. Vink (eds.), *Europeanization: New Research Agendas*, Palgrave 2007, p. 27. Europeanization as an analytical concept is therefore used to examine the changes in domestic structures and policies that occur in response to policies and practices institutionalized at the European level, using misfit and conditionality as explanations of how Europeanization works, see e.g. C. Radaelli, *Whither Europeanization? Concept Stretching and Substantive Change*, *European Integration Online Papers* 4 (8), 2000; T. Börzel, T. Risse, *Conceptualizing the Domestic Impact of Europe*, in: K. Featherstone, C. Radaelli (eds.), *The Politics of Europeanization*, Oxford 2003, pp. 55–78; T. Risse, M. Green Cowles, J. Caporaso (eds.), *Transforming Europe: Europeanization and Domestic Change*, Ithaca NY 2003; A. Héritier, D. Kerwer, C. Knill, D. Lehmkuhl et al. (eds.), *Differential Europe: The European Union Impact on National Policy Making*, New York–Oxford 2001; B. Kohler-Koch, *Europäisierung: Plädoyer für eine Horizonterweiterung*, in: M. Knodt, B. Kohler-Koch (eds.), *Deutschland zwischen Europäisierung und Selbstbehauptung*, Frankfurt 2000, pp. 11–31. Some scholars describe Europeanization as a two-way process with a “bottom-up” and “top-down” dimension with the bottom-up dimension being about constructing the EU system of governance and the top-down dimension being about the domestic impact of the EU, see: T. Börzel, *Pace-Setting, Foot-Drugging, and Fence-Sitting: Member State Responses to Europeanization*, “*Journal of Common Market Studies*” 2002, No. 40 (2), pp. 193–214.

¹⁴ G. Pridham, *Designing Democracy: EU Enlargement and Regime Change in Post-Communist Europe*, Palgrave 2005, p. 19.

¹⁵ *Ibidem*, p. 116.

¹⁶ H. Schubert (ed.), *Europäisierung – Begriff, Idee und Verwendung im interdisziplinären Diskurs*, *Forschungsverband Ost- und Südosteuropa*, FOROST Arbeitspapiere Nr. 38, December 2006, p. 17.

According to regime change theories democratic transition commences when the previous non-democratic regime in a state begins to collapse, while democratic consolidation involves a long process of institutionalisation of a new democracy, the internalisation of rules and procedures and the dissemination of democratic values.¹⁷ EU accession itself takes place when democratic consolidation is under way. Providing that applicant states must match the Copenhagen criteria¹⁸ when starting accession negotiations they at that time should have completed transition and moved to consolidation. In the meantime it is sometimes claimed that distinguishing between Europeanization and democratisation is almost impossible.¹⁹ Particularly in the post communist states Europeanization goes together with processes of democratisation and liberalisation and often implies institution-building rather than institutional change.²⁰ Others argue that a distinction is possible with the real start of accession talks being the turning point and with distinguishing direct democratisation effects and indirect ones.²¹ For the Central and Eastern European countries many scholars also define the setting of the Copenhagen criteria of 1993 as a turning point.

II. The EU's promotion of democratic values

In this section it is first asked whether there are EU treaty provisions and policies Brussels can draw on in order to foster the promotion of democratic values in EU accession or candidate countries, followed by an overview of documents and instruments used in the EU's external relations.

1. EU treaty provisions and policies

The EU's definition of democracy²² amongst others draws on documents of the Council of Europe such as the European Convention on Human Rights (1950) and refers to self determination, freedom of speech and free elections as well as minority protection, although the latter is not mentioned in today's primary law.²³ With the Maastricht

¹⁷ G. Pridham, *Designing Democracy: EU Enlargement and Regime Change in Post-Communist Europe*, Palgrave 2005, p. 12.

¹⁸ See p. 8.

¹⁹ B. Lippert, G. Umbach, W. Wessels, *Europeanization of CEE Executives: EU Membership Negotiations as a Shaping Power*, "Journal of European Public Policy" 2001, No. 6, p. 985.

²⁰ T. Börzel, *Deep Impact? Europeanization and Eastern Enlargement*, in: A. Kutter, V. Trapmann (eds.), *Das Erbe des Beitritts. Europäisierung in Mittel- und Osteuropa*, Baden-Baden 2006, p. 106.

²¹ G. Pridham, *Designing Democracy: EU...*, p. 97.

²² Because of a broad variety of definitions of democracy among the member states the EU has to follow a rather "unspecific concept of democracy," see C. Calliess, *Art. 6 Abs. 1 EUV, Verfassungsprinzipien*, in: C. Calliess, M. Ruffert (eds.), *EUV/EGV, Das Verfassungsrecht der Europäischen Union mit Europäischer Grundrechtecharta, Kommentar*, Munich 2007, p. 60 with further references.

²³ *Ibidem*, p. 60 with further references.

Treaty the protection of human rights was introduced into European primary law,²⁴ with Art. 6 I TEU highlighting the importance of democracy and human rights for the European Union.²⁵ In the meantime, in the current version of the EU's treaties the protection of minorities is not a matter of primary law. Brussels rather focuses on various anti-discrimination measures in order to combat discrimination, racism and xenophobia. This is an area where the EU has significant internal as well as external policy competence.²⁶ The Council of Ministers adopted two directives, under Article 13 of the EC Treaty, providing protection against discrimination in employment and other areas on grounds of racial and ethnic origin, religion and belief, disability, age and sexual orientation.²⁷ Art. 13 EC Treaty, as well as the anti-discrimination secondary law and the ruling of the European Court of Justice (ECJ), aim at protecting individuals belonging to minority groups in the member states.²⁸ The EU Charter of Fundamental Rights lays down the equality before law of all people (Art. 20), prohibits discrimination on any ground (Art. 21) and requests the Union to protect cultural, religious and linguistic diversity (Art. 22). Therefore, the EU's internal promotion of democracy in the field of minority protection is 'limited' to anti-discrimination measures protecting individuals without providing a "minority rights policy." Nevertheless some scholars observed a stronger focus of the EU on minorities, describing an "internalisation of the protection of minorities in the EU system."²⁹ An example of this is the *Treaty of Lisbon*, signed on 13 December 2007 by the EU heads of state.³⁰ As regards democracy promotion the treaty provides some novelties.³¹ Once the treaty is ratified, the EU amongst others will become party to the European Convention on Human Rights and Fundamental Freedoms.³² Also, for the first time, the aim of protecting minorities will be introduced into primary law: "The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the *rights of persons belonging to minorities*. These values are common to the Member

²⁴ A. Kaiser, *Minderheitenschutz in der Europäischen Union. Eine Untersuchung des "doppelten Standards" des EU-Minderheitenschutzes unter Berücksichtigung der Europäischen Grundrechtecharta*, Frankfurt am Main 2005, p. 216.

²⁵ "The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles that are common to the Member States."

²⁶ COM (2001) 252 final: 17.

²⁷ Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (so called "Race Equality Directive") as well as the Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services.

²⁸ A. Kaiser, *Minderheitenschutz in der Europäischen...*, p. 209.

²⁹ G. Toggengburg, *A rough orientation Through a Delicate Relationship. The European Union's Endeavours for (its) Minorities*, European Integration Online Papers (EioP), Vol. 4 (2000), No. 16, p. 25. <http://www.eiop.or.at/eiop/texte/2000-016a.htm>, downloaded 13.04.2007.

³⁰ See OJ C 306, 17 December 2007. <http://eur-lex.europa.eu/JOHtml.do?uri=OJ:C:2007:306:SOM:EN:HTML>, downloaded 06.01.2008.

³¹ In fact, these provisions had already been introduced in the Treaty for a European Constitution, see Art. I-2, Art. I-9 as well as Part II of the constitutional treaty.

³² Art. 6 III of the Lisbon Treaty: "The Union shall accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Such accession shall not affect the Union's competences as defined in the Treaties" (+ related protocol).

States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail” (Art. 1a, emphasis added). Minority protection was not mentioned in the EU’s primary law before, although it is an essential element of the Copenhagen Criteria applicant states have to fulfil before entering into EU accession negotiations. The provision was agreed upon not in the drafting stage for the Treaty establishing a Constitution for Europe but at the Intergovernmental Conference under the Italian Presidency at the end of 2003 and has been criticised for remaining ambiguous and rather modest,³³ despite the actual success of being mentioned in the EU’s primary law.

The example of minority protection shows that democratic values spread externally by the EU do not necessarily reflect a similar approach towards its member states,³⁴ It will be shown that this not only lays grounds for “double standards”³⁵ but has also had strong implications on the performance of applicant states in the field.

2. External promotion in the context of EU accession preparations

The democratic criteria imposed by the EU towards applicant states do not only include general demands such as the rule of law or free elections but also criteria of substantive democracy, such as the role of political parties for political participation, the importance of local government or the role of civil society.³⁶ An example of Brussels’ early democracy promotion efforts in post-communist Europe is the PHARE Democracy Programme that aimed e.g. at providing for training in various political tasks such as parliamentary techniques and organisation, improving the transparency of public administration, developing NGOs or transferring expertise about democratic practices.³⁷ Bilateral agreements with individual countries and the so called “essential elements” clause in promoting human rights and democracy as well as monitoring mechanisms are described as basic instrument for the EU’s external democratisation efforts. For example in a 2004 Commission Staff Working Document the Stabilisation and Association Process for South Eastern Europe as a step towards accession negotiations is labeled as the “core EU vehicle for promoting human rights and democratisation in the region.”³⁸ The Commission described compliance with conditions related to human

³³ G. Toggenburg, *A remaining share or a new part? The Union’s role vis-à-vis minorities after the enlargement decade*, European University Institute, EUI Working Paper LAW, No. 2006/15, p. 7, who amongst others criticises the fact that the provision is not followed by any policy provision or competence base in the text.

³⁴ The introduction of stronger minority protection measures or instruments also strongly depends on the political will of the EU member states. Due to different concepts and traditions of individual states, it does not seem probable that the Council would introduce adequate legislation.

³⁵ B. De Witte, *Politics Versus Law in the EU’s Approach to Ethnic Minorities*, EUI Working Papers RSC 2000/4, p. 4; G. Schweltnus, *The Adoption of Nondiscrimination and Minority Protection Rules in Romania, Hungary, and Poland*, in: F. Schimmelfennig, U. Sedelmeier (eds.), *The Europeanization of Central and Eastern Europe*, Ithaca NY 2005, p. 51.

³⁶ G. Pridham, *Designing Democracy: EU...*, p. 21.

³⁷ See <http://www.seecon.org/romania/ec/phare.htm>.

³⁸ SEC(2004) 1041: 7.

rights, minority protection, good governance and democratic principles as a crucial element of the stabilisation process.³⁹

EU Commissioner for External Relations and European Neighbourhood Policy Benita Ferrero-Waldner defined key principles of the EU's approach to democracy promotion as following:⁴⁰ – Recognition that the practice of democracy can look very different from one country to the next, and political institutions must match local conditions. There is no one-size-fits-all solution to democracy promotion. – Need of long term commitment and patience. It takes time to build new institutions and widespread trust in them. – Democracy can never be imposed from outside: genuine democratic transition must always come from within. And this takes time and can be accompanied by temporary setbacks. The key concern, however, about the effectiveness of this process is its geographic limitation. In this regard some scholars suggest that the EU's democratisation efforts only work if countries believe that one day they will be able to join the EU: the EU approaches are significantly less effective where membership is not possible or not realistic.⁴¹ As regards minority protection, it is claimed that the EU's efforts towards third countries are limited to making states stick to international standards, as minority protection is strongly related to democracy and the rule of law which belong to essential elements of a state's sovereignty. Also in this policy area, the situation is said to change when it comes to EU accession negotiations as the fulfilment of the Copenhagen Criteria is seen as a first step towards membership (the so called democratic or enlargement *acquis*).

A. Copenhagen Criteria

While in past enlargement rounds like the 1995 accession of Austria, Sweden and Finland, Brussels estimated the implementation of the *acquis communautaire* as sufficient for the accession of these states to the European Union, the *acquis communautaire* was extended by an 'enlargement *acquis*' when discussions relating to the accession of post-communist states started.⁴² For the candidate countries, the approach developed in the Agenda 2000 on the basis of the accession criteria established in 1993 by the Co-

³⁹ COM (2001) 252 final: 24, Annex I, "To support the participation of these countries in the Stabilisation and Association process, assistance under the Community Assistance for Reconstruction, Development and Stabilisation (CARDS) regulation is aimed at the creation of an institutional and legislative framework to underpin, inter alia, democracy, the rule of law and human and minority rights. Complementary activities are carried out under the European Initiative for Democracy and Human Rights (EIDHR)."

⁴⁰ Speech/07/29: 2.

⁴¹ J. Grossmann, *EU Membership as a Tool for Democratization*, Freedom House, 28. September 2006, p. 8.

⁴² A. Dimitrova, *Enlargement driven change and post communist transformations: A new perspective*, in: A. Dimitrova (ed.), *Driven to Change: The European Union's Enlargement Viewed from the East*, Manchester University Press 2004, p. 8 f, the 'enlargement *acquis*' includes amongst others requirements for horizontal administrative reform, regionalization, reform of the judiciary, ethnic minorities' rights and border treaties.

penhagen European Council applies.⁴³ These stipulate that membership requires that the applicant country ensures the ‘stability of institutions guaranteeing democracy, the rule of law, human rights, and the respect for and protection of minorities.’ When the Treaty of Amsterdam entered into force in 1999, the political criteria defined at Copenhagen were for the most part enshrined as a constitutional principle in the Treaty on European Union (TEU). Article 49 of the TEU stipulates that “[a]ny European State which respects the principles set out in Article 6(1) may apply to become a member of the Union.” In the meantime Art. 6(1) does not mention minority protection.

Nevertheless, fulfilment of the political Copenhagen criteria is a precondition for opening accession negotiations, but in the meantime the Copenhagen criteria do not offer a definition of what constitutes a minority. In theory the decision was left up to the candidate countries, but a definition can somehow be taken from various Commission Opinions and Regular Reports: In general, the Commission refers to national minorities while the European Parliament in several texts emphasized the need also to protect ethnic, linguistic, religious and other minorities.⁴⁴

B. ‘Democratic conditionality’

Conditionality developed from a minor policy tool used in third country agreements and development assistance to the main pillar of EU enlargement and democratic consolidation.⁴⁵

In terms of democratic conditionality, scholars agreed that the somewhat informal and ad hoc approach the EU used in the 1980s towards states like Spain, Portugal and Greece, that arose amongst others due to the inability to define democracy, would not suffice for the CEECs and Western Balkan countries.⁴⁶ In this sense, the Commission adopted a “checklist approach” as there supposedly was a lack of strategy and coherence in the EU’s approach towards the CEECs.⁴⁷ Despite the fact that the political aspects of the Copenhagen criteria played a prominent role before the first invitations to the CEECs in 1997 to negotiate accession, the issue was treated as country-specific. In

⁴³ COM (2001) 252 final: 5. The criteria read as follows: Any country seeking membership of the European Union (EU) must conform to the conditions set out by Article 49 and the principles laid down in Article 6(1) of the Treaty on European Union. Relevant criteria were established by the Copenhagen European Council in 1993 and strengthened by the Madrid European Council in 1995. To join the EU, a new Member State must meet three sets of criteria: – political: stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities; – economic: existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union; – acceptance of the Community *acquis*: ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union, see http://europa.eu/scadplus/glossary/accession_criteria_copenhagen_en.htm.

⁴⁴ D. Kochenov, *Commission’s Approach to Minority Protection during the Preparation of the EU’s Eastern Enlargement: Is 2 Better than the Promised 1?*, European Diversity and Autonomy Papers EDAP 02/2007, p. 18 f.

⁴⁵ S. Jora, Solviu, *International Organizations and Democratization models: the case of EU accession of Romania*, CDAMS Discussion Papers 06/10E, p. 5.

⁴⁶ G. Pridham, *Designing Democracy: EU...*, p. 38.

⁴⁷ *Ibidem*, p. 41.

particular, Slovakia under Mečiar was named as a difficult case.⁴⁸ In terms of minority protection as part of the political conditions set by the EU, Brussels's conditionality in post-communist states is described as being based on a cumulative effect of different international institutions, with the outcomes depending on domestic political constellations and pressures.⁴⁹ In case of serious failure the EU has various instruments⁵⁰ which have been used in the Mečiar case⁵¹ as the sole example of the 2004 enlargement round.

C. Minority protection and EU accession

For many years, minority protection was not a priority in Brussels' external activities. The situation changed when the Soviet Union and Yugoslavia collapsed at the beginning of the 1990s. The member states then estimated minority protection as crucial for keeping stability in Europe and as part of the EU's efforts of combating xenophobia and racism in third countries.⁵² This approach, regarding minority protection as a democratic principle mainly from a security-related point of view, seems to be a European peculiarity.⁵³ Also, the EU's activities in this field, mainly initialized by the Parliament and the Commission, are rather limited to individual ad hoc measures in single applicant states without providing clear and common standards for all applicant states.⁵⁴ Nevertheless, the issue has become more important during the last years. The evolution of minority rights protection subsequently became linked to the enlargement agenda.⁵⁵ For example the Laeken declaration states that only those countries are invited to join

⁴⁸ Ibidem, p. 39.

⁴⁹ G. Sasse, *EU Conditionality and Minority Rights: Translating the Copenhagen Criterion into Policy*, EU Working Paper RSCAS, No. 2005/162005, p. 18. Pressure might be related e.g. to media debates, timing and the question whether a government's standing was affected by a negative report of the Commission.

⁵⁰ Such as a note verbale, a démarche, a diplomatic note or an official protest or during accession negotiations warnings in the annual progress reports, an official visit to the offending country at the highest level and eventually a decision of the European Council about halting negotiations in case of serious and ongoing violation of democratic conditions, see: G. Pridham, *Designing Democracy: EU...*, pp. 55, 57, who claims that the Slovakian case shows that any weakening of the determination to receive an invitation for membership negotiations undermines a country's willingness to meet democratic conditionality as it was only Mečiar's successor who tried hard to satisfy the EU's political conditions.

⁵¹ See European Commission, Agenda 2000, report on Slovakia, Brussels 1997.

⁵² See e.g. Communication from the Commission of 26 May 1999 to the Cologne European Council meeting on 3 and 4 June 1999: countering racism, xenophobia and anti-Semitism in the candidate countries, COM (99) 256 final: 2 (http://aei.pitt.edu/1561/01/east_europe_racism_COM_99256%60.pdf, downloaded 11.10.2007) and the Communication from the Commission to the Council and the European Parliament – The European Union's Role in Promoting Human Rights and Democratisation in Third Countries, COM (2001) 252 final of 8 June 2001, (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2001:0252:FIN:EN:PDF>, downloaded 10.10. 2007).

⁵³ H. Grabbe, *A Partnership for Accession? The Implications of EU Conditionality for the Central and Eastern European Applicants*, EU Working Papers RSC 99/12, 1999, p. 24.

⁵⁴ G. Schweltnus, *The Adoption of Nondiscrimination...*, p. 56.

⁵⁵ K. Topidi, *The Limits of EU Conditionality: Minority Rights in Slovakia*, "Journal on Ethnopolitics and Minorities in Europe" 2003, No. 1, p. 2.

the European Union that share basic values of the Union such as fair elections and respect of minorities and the rule of law.⁵⁶

3. The EU's cooperation with other regional and international organisations

A. Council of Europe

For the post-communist states of Central and Eastern Europe in the early 1990s, membership of the Council of Europe (CoE) was connected to a certain prestige and recognition of these states in the European sphere. In 1993, the CoE set up membership conditions including free and fair elections, freedom of expression, minority rights and the signing of the European Convention on Human Rights.⁵⁷ In the framework of the Council of Europe, Article 14 ECHR is the general nondiscrimination clause, explicitly referring to "association with a national minority" when enumerating the grounds on which discrimination is forbidden, but it is claimed that the article has been of little practical relevance as concerns the protection of the rights of persons belonging to minorities.⁵⁸

The European Commission frequently used documents of the Council of Europe for justifying its democratic conditions towards applicant states. In the EU's Agenda 2000 the CoE's Framework Convention for the Protection of National Minorities (1995) as well as recommendation 1201 adopted by the Parliamentary Assembly of the CoE in 1993 have been described as terms of reference for an effective protection of minorities.⁵⁹ Since then both texts can be found in many Commission documents.⁶⁰ In addition to the legal texts of the CoE, its judicial body, the European Court of Human Rights, has a significant impact on the situation of minorities in Europe. For example, on 13 November 2007, the Grand Chamber of the court ruled that segregating Roma students into special schools in Czech Republic is a form of unlawful discrimination that violates fundamental human rights.⁶¹ The Soros Foundation celebrated the ruling to be

⁵⁶ Presidency Conclusions, European Council Meeting in Laeken, 14 and 15 December 2001, Annex I: 21. http://ec.europa.eu/governance/impact/docs/key_docs/laeken_concl_en.pdf, downloaded 14.12.2007.

⁵⁷ K. Smith, *Western Actors and the Promotion of Democracy*, in: J. Zielonka, A. Pravda (eds.), *Democratic Consolidation in Eastern Europe*, Vol. 2, International and Transnational Factors, Oxford 2001, p. 41.

⁵⁸ A. Bossuyt, *Fit for Purpose or Faulty Design? Analysis of the Jurisprudence of the European Court of Human Rights and the European Court of Justice on the Legal Protection of Minorities*, "Journal on Ethnopolitics and Minorities in Europe" 2007, No. 1, p. 3.

⁵⁹ European Commission (1997): Agenda 2000: For a Stronger and Wider Union, COM (97) 2000, 15 July 1997: 44.

⁶⁰ See e.g. the Commission's Strategy paper COM (2002), SEC (2002) 1400-1402: 10 f.

⁶¹ Case of D.H. and others v. The Czech Republic. <http://www.echr.coe.int/ECHR/EN/Header/Case-Law/HUDOC/HUDOC+database/>; http://www.soros.org/newsroom/news/echr_20071113, downloaded 04.01.2008; it has been remarked on several occasions that the general situation of minorities in Czech Republic has improved in the last years but that the status of the Roma has not improved in comparison to other ethnic groups, see: U. Schmidt, *The Aspect of Culture in the Social*

“a momentous decision for minorities across Europe,”⁶² because (amongst other reasons) education policy can have a major impact on the economic status of national and ethnic minorities through its impact on employment.

B. OSCE

The Organisation for Security and Cooperation in Europe (OSCE) also defends human and minority rights, aims at building democratic institutions and plays a monitoring role, especially at election time. However, its obligations – unlike those of the Council of Europe – are not legally binding, and the organisation has more of a role in applying public pressure on different countries for the advancement of human and minority rights.⁶³ Amongst the instruments and documents of the OSCE for improving minority protection in regions such as Central and Eastern Europe is the Charter of Paris for a New Europe,⁶⁴ set up in 1990 for protecting the cultural, linguistic and religious identity of persons belonging to national minorities.⁶⁵ The OSCE High Commissioner for National Minorities, established in 1992, maintains close working contacts with the European Commission in its work concerning ethnic relations and minorities in EU candidate countries.⁶⁶

III. Lessons learned from the EU's eastern enlargement

– Benefits and shortcomings of EU membership as a tool for democratisation

As regards democratic conditionality, meeting the EU's conditions has been described as being quite complicated, mainly because of the unprecedented salience of political conditionality for post-communist applicants.⁶⁷ It often has been claimed by accession states and scholars that the political conditions were only vaguely specified by the EU side, reflecting the lack of uniformity in practice and consensus in principle among existing member-states on fundamental constitutional issues such as regional devolution and provisions for minority rights.⁶⁸ Therefore there has also been a lively debate in Central and Eastern European states about what kind of ‘Europe’ the countries are acceding to in terms of political and institutional design.⁶⁹ Also the Brussels-driven democratisation has found many critics for its top-down approach.⁷⁰

Inclusion of Ethnic Minorities: Assessing Language Education Policies under the EU's Open Method of Coordination, “Journal on Ethnopolitics and Minorities in Europe” 2007, No. 1, p. 12.

⁶² http://www.soros.org/newsroom/news/echr_20071113.

⁶³ G. Pridham, *Designing Democracy: EU...*, pp. 21, 49.

⁶⁴ http://www.osce.org/documents/mcs/1990/11/4045_en.pdf, downloaded 17.04.2007.

⁶⁵ See http://aei.pitt.edu/1561/01/east_europe_racism_COM_99_256%60.pdf: 9, downloaded 11.10.2007.

⁶⁶ See http://aei.pitt.edu/1561/01/east_europe_racism_COM_99_256%60.pdf: 10, downloaded 11.10.2007.

⁶⁷ J. Batt, ‘Fuzzy Statehood’ versus Hard Borders: the impact of EU enlargement on Romania and Yugoslavia, ESRC “One Europe or Several?” Programme, Working Paper No. 46/2002, p. 12.

⁶⁸ Ibidem, p. 32.

⁶⁹ Ibidem, p. 12.

⁷⁰ While Jora remarks that “the representatives of the [Romanian] government as well as the EU technocrats had less time to look into the subtleties of democracy theory as they had to concretely focus on their ‘mission impossible’,” see: S. Jora, *International Organizations...*, p. 17.

1. Impact and scope of conditionality as the EU's primary means of democracy promotion in post-communist countries

Compared to the EU's missing competence to influence the protection of minorities in its older member states, and given the wide scope of the EU agenda and the speed with which the CEECs had to implement EU norms, many scholars expected that conditionality had a deeper impact on newcomers before their accession than on old EU member states:⁷¹

- The lack of strong institutions could facilitate the integration of European norms into the domestic system, as institutions are not strengthened by a given social and cultural infrastructure and therefore would be more open to institutional engineering.⁷² But compared to old EU member states, it seems to be less probable that the transfer of rules will lead to an institutionalization of norms. Therefore, conditionality and processes such as Europeanization in the CEECs affect rather laws and formal declarations, without leading to substantial institutional or cultural changes.⁷³
- According to Schimmelfennig and Sedelmeier, the fact that the EU has made basic liberal democratic norms essential nonnegotiable conditions for EU membership fulfils the basic condition of the external incentives model: rule adoption is set as a condition for rewards.⁷⁴
- Many scholars claim that veto players and societal interest organisations were quite weak in the accession process.⁷⁵ Also, due to the “lack of ownership” of EU norms in candidate or new member states, it is often said that sociological mechanisms have rather been absent in the CEECs.⁷⁶
- Research by some scholars shows a smaller improvement in democratisation in countries after the start of negotiations with the EU.⁷⁷ Other scholars found out that while the relative pace of democratisation might not have increased, solidification was ensured through legislation adopted through the accession process and that the leverage of the EU for getting countries to agree to critical and sometimes painful reform is at its height once the accession date was within reach.⁷⁸
- As regards timing, some scholars assume that Steunenberg and Dimitrova's argument, according to which conditionality will no longer be an effective tool of reform once the accession date has been announced,⁷⁹ does not work for Bulgaria and Roma-

⁷¹ T. Börzel, *Deep Impact? Europeanization and Eastern Enlargement*, in: A. Kutter, V. Trappmann (eds.), *Das Erbe des Beitritts. Europäisierung in Mittel- und Osteuropa*, Baden-Baden 2006, p. 106.

⁷² M. Brusis, *European Union enlargement and the Europeanisation of Eastern Europe: research puzzles and policy issues*, in: Z. Mansfeldová, V. Sparschuh, A. Wenniger (eds.), *Patterns of Europeanization in Central and Eastern Europe*, Hamburg 2005, p. 24.

⁷³ Ibidem.

⁷⁴ F. Schimmelfennig, U. Sedelmeier, *The Europeanization of...*, p. 31.

⁷⁵ T. Börzel, *Deep Impact? Europeanization...*, p. 109.

⁷⁶ Ibidem, p. 111.

⁷⁷ A. Mungiu-Pippidi, *Europeanization without Decommunization: A case of elite conversion*, CDDRL Working Papers No. 64. Freedom Spogli Institute for International Studies, 2006, p. 16.

⁷⁸ S. Jora, *International Organizations and...*, p. 3.

⁷⁹ B. Steunenberg, A. Dimitrova, *Compliance in the EU enlargement process: Institutional reform and the limits of conditionality*, Leiden, July 2005.

nia and any other future candidate state because of the “preaccession safeguard clauses.”⁸⁰

Generally it is agreed that the EU's ‘democratic conditionality’ – clearly to identify or not – led to changes that would not have occurred in post-communist Europe without real chances for these countries to become EU member states. The size of governmental adoption costs are crucial in this regard. The theoretical backgrounds used to feed the concept, mainly institutionalism, help to determine the depth and “durability” of reforms.

2. Criticism of the EU's external democratisation efforts in the context of minority protection – Evidence from the 2004 and 2007 enlargement rounds

Apart from these rather theoretically informed evaluations, experience from the 2004 and 2007 enlargement shows some evidence that those countries who had been openly criticised by the European Commission in its progress reports regarding minority protection substantially changed their minority protection laws.⁸¹ For example Slovakia after the critical 1999 report⁸² made good progress according to the Commission, and Romania also had positive developments later on. In the meantime other reports claim that the situation of minorities and the implementation of the reformed laws lacked progress in the last years of accession preparations⁸³ despite the Commission's general positive evaluations. The Commission's stance was also criticised by other EU institutions. The European Parliament⁸⁴ repeatedly claimed that minority groups living in the candidate countries were not included in the negotiation process if they were not represented in the national parliaments or the parliaments could not participate in the negotiations themselves.⁸⁵

Criticism also arose due to the fact that various minority protection conditions imposed by the European Union towards the candidate states had been made “in the name of enlargement” without providing a source in European primary law.⁸⁶ For example, in

⁸⁰ S. Jora, *International Organizations and...*, p. 14; see: Art. 39 of the Bulgaria and Romania Accession Treaty.

⁸¹ A. Kaiser, *Minderheitenschutz in der Europäischen Union. Eine Untersuchung des “doppelten Standards” des EU-Minderheitenschutzes unter Berücksichtigung der Europäischen Grundrechtecharta*, Frankfurt am Main 2005, p. 286.

⁸² <http://www.osi.hu/eumap/minsr.htm>.

⁸³ C. Pan, B. Pfeil, *Minderheitenrechte in Europa. Handbuch der europäischen Volksgruppen*, Vol. 2, Wien 2002, p. 10 f, for Latvia the authors even found that minority protection became “significantly worse” between 1999 and 2002, see page 7.

⁸⁴ See Annual report on human rights in the world in 2000 and the European Union Human Rights Policy – Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy (2000/2105(INI)), 30 May 2001, Nr. 91. <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A5-2001-0193+0+DOC+PDF+V0//EN>, downloaded 14.11.2007.

⁸⁵ B. Cilevics, *A view of a Parliamentarian on the Role of Minority Issues in the Process Towards European Integration*, 2000. <http://groups.yahoo.com/group/balkanhr/message/559?source=1>, downloaded 11.10.2007.

⁸⁶ H. Grabbe, *A Partnership for Accession? The Implications of EU Conditionality for the Central and Eastern European Applicants*, EU Working Papers RSC 99/12, 1999, p. 21.

the Council Decision of 6 December 1999 about the Accession Partnership with Slovakia, it was noted that adoption of legislation regarding the protection of the Roma minority was so far insufficient and further implementation was required to reach “the same standards as those which apply within the Union,”⁸⁷ despite the fact that there was no clear EU standard to refer to.

In this regard some candidates claimed that Brussels not only introduced a “double standard” for the protection of minorities in member and candidate states,⁸⁸ but also that some EU members, should they try to join the EU today, would fail because they would not manage to stick to the Copenhagen criteria. An extreme case was the Slovakian Mečiar government, which instrumentalised European criticism about the situation of the Hungarian and Roma minorities in Slovakia for scrutinizing the legitimacy of the EU’s minority protection policy in its political discourse.⁸⁹ The lack of a coherent European protection model for both member and accession states as well as the relatively autonomous ad-hoc measures of the Commission increased the feeling of missing transparency and a lack of predictability among other institutions and candidates.⁹⁰ Some scholars even describe the Commission’s measures and demands as ‘realpolitik’⁹¹ while others claim minority protection to be a “moving target”⁹² for the Commission.

There was further confusion during the 2004 and 2007 accession preparations due to the fact that the EU’s ‘double standards’ involve not only distinctions made by the EU between its member states and third states, but also between the countries applying to join the EU. For example, Kochenov observed that Brussels applied basically two main mutually exclusive standards in the course of the pre-accession process. According to him, Brussels tolerated a sort of ‘assimilation’ of Russian-speaking minorities living in Estonia and Latvia, while for countries such as Romania, Hungary, Czech Republic, Slovakia and Bulgaria the idea of cultural autonomy prevailed.⁹³ In the context of the Estonian and Latvian applications for accession, the Commission relied heavily on the findings of the CoE and OSCE and backed developments that were drastically different

⁸⁷ Council Decision 1999/853EC of 6 December 1999 on the principles, priorities, intermediate objectives and conditions contained in the Accession Partnership with the Slovak Republic, “Official Journal” L335, 28/12/1999, Annex point 3.

⁸⁸ In fact, double standards also existed between the candidate states as the Commission distinguished between countries with stronger minority problems that faced intensive conditionality measures and those countries who had “unproblematic” minorities and who had to comply only to the minority criterion in general, G. Schweltnus, *The Adoption of...*, p. 57.

⁸⁹ H. Grabbe, *A Partnership for...*, p. 9. Slovakia even requested that the EU considers “the possibility of preparing a White Paper on the rights of national minorities.” No official response from the European side was given due to a lack of European standards and policy on minority rights, see K. Topidi, *The Limits of EU...*, p. 4.

⁹⁰ K. Smith, *The Use of Political Conditionality in the EU’s Relations with Third Countries: How Effective?*, “European Foreign Affairs Review” 1998, No. 3, p. 269; J. Hughes, G. Sasse, *Monitoring the Monitors...* p. 8.

⁹¹ G. Pentassuglia, *The EU and the Protection of Minorities: The Case of Eastern Europe*, EJIL 12, 2001, p. 27.

⁹² H. Grabbe, *A Partnership for...*, p. 6.

⁹³ D. Kochenov, *Commission’s Approach to Minority Protection during the Preparation of the EU’s Eastern Enlargement: Is 2 Better than the Promised 1?*, European Diversity and Autonomy Papers EDAP 02/2007, p. 10.

from the demands addressed by the Commission to the candidate countries belonging to the second group.⁹⁴ For the second group, the Commission in principle advocated the respect and support for minority cultures, introduction of education in minority languages, including higher education for some minority groups, with a special emphasis put on the issue of non-discrimination.⁹⁵ Criticism did not refer to this distinction as such but rather to its impacts on conditionality as the main instrument, namely concerning clarity of conditions. In this regard Koehenov claims that different standards applied to single candidate or accession countries are ill-suited both for the conduct of future enlargements and for the effective protection of the minorities within the EU – that adopting different approaches to minority protection in different countries and to different minority groups clearly contradicts the pre-accession principle that conditionality meant objective assessment of the candidate countries' progress based on the same criteria for all.⁹⁶

3. Evaluation of the EU's democratisation efforts in the context of EU enlargement

Despite criticism that the lack of a uniform EU model of democracy led to a corresponding lack of a consistent scheme of evaluation of performance and that Brussels exported its 'democratic deficit' by favouring executive institutions over parliamentary ones in the candidate states in the accession negotiation and preparation process,⁹⁷ it should not be denied that the EU does have a unique tool for democratization. Far more successful than other approaches, Brussels is making the success of the domestic reform process in a country a prerequisite for joining the EU itself. Countries strive toward EU membership due to the economic and political benefits related to accession. The EU's model for promoting democracy in the context of membership preparation is described as a highly effective tool to get countries to conduct top-down reform, with governments adopting laws and working on their enforcement.⁹⁸ This implementation must be ensured by the willingness of political actors – parties, NGOs, business, media, etc, and is a long-term process.⁹⁹

Conclusion

For the European Commission conditionality remains a major tool when it comes to the preparation of future enlargements.¹⁰⁰ In the context of democratic conditionality

⁹⁴ Ibidem, p. 14.

⁹⁵ Ibidem, p. 13.

⁹⁶ Ibidem, p. 10.

⁹⁷ S. Jora, *International Organizations and...*, p. 7.

⁹⁸ J. Grossmann, *EU Membership as...*, p. 7.

⁹⁹ Ibidem, p. 9.

¹⁰⁰ Presentation given by Michael Leigh, Director General for Enlargement, on the "Enlargement policy of the European Union – Strategies and developments" on 9 November 2007 at the Delegation of the European Commission in Berlin; the European Council in December 2006 agreed on a "renewed consensus" on the conditionality tool, known as "nothing is agreed before everything is agreed."

Brussels' influence on candidate states depends on the initial conditions in these states. The EU's influence is high in more unstable democracies while it is said to be unnecessary in the democratic frontrunners and ineffective in undemocratic countries, as the Međunar case has shown. For the Western Balkan countries it is rather assumed that the political, economic and societal transformations do go hand in hand with Europeanization – particularly in Croatia as the most successful applicant of this region. Additionally, parallel to these developments, in the Western Balkans there have been or still are processes of state and nation building, including migration waves.¹⁰¹ Therefore it seems to be quite difficult to see which changes in the Western Balkans for now have been motivated by the EU in terms of conditionality, misfit and pressures of adaptation and which reforms came due to other international influence or to internal strategies and aims.

As regards the protection of minorities within the European Union and its member states there is some evidence that Brussels' efforts to spread democratic values in countries willing to join the European Union slowly will lead to a kind of 'spill-back' effect, with the mentioning of minority protection in the Lisbon treaty being an example. Also research about minority protection in the new member states after their accession – i.e. after conditionality lost its effectiveness and for the most part thanks to activities of NGOs and civil society – work in this regard.

¹⁰¹ A. Sterbling, *Die Südosteuropaforschung vor neuen Herausforderungen: Disziplinäre Vielfalt und interdisziplinäre Perspektiven*, soFid Osteuropaforschung 2006/1, p. 9.

MONICA BAJAN

Charming the Dark Waters: Romania's Path into an Enlarged Europe

The present article is part of a Master Thesis on the “Accommodation of the Romanian Foreign Policy with the European Union” and it aims at analysing and quantifying the role played by Romania in the shaping of an EU Eastern Dimension. To this respect it suggests a four-folded structure following the formulation of a coherent policy addressing the Black Sea region, as well as the dynamics of this policy from the domestic to the EU level. The first section introduces the Romanian political context in the immediate post-accession time, revealing both the country's opportunities and the challenges it has to face in evolving as an effective EU Member State. The second section compiles and assesses the Romanian initiatives in the Black Sea region, taking into account the region's own geopolitical particularities, as well as the difficulty of coordinating the separate initiatives towards a common framework generated by Romania's *minor state*¹ status. The third section is focused on the transformations occurred in the EU policy towards its Eastern vicinity. To that purpose the analysis is construed much around a comparison between the prior-2007 European initiatives in the Black Sea region and the recently adopted EU Black Sea Synergy. The fourth section is reserved for concluding remarks.

I. Introduction

In the past often unable to attract sufficient interest from social scientists, “Romania presents one of the least known and least researched cases of the former Eastern Europe.”² Except for a couple of late 1990s socio-anthropological studies on the country's transition to democracy,³ no essential introspections in its development potential have

¹ To the interest of the present article theoretical deliberations on qualifying Romania among the European minor states have been kept to minimum. For a thorough overview on the criterias employed in segregating the European states into big states and small states see K. Hanf, B. Soetendorp, *Small States and the Europeanization of Public Policy*, in: K. Hanf, B. Soetendorp (eds.), *Adapting to European Integration Small States and the European Union*, Longman, London 1998, p. 4. For a comparative approach see also B. Tonra, *The Europeanization of National Foreign Policy Dutch, Danish and Irish Foreign Policy in the European Union*, Ashgate, Aldershot 2001, pp. 46–47.

² P. F. Wagner, *EU, NATO and Romania: Beyond “Sultanism”*, in: R. Seidelmann (ed.), *EU, NATO and the Relationship Between Transformation and External Behaviour in Post-Socialist Eastern Europe*, Nomos Verlagsgesellschaft, Baden-Baden 2002, p. 219.

³ I.e. T. Gallagher, *Romania After Ceausescu*, Edinburgh University Press, Edinburgh 1995; W. Hollis, *Democratic Consolidation in Eastern Europe*, Columbia University Press, New York

been undertaken. With the transformation suffered by the Eastern borders of the European Union in the beginning of 2007, the country has been exposed to increasing inquiries from the international academia. That may be on the one hand explained by the emergence of a new research area addressing the Black Sea region, which reasonably includes Romania among the active local actors. On the other hand, the recent attraction exerted by the country could be regarded in conjunction with its integration within the European structures and its own ability to address key issues on the European foreign policy agenda, which none of the less affects Romania's perception on a European scale.

The first few months after Romania has joined the EU have been blurred by an internal discontent among the president, the coalition government and the opposition. An apparent failure to provide a coherent national representation on the European stage may lead to uncertainties regarding Romania's future role in the European decision-making process. This assumption can be logically justified through the following reasoning. Romania has entered an ongoing organization within which the pressure of accommodation enforced upon the new comers has accentuated with each enlargement. The more the member states, the greater are the difficulties of drawing common lines of cohesive and coherent European policies. Whereas the benefits of EU membership are only potential, it is in the interest of each member state to clearly define its national preferences from the start and to further actively advocate them. The better the state is able to wrap its goals in the convenient cloth of the European common good, the bigger the chance to achieve consensus with the rest of the member states on the matter. Inferring on this sequence of ideas, one may deduce that the more cohesion among the national political actors, the more effective the country's representation at the EU level.

Conceptualizing the Romanian foreign policy one observes a classic case of interaction between the external demands set by the international and regional systems and domestic preferences. In defining its post-accession priorities the country had sought to forge equilibrium between its European ambitions and a relatively new allegiance towards the U.S. The outcome of the internal bargaining is reflected in the medium-term post-accession strategy proposed by the Târceanu⁴ government. Without breaking the usual patterns of setting ahead objectives, the Romanian input as a new member state gathers however consistency by attempting to focus the EU's attention on the Black Sea Region. The initiative, presented as a Romanian approach to the European Neighbourhood Policy, is aimed both at addressing the specificities of the cooperation patterns in the region and at carving an audacious perspective for the common energy policy. The contrast between the amplitude of the proposed goals and the minor state position that Romania is deemed to occupy among the EU member states has given way to scepticism both inside and outside the country. A European initiative at the Black Sea region allowing Romania to participate constructively at its implementation seemed at times

1999. Partly due to Romania's own difficulties in achieving a smooth transition, the scientific discourse – when present – had been constructed on a weak framework of stereotypes curtailed to: nationalist political parties, simmering ethnic conflicts among Romanian and the Roma or Hungarian minority and corrosive processes of economic reform, based on non-transparent political processes.

⁴ Romanian Prime-Minister since 28th December 2004.

more of a viable scenario than the reversed case. Nevertheless, one ought not to ignore that with fourteen votes in the Council of the European Union Romania is holding the seventh voting weight among the EU member states. Furthermore, due to its interests and, to a certain extent, to its expertise it may have a blocking vote in areas related to the Western Balkans, the Black Sea region, as well as the European Neighbourhood Policy.

Having in mind the above described context the present essay will focus on the adoption of a European Black Sea Synergy in order to assess Romania's effectiveness potential as an EU member state. To this respect, the main question guiding the analysis has been formulated in terms of how did Romania's accession to the EU impact upon the Union's foreign policy? Accordingly, the hypothesis to be tested claims that the adoption of a Black Sea Synergy represents the outcome of a customization process led from the Romanian to the European level.

The argumentation contained in the next two sections operates with the *minor states theory* and the *concept of customization*. It maintains that Romania can be regarded as a *minor state* by retaining Tonra's definition of the word *minor* as an attribute of the state's relative power over its external environment.⁵ This can be further explained through the fact that by following a solitary path minor states will be unable to either significantly contribute to the construction of a European common foreign policy, or to influence international or regional processes according to their preferences. In the above interpretation, the theory opens a path for overtoning the *concept of customization* generally understood as the ability of a state to determine a transformation of the European policies,⁶ i.e. foreign policy, according to its preferences. This overtoning, as revealed by the next sections, is of essential importance for the qualification of the Romanian impact upon the Union's foreign policy.

II. A Strategy for the Black Sea Region

Through the accession of Romania and Bulgaria the Black Sea region has gathered momentum at the EU level. The region forms a cradle between Europe, South Caucasus and the Middle East, which shelters both the promise of new oil and gas resources, as well as the threat of a feeble stability. Ritter observes that the region is not only important in itself, but may be also perceived as a bridge between Europe and more troubled areas, managing to keep distant conflicts at bay.⁷ The region is fragmented by variable geometrics reflected in the multitude of states of various size, economic development, political affiliation and international membership that compose its scenery. Some argue that these littoral countries with their different historical and cultural paths form hardly

⁵ B. Tonra, *The Europeanization of...*, quoted source, pp. 46–47.

⁶ H. Ojanen, *How to Customize Your Union: Finland and the "Northern Dimension of the EU"*, in: T. Forsberg (ed.), *Northern Dimensions The Finnish Institute of International Affairs Yearbook 1999*, Forssa: Forssan kirjapaino.

⁷ Z. Ritter, *EU Engagement in the Black Sea Region: Challenges and Opportunities for the EU*, Working Paper for Stiftung Wissenschaft und Politik of the German Institute for International and Security Affairs, FG3-WP/09, December, Berlin 2006, p. 3.

a region at all.⁸ Still, the relative success of locally initiated regional cooperation patterns arguably dismantles such opinions.

1. Geopolitical Particularities in the Black Sea Region

The importance of the Black Sea region derives from its positioning at the crossroads of European and Asian cultures, upon a perimeter virtually defined by two valuable axis- from the North to the South linking Russia to Armenia and further to Iraq and from the East to the West connecting the valuable Southern Caucasus energy resources to Western Europe through the Black Sea. However, its interpretation as a cradle of interacting cultural patterns or as a bloc uniting the littoral countries under a single denominator is rather new. To the Euro-Atlantic world, until relatively recent times, the Black Sea appeared to be more an edge of Europe, Southern Caucasus and the Middle East, than a shackle linking the three regions. Much in the same line, neither the U.S., nor Western European countries have previously identified strategic objectives in the region, but rather have separately concentrated on developing good cooperation relations with Moscow, integrating the arc of countries extending from the Baltic Sea to the Eastern Balkans and forging an alliance with Turkey.⁹ Unlike in the case of Poland and the Czech Republic, in the aftermath of communism there has been little push from the local leaders to attract the Western attention towards the region. The littoral countries seemed to have concentrated more on domestic politics, inner conflicts and the maintenance of a relative balance with Russia. Romania in example was the last country from the former Soviet bloc which applied for membership to NATO,¹⁰ not least while it regarded the application as a factor likely to affect its feeble relationship with the still existing Soviet Union.¹¹

Added to the international and regional actors' lack of interest in pursuing initiatives at the Black Sea, the coastal countries appear to have nurtured quite different aims which led to a rather poor cohesion throughout the region. In example, both Turkey and Russia attempted to maintain the appearance of the most important actor within the Black Sea basin. Georgia, Armenia, Moldova and Azerbaijan struggled to overcome poverty and an increased instability deriving from the self-perpetuating frozen conflicts. Nevertheless, Romania and Bulgaria concentrated their efforts westwards while aiming at the integration with NATO and the EU. By a comparison with the Baltic States, the Black Sea littoral countries have neither fostered a common identity, nor forged effective cooperation patterns in the last 200 years before the Soviet collapse.¹² Thus, although regional cooperation has emerged in the first period of time after the end

⁸ *Das Schwarze Meer zwischen der EU und Russland Sicherheit, Energie, Demokratie*, Odessa 2007, pp. 24–29.

⁹ R. D. Asmus, B. P. Jackson, *The Black Sea and the Frontiers of Freedom*, in: R. D. Asmus, K. Dimitrov, J. Forbrig (eds.), *A New Euro-Atlantic Strategy for the Black Sea Region*, The German Marshall Fund of the United States, Bratislava 2004, p. 18.

¹⁰ On 12 October 1990.

¹¹ P. F. Wagner, *EU, NATO and Romania: Beyond "Sultanism"...*, pp. 257–258.

¹² *Das Schwarze Meer zwischen der EU und Russland...*, pp. 25–27.

of the Cold War, it was kept at a relatively elusive level, which excluded military activities. Russia was continuously perceived as an unpredictable actor, which shouldn't be troubled by too audacious regional plans.¹³ Hence, the accent was placed on economic relationships. The Black Sea Economic Cooperation Organization (BSEC)¹⁴ is one of the most advocated examples of "soft" activities directed partnerships that benefited of rather good starting auspices. The organization has been designed as a confidence-building forum for discussing common goals. Due to an over-loading with bureaucratisation and frequent tensions among the partners, it grew though increasingly deficient throughout the years. Several other cooperation organizations¹⁵ have gathered the littoral countries together, without appearing however to have been able to determine more cohesion among them. One possible interpretation for such a situation may be given by the fact that some of the countries seem to have been predominantly concerned with internal matters, rather than concentrated on forging a comprehensive regional partnership. The reference regards mainly those states fragmented by the frozen conflicts, but also to a certain extent Ukraine, which until its 2005 "orange revolution" has suffered from an externally imposed relative isolation. On the other hand, the lack of cohesion might as well have been determined by the asymmetrical economic and political developments undergone by the regional countries and reflected none of the less in their perspective of integrating with the Euro-Atlantic structures. The differences in the real prospects of integration might have arguably increased the gap among the littoral countries. A third possible explanation of the weak regional cooperation may be found in the persistence of a hegemonic Russia aiming at preserving its control over the region, correlated with a lack of a clear and coherent initiative coming from either inside or outside of the region.

An important change in both regional and international terms occurred at the turning of the new millennium through the "gradual geographic and ideational advancement of the Euro-Atlantic community" towards the Black Sea.¹⁶ The NATO and EU enlargements in Central and Eastern Europe have been accompanied by subsidiary initiatives designed to address the rest of non-integrated regional countries. At a local level, the *colourful revolutions* in Georgia and Ukraine brought to power democratic, reform-oriented and Western-minded officials. Additionally, in August 2005 the two countries signed the "Borjomi Declaration" which resulted in the creation of the Community of Democratic Choice aiming at putting an end to all "remaining divisions in the [Baltic, Black Sea] region, human rights violations and all types of confrontation, or frozen conflict."¹⁷ Furthermore in 2006 at a Kyiv summit the GUAM (Georgia, Ukraine, Azerbaijan, Moldova) organization was revived and redirected towards a mul-

¹³ F. Tassinari, *A Synergy for Black Sea Regional Cooperation Guidelines for an EU Initiative*, "CEPS Policy Brief" No. 105, June 2006, p. 1.

¹⁴ The organization is composed of all Black Sea littoral countries, Armenia, Azerbaijan, Moldova, Greece, Serbia and Albania.

¹⁵ I.e. GUAM 1997, Black Sea Naval Task Group 1998.

¹⁶ F. Tassinari, *A Synergy...*, p. 1.

¹⁷ Radio Free Europe/Radio Liberty, *Ukraine: Regional Leaders Set Up Community of Democratic Choice*, 2 December 2005, transcript available online on <http://www.rferl.org/featuresarticle/2005/12/045AD9D6-04EA-41AC-9C8E-6501191F1CD8.html>, downloaded 10.09.2007.

titude of objectives, accentuating the importance attached to energy security across the Caspian-Caucasus-Black Sea axis, the perpetuation of democracy and the necessity of a free trade area among the member states.

In the context of an increased external attention towards the Black Sea region, correlated with a revival of previous cooperation patterns from the inside, one of the most consolidated initiatives appears to have emanated from the Romanian officials, who concentrated their efforts towards achieving a European Dimension at the Black Sea.

2. Romanian Initiatives towards a Black Sea Dimension

The Romanian pleading for a strategy addressing the Black Sea region has issued mainly from the state's desire to secure its Eastern borders. Although the emphasis has been placed at times either on the opportunities or the challenges defining the area's particularity, Romania's approach has been that of advocating the indissoluble connection among these two sets of features. According to this logic, the national political discourse associating Romania's interest to provide the region with a European dimension and a Euro-Atlantic strategy, its efforts for acquiring regional stability, primarily in what concerns the appeasement of the frozen conflicts, and Europe's quest for energy security becomes more transparent. Thus, a European dimension at the Black Sea is thought to be able to provide viable solutions for the frozen conflicts, as well as, by a way of consequence, a secure environment for the development of projects involving energy supply. In the same time the energy potential of the Black Sea region may act like a catalyst for increasing the interest of powerful international actors such as the EU and the U.S. The premise from which one could start in analysing the country's behaviour on both the European and the international stage is that its *minor state* status makes it unable to secure its own environment without the support of external, reliable partners. Maintaining this line of argumentation, the country's attempts to stir both an Atlantic and a European strategy for the Black Sea may be interpreted as a logical pursuit determined both by security and economical reasons.

Acquiring stability and security in the Black Sea region has been one of the constant objectives on the Romanian foreign policy agenda.¹⁸ Arguably the premises of a national strategy for attracting the Euro-Atlantic attention towards the challenges and opportunities of this geographical area have been laid in the 2004 White Paper of Security and National Defence issued by the Romanian Government. The main argument focused on the pronounced similarity among the particular elements characterizing the Black Sea region and those encountered in other geographical areas such as the Mediterranean Sea. In this incipient formulation the Romanian authorities were suggesting a common vision addressing at the same time South-Eastern Europe, the Black Sea region, the Southern Caucasus and the Mediterranean. The search for reliable international partners appears to have given more preference to NATO, notwithstanding the official rhetoric advocating at the same time Romania's allegiance to both NATO and the EU policies directed towards the region. A reason behind this inclination could be

¹⁸ Mostly starting with the beginning of 2000.

found in the difference of statuses that Romania hold in each of the organizations. Indeed, at the time the country was already a member of NATO, whereas still waiting for the EU to sign its accession treaty. Correlatively, the EU seemed to maintain a diffuse stance in the region, while the U.S. was displaying obvious signs of reciprocating and supporting Romania's interest for the Black Sea.¹⁹

A real lobby for the Black Sea region, as an individual unit that requires a specific Western support translated into a more coordinated and high-profile regional initiative, had however originated during the last two post-accession years. The Ministry of Foreign Affairs' priority list of 2005 reveals a drastic change in the manner that Bucharest intended to promote its interests.²⁰ Thus, unlike the previous years when the officials have opted for a joined objective of increasing the security in both South Eastern Europe and the Black Sea region, the new line adopted by Romania discerned between the two by accentuating the latter. The preference attached to NATO appears to have been maintained throughout the first half of 2005, perhaps also while Romania felt more certain of the organization's ability and will to find a solution for the security challenges raised by the region. At the same time, increasingly towards the end of 2005, the country's approach for an international Black Sea strategy seems to have undergone a shift towards the European element. What might have been the factors influencing the change? An answer may be structured following several observations. Firstly, in April 2005 the European Parliament signed Romania's accession treaty to the EU. Although the event was early on anticipated in Bucharest, the signing of the European document gave more clarity to the country's opportunity of pushing for an EU Eastern dimension. Furthermore, throughout the Union there could be felt a more accentuated process of acknowledging the importance of the wider Black Sea area.²¹ Meanwhile, the presence of the U.S. troops on the Romanian sea-shore started to be perceived more as an opportunity for the U.S. to move its military faster to the Middle East, rather than a measure to maintain security and stability in the Black Sea region.

Thus, in November 2005 during its Presidency of BSEC, Romania placed the accent on the increased cooperation that should emerge in between the former organization and the EU. The premises for such an objective have been previously outlined during the Greek Presidency of BSEC and reified in October 2005 through the signing of the Ministerial Council in Chisinau, at the Romanian initiative, of a Declaration expressing the wish of the BSEC member states to extend their cooperation with the EU.²² The objective was motivated by the need of initiating a substantial and formal relationship with the EU in order to attract the Union towards the BSEC-led projects of economic

¹⁹ I.e. President George Bush's visit to Romania in 2004, during which the U.S. President emphasized the role played by Romania in attracting NATO's attention to the East: "you can help our Alliance to extend a hand of cooperation across the Black Sea" – excerpt from the Discourse held by President George Bush in Bucharest, University Square, 14 March 2004.

²⁰ Ministry of Foreign Affairs <http://www.mae.ro/index.php?unde=doc&id=25952>, checked on 15.09.2007

²¹ I.e. in the field of energy through the completion in 2005–2006 of two feasibility studies for the Nabucco and the Constanta-Trieste pipelines.

²² *Strategia de Exerțitare a Presedintiei Romane a Organizatiei Cooperarii Economice a Marii Negre*, http://www.mae.ro/poze_editare/2005.12.05_strategie_ro.pdf, checked on 15.09.2007.

and social development. To that purpose the country followed a fivefold dimension: the democratic development, the soft type of security without a powerful military component, the economic development through cooperation, the transformation of the Black Sea region into a strategic subject for the EU, as well as the confirmation of the value retained by the regional cradle of cultures.

In 2006, following Romania's holding of the BSEC Presidency, two important events contributing to the Romanian *campaign* for a Black Sea European dimension took place. The first notable advancement was the establishment of the Black Sea Forum for Dialogue and Partnership, in June 2006 at a Romanian initiative. The purpose of the Forum encompassed the stirring and coordinating of local cooperation patterns within a non-institutionalized framework, able to raise the local partners' awareness of their own responsibility for the future development of the region. The drive behind this initiative, aimed at transforming the international perception of the Black Sea "from a generator of problems into a generator of solutions within a European and global context,"²³ may be found as well in Romania's commitment to convince the EU of the local actors reliability and therefore of the emergence of a propitious environment for a European Eastern dimension.

The second advancement, whereas regarding the acquirement of a formal venue facilitating the Romanian lobby for an Eastern dimension could be legitimately perceived as all the more significant. In November 2006 during his visit to Germany, the Romanian Foreign Minister underlined the country's vision for a comprehensive EU initiative at the Black Sea region.²⁴ The importance of the visit comes from the fact that it occurred at a time when Germany was still defining its priorities' agenda for the 2007 EU Presidency. Drawing on the *minor states* theory Romania's attempt to acquire Germany's support for its national interests could be interpreted as resulting from an awareness that while following a solitary path its ability to influence the adoption of an EU Eastern dimension might be limited, whereas the achievement of a large state's help could prove to be a valuable asset for the further projection of Romania's preferences at the EU level. Added to the concerted lobby for an Eastern dimension during the last two pre-accession years, Romania seized the advantage of its EU membership at the earliest stage, in order to require officially an EU policy for the Black Sea region.²⁵ After the inclusion of the Romanian priority on the German agenda for the 2007 EU Presidency, in April of the same year the European Commission has adopted a Black Sea Synergy²⁶ closely reflecting the Romanian approach in terms of principles and cooperation patterns. The following section attempts a comparison in terms of clarity and efficiency between the said Synergy and prior Community initiatives towards its Eastern vicinity.

²³ From an interview with the Romanian Foreign Minister, Razvan Mihai Ungureanu, www.euractiv.ro/.../articleID_6919/Marea-Neagra-din-sursa-de-probleme-generatoroare-de-solutii.html, checked on 15.09.2007.

²⁴ Ministry of Foreign Affairs, <http://www.mae.ro/index.php?unde=doc&id=31366>, checked on 15.09.2007.

²⁵ During the 22–23 January 2007 Reunion of the General Affairs and External Relationships Council.

²⁶ *Black Sea Synergy – A New Cooperation Initiative*, www.ec.europa.eu/world/enp/pdf/com07_160_en.pdf, last checked on 12.10.2007.

III. A European Synergy for the Black Sea Region

It is accurate to say that the Union is not new at launching regional partnerships.²⁷ Particularly in what concerns the Central and Eastern Europe, the EU's interest for the region has been reflected in a plethora of initiatives and bilateral cooperation patterns designed to help the post-communist countries with their transition. For some scholars²⁸ the EU presence in the region seemed both generous and audacious. Others have been more critical in assessing the Union's composure as ambiguous, incoherent and lacking strategy.²⁹ Even more so, EU has been frequently perceived as merely following the footsteps of the U.S., which was regarded as being both more assertive in assuming a consolidated, stabilizing role in the region, as well as more open for a NATO enlargement into Eastern Europe.³⁰

Nevertheless, regarding the Black Sea region the EU has not stood aloof, but approached this geographical area by means of several frameworks. Still, until the recently adopted Synergy neither of the EU-initiated plans has touched on the Black Sea, otherwise than tangential. The need for a new initiative, more than just an impetus for providing the existing partnerships with a regional dimension, could be translated into two sets of envisioned advantages. The first set of advantages refers to a material gain in the form of the region's potential as a hub of oil and gas resources and transit routes. The second set of advantages, which forms the object of the present part of the paper, refers to a functional gain in the form of more precise and consolidated directions contained in a single document, reflecting a clear European vision for the region. Starting from the assumption that there is a direct relation between EU's inefficiency in addressing the challenges posed by the Black Sea and the Union's ambiguity in defining its policy towards the region,³¹ the analyse should be focused on the extent to which the Black Sea Synergy has a chance to forge a non-ambiguous articulation of the inputs and lessons drawn from the on-going EU partnerships with countries in the region.

The idea of one of the new member states customizing EU's goals in the Black Sea region may appear at times tendentious. While enjoying the EU membership, Romania has not had either the opportunity or the time to formulate a consolidated campaign promoting the region's interests, in a similar manner to that adopted by the Scandinavian States in the late 1990s. Still, the lobby it led, both before and upon its accession, for a more effective European involvement in the region has contributed to the speeding up of the process framing the adoption of the European Black Sea Synergy. The assumption is sustained by the first paragraph of the Commission's communication document, which mentions the importance played by the 2007 enlargement in bringing the Black Sea region among the Union's immediate concerns.³²

²⁷ F. Tassinari, 2006, *A Synergy...*, p. 3.

²⁸ K. E. Smith, *European Union Foreign Policy in a Changing World*, Polity Press, Cambridge 2003, pp. 95–96.

²⁹ J. Zielonka, *Policies without a Strategy: the EU's Record in Eastern Europe*, in: J. Zielonka (ed.), *Paradoxes of European Foreign Policy*, Kluwer Law International, The Hague 1998, pp. 141–142.

³⁰ J. Zielonka, *Policies without a Strategy...*, p. 132.

³¹ Z. Ritter, *EU Engagement in the Black Sea Region...*, pp. 3–4.

³² *Black Sea Synergy – A New Cooperation Initiative*,
www.ec.europa.eu/world/enp/pdf/com07_160_en.pdf, last checked on 12.10.2007.

In as much as the Northern Dimension, the Black Sea Synergy is based on the experience acquired by the multitude of regional cooperation partnerships initiated among the coastal countries. Romania is an active member in all these cooperation patterns. Additionally, the country has been one of the most fervent advocates of a more coordinated regional initiative at the Black Sea, gradually strengthening its position on the matter. In this direction Tassinari takes note that “under President Traian Basescu, this idea has taken a more concrete shape, with the launching of a Black Sea Forum for Dialogue and Partnership at a Summit in Bucharest in June 2006.”³³ Furthermore, various times the Romanian officials, present at international meetings, have stressed the opportunity of a Euro-Atlantic dimension for the Black Sea security, as well as the manifold challenges and economically important objectives encompassed by the region.³⁴ Fostering a somehow resembling approach to that of the Nordic states, Romania has marketed the initiative accentuating both the amplitude of the possible advantages that it could bring to the EU, as well as its cost-effectiveness. Thus, basing on already existing frameworks and their financing instruments, the Union, by means of a concentrated action would manage to secure its Eastern borders and gain in return a new regional energy market and multiplying energy and transportation corridors. Added to this, Romania has constantly emphasized the possibilities of bringing Russia and the non-EU coastal states even closer to the Union by involving them, through the envisaged synergy, in creating a stable, democratic and prosperous environment at the Black Sea.

Of course, the importance of other elements pressing for the adoption of a Black Sea Synergy should not be overlooked. Such elements though, lacking a consolidated action plan as that presented by Romania on several occasions during the last two pre-accession years, could be hardly regarded as enough incentives for an EU initiative. To a large extent, the priorities set by the Black Sea Forum for Dialog and Partnership have been replied in the text of the Black Sea Synergy.³⁵ Certainly, the Commission’s document has added an important number of other priorities as well, but it preserved the leading idea expressed in the Forum’s Joint Declaration, that of shaping a common vision and a common agenda for the region.

Although at this time it is still too early to predict the Synergy’s impact both upon the achievement of security and stability in the region, as well as upon the strengthening of the existing partnership frameworks, some observations could be made. To begin with, the Synergy relies mainly on the already existing framework provided by the European Neighbourhood Policy, the Pre-accession process in the case of Turkey and the Strategic Partnership with the Russian Federation. All three initiatives have various times proved their inability to provide regional problems with adequate solutions due to own malfunctioning mechanisms. How could then their frameworks become reliable benchmarks guiding the new initiative?

³³ F. Tassinari, *A Synergy for...*, p. 2.

³⁴ I.e. See the speech of Romanian foreign minister Mihai Razvan-Ungureanu at the Conference on “the Role of the Wider Black Sea Area in a Future European Security Space”, 6th June 2005, <http://crib.mae.ro/index.php?lang=en&id=5451>, last checked on 16.10.2007.

³⁵ For a detailed approach see <http://www.blackseforum.org/concept.html> last checked on 18.10.2007.

A key to answering this question may be given by looking at the primary purpose of the Synergy, that of strengthening the fundamentals on which is based, mainly the European Neighbourhood Policy. Despite its visionary approach to bringing stability to the wider Europe,³⁶ the ENP has raised fervent critics due to the ambivalence of its pursuits.³⁷ Presently the policy provides the countries for which it is designed³⁸ with an unclear status, representing more than an international partnership, but less than an EU membership. By providing the ENP with more accuracy, the Synergy would already significantly advance in redrawing the EU's vision for the region in more clear-a-manner. However, the formulation employed by the Commission document allows a large margin of interpretation. Thus the fifth paragraph of the Synergy titled "The Strengthening of the ENP" partly reads: "The strengthening of the European Neighbourhood Policy, including the building of a thematic dimension to the ENP and the gradual development of deep and comprehensive Free Trade Agreements, would enrich Black Sea cooperation."³⁹ The text seems to adopt a rather declamatory approach, which eludes a direct reference to either aimed at goals or instruments required for their achievement. If that indeed was so, then the Synergy would merely continue the EU's "tradition of defining the aims and means of its policy in a highly ambiguous manner which prevents it from designing and executing any sound strategy."⁴⁰

However, despite the relative uncertainty transcending from the Commission document, which nevertheless may come from the shape embraced by the text- that of a communication, rather than a guideline- the Synergy presents several positive developments by comparison with its forerunners.⁴¹ A notable advance is represented by the pragmatism in reducing the priorities to a set of sectors and issues that have been identified as raising the most challenges. Subsequently, the document acknowledges the necessity of diversifying its approach to the countries in the region, due to the persistency of accentuated differences among them. Furthermore, a due emphasis is placed on the Synergy's flexibility which allows the extension of the proposed scope of action should that be necessary.

The Black Sea Synergy completes the *circle* of EU-associated dimensions, adding to the European Mediterranean Partnership and the Northern Dimension. It also represents an important step in gathering the already existing and facilitating the emergence of new cooperation patterns among the Black Sea regional states, as well as between the region as a whole and the EU. The accent is placed on the local actors, which are encouraged by the new initiative to foster an active role in those matters of their utmost

³⁶ See Table 1. Distribution of Europe's concentric circles, in: F. Tassinari, *Security and Integration in the EU Neighbourhood: The Case for Regionalism*, CEPS Working Document, No. 226, July 2005, p. 3.

³⁷ F. Tassinari, *Security and Integration...*, pp. 8–10.

³⁸ ENP addresses *neighbours* from Ukraine to the Caucasus and from the Middle East to the North Africa.

³⁹ *Black Sea Synergy – A New Cooperation Initiative*, www.ec.europa.eu/world/enp/pdf/com07_160_en.pdf, last checked on 12.10.2007.

⁴⁰ J. Zielonka, *Policies without a Strategy...*, p. 132.

⁴¹ The European Neighbourhood Policy, the Pre-accession process in the case of Turkey and the Strategic Partnership with the Russian Federation.

concern. In this way the Union may achieve a double *victory*: keeping the littoral countries involved in strengthening the stability and security at the Black Sea region and ultimately acquiring both stability and security, if that is what the EU is striving for.

IV. Concluding Remarks

At this stage of the paper one may ask again whether in the case of the Black Sea region it may be legitimately sustained that Romania customized EU's preferences towards the adoption of an Eastern dimension. Whereas the Black Sea Synergy was adopted during Germany's EU Presidency as part of the latter's priority agenda, it could be argued that Romania's impact upon the European foreign policy towards its Eastern vicinity is at least questionable. A first remark dismantling this argument is that unlike in the case of Finland, who waited until its Presidency of the EU in order to persuade the rest of the member states to achieve consensus for the adoption of a Northern Dimension, Romania decided instead to persuade one of the large member states of the opportunity presented by a Black Sea dimension and thus amplify its national preferences at the EU level. Such behaviour, as previously explained, derived from its *minor state* status impinging it towards the association with a more influential partner in order to achieve its interests. Thus a more accurate qualification of Romania's impact upon the EU's Eastern foreign policy would be that of an indirect customization, which none of the less represents a type of customization process as well.

JOANNA CIEŚLIŃSKA

The Eastern Dimension as an Element of the European Neighbourhood Policy.

From *Wider Europe* to *European Neighbourhood Policy Plus*

I. The European Neighbourhood Policy – basic assumptions

In 2003–2004, the European Commission proposed a new foreign policy of EU: the European Neighbourhood Policy that shall cover its eastern and southern neighbours. The main reason of proposing the ENP is that it is in the EU's interest to surround itself by a so-called *ring of friends* – consisting of stable, prosperous and democratic neighbours. The stability and prosperity of its neighbours is a guarantee of EU development and long-term prosperity, as well as peace and security.¹

The United Europe had been searching for over a decade, since 1993, for a new formula for its relations with post-Communist, post-Soviet countries.² However, the direct need of establishing the new mechanism of cooperation with neighbouring countries appeared with two planned enlargements: in 2004 (of 10 new countries, from Eastern Europe mostly) and 2007 (Romania, Bulgaria). The enlargement meant new eastern neighbours as well: Russia, Belarus, and Ukraine. In parallel to the negotiation and the preparation to moving over the EU's external border from the Polish-German borderland to the Polish border with Russia, Ukraine and Belarus, European Union focused its efforts in enhancing and stabilizing the cooperation with new neighbouring countries. The length of new eastern external border was to extend from 1324 km of Finish – Russian borderland³ to 2268 km of the Russian order with Finland, Estonia, Lithuania, Latvia and Poland.⁴

One of the purposes of ENP is helping the governments of neighbouring countries in the process of their political and economical reforms by offering them the contribution in the benefits of closer relationship with EU and it's countries in three main dimensions: global, regional and bilateral. Before the establishing of the European Neigh-

¹ *Working Together. The European Neighbourhood Policy – European Neighbourhood Policy. The story so far*, ec.europa.eu/world/enp/pdf/information/enp_brochure_en.pdf.

² M. Emmerson, *Institutionalising the Wider Europe*, “CEPS Policy Brief”, No. 42, October 2003.

³ K. Reczki, *Finlandia – granica zewnętrzna Unii Europejskiej z Rosją. Wnioski dla Polski*, Centrum Stosunków Międzynarodowych, “Raporty i Analizy”, nr 03.2004, in: E. Teichmann (ed.), *Szersza Europa i nowa polityka sąsiedzka Unii Europejskiej*, Warszawa 2004.

⁴ M. Weresa, *Skutki rozszerzenia UE dla współpracy Polski i Niemiec z Ukrainą, Białorusią, Rosją*, in: E. Teichman, M. A. Weresa (eds.), *Rozszerzona Unia Europejska i jej wschodni sąsiedzi. Pierwsze doświadczenia współpracy*, Warszawa 2005.

bourhood Policy, the bilateral dimension is related mostly the eastern European countries: Ukraine, Belarus and Moldova, as well as Russia – the strategic partner of EU. The relations based on *Partnership and Co-operation Agreements* – PCA.⁵ The relations in the frame of regional agreements concern the EU's direct neighbours, the members of European Foreign Policy in two dimensions: northern and Mediterranean (in so called *Barcelona process*). The relations with Central European countries were concerned as derivative of the accessions' negotiation and their preparation to the EU's membership. In the relations with neighbours, two main forms of agreements were in force: *Association Agreements* with Mediterranean countries and *Partnership and Co-operation Agreements* – PCA with Eastern neighbours. The specification of priorities for all neighbouring regions, supported with regional funds, gave the real possibility of a more complete approach to regional problems. For example, those problems that cannot be considered from the perspective of a single nation, like border, transport and energy infrastructure. Very close political, economical and social connection between the countries of the region, as well as historical considerations give reasons to similar and correlative activities of EU. The global dimension is to bring closer to EU Members these of neighbouring countries, with whom they have nor direct order, neither close economical, social nor historical relation now nor in the past. The global dimension shall help France to understand the meaning of relation with Ukraine and to make the Mediterranean countries closer to Scandinavians.⁶ First efforts on reforming the European Foreign Policy of European Union, and separating from that Policy the direct neighbours of EU, together with working out a strategy of relations with neighbours, based on common and clearly identified foundation, as well as surrounding the EU wit so called *ring of friends*,⁷ were taken first in 2002,⁸ The need of develop an individual regional strategy between enlarged EU and Eastern European countries was first expressed in the letter by EU High Representative for the Common Foreign and Security Policy Javier Solana and Member of the European Commission Chris Patten to the Council,⁹ Solana and Patten encouraged the Council to take the efforts and actions that would prepare enlarged Union to challenge of avoiding new dividing lines in Europe while responding to needs arising from the newly created borders of the Union. At the same time, the EU should fully exploit the new opportunities created by enlargement to develop relations with its neighbours. According to Patten and Solana “The enlarged Union's neighbours fall into three main regional groupings: the Mediterranean, the Western Balkans and Russia the other eastern neighbours. In addition, there are the EEA countries and Switzerland who seem likely to remain satisfied with the status quo,

⁵ K. Pelczyńska-Nałęcz, *Poszerzona Unia Europejska wobec wschodniego sąsiedztwa. Problemy i rozwiązania*, Ośrodek Studiów Wschodnich, Warszawa 2003.

⁶ E. Teichmann, *Koncepcja “szerszej Europy” i “polityki nowego sąsiedztwa” Unii Europejskiej*, in: E. Teichmann (ed.), *Szersza Europa i nowa polityka sąsiedzka Unii Europejskiej. Wybrane zagadnienia stosunków Polski i państw nadbałtyckich z Rosją i Białorusią*, Warszawa 2004.

⁷ A. Harasimowicz, *European Neighbourhood Policy 2004–2006: the Growing Reed for a Strategy*, European University Institute, December 2006.

⁸ E. Teichmann, *Koncepcja “szerszej Europy”...*

⁹ *European Neighbourhood Policy – Strategy – European Commission Communicate*, Brussels 12.05.2004, COM (2004) 373 Final.

the candidate countries that are already engaged in negotiations but will not take the first intake of enlargement, and Turkey.” For both politicians the imminent enlargement presented an opportunity to develop a more coherent and durable basis for relations with Union’s immediate neighbours. They replace *one-size-fits-all* approach by flexible and differentiated approach that takes into consideration the specific needs, potential, expectations and possibilities of neighbouring countries. According to Patten and Solana, there is no place for any discrimination: every member of the ENP shall be offered the same chance and possibility of closer relations with the EU. The starting point should be that relations with all our neighbours should be based on a shared set of political and economic values.

The High Representative for the Common Foreign and Security Policy and Members of the European Commission divide the neighbouring countries into three main groups:

- Balkans for whom the accession to the EU is an explicit goal, although there remains a huge amount of unfinished business and many difficulties ahead,
- Mediterranean (apart from current candidates) for whom membership is explicitly excluded and instead we put more emphasis on co-operation with and within the region,
- Union’s future eastern neighbours who fall somewhat uncomfortably in between; in this group the main challenge for EU remained the Ukraine.

Patten and Solana pointed out the objectives for EU’s neighbourhood policy: stability, prosperity, shared values and rule of law along Union’s borders, which are all fundamental for its security. They express the role and importance of participation of new member countries (especially Poland, Lithuania, Latvia, Estonia, Slovakia, Hungary, Czech Republic) in the process of determining the directions of the eastern dimension of European Neighbourhood Policy and its frames. Their perspective on the eastern dimension and their experiences of neighbouring cooperation can influence its efficiency.¹⁰

In the discussion about the reform and direction of development of European Foreign and Security Policy, as well as the vision and perspectives of future European Neighbourhood Policy and its dimension Poland, especially the Ministry of Foreign Affairs, played an active role.¹¹ In 1998, in his speech At the opening of negotiations of Polish membership in EU, minister Włodzimierz Cimoszewicz maintained, that Poland wanted to “act for separating Eastern Dimension of European Union, that would follow the example of Northern Dimension.”¹² In 2002, the Ministry of Foreign Affairs introduced a non-paper document with Polish proposals about the shape of the eastern dimension of European Neighbourhood Policy, so called Common Eastern Policy, of enlarged EU after 1st. May 2004. The necessity of separating the *eastern dimension* resulted from the similarity of historical experiences and common problems – consequences of communist governments’ heritage and the dependence of their economies.

¹⁰ Ch. Patten, J. Solana, *Wider Europe*, Letter to the Council, August 2002.

¹¹ J. Stańczyk, *Polska w procesie integracji europejskiej – osiągnięcia, potrzeby i wyzwania*, “Studia Europejskie” 2003, nr 4.

¹² W. Cimoszewicz, *Polska wizja Europy*, “Rzeczpospolita”, 19.02.2002 r.

Eastern dimension would, from one side, help to coordinate the EU policies and initiatives after May 2004 and from the other side would constitute an *umbrella*, making the financial help for Eastern Europe more efficient. The strategy of *eastern dimension* proposed by Poland is based on an assumption about differentiation between neighbouring countries, which would depend on the convergence of their values and foreign policy with the EU's values and policies, as well as their interests in deeper relations with the EU.¹³ The aim of Polish proposal was clearly defined: memberships of Ukraine, Belarus and Moldova in EU in long-term perspective, after long integration and negotiation process. This perspective was to be a stimulus to European reforms and transformation in Eastern European countries.¹⁴ Poland proposed activities related to supporting for competitiveness of their economies, gradual establishing of free trade and close cooperation on the field of energy, security and *human dimension*.

II. Eastern dimension of ENP in the communication of European Commission *Wider Europe*

On May 2003, the European Commission introduced a Communication to The Council and the European Parliament "Wider Europe – Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours." The main purpose of the strategy is to take the opportunity offered by enlargement to enhance relations with its neighbours based on shared values: Notably democracy, respect for human rights and the rule of law, as set out within the EU in the Charter of Fundamental Rights. Commission stressed Union's determination to avoid drawing new dividing lines in Europe and to promote stability and prosperity within and beyond the new borders of the Union. Commission repeated it's belief that enlargement would serve to strengthen relations with Russia, and called for enhanced relations with Ukraine, Moldova, Belarus and the Southern Mediterranean countries to be based on a long term approach promoting reform, sustainable development and trade.

The Communication of the Commission pointer out a new economical and human potential of enlarged Union: population of more than 450 million and GDP of almost \$10000 billion, which would fundamentally increase the political, geographic and economic weight of the EU on the European continent. The number of inhabitants of the countries who will find themselves on the external land and sea border was to rise to 385 million.

The European Neighbourhood Policy, from its beginning in 2003, has been playing an important role in the context of the changes in the Eastern European countries. For the countries interested in enhancing stronger cooperation with the EU, ENP gave a for-

¹³ *Non-paper z polskimi propozycjami w sprawie przyszłego kształtu polityki rozszerzonej UE wobec nowych wschodnich sąsiadów*, Ministerstwo Spraw Zagranicznych, styczeń 2003, in: *Polityka rozszerzonej Unii Europejskiej wobec nowych sąsiadów*, Fundacja im. Stefana Batorego, Warszawa 2003.

¹⁴ A. Legocka, *Stosunki Polski z Białorusią i Ukrainą jako element nowej polityki sąsiedzkiej Unii Europejskiej*, http://www.uclm.es/LAMUSA/ver_articulo.asp?articulo=152&lengua=pl.

mula that allowed taking steps to implement this objective. For Belarus ENP unfolded an alternative to self-isolation.¹⁵

The first, the quasi-official interpretation, is set to convey the idea that enlargement and the European Neighbourhood Policy are two very different policies.¹⁶ The European Neighbourhood Policy's aim, as it was written in the strategic documents, was the prosperity, stability and security in neighbouring countries. Very soon, the attractiveness of this new EU policy was limited because it was seen as an alternative to accession. That was seen as repellent to most Eastern European countries.¹⁷

The interpretation states directly, that the ENP is a substitute of enlargement. Since the beginning of the ENP, only Eastern European countries were considered as the closest neighbours.¹⁸

The Commission addressed the proposals in the strategy to those neighbouring countries that do not currently have the prospect of membership of the EU. The addressees of the strategy are enumerated in the text of the Communication: Russian Federation, Belarus, Ukraine, Moldova, Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Syria, Tunisia, and The Palestinian Authority. The Communication did not apply to the Union's relations with the remaining candidate countries – Turkey, Romania and Bulgaria – or the Western Balkans. Having already established closer ties to the EU than ENP could possibly offer, European Neighbourhood Policy did not govern relations with Western European Countries: Iceland, Norway, Switzerland, nor with any of the European microstates: Andorra, Holy See, Lichtenstein, Monaco, San Marino.¹⁹ According to Commission "The communication proposes that the EU should aim to develop a zone of prosperity and a friendly neighbourhood – a 'ring of friends' – with whom the EU enjoys close, peaceful and co-operative relations."

According to the Commission, geographical closeness allowed the common actions on free movement of people, capital, goods and services, and also the *common* fight against *common* threats: from terrorism to the pollution of air. In the conception of *wider Europe* neighbouring countries were recognized as key-partners in such fields as the economic development, production, external trade, creation of space of stability, rules of law, mutual exchange of ideas, knowledge, culture and the human resources. The European Commission recognized effort stimulating social cohesion and economic dynamism as a moral duty of the EU and its member states, for its present and future neighbours. The Commission's strategy took up a challenge of defining the geographical borders of Europe and European states. The Communication referred to the Article 49 of Treaty on European Union: "Any European State which respects the

¹⁵ K. Pełczyńska-Nałęcz, *The ENP in practice – the European Union's Policy towards Russia, Ukraine, Belarus and Moldova one Year after the publication of the Strategy Paper*, Warszawa, June 2005.

¹⁶ P. Kratochvil, *The European Union and Its Neighbourhood: Policies, Problems and Priorities*, Prague 2006.

¹⁷ S. Kurpas, H. Riecke, *The 2007 German EU Presidency: A Midterm Report*, Swedish Institute for European Policy Studies 2007.

¹⁸ K. Pełczyńska-Nałęcz, *The ENP in practice...*

¹⁹ A. Marchetti, *The European Neighbourhood Policy. Foreign Policy at the EU's Periphery*, Discussion Paper, Zentrum für Europäische Integrationsforschung, Bonn 2006.

principles (...) may apply to become a member of the Union.”²⁰ Those principles on which the Union is founded are liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law – common to the Member States.²¹ For that reason, the EU’s Policy towards Eastern European countries was to be *European, inclusive*, resulting in the integration of the continent. For the Commission Russia, the countries of the WNIS and the Southern Mediterranean were very different judged by most standards. Differences were reflected in the variety and intensity of the existing relations with the EU, the fields and areas of cooperation, the potential, expectations and perspectives. The neighbouring countries did not start from the same point in their relations with the EU: some were already members of *Free Trade Areas* with differing degrees of scope and depth some had already begun the process of developing a strategic partnership with Union. In the case of non-European Mediterranean neighbours the issue of perspective membership had already been resolved, but with the others, Eastern European countries mostly, the case remained open – such as some of those countries had clearly expressed their wish and will to join the EU. Although the aim of the new Neighbourhood Policy was therefore to provide a framework for the development of a new relationship which would not, in the medium-term, include a perspective of membership or a role in the Union’s institutions and that for the Commission neighbourhood should be seen as separate from the question of EU accession, the discussion on the borders of the EU, in the context of the Article 49, determined the different dimensions of the neighbourhood.

The concept of *wider Europe* included long-term purposes in each area of cooperation in the frames of European Neighbourhood Policy in which Union would “work with the partners to reduce poverty and create an area of shared prosperity and values based on deeper economic integration, intensified political and cultural relations, enhanced cross-border cooperation and shared responsibility for conflict prevention between the EU and its neighbours.” In the opinion of the Commission “all the neighbouring countries should have been offered the prospect of a stake in the EU’s Internal Market and further integration and liberalisation to promote the free movement of – persons, goods, services and capital (four freedoms).” Reaching this level of cooperation with the Union would make the country “as close to the Union as it can be without being a member.” The areas of cooperation enumerated in the Communication were:

- a) extension of the internal market and regulatory structures;
- b) preferential trading relations and market opening;
- c) perspectives for lawful migration and movement of persons;
- d) intensified cooperation to prevent and combat common security threats;
- e) greater EU political involvement in conflict prevention and crisis management;
- f) greater efforts to promote human rights, further cultural cooperation and enhance mutual understanding;
- g) integration into transport, energy and telecommunications networks and the European Research Area;

²⁰ *Treaty on European Union*, Consolidated version, Urząd Komitetu Integracji Europejskiej, Departament Dokumentacji Europejskiej i Publikacji, Warszawa 2005.

²¹ *Ibidem*, Article No. 6.

- h) new instruments for investment promotion and protection;
- i) support for integration into global trading system;
- j) enhanced assistance, better tailored to needs;
- k) new sources of finance.

The commission assumed that the realization of above mentioned the long – term aims would base on existing structures and the mechanisms of co-operation, in peculiarity on existing policies of UE and the agreements with neighbouring countries. The original instrument of ENP – base of neighbouring counties' relations with EU ware to be individual or regional *Action Plans* – a political documents that would draw together existing and future work in the full range of EU relations it's neighbours.

III. Eastern Neighbours in the Strategy of European Commission: *European Neighbourhood Policy*

In June 2003, 3 months after the Communication of the European Commission, the Council recognized it is foundations as a good basis to develop new principles of the EU policies towards neighbouring countries. At the meeting in Thessaloniki in June 2003 Council's conclusions were supported by the European Council.²² In July 2003, the European Commission worked out a Communication "paving the way for a New Neighbourhood Instrument," including issues connected with different aspects of ENP's financing.

At the end of 2003 European Commission discussed the ENP principles and perspectives, as well as all elements that were to be included in Action Plans in the frames of common Neighbourhood policy with the representatives of Eastern European and Mediterranean countries: during regional meetings and in the working groups. All the countries enumerated in the Commission's Communication expressed their interest in the participation in ENP. In parallel, the Commission took efforts to evaluate the neighbouring countries in the context of their political systems and economies. At the beginning of 2004 first Action Plans were negotiated with the first group of neighbouring countries: Ukraine, Moldova, Tunisia, Israel, Morocco, Palestinian Autonomy and Jordan – those countries, with which EU had the Partnership and Cooperation Agreements or their equivalent in Mediterranean countries: Association Agreements.²³

On May 2004 the new common European Policy: European Neighbourhood Policy was established. In the Communication: *European Neighbourhood Policy – Strategy Paper*, European Commission proposed the new instrument of EU external relation. The proposal of the Commission is addressed to the countries mentioned in *Wider Europe* – those, that became direct neighbours of EU after the enlargement in 2004 and remained separated from the possibilities given to European counties in the Article 49 of Treaty on European Union. In the group of new partners, the Commission proposed Ar-

²² Presidency Conclusions, Thessaloniki 19–20.06.2003 from 1. October 2003.

²³ B. Kolečka, *Polityka sąsiedztwa UE, wymiar wschodni*, in: E. Teichmann, M. Weresa (eds.), *Rozszerzona Unia Europejska i jej wschodni sąsiedzi. Pierwsze doświadczenia współpracy*, Warszawa 2005.

menia, Azerbaijan and Georgia. The purpose of ENP: rapprochement between neighbouring countries on the EU's external borders, by cooperation in the areas of energy and transport, commitment to shared values, more effective political dialogue, economic and social development policy, trade and internal market, justice and home affairs, environment, information society, research and innovation, people-to-people, programmes and agencies.²⁴ The implementation of the ENP could prevent the exclusive approaches and gaps in the EU policies towards its neighbours that could arise because of the enlargement. It created the chance of the participation in the EU main policies, programmes and activities to non-candidate countries. The ENP was to be a stimulus to economic growth and for bringing closer the neighbours' legislation to EU *Acquis*, the stimulus of the growth, investments and decrease of unemployment. In the Communication, the Council and the European Parliament were informed about the results of the evaluation of the neighbours' political and economical systems, their cooperation with EU, possible future steps of ENP development. The evaluations were to be the foundation of the partner's relations with EU. According to the European Commission, Action Plans, worked out by Commission, supported by High Commissioner in the fields of Common Foreign and Security Policy, were to be realized on the base of existing mechanisms of support. An essential place in the ENP took the regional cooperation.

In the ENP strategy, two main regions were separated: Eastern European countries and Mediterranean countries. As the main sectors of regional cooperation on the eastern external borders the Commission found employment and social policy, economic cooperation, trade and infrastructure, support for SME, implementation of WTO norms, energy and transport, environment, nuclear security, justice and home affairs. The Commission emphasized an important role of international organizations of the region: Council of Europe, Council of the Baltic Sea States, Central European Initiative, and Black Sea Economic Cooperation. Very special position in the ENP took Belarus. The European Commission declared its lasting engagement in the actions for supporting the civil society, promotion of democratic standards and free elections, supporting political and economical reforms. The main beneficiary of the Union's financial and organizational help is to be the society of Belarus.

IV. German Presidency's proposal: the concept of *European Neighbourhood Policy Plus*

During the first half of 2007, for the twelfth time in the Communities' history, Germany performed the UE Council Presidency. In the summer 2006 Germany's political representatives, especially the Foreign Minister Frank-Walter Steinmaier, announced four priority agendas²⁵ for their country's presidency in which they planed to undertake

²⁴ Communication from the Commission, *European Neighbourhood Policy-Strategy Paper*, Brussels, 12.5.2004, COM (2004) 373 Final.

²⁵ A. Duleba, *The EU's Eastern Policy: Central European contribution. In search for New Approach*, Policy Paper, January 2007.

new initiatives and develop EU policies. One of the priorities was the EU's external relations and the Common Foreign and Security Policy. At a press conference on December 2006, launching the German EU Council Presidency, minister Steinmeier declared: "I believe we must do more here – for all of the EU's neighbours, in the East as in the South. This means greater cooperation in individual sectors, possible participation in the internal market and more scientific and cultural exchange."²⁶

In that area, Germany wanted to develop an attractive overall policy under the name of a new *Ostpolitik* that would include three major components: the European Neighbourhood Policy, Russia and the Central Asia. In December 2006, Stenmaier's Office requested the European Council for a mandate to "develop and deepen the Neighbourhood Policy."²⁷

Germany's proposal defined the EU's *Eastern Neighbouring*. According to the concept, it is defined as the area between the EU and Russia. The German concept is based on three main pillars: European Neighbourhood Policy Plus, the revision of Partnership and Cooperation Agreement with Russia that was remaining beyond ENP and the EU's strategy for Central Asia. From the beginning, just after the concept was presented, Germany's chancellor Angela Merkel distanced herself to MFA proposals, especially to the *Russia First!* approach that marked the strategic role of Russian federation in the EU's external relations.²⁸

The main goal of the ENP Plus proposal was to implement "an attractive and realistic policy dedicated to promoting security and stability in the countries directly bordering with the EU."²⁹ Germany, unlike the European Commission, in its proposal on strengthening the ENP from December 2006,³⁰ focused on Eastern neighbours only: on Moldova, Ukraine, Belarus, as well as South Caucasus countries: Georgia, Armenia, and Azerbaijan.

The EMP+ proposal consists of six main theses:

- an emerging integration and security vacuum on the EU's doorstep: from Ukraine to the Caucasus – Germany demanded more active engagement and playing a role of an active player rather than a passive observer;
- the need to change of the ENP towards those of the Eastern European countries that wanted to follow the European model of transformation; for the countries a chance to develop closer relations with the EU through a *voluntary adoption of the Acquis* is not attractive enough any more;
- the assurance of sustainable democratization, stabilization and modernization of EU's Eastern Neighbours considering the regional and individual differences and peculiarities;

²⁶ Frank-Walter Steinmeier, introduction at the press conference launching the German EU Council Presidency, 19.12.2006.

²⁷ Ibidem.

²⁸ I. Kempe, *What are the pillars of the "new Ostpolitik" during the German EU Presidency?*, Centre for Applied Policy Research in Munich, 06.03.2007.

²⁹ Ibidem.

³⁰ *Communication from the Commission to the Council and the European Parliament on Strengthening the European Neighbourhood Policy*, ec.europa.eu/world/enp/pdf/com06_726_en.pdf.

- the need to escape the binary logic of the EU's accession/non accession dilemma with Eastern neighbours – Germany postulated stronger engagement of its *European neighbours* than of the *neighbours of Europe*;
- *Partnership for modernization between the EU and Eastern Europe and Caucasus* (countries were enumerated: Ukraine, Armenia, Moldova, Georgia, Azerbaijan and Belarus), based on *sectoral agreements* with binding character – a tool of exporting the EU's *Acquis* to the countries of the region. Germany proposed a status of observers in the EU institutions responsible for these sectoral policies and intensive consultations and establishing common statements in the political cooperation;
- special impulse to the development of the ENP during Germany's Presidency.³¹

The believers of the *New Ostpolitik* emphasized the differentiation done by Germany: to *European Neighbours* (on the East) and the *neighbours of Europe* (the Mediterranean countries). For that reason, Eastern Europe was placed on a quality-new, proper position on the map of Europe. The ENP proposal hit the weakest points of the EU Eastern Neighbourhood, especially the exclusive bilateralism in the relations with Eastern Neighbours. The *sectoral agreements* as a tool of exporting *Acquis*, can stimulate the modernization of the countries that would bring their legislation closer to EU's, as well as would serve the EU's interest in crucial sectors. They would change the voluntary character of Action Plans in which the country can decide which part of *Acquis* it wants to implement. Current regulations were called *unrequited love* or a *blind alliance*, which might be replaced by agreements binding to both parties.³²

The critics point out, that the ENP Plus did not introduce a solution for the biggest weakness of the EU's external relations: the lack of a cohesive European Eastern Policy. It demanded an active and constructive engagement of Russia and the EU-Russia partnership, but it did not show how to construct this cooperation. As a challenge must be seen the issue, how to engage ENP countries in the EU-Russia common spaces dialogue. The ENP Plus proposal did not answer the question of how to make the European Union an actor in East European regional and country-to-country relations.

The main objection against ENP+ is the lack of continuity between the instruments of the neighbourhood policy: Action Plans and Sectoral Agreements. There was no information about the willingness of the neighbours towards the implementation of that new instrument, especially in the context of no membership perspective.

Differential treatment of the ENP partners could raise the resistance of a few member countries: France, Spain, and Portugal. The idea of the European Neighbourhood Policy was to give the same opportunities and conditions of cooperation to all. Algeria, Tunisia, and Morocco matter much more for them than Ukraine. The German foreign Office suggested adjusting the budgetary balance between the East European and Mediterranean neighbours, which was at that time at 30, and 70 percent, respectively. That offer would probably be unacceptable for those of European states that had stronger historical, cultural and economical relations with South partners.³³ That is

³¹ A. Duleba, *The EU's Eastern...*

³² *Ibidem.*

³³ I. Kempe, *What are the...*

why a change of the Eastern direction was expected during the Presidency of Portugal.³⁴

The so-called *Eastern dimension* plays a very important role in the EU relation with its neighbours. Since the beginning of 2004, and especially after the presidential elections on December 2004, relations between Ukraine and EU had clearly changed, because of the events on Ukraine. ENP created a framework for the need of these new relations. Ukraine however expected formulating even very distant prospects for accession that has never been offered to it in the ENP. For Moldova that is clearly voicing its European aspirations, ENP gave chance to distance itself from any closer cooperation with the Russian Federation. For Belarus, from the beginning, the ENP concept mainly fulfilled the task of an *alternative* to that country's current situation in Europe. The Union's engagement in the policy towards Belarus had been mainly expressed in words.

The position of Russia has not been clearly defined in ENP. Russia, which is an addressee of the ENP strategy, has responded negatively to the idea of ENP and refused to take part in it. It expected separate and special treatment, and avoided any situation, where it could be compared to other EU neighbours. It did not accept the unilateral adjustment of its legislation to that of EU. The Russian Federation considered the ENP as a means to deprive Russia of its influence in the Eastern Europe.³⁵

The future role of the Eastern neighbours will depend on a number of deciding factors: the engagement and political will of those EU members who have stronger relations with Eastern neighbours, the engagement and reforms taken by ENP Eastern Partners interested in closer cooperation with the EU, as well as the EU-Russia relations. So far, the example of Ukraine is being presented as a pattern for other neighbouring countries for economical and political reforms and a source of good practices. Eastern neighbours are presented separately in each document about ENP. The EU seems to perceive the need of separating so called *Eastern dimension*.

³⁴ S. Kurpas, H. Riecke, *The 2007 German...*

³⁵ K. Pełczyńska-Nałęcz, *The ENP in practice...*

MAGDALENA MUSIAŁ-KARG

Eastern Dimension – the Role of Poland

Introduction

The European Union's (EU) new member states from Central and Eastern Europe have had a strong impact on the Community's foreign policy. The most visible and important sign is probably their input in the promotion of democracy. Poland plays a very significant role in this process, and its input has been appreciated not only by the concerned countries – such as The Ukraine or Georgia – but also the wider international community.

One may ask why the new EU countries have decided to get involved in the Eastern dimension policy of the EU and why Poland is so active in this process. The answers seem to be obvious. It should be emphasized that almost all of the new EU members that entered the Community on and after May 1, 2004 have shared past experiences upon which their perception of a democratic system is based. Their history has made them aware of how authoritarianism and democracy work. Therefore – as Laurynas Jonavičius writes – the need to introduce democratic systems in neighboring countries, thus leading to a “Ring of Friends” around Europe, prevails. What is more, so called post-communist countries have effectively undergone transformation processes and implemented a series of important reforms. This is also the reason for which they are determined to be a role model for Eastern states and thus do their best to prevent history repeating itself. Supporting other countries on their way to democracy seems to be an important measure to put it into effect for Poland and other states.¹

One should also remember that Russia has always been one of the main players in Central and Eastern Europe and should therefore be taken into consideration when discussing the Eastern dimension policy. In this context Russia, from a Central and East European perspective, has mainly been seen in a negative way. That was because the post-communist countries were often afraid of Moscow's threat to state security. Russian rhetoric and policies – for example the embargo on Polish meat, attitudes towards The Ukraine, etc. – have done little to change those perceptions.

It should be stressed that relations between the Russian Federation and countries located between Russia and the EU – especially The Ukraine and Georgia – are still rather distant than friendly.

¹ L. Jonavičius, *The Democracy Promotion Policies of Central and Eastern European States*, Working Paper, Fundación para las Relaciones Internacionales y el Diálogo Exterior (FRIDE), Madrid, March 2008, pp. 1–2.

It is for this reason, therefore, why Poland and the other new EU states (from the former Eastern bloc) perceive democratization as the main way of integrating into the framework of the European Community. The role of Poland is undoubtedly meaningful and what is more this country plays a leading role among the Vysegrad group. Poland is very active in democracy promotion activities, as has been proved by its involvement during the “Orange Revolution.” Compared to other Eastern and Western countries, Polish commitment in the conflict between Russia and Georgia has also been very visible. Of course, French President Nicolas Sarkozy, as EU president, has been also very active in this so-called Caucasus war, but the involvement of Polish President Lech Kaczyński – his speech during the mass rally in Tbilisi deserves special mention – was probably most noticeable and widely commented.²

It is therefore without any doubt that the complexity of the Eastern dimension problems and Polish contribution in that field support the thesis about the significant role of Poland in the Eastern dimension policy. The last few years have provided substantial evidence that Polish presidents, prime ministers and their governments treat the Eastern dimension policy as a very important part of Poland’s overall foreign policy. Analyzing Poland’s role in Eastern dimension carries a number of reasons. First, Eastern issues remain an important aspect of international cooperation and second, the Polish President and the three most recent Polish governments under Kazimierz Marcinkiewicz, Jarosław Kaczyński and especially were generally of one accord in this context.

This article will answer the following questions: First, what goals of the Polish Eastern dimension policy were included in the exposés of three Polish Prime Ministers: Kazimierz Marcinkiewicz, Jarosław Kaczyński and Donald Tusk? Secondly, how was the Eastern dimension policy shaped after Poland’s accession to the EU, i.e. between September 2005 and June 2008? What events related to Poland’s Eastern policy can be recognized as the most important and how did they impact on Poland’s image in Europe? Finally, what is Poland’s role in the implementation of the EU’s Eastern dimension policy?

Research methods are based on the analysis of the Prime Ministers’s exposé texts, which were made in the 2005–2007 period in the Polish *Sejm* and on the analysis of the most important events connected with Eastern policy from a Polish perspective. Special attention will be paid to three important events, in which Polish delegations took place and which played a really significant role in the context of European (and Polish) policy towards Eastern states: the Russian embargo on meat from Poland, the signing of the Polish-Ukrainian agreement on small-border traffic and Polish involvement in the conflict between Russia and Georgia.

I. Poland and its political situation (2005–2008)

Before analyzing the political situation in Poland between 2005 and 2008, some general information on Poland’s main political objectives after 1989 need to be presented.

² The Polish Presidents’ and other European leaders’ intention was to show solidarity with Georgian President Mikheil Saakashvili in Georgia’s conflict with Russia.

From the beginning of the transformation process of the political system in Poland, the main goal of foreign policy has been to become member of the North Atlantic Treaty Organization (NATO) and the European Community.³

Poland's joining the EU led to a kind of shift in the organization of foreign policy objectives which had been implemented for about 15 years by the various governments in Poland. Having spent years catching up with West European countries, and after a period of adjustment i.e. internal law and economical conditions, the Polish government was able to declare: "We are in the club. We have joined the West European states."⁴

Poland's role within these European structures impacts greatly on the national political scene. First of all, it necessitates upon political parties taking into consideration a new wider view of their program postulates. Secondly, the character, rhythm and the process of making decisions have changed. In particular, those changes affected the Ministry of Foreign Affairs and the Committee for European Integration. The role of Minister and Ministry of Foreign Affairs – as a resort responsible for the final shape of Poland's position and for representing it in the EU – is crucial. Apart from the Ministry of Foreign Policy, also the Committee for European Integration is considered to be a strategic institution in the process of policy alignment and in informative training activities.⁵ Being a part of so many extended structures such as the EU, demands from the member states' governments effective diplomatic action as well as complicated and valuable preparations or internal maneuvers. A national European policy of the EU member state should be one of the motors of country development and optimization of EU membership. EU member governments – among them the Polish government – should have a long-term and comprehensive development strategy. This is because European policy consolidates issues and problems connected with different political areas: economy, trade, currency market, social, judicial, police, security or defense issues, as well as border security and migration matters. Most important of all, however, is the connection to foreign policy.

Considering the political situation in Poland, it has to be stressed that Poland and other nine countries joined the EU just as negotiations on the *Treaty establishing "Constitution for Europe"* were coming to an end. One month after the biggest enlargement of the EU and after one week after the first Polish elections to the European Parliament,

³ After March 12 1999 – the date on which some states of the Warsaw Pact (Treaty of Friendship, Cooperation and Mutual Assistance), including Poland, joined NATO – only EU membership remained one of the most significant objectives for the Polish authorities. Poland submitted its application for EU membership on April 8, 1994. The negotiations started on March 31, 1998, and ended during the Copenhagen summit on December 12–13, 2002. The Accession Treaty was signed in Athens on April 16 2003. Then, almost six months later, in June 2003, a mandatory referendum on EU accession was held in Poland. On May 1, 2004, Poland officially became a member of the EU.

⁴ This point is highly relevant: Prime Minister Leszek Miller, whose successor was Marek Belka, wanted to bring Poland into the EU so much, that despite very weak opinion polls for him and his government, he decided not to leave office until Poland had officially become an EU member state. Just after the Polish accession – on May 2, 2004 – Miller resigned, and Marek Belka was named Prime Minister.

⁵ A. Harasimowicz, *O potrzebie współpracy administracji i środowisk akademicko-eksperymentalnych w definiowaniu celów długofalowych członkostwa Polski w UE (artykuł do dyskusji)*, "Studia Europejskie" 2003, No. 2, pp. 74–77.

on June 17–18, 2004 during a two-day session of the European Council in Brussels, the heads of states and governments accepted a proposal for the “*Constitution for Europe*.”

On October 29, 2004 in Rome, a signing ceremony for the *Treaty* took place. It should be emphasized that the *Treaty* had been ratified only in sixteen of the 27 member states. The whole ratification process was stopped by France and the Netherlands, where on May 29 and June 1, 2004 referendums on the *Treaty* were held. Both votes resulted in a rejection of the *Treaty*.

After four referendums on *the Treaty establishing a “Constitution for Europe,”* the process of ratification was stopped and the EU was plunged into the most serious crisis in its history. In June 2005, an announcement was made, which, after a “period of reflection,” declared the adoption of the *Treaty* in its previously accepted form was, as a matter of fact, practically impossible.

In the face of this “European crisis,” Poland held parliamentary elections on September 25, 2005, which were won by the Law and Justice party (Prawo i Sprawiedliwość – PiS). Two days after the elections, the leader of the PiS Jarosław Kaczyński, appointed against the expectations of the society Kazimierz Marcinkiewicz as candidate for the office of Prime Minister. Marcinkiewicz duly served as Prime Minister from his swearing-in on October 31, 2005 until July 10, 2006. Then, President Lech Kaczyński called his twin-brother, Jarosław Kaczyński, to the office of Prime Minister, giving him the mandate to create a new government. Kaczyński became Prime Minister as of November 16, 2006. His successor after pre-term parliamentary elections was Donald Tusk, leader of the winning party Civic Platform (Platforma Obywatelska – PO).

II. The President and the governments

Based on the President’s declarations and Prime Ministers’ exposés, this section presents the main objectives of the Eastern dimension policies of President Kaczyński and the three Polish Prime Ministers, Marcinkiewicz, Kaczyński and Tusk.

Lech Kaczyński was elected President of the Republic of Poland on October 23, 2005 and assumed office on December 23 having sworn an oath before the National Assembly.⁶

According to the President, strengthening ties with the United States, continuing to develop relations within the European Union and improving relations with France and Germany are the main objectives of Polish foreign affairs. Alongside these issues, the main tasks for Poland are the development of a visible strategic partnership with the Ukraine and greater cooperation with the Baltic States and Georgia.

Kaczyński has always been considered a strong ally of the Ukraine and other former Russian republics. From the outset, President Kaczyński has kept very good relations with practically all countries from the former Eastern bloc (Lithuania, Latvia, Estonia, Bulgaria, etc.) as well as with other states such as Kazakhstan, Azerbaijan and Georgia. Generally, most of his external visits have been paid not to West European countries,

⁶ President of the Republic of Poland, <http://www.president.pl/x.node?id=437>, 23.08.2008.

but to these countries which experienced difficult authoritarian systems in their history. Comparing him with other Eastern and Central European heads of states, Kaczyński can be recognized as a leader and one of the most active supporters of the Eastern dimension.

In February 2006, a few weeks after his election, Kaczyński declared in an interview with the Associated Press that one of the main issues he would discuss with other European and world politicians was the enlargement of NATO. “Poland is very much interested in the enlargement of NATO” – he said,⁷ indicating further that “Poland would push for building stronger Western ties with the Ukraine a part of the Former Soviet Union where Russian influence is still strong.” Kaczyński always declared his readiness to support or even to fight for the freedom of many countries. His involvement in the aid of the Ukraine and Georgia are the best examples of the Polish President’s activities.

The analysis of Marcinkiewicz’s exposé text reveals that foreign policy – and subsequently Eastern dimension policy – were not the most important parts of his speech on November 10, 2005.⁸

Kazimierz Marcinkiewicz gave only some general information on foreign policy: “Building the 4th Republic of Poland means also making a significant change in the way of exercising Polish foreign policy. It does not mark a change of Polish strategic priorities. They’ve been unchangeable for longer than a decade and they will remain the same.”⁹ Marcinkiewicz declared that the most important objective within the next four years would be a significant improvement in Poland’s position in the international arena. He also added that his government would solicit a common energy politics of the European Union, but at the same time defend the security of Poland’s energy. In the context of Eastern dimension Marcinkiewicz emphasized that Poland is heavily interested in the stabilization behind its eastern border: “From our own experience, we know that, above all, democracy and free market ensure stabilization. That is why we will still support our eastern partners and societies in works in favor of reforms, in building of democratic structures of a state of law and civil society.”¹⁰

The analysis of Prime Minister Jarosław Kaczyński’s speech shows that the Eastern dimension policy was not perceived as the most important field of Polish foreign policy. The Prime Minister paid much attention to relations between Poland and NATO (North Atlantic Treaty Organization) relations as well as with the United States. Afterwards, he emphasized that his government would also look to maintaining relations with Eastern Europe, Asia, Latin America or Africa.¹¹

⁷ President of the Republic of Poland, <http://www.president.pl/x.node?id=3542672>, 23.08.2008.

⁸ After a debate on the exposé, a vote of confidence was held. In the vote, 459 deputies participated and 272 of them supported Marcinkiewicz’s government. 187 voted “No”. Nobody abstained from voting; *Sejm udzielił wotum zaufania rządowi Kazimierza Marcinkiewicza*, *Gazeta.pl*, 10.11.2005, <http://serwisy.gazeta.pl/kraj/2029020,69906,3010457.html>, 22.02.2008.

⁹ *Ibidem*.

¹⁰ *Exposé Premiera Kazimierza Marcinkiewicza*, Kancelaria Prezesa Rady Ministrów, http://www.kprm.gov.pl/archiwum/4751_14848.htm, 17.01.2008.

¹¹ *Exposé Premiera Jarosława Kaczyńskiego*, Kancelaria Prezesa Rady Ministrów, http://www.kprm.gov.pl/archiwum/1433_18017.htm, 08.01.2008.

Pertaining to relations with the East European countries Jarosław Kaczyński said that his government – similarly to his predecessor’s government – is “still in favor of the Ukraine joining the European Union. This is a matter of the Union’s completeness, its security and there is another issue I mentioned, that if the Ukraine joins the Union, the enlargement will certainly cover decision-making processes too.” In his exposé speech, Kaczyński stressed his readiness to advocate democratization on other countries “we would like to have the best relations with our eastern neighbors. We keep supporting democratic movements but we do not want that support to clash with our efforts to improve our relations.”¹² Kaczyński continued that he and his ministers would do their best to make Poland an important player in Europe and an essential partner also for Poland’s eastern neighbors. Speaking about Polish-Russian relations, he admitted that due to the history of Europe and due to the history of Poland’s relations with Russia, improving Polish relations with this large country would be a probably quite time-consuming process.

In his exposé speech, which lasted 185 minutes and was based on the keywords of *trust* and *common sense*, Donald Tusk showed that the accents on foreign policy in his speech would be set differently than in Marcinkiewicz’s and Kaczyński’s speeches. Speaking about foreign policy, Tusk started from a Polish position in the EU. Delivering his expose in the *Sejm*, he declared that one of Poland’s external policy priorities was forming the Eastern dimension of EU policy.¹³ Reiterating the value of expansion in the areas of security, cooperation and democracy, Tusk declared that Poland would concentrate attention on its relationship with the Ukraine (supporting its Western aspirations and treating the Ukraine as a crucial element of Eastern dimension policy and neighbor policy of the EU) and Russia, as well as the situation in Belarus.¹⁴ Prime Minister Tusk emphasized that his government would “consistently support pro-western aspirations of The Ukraine, when articulated by every democratically elected government of that country. The future of The Ukraine should be the key element in the eastern dimension and the neighbor policy of the European Union. The objective behind our policy towards Belarus is to convince all political circles in that country that democracy is well worthwhile.”¹⁵

Comparison of the three Prime Ministers’ exposé speeches allows us to reach the conclusion that the topic of creation of eastern policy was mostly covered in Tusk’s speech. Both former Prime Ministers – Marcinkiewicz and Kaczyński – paid much more attention to the relationship with the United States. For Marcinkiewicz, the prior-

¹² Ibidem.

¹³ “Poland has a justified ambition to co-shape the Eastern dimension of the European Union”, *Exposé Premiera Donalda Tuska*, Kancelaria Prezesa Rady Ministrów, <http://www.kprm.gov.pl/s.php?id=1389&path=10325>, 11.02.2008.

¹⁴ “Although we have our opinions about the situation in Russia, we want a dialogue with Russia, such as it is. Absence of dialogue serves neither Poland nor Russia. It affects the interests and gives bad reputation to both states on the international arena. That is why I am convinced that the time for a good change in this matter has just come;” *Exposé Premiera Donalda Tuska*, Kancelaria Prezesa Rady Ministrów, <http://www.kprm.gov.pl/s.php?id=1389&path=10325>, 11.02.2008.

¹⁵ *Exposé Premiera Donalda Tuska*, Kancelaria Prezesa Rady Ministrów, <http://www.kprm.gov.pl/s.php?id=1389&path=10325>, 11.02.2008.

ity goal enumerated in exposé (apart from changing the philosophy of diplomacy) was the realization of Poland's interests in the Euro-Atlantic area through an alliance with the EU and the United States. Jarosław Kaczyński began his speech with issues connected with Poland's commitments to NATO and the United States, and then went on to matters related to the Polish position in the EU. For Tusk, the most important aim of foreign policy was the European policy, but he also stressed the importance of shaping good relations with other countries from the Eastern part of Europe.

III. Eastern Dimension Policy of Poland (September 2005 to August 2008)

This section briefly analyzes the most significant events connected with the Eastern dimension policy of Poland. As mentioned above, I will outline the circumstances of Russia's embargo on meat from Poland in 2005, the signing of the Polish-Ukrainian agreement on small border traffic in March 2008 and the Polish President's involvement in the Russian-Georgian conflict.

During Marcinkiewicz's government, a very significant event was the Russian imposition of the embargo on meat from Polish producers. In November 2005, Russia introduced a ban on Polish meat imports due to what it called the low quality of meat and other products imported by and via Poland. This embargo was preceded by appearance by the main veterinary of Poland of Roman Rabczewski, who had a copy of counterfeit veterinary certificates which were required to import the commodity into the Russian Federation. Consequently, the embargo was imposed on November 9, 2005 on the grounds of sanitary and phytosanitary shortcomings.¹⁶ In face of such difficulties, Marcinkiewicz admitted that "there were some mistakes on the Polish side"¹⁷ but also said that he believed the ban would be lifted within a relatively short period of time.¹⁸

Once the embargo was in place, Warsaw claimed that it was the result of different political motives. From that time Polish-Russian relations became very tense. Just after the parliamentary election, the new government (mainly the Ministers of Foreign Affairs and of Agriculture) was forced to take steps towards lifting the embargo and to improve Poland's relations with the Russian Federation.

On November 18, 2005 Poland's Foreign Minister Stefan Meller paid a four-day visit to Russia where he met his counterpart Sergey Lavrov to discuss, among other problems, the embargo on meat imports from Poland and the alleged falsification of documents by some Polish exporters. He also appealed for the completion of the dialogue on the Katyn question.¹⁹ One should remember that during Marcinkiewicz's period of office, there was a government reshuffle: on May 9, 2006, Anna Fotyga replaced

¹⁶ M. Staszkiwicz, *New EU-Russia framework agreement and the Polish veto*, Research Paper no 2/2007, Association for International Affairs, Prague 2007, p. 2.

¹⁷ *Polska reakcja na mięsny zakaz*, 14.11.2005, Pierwszy Portal Rolny, <http://www.ppr.pl/arttykul.php?id=127757>, 24.08.2008.

¹⁸ M. Staszkiwicz, *New EU-Russia framework...*, op. cit., p. 1.

¹⁹ A. Zieleniec, *International Chronology*, "The Polish Quarterly of International Affairs" 2006, No. 1, p. 144.

Stefan Meller as Minister of Foreign Affairs. The new Minister (Poland's first female to serve in the role) seized responsibilities connected with Polish-Russian relations, and concluded, in her viewpoint, that those "bans have been imposed for political reasons rather than technical ones."²⁰ She acknowledged that the embargo was affecting relations between Poland and Russia at every level and it was "a kind of declaration of war."²¹ Furthermore, Warsaw alleged the ban was a retaliation for Poland's support of the Ukrainian "Orange Revolution" in 2004, "when Western-leaning political forces came to power in the former Soviet state."²² During the EU-Russia Summit in Helsinki in November 2006, the Polish side blocked talks between Russia and EU on the replacement of the Partnership and Cooperation Agreement, demanding that Moscow first ratify the Energy Charter with Europe and lift an embargo on Polish agricultural exports to Russia.²³ The Russian embargo on Polish meat was lifted just after the parliamentary election in 2007, in which the former opposition party, Civic Platform, defeated the ruling Law and Justice party and Donald Tusk became Prime Minister. One of the first successes of the PO and PSL coalition government was to secure the lifting of the embargo in December 2007 – more than two years after its imposition. New Foreign Minister, Radosław Sikorski, confirmed the improvement in Polish-Russian relations under the new Polish administration of Prime Minister Donald Tusk. But at the same time, new difficulties occurred between Poland and Russia, namely the location of a missile shield in Poland. Commenting on this, Russian Foreign Minister Lavrov was conciliatory on the subject of controversial plans to place missile interceptors in Poland as part of an expanded US missile shield. The agreement was signed by US Secretary of State Condoleezza Rice and Poland's Foreign Minister Radosław Sikorski on August 20, 2008. Ever since, Polish-Russian relations have been once again difficult and tense. "Some Russian politicians and generals have said Poland must be prepared for a preventive attack on the site in the future – a threat that Washington has dismissed as empty rhetoric."²⁴

A second event closely related to Polish and European Eastern dimension policy was the signing of an agreement between Poland and the Ukraine on small border traffic in March 2008. As already mentioned, relations with the Ukraine as Poland's neighbor are one of the most important priorities for Polish foreign policy. On December 21, 2007 Poland, together with eight other new EU Member States, joined the Schengen area, meaning that passport checks on Poland's border to Germany, Czech Republic, Slovakia and Lithuania were abolished by a decision of the European Parliament.

²⁰ *Russian Meat Embargo Politically Motivated – Poland*, 06.04.2007, "Kommersant", http://www.kommersant.com/p-10472/r_500/Poland_Meat_EU_Partnership/, 24.08.2008.

²¹ *Russian embargo on Polish meat "a kind of declaration of war": Polish FM*, http://english.peopledaily.com.cn/200705/18/eng20070518_375626.html, 24.08.2008.

²² *Russia warns EU of possible limits on animal products – I*, 23.11.2006, Tajikistan Development Gateway, <http://www.tajik-gateway.org/index.phtml?id=400&lang=en&dt=2006-11-23&R1=uti-me&view=1&varch=0>, 24.08.2008.

²³ *Ibidem*.

²⁴ *Poland, US sign deal on missile shield*, 20.08.2008, SABC News, http://www.sabc-news.com/world/north_america/0,2172,175479,00.html, 24.08.2008.

In February 2008, during one of the rounds of the Polish-Ukrainian talks on coordination of a draft intergovernmental agreement on local border traffic rules, the parties reached an agreement on the involvement of all populated localities within a 50 kilometer zone of the joint border. During this round of negotiations, however, both parties failed to reach a consensus on the settlement of issues involving the repayment of emergency services provided to border zone residents staying in the other country's territory.²⁵

At the beginning of March 2008, the Ukrainian Minister of Foreign Affairs, Volodymyr Ohryzko, paid a working visit to Poland to discuss some bilateral and international issues with Radosław Sikorski. "In the course of the meeting, the Ministers drafted an agreement between the Government of the Republic of Poland and the Cabinet of the Ministers of The Ukraine referring to the small trans-border movement." It should be pointed out that, according to information on the website of the Polish Ministry of Foreign Affairs, "during the talks much attention was being paid to energy-related matters, specifically Polish-Ukrainian relations concerning gas supply. The Ministers raised some international issues among which the Action Plan for the Ukraine's access to NATO to be granted at the Bucharest NATO Summit in April was discussed."²⁶

Three weeks later, Donald Tusk paid a two-day visit to the Ukraine, where he met with his counterpart Yulia Tymoshenko. During his trip, Tusk said that he hoped for even better cooperation between Poland and The Ukraine. What is more, both Prime Ministers signed the "Letter of intent of the Prime Minister of the Republic of Poland and the Prime Minister of The Ukraine on cooperation in favour of building administrative European integration structures in The Ukraine" and the "Agreement between the government of the Republic of Poland and the government of The Ukraine on the principles of small border traffic."²⁷ According to the second agreement, Ukrainian citizens living in the 50 kilometers border zone will receive visas (instead of special permits). These visas are valid for two years and cost 20 Euros. Donald Tusk also met Ukrainian President Viktor Yushchenko. Subsequently, Tusk said, "The future of Polish-Ukrainian relations is outlined in a clear-cut way."²⁸

Poland's enjoys a warm relationship with the Ukraine which is based on common trust. For this reason, both countries cooperate in many fields and Poland's support for

²⁵ *The Ukraine, Poland to endorse 50-km border traffic zone*, 18.02.2008, Web-Portal of Ukrainian Government, http://www.kmu.gov.ua/control/en/publish/article?art_id=113089972&cat_id=32598, 24.08.2008.

²⁶ *Communiqué on the drafting the agreement between the Government of the Republic of Poland and the Cabinet of Ministers of The Ukraine regarding the small trans-border movement*, Ministry of Foreign Affairs of the Republic of Poland, <http://www.msz.gov.pl/Communiqu%C3%A9,on,the,drafting,the,agreement,between,the,Government,of,the,Republic,of,Poland,and,the,Cabinet,of,Ministers,of,The,Ukraine,regarding,the,small,trans-border,movement,15500.html>, 24.08.2008.

²⁷ *Meeting of Polish and Ukrainian Prime Ministers: chance for further development of cooperation*, 28.03.2008, Chancellery of the Prime Minister of the Republic of Poland, <http://www.kprm.gov.pl/english/s.php?id=1937>, 24.08.2008.

²⁸ *Prime Minister: Polish-Ukrainian relations are on the top level of mutual confidence*, 28.03.2008, Chancellery of the Prime Minister of the Republic of Poland, <http://www.kprm.gov.pl/english/s.php?id=1938>, 24.08.2008.

Ukrainian sovereignty has become an important component of Polish foreign policy. Poland strongly supported the peaceful and democratic resolution of the 2004 Orange Revolution in the Ukraine, and has backed NATO-Ukraine cooperation, as well as the Ukraine's efforts to join the European Union.

The third important input of Poland to Eastern dimension policy is its involvement in the conflict between Russia and Georgia.

From the beginning of the conflict, Polish authorities have strongly engaged in supporting the Georgian side. On August 8, 2008 during a conference call, presidents Lech Kaczyński and Micheil Saakashvili exchanged ideas on action aiming to secure peace in the region and discussed the tense situation in Southern Ossetia.²⁹ Tusk also confirmed that Poland wanted to play an active role in the conflict: "All the evidence shows that Georgia's [territorial] integrity has been violated" – he said.³⁰ However, the Polish head of state's involvement seems to be much more visible and "effective." On August 10, 2008 and under the leadership of Kaczyński, the presidents of Poland and the Baltic States issued a joint statement condemning the aggression of Russia against the independent state of Georgia. Furthermore, Kaczyński, in a special address on public television, confirmed that Poland's mission is to inform Western countries, and the EU in particular, of the nature of the aggression by Moscow. Shortly afterwards, the presidents of Poland, the Ukraine, Lithuania, Latvia and Estonia went to Tbilisi with a mediating mission.³¹ On August 13, 2008 Polish Foreign Minister Radosław Sikorski, who had accompanied the head of states to Tbilisi, said during the meeting of the 27 EU foreign ministers said that EU peacekeeping forces should be sent to Georgia. However, Kaczyński's role as the most active European leader in the Russian-Georgian conflict should not be underestimated. He tried to impact on the EU by asking it to take firm stand on the situation in Georgia and South Ossetia. Furthermore, he also stated that American President George W. Bush should also get more involved in the matter. During a rally in Tbilisi, "the Polish head of state said that the mission in Georgia is a sign of solidarity of the five countries with a nation that fell victim to aggression. In the president's opinion, if the EU decides to send a peacekeeping force to Georgia, the Polish government will pledge the involvement of Polish troops."³² Kaczyński confirmed his views in an interview for TVN 24 seeing his joint visit with other Eastern and Central European leaders to Tbilisi as a significant and much needed initiative. He added that the west European countries are incomparably stronger than Russia and can clearly and effectively oppose Moscow's policy in the conflict.³³ Besides the EU and the United

²⁹ Polskie Radio, 08.08.2008, <http://www.polskieradio.pl/zagranica/news/artykul88858.html>, 25.08.2008.

³⁰ Polskie Radio, 09.08.2007, <http://www.polskieradio.pl/zagranica/news/artykul88899.html>, 25.08.2008.

³¹ Polskie Radio, 12.08.2008, <http://www.polskieradio.pl/zagranica/news/artykul89045.html>, 25.08.2008.

³² Polskie Radio, 13.08.2008, <http://www.polskieradio.pl/zagranica/news/artykul89104.html>, 25.08.2008.

³³ TVN 24, <http://www.tvn24.pl>, 25.08.2008; Polskie Radio, <http://www.polskieradio.pl/zagranica/news/artykul89320.html>, 25.08.2008; In many comments there appeared opinions that Kaczyński wanted to create an impression that he is a very charismatic leader of one of the strongest states in Europe.

States, Kaczyński aimed to influence NATO, and together with Lithuanian president Valdas Adamkus, appealed for an urgent granting of the NATO Membership Action Plan to Georgia and The Ukraine. In a joint statement, both leaders said that Russian activities in Georgia had gone far beyond a reasonable framework of ensuring security to civilians and peace negotiators. What is more, they made clear that the NATO Membership Action Plan to Georgia and the Ukraine was the only measure of stabilizing the situation in the region, and would bring security to ordinary people. Polish politicians and their initiatives were much appreciated by the Georgian President who said that Kaczyński's and Sikorski's visit to Tbilisi during the conflict was an "act of great courage". "These people risked a lot. Their dilemma lied in the fact that they came here to stand together with Georgia while Russia could have just as well entered their country" – Saakashvili said.³⁴ Summing up, Poland's role in the conflict between Georgia and Russia is indisputable. Kaczyński, as well as for example the Foreign Minister, made a very significant contribution. In spite of many criticizing voices by some Polish politicians (due to the ill-conceived words of the President during a rally in Tbilisi), Poland's political endeavors should not be underestimated. As a result, Polish-Georgian relations have become much closer than ever before. However, this conflict has served to put Polish relation with Russia under much more strain. One should remember that relations with Russia were also impacted by the signing by Poland and the United States of an agreement on the localization of the missile shield in Poland.

Conclusion

Poland is the biggest and, to many, most influential country among the new EU members involved in democracy promotion. It should be noted that Poland's ambitions are more far-reaching. Polish authorities are trying to improve Poland's position in Europe and in the world and to establish this country as a regional leader. Poland is very eager to support democratization – particularly in Eastern Europe – because its geopolitical situation (what is highly related to the Poland's security) suggests that the enlargement of the European Union should not stop at Poland's eastern borders. This also has much to do with Poland's security as current Eastern EU border. This explains Polish support for the accession of the Ukraine to NATO and the EU. But there are of course other reasons for Poland's active role, such as "the idea of historical reconciliation, a necessity to anchor The Ukraine's reforms by providing the incentive of EU accession, and pragmatic considerations relating to improving entrepreneurship and the business environment in order to foster mutual economic ties."³⁵

This paper aimed at answering the questions about the role of Poland in the Eastern dimension policy and the role of Polish authorities in that process. As a middle size country with big state ambitions and aspirations, Poland has to try to impact on other EU members to become involved in the Eastern region. However Poland lacks the po-

³⁴ Polskie Radio, 22.08.2008, <http://www.polskieradio.pl/zagranica/news/artykul89745.html>, 25.08.2008.

³⁵ L. Jonavičius, *The Democracy Promotion Policies...*, op. cit., p. 8.

tential and resources compared to the key powers in Europe, and has therefore to find its own place in the Community. At the same time, Polish authorities should find their own ways and methods of impacting other states. Examples presented in this article seem to give evidence that Poland has found its place in the EU eastern dimension policy.

Why Go beyond EU Borders? Historical and Structural Reasons for the EU Eastern Edge States' External Initiatives

Introduction

With the enlargement in 1995 and 2004, the European Union (EU) obtained a new Northern flank:¹ a long and problematic border with the Soviet Union successor states. As existing EU member states, Finland, Estonia, Latvia, Lithuania, Poland, Slovakia, Hungary and Romania shared borders accordingly with Russia, Belorussia, Ukraine and Moldova. Those eight countries, located at the Eastern edge of the “Western Civilization,” formed the space usually referred as Central Eastern Europe (CEE). European presence of the newcomers has resulted immediately in different initiatives crossing the new Eastern border of Europe and addressing the new, non-EU neighbors. The Northern Dimension initiative was proposed by Finland briefly after its accession; it was then formulated at European level, smoothly and widely accepted and finally implemented in the form of two Action Plans.² Similarly, Poland and Lithuania initiated the debate on the Eastern Dimension;³ despite the fact that it was rather unsuccessful in its suggested form, it led to European involvement in the East and Eastern Partnership initiative.⁴

Analyses of EU spatial customization⁵ efforts usually concentrate on interest distribution and geopolitical conditions. Special important is often attached to the current situation in the soft security field (illegal immigration, international crime, environmental threats, etc.) and Europeanization (promotion of European norms and values eastwards). This approach, however, seems to be narrow in its nature as it does not include historical and structural elements which contribute to the process.⁶ Both need to be considered as a part of the framework for current developments.

¹ J. Jańczak, *Northern Dimension of the European Union*, in: J. Jańczak, T. Szymczyński (eds.), *The Experiences of the 1995 Enlargement of the European Union*, Logos Verlag, Berlin 2003, p. 108.

² C. Browning, *The Construction of Europea in the Northern Dimension*, Copenhagen Peace Research Institute Working Paper, No. 39, Copenhagen 2001.

³ J. Cichocki, M. Cicocki, P. Kowal, *Poland and the EU's "Eastern Dimension"*, in: P. Kowal (ed.), *The EU's "Eastern Dimension" – An Opportunity for or Idée Fixe of Poland's Policy*, Warszawa 2002.

⁴ P. Runner, *Poland and Sweden to pitch "Eastern Partnership" idea*, EUobserver, 22.05.2008.

⁵ Customization is defined by Hanna Ojanen as a situation, where “each member state tries to make the best out of membership, emphasizing some features over others so that the Union would resemble the country itself. Customizing can sometimes be linked to furthering national interests, or using the union for one's particular purpose.” See: H. Ojanen, *How to Customize Your Union: Finland and the "Northern Dimension of the EU"*, Northern Dimensions, Yearbook 1999, pp. 13–14.

⁶ Poland's contemporary Eastern involvement may also be seen as a continuation of the interwar *Promethean movement*. Its aim was to support independence efforts of the Soviet Union nations and

The aim of this paper is to show how historical experience and mental structures of the EU Eastern border states have been influencing their current strategies in attracting the EU's attention towards Northern and Eastern neighboring areas. Historical heritage and cultural patterns will then be linked to ideas oriented towards achieving internal and external aims, in other words, security and Europeanization. This investigation will also claim that *periphery complex* and *front mentality* are two factors which strongly determine the activity of the EU border members. They result in a specific perception of the Eastern EU neighbors that is based on the *chaos and mess* stereotypes and thus a consequent feeling of superiority over them among *the Eastern edge members*. Both *chaos* and superiority determine the role that the latter want to play: defenders of Europe and teachers of Europeaness.

I. What is *Central Eastern Europe*? – At the Eastern edge of the Western world

External initiatives of the Eastern members lead to the problem of finding a territorial definition for the *Eastern edge of Western civilisation*. Investigation into the concept of Central Eastern Europe (CEE) is therefore necessary.

As the result of the problems ensued through the unambiguous classification of some states and territories as Western or Eastern, the area between them was in time defined as a separate being – Central or Central Eastern Europe. This point of view was shared, among others, by Oskar Halecki, who saw it as a zone “separating the Holy Roman Empire or Teutonic and Romanic nations from Eurasian Russia, that means those Eastern Slavs, who in certain periods of their history were place outside the European community.”⁷ The former leader of the UK Conservative Party, Michael Howard, stressed the importance of a distinction between Central and Eastern Europe. The former were “territories that used to belong to the circle of Western Christianity” and then became a subject of Russian dependence, whereby the latter are related to the Orthodox culture. He saw, on the other hand, a role for Western states in the mission of reintegrating Central European nations to the cultural and economic community of Western Europe.⁸ Helmut Juros stresses the semantic meaning of the analyzed expression, as the term “Central Western Europe” does not exist as a category. It is derived, in his opinion, from a nineteenth century distinction between Western Europe as a synonym for civilization and Eastern Europe as a space that is to be civilized.⁹

States that were formed after World War I created a new geopolitical situation in Europe. Consequently, they were referred to as a *Sanitary Cordon*¹⁰ or simply a buffer

their exile governments. This publication deliberately excludes this policy from the analyses conducted as it focuses predominantly on geopolitical and strategic motives. See: R. Woytak, *The Promethean Movement in Interwar Poland*, “East European Quarterly” 1984, Vol. XVIII, No. 3.

⁷ O. Halecki, *Historia Europy – jej granice i podziały*, Lublin 2000, p. 117.

⁸ S. P. Huntington, *Zderzenie...*, p. 233.

⁹ H. Juros, *Europa – quo vadis?*, “Przegląd Zachodni” 2003, No. 2, p. 22.

¹⁰ R. Pullat, *Stosunki Polsko-Fińskie w okresie międzywojennym*, Warszawa 1998, p. 45.

zone between the Soviet Union and Germany. The Finnish Minister of foreign affairs, Rudolf Holsti, was an architect of this policy.¹¹

Furthermore, Norman Davies pays attention to the fact that new states which appeared after World War I as part of Central Eastern Europe formed a group of so-called *successor-states*, spreading from Finland to Yugoslavia. In 1945, the Cold War division of the continent into West and East eliminated CEE, a move which was questioned by intellectuals led by Milan Kundera, who were quick to point out the uniqueness of the regions.¹² Together with the collapse of Communism, a new paradigm of European continent division appeared and won many followers in academic circles, being considered as one of the concepts explaining the new world order. Samuel Huntington suggests a multiple construction reflecting the eight great civilizations. Three of them exist in Europe: Western, Orthodox and Muslim. The first two are diversified by subsequently Roman and Byzantine roots, different religions, political systems, different influences of the Renaissance, Reformation, Enlightenment, etc.¹³

At the beginning of the 1990s, Reimo Pullat saw a renaissance of the *Sanitary Cordon* concept under the conditions of the collapse of Communism, reintegration of Central Europe with the rest of the continent and¹⁴ lack of stability in post-Soviet space.

II. Are we true Europeans? *Periphery complex* as an identity factor

Having described how Central-Eastern Europe is defined – and in order to understand the reasons for external activities of the *Eastern edge states* –, it is necessary to analyze how the location is reflected in the identity of Central Europe. It is based on the contested Europeaness expressed in the *periphery complex*.

Dariusz Aleksandrowicz notes that the cultural tradition of the *edge states* is defined by their peripheral location.¹⁵ According to Barbara Goryńska-Bittner, “inhabitants of the central part of the continent stress very strongly that they are Europeans.” Simultaneously, they have to resist locating them in “Western culture’s ‘worseness’ stereotypes and own periferality complexes.”¹⁶ This Western-oriented tendency is expressed by Central Europeans in countless books and articles ensuring themselves and the surrounding world with their belonging to Europe. Norman Davies claims that Poles, for example, are more “pro-Western in their opinions than most of the Western states in-

¹¹ Ibidem, p. 49.

¹² N. Davies, *Europa. Rozprawa historyka z historią*, Kraków 1998, p. 38; O. Halecki, *Historia...*, pp. 131–132.

¹³ S. P. Huntington, *Zderzenie cywilizacji*, Warszawa 1997, p. 50.

¹⁴ Ibidem, p. 8.

¹⁵ He also states semantic paradox related to the idea of *central peripheries*. In his opinion *Central European Periphery* differ from *proper European Periphery*. The latter is located on the European Atlantic coast and consists of Portugal, Ireland, Iceland and Norway. *Central European Periphery* do not have an unequivocal border separating it from the other territories what makes them *open*. See: D. Aleksandrowicz, *Cultural paradigms and post-communist transformation in Poland*, F.I.T. Discussion Paper No. 6/99, p. 1.

¹⁶ B. Goryńska-Bittner, *Być Środkowoeuropejczykiem – między uniwersalizmem a potrzebą zakorzenienia*, “Przegląd Politologiczny” 2002, No. 2, p. 108.

habitants.”¹⁷ The same diagnosis could be applied to Hungarians, Czechs, Lithuanians, etc, but at the same time it presents a very strong *periphery complex*.

One of the variations of this self-conscious attitude of belonging to Europe is the *return to Europe* idea, one of the most important elements of public discourse in the aftermath of Communism in the region.¹⁸ This was, on the other hand, accompanied by the awareness of the fact that the region is contributing much less to European heritage than has derived from it. The described approach resulted again in *periphery complex*. For example, Poles “abuse their location and are spiritually not able to escape it. They want to be Europeans and suffer when someone does not consider them as European.”¹⁹ This forced separation from Western Europe after the end of World War II resulted in a strengthening of *periphery complex*, a fact that was also caused by the economic and political backwardness of the region. On the other hand, their heritage of a struggle for freedom and democracy, as well as a vivid Western Christianity made being European credible but also mythological.

Periphery complex and the need to be “European” are expressed in foreign policy strategies, especially within the EU. There are at least two forms of them: visible presence and constructive contribution.

Visible presence leads to the proposal of solutions, ideas and policies but also vetoing, aggressive bargaining, etc. The aim is to be visible and important for the EU, that is to confirm being within the structures and possessing an important as well as decisive voice that has to be taken into consideration by the other European players. One such example is the Lithuanian and Polish veto to the Partnership Agreement with Russia or the active pro-Orange-Ukraine lobbying.

Constructive contribution is expressed among others by a *best pupil in the class* syndrome. It is based on active and eager operating within Western structures, it excels and surpasses the expected level, as well as it contributing to the Community’s policies. This desire to be part of Europe forces additional efforts and a never-ending demonstration that membership is legitimate, unproblematic and beneficial for Europe.²⁰ Finland seems to be the best example here.

III. Why are we needed? *Front mentality* as legitimizer of belonging to Europe

Dariusz Aleksandrowicz claim that the image of Central Europe as a part of the continent that is detached from the east and the west derives from the fact that its borders

¹⁷ N. Davies, *Serce Europy. Krótka historia Polski*, London 1995, p. 304.

¹⁸ Z. Mach, *Heritage, Dream, and Anxiety: The European Identity of Poles*, in: Z. Mach, D. Niedźwiedzi (eds.), *European Enlargement and Identity*, Kraków 1997, p. 35; E. Lesiewicz, *W drodze do integracji – rzecz o rządzie Tadeusza Mazowieckiego*, “Przegląd Politologiczny” 2002, No. 1, p. 33.

¹⁹ W. Łazuga, T. Schramm, *Polacy między wschodem a zachodem*, in: A. Czubiński (ed.), *Problem granic i obszaru odrodzonego państwa polskiego 1918–1990*, Poznań 1992, p. 225.

²⁰ Zobacz: H. Nyyssönen, *Cheaper Eggs, Security or Other Experiences? – EU in the Finnish Politics in the 1990s*, in: J. Jańczak, T. Szymczyński (eds.), *The Experiences of 1995 Enlargement. Sweden, Finland and Austria in the European Union*, pp. 19–20.

are not clearly set and consequently its clear identity is missing.²¹ But a part of this identity, making the region a piece of Western Europe was the *Christianity bulwark* concept, representing *front mentality*. The Eastern borders of the *edge states* were also the borders of Western civilisation. Since the 14th century, clergy, nobility (and later intelligentsia) developed the self-image of defenders of the Christian faith and, later, Western civilization and Europe defenders against barbarians and pagans exerting pressure from the east²² (such as Tatars, Turks, Russians, Ukrainians, etc.) Adam Mickiewicz described it in the following way: “Christian Poland became a natural defense line of the Western civilization, created from Christianity against idolatrous and Mahometan barbarianism. This was her proper calling and her services to the humankind; that was what our forefathers felt. As long as they defended the world, Poland grew and flourished; because nations only then grow up and have the right to live if they serve the whole humankind by supporting or defending some great thought or great feeling.”²³ Similarly Hungarians saw their destiny, defending Europe against the Ottoman Empire and sacrificing their statehood for the goodness of Europe.

In the 20th century, Poles considered themselves as defenders of Europe against the Bolsheviks (for example during the invasion of 1920).²⁴ Similarly in the 1920s and 1930s, Finland was pictured as the *last bastion of Christianity*. Her border with the Soviet Union was presented as a symbol of cultural differences between both states. It became a “sanctified border between good and evil.” This fortress image was used both internally and externally to present Finland as a “defender of Western values such as democracy and Christianity against Russian barbarianism and chaos.”²⁵ This self perception of a Western civilization bridgehead was expressed by Uno Kalias who wrote:

“Like a chasm runs the border
In front, Asia, the East
In back, Europe, the West
Like a sentry, I stand guard”²⁶

Following this traditional Finnish approach, the fight between East and West determined the course of Finland’s history. This created in the 1930s and 1940s the interpretation by Jalmari Jaakkola of the past becoming a paradigm and basis for further analysis conducted by local historians.²⁷ As a the result, as Roberta Matson remarks, the

²¹ D. Aleksandrowicz, *Cultural paradigms and...*, p. 1.

²² Z. Mach, *Heritage, Dream, and Anxiety...*, p. 35.

²³ A. Mickiewicz, *O duchu narodowym*, in: *Dziela*, Vol. VI, part. 2, Warszawa 1955, pp. 72–73. Following: M. Tomczak, *Refleksje o patriotyzmie polskim w przeddzień wstąpienia do Unii Europejskiej*, “Przegląd Zachodni” 2003, No. 1, p. 166.

²⁴ This approach was denied by the Soviet historians. Giennadij Matwiejew considered the Polish-Bolshevik war as a continuation of World War I related to the border’s demarkation. See: I. Lewandowski, P. Wroński, *Druga strona cudu*, “Gazeta Wyborcza” 14–15.08.2003.

²⁵ S. Kare, *The Karelian Question as a Mirror to the Changing Finnishness: An Inquiry into the National Identity of EU Finland*, in: H. Rytvuori-Apunen (ed.), *Russian-European Interfaces in the Northern Dimension of the EU*, Tampere 2000, pp. 316–317.

²⁶ E. Solsten, S. Meditz (ed.), *Finland. A country Study*, p. 38.

²⁷ J. Korpela, “The Russian Threat Against Finland” in *the Western Sources Before the Peace of Noteborg (1323)*, “Scandinavian Journal of History” 1997, Vol. 22, No. 3, p. 161.

struggle against the Soviet Union during World War II was presented as the biblical fight of David and Goliath.²⁸

This mission was related to the defenders role and led to difficult compromises with Western enemies. Before regaining independence at the end of World War I, Polish conservatives supported alliance with Austria-Hungary, whereby left-wing parties supported a cooperation with Germany; both factions were united against Russia.²⁹ Finnish *Jäger* units were trained in Germany and German troops played an important role in the civil war between 1917 and 1918.³⁰ The Hessian prince Friedrich Karl was offered the Finnish crown. The Fins also expected German help in solving the territorial conflict with Russia in the Eastern Karelia and Petsamo regions.³¹ During the interwar period, Poland was very hesitant towards proposed alliances with the Soviet Union.³² During World War II, Finland, attacked by her Eastern neighbors, collaborated with Nazi Germany. Support for the latter was strong in the Baltic States, Slovakia and Hungary.

In practice, *front mentality* resulted in two sets of beliefs in the region. First, the role as Europe's defender legitimized the presence of *the edge states* within Western Europe and additionally makes them important, or even crucial, pillars of Europe's order. Second, both Europe and *edge states* can survive and effectively develop, so long as the roles are maintained.

IV. Do they know it? Western European selfconcentration

Both *periphery complex* and *front mentality*, that locate *Eastern edge states* in Western Europe, are rather unknown to the wider circles in that part of the continent. Usually, Central Europe used to be omitted from history books, public debates, alliances, etc. Seen as underdeveloped, wild and uninteresting, it had to fight for respect and recognition as an inseparable part of European civilization. These unreciprocated feelings were very often put to the test. Signed treaties and alliances between Western and Central European states were several times broken due to different reasons. The lack of an alternative led to *edge states* remaining attached to the myths of the unity of Western culture. Poland – despite existing assistance commitments – was left alone in 1939 and then again in 1945. Czechoslovakia in 1937, 1939, 1948. Finland did not receive any help during the first winter of World War II (1939–1940).

This negative experience with partner states in Western Europe was overcome with the European Integration process and appearance of a supranational decision center

²⁸ R. Matson, *Finlandisation: A Retrospective*, in: T. M. Ruddy (ed.), *Charting an Independent Course. Finland's Place in the Cold War and in U.S. Foreign Policy*, Claremont 1998, p. 197.

²⁹ A. Czubiński, *Historyczne uwarunkowania rozwoju stosunków pomiędzy Polską a Niemcami i Rosją*, in: *Polska między Niemcami a Rosją*, Poznań 1999, p. 15.

³⁰ N. Davies, *Europa. Rozprawa historyka z historią*, Kraków 1998, p. 973.

³¹ S. Hentilä, *Od uzyskania niepodległości do zakończenia wojny kontynuacyjnej*, in: O. Jussila, S. Hentilä, J. Nevakivi (eds.), *Historia polityczna Finlandii 1809–1999*, Kraków 2001, pp. 136–138.

³² J. Kalisch, *Linia 26 stycznia 1934 r. – pozory i rzeczywistość imperialistycznej polityki Niemiec wobec Polski*, in: *Niemcy w polityce międzynarodowej 1919–1939*, Tom III: S. Sierpowski (ed.), *W dobie Monachium*, Poznań 1992, p. 178.

– Brussels. It goes without saying that national interests also intersect, but what is also very vivid is the European perspective and European voice. Both *periphery complex* and *front mentality* were to be factors in the filtration of strategies and coercing *edge members* to implement old patterns under new circumstances as well as persuading old members and the EU with them.

V. How is heritage transformed within EU customization? Between bridging and protecting

The necessity of this confirmation of belonging to Europe (as determined by *periphery complex*), together with the role that *edge states* saw for themselves as Europe's defenders, resulted in external initiatives that were formulated as European policies and addressed to Eastern neighbors. On the one hand, they followed historical patterns, on the other they were enriched and modified by the changing international situation.

New member states still wanted to be the first of all Europe's defenders, a desire that was based on previous assumptions of *chaos and mess* in the East, post-Soviet territories as well as the powerlessness of the rest of Europe in the face of these new territories. *The edge states* were to protect old member states against all the unwanted phenomena, especially organized crime, illegal immigration, drug smuggling, environmental threats, etc. Preparations towards Schengen enlargement created a great possibility for them to play this role³³ and to be good and reliable Europeans.³⁴ On the other hand, this situation was welcomed by some of the *destination states*, e.g. Germany, that wanted to have an additional barrier instead of problematic neighbors.

The second, modified strategy is based on being *teachers of Europe* in the east. Here the starting point was the feeling of superiority over Eastern neighbors and the mission of "civilizing" them in the fields of democracy consolidation, values promotion, implementation of economic reforms, etc. This was, on the other hand, also a transposition of the previously dominating West-Central cleavage and confirmation of oneself belonging to the West: *edge states* were to be no longer the Eastern (poorer, worse, etc.) outskirts of Western Europe. In fact, the opposite was true: as member states with full rights, they were entitled to behave as part of Western civilisation, among others by being teachers for those who were left outside. Here, the logics of external policies were based on the Europeanization process – "a process re-orienting the direction and shape of politics to the degree that EC political and economic dynamics became part of national politics and policy-making."³⁵ According to François Bafail and Timm Beichelt,

³³ J. Jańczak, *Ruch osobowy w polsko-niemieckim mieście podzielonym – zmiany reżimu kontroli granicznych po 1 maja 2004 roku i ich wpływ na przepuszczalność granicy*, in: M. Adamowicz, A. Siedlecka (ed.), *Rozwój transgranicznej współpracy edukacyjnej w regionie Biała Podlaska–Brześć*, Tom II, Wydawnictwo PWSZ w Białej Podlaskiej, Biała Podlaska 2007, pp. 28–37.

³⁴ A. Schwell, *Zaufanie jest dobre, kontrola jest lepsza. Europa wschodnia jako strefa buforowa Unii Europejskiej*, in: J. Jańczak, M. Musiał-Karg (eds.), *Pogranicze polsko-niemieckie pro roku 2004. Nowa jakość sąsiedztwa?*, Toruń 2008, pp. 153–166.

³⁵ R. Ladrech, *The Europeanization of Domestic Politics and Institutions: The Case of France*, "European Journal of Common Market Studies", No. 1, pp. 69–88.

it“(...) affects all functional instances of the policy cycle. Not only the actors and institutions conform the EU level through social learning but also society and its individuals and their norms and values.”³⁶ Teaching European norms and values was to Europeanize neighbors, and in this way also make protection against them easier.

Conclusion

As presented in the paper Northern and Eastern enlargement in 1995 and 2004 respectively created a long border with post-Soviet space for the EU. Almost immediately, the new member states created initiatives that addressed the neighboring areas and intended to draw the EU's attention towards the Northern and Eastern surroundings of an expanded Europe. Those attempts were formulated in the shape of Northern and then Eastern Dimensions of the European Union.³⁷ To widen the perspective of the analyses of these initiatives, specific historical and structural heritage of *edge states* has to be taken into consideration. Historically, being at the Eastern edge of Western civilization resulted in a *periphery complex*. External initiatives are seen from this perspective as a tool to confirm Europeaness through their visible presence and constructive contribution. At the forefront of the initiatives' aims, it also promoted the status of newcomers from *almost European* to *true Europeans* in that they became *teachers of Europe*. The second historical consequence of their location was a *front mentality* thereby justifying their role as defender. As a form of legitimization, this remain unchanged, gaining only much wider recognition from the Western side and new territorial forms.

³⁶ F. Bafoil, T. Beichelt, *Dimensions of Europeanization*, in: F Bafoil, T. Beichelta (eds.), *Européanisation. D'Ouest en Est*, Paris 2007, p. 8.

³⁷ C. Browning, P. Joenniemi, *The European Union's Two Dimensions: The Eastern and the Northern*, "Security Dialogue" 2003, Vol. 34, No. 4.

The European Union and Its Attitude towards Turkish Cypriots after 2004: Continuity or Change?

Introduction

Cyprus is the only EU member state which is *de facto* divided into two parts. Undoubtedly, it is one of the most serious political dilemmas facing EU politicians at the turn of the century. The situation has remained unchanged since July 1974 when Turkish troops landed on the island in response to the Greek *coup d'état*.¹ The division is a direct consequence of the military operation which led to ethnic separation. The Turkish army remained in Cyprus in order to ensure security of Turkish Cypriot community. As a consequence of the 1974 events, Greek Cypriots were forced to settle in the south while Turkish Cypriots living there had no choice but to move to the northern part of the island.

Greek Cypriots define the military operation of 1974 as an act of aggression and occupation while Turkish Cypriots use the term Cyprus Peace Operation.² It is only one from among many other differences which divide people along the armistice line. Nevertheless, international community has endeavoured to resolve the dispute since 1974. Number of initiatives, mostly under UN auspices, had been presented, however, the Annan Plan and the referendum of April 2004 seemed to be the best ever chance for a comprehensive settlement. Potential participation of a federal United Cyprus Republic in the process of European integration could have determined the success of the latest UN initiative. It was for certain the best opportunity to settle the dispute and unite two Cypriot communities within EU framework. However, it did not happen due to an overwhelming Greek Cypriot 'no' expressed in the referendum. 'Yes' of Turkish Cypriots was certainly not enough to implement the plan.

As a consequence, the European Union was forced to acknowledge the results and find a way out of the complicated situation. The Republic of Cyprus joined the EU on 1 May 2004. Although *de iure* the whole Cypriot territory constitutes a part of EU terri-

¹ It should be emphasized that according to Turkish Cypriots, the Cyprus dispute dates back to 1963, namely the actual disintegration of the Republic of Cyprus.

² For more details on the military operation and its consequences see: M. A. Birand, *30 Hot Days*, Nicosia 1985; G. Clerides, *Cyprus: My Deposition*, Vol. 4, Nicosia 1992; V. Coufoudakis, *Cyprus and International Politics*, Nicosia 2007; C. Hitchens, *Hostage to History: Cyprus from the Ottomans to Kissinger*, London 2002; S. Ismail, *Cyprus Peace Operation: Reasons – Development – Consequences*, Nicosia 2000; F. Mirbagheri, *Cyprus and International Peacemaking*, London 1998; P. Osiewicz, *Pokojowa regulacja kwestii cypryjskiej*, Toruń 2008; O. P. Richmond, *Mediating in Cyprus: The Cypriot Communities and the United Nations*, London 1998.

tory, implementation of the *acquis* has been suspended in the northern part of the island dominated by Turkish Cypriots. It is a result of the unsettled Cyprus question as well as the Turkish Cypriot unilateral declaration of independence. So far only Turkey has officially recognized a political entity proclaimed by them in 1983, namely the Turkish Republic of Northern Cyprus. As regards that, the EEC/EU has condemned unilateral proclamation of the Turkish Cypriot state since then.

The most important question is whether EU policy towards Turkish Cypriots has undergone any important modifications since the failure of the so-called Annan Plan in April 2004. Turkish Cypriot 'Yes' expressed in the referendum of 2004 forced the EU to modify its policy towards this community. Therefore the main aim of this article is to identify change or continuity within EU policy towards Turkish Cypriots. A comparative approach based on an analysis of the EEC/EU official documents published before and after April 2004 meets best the criterion.

I. The EEC/EU and Its Policy Towards TC before 2004: Legal Basis and Practice

Cyprus became independent on 16 August 1960. According to the Constitution of the Republic of Cyprus of 1960, "the Greek Community comprises all citizens of the Republic who are of Greek origin and whose mother tongue is Greek or who share the Greek cultural traditions or who are members of the Greek-Orthodox Church" and "the Turkish community comprises all citizens of the Republic who are of Turkish origin and whose mother tongue is Turkish or who share the Turkish cultural traditions or who are Moslems."³ In the same year the census was conducted. The Department of Statistics and Research reported on its findings – the island's population was 573,566 people, 442,138 (77.1%) of whom were Greek Cypriots and 104,320 (18.2%) Turkish Cypriots.⁴

The new state faced political unrest from the very beginning. None of two Cypriot communities was satisfied with constitutional provisions and therefore both intended to revise the constitution. Amendments proposed by then President Makarios in November 1963, often referred to as 'The 13 Points,' led to intercommunal violence. As a result, representatives of Turkish Cypriots resigned from all political functions what amounted to *de facto* disintegration of the Republic. For this reason Turkish Cypriots claim that the Cyprus question dates back to the 1963 events.⁵

³ *Draft Constitution of the Republic of Cyprus*, "Journal of Cyprus Studies" 1999, Vol. 14/15. More on the 1960 treaties: *The 1960 Treaties on Cyprus and Selected Subsequent Acts*, N. D. Macris (ed.), Mannheim 2003.

⁴ *Report of 27 April 1992 on the Demographic Structure of the Cypriot Communities For Parliamentary Assembly of the Council of Europe*, Nicosia 2000, p. 17.

⁵ Selected words of former Turkish Cypriot leader Rauf Denktaş convey this opinion best: "Over the years, Greek Cypriots have based their arguments on the false allegation that Turkish Cypriots revolted against the government in 1963. Consequently Greek Cypriots hastened to declare the Constitution 'dead and buried,' thus abrogating all the constitutional and human rights of Turkish Cypriots, merely offering them their co-partners minority rights in a Greek Cypriot Republic. They trampled on and amended those parts of the Constitution which suited their criminal interests, relying on the irrelevant principle of the doctrine of necessity. Constitutionally they had no warrant to amend the Consti-

The first documents of the European Economic Community related to the Cyprus question were published in the 1970's. Then it was a completely external affair as none of directly involved countries belonged to EEC. Although Greece, the Republic of Cyprus and Turkey were associated with the EEC at that time, the Community was not determined to solve the problem at any price and restricted itself to recommendations and resolutions. In practice the EEC did not attempt to engage in political activity of the United Nations, the United Kingdom or the United States, however, it supported all initiatives leading to a comprehensive and lasting solution.

The EEC maintained relations with representatives of both sides or at least declared such intention. There are a few documents which prove such claim, for example, Resolution of 4 July 1973 on cooperation and contacts between the European Parliament and the House of Representatives of Cyprus. The European Parliament, welcoming the entry into force of the Agreement of Association between the Republic of Cyprus and the EEC, underlined need for closer parliamentary cooperation with the Cypriot House of Representatives. According to paragraph 3, members of the Parliament proposed that "the delegation of the House of Representatives of Cyprus shall consist of seven members, of whom five shall represent the Greek Cypriot community and two the Turkish Cypriot Community."⁶

This way the European Parliament tried to avoid the situation in which the whole Cypriot delegation would have consisted only of Greek Cypriots. It should be emphasized that representatives of Turkish Cypriots had been boycotting works of the House of Representatives and other political institutions since 1963.⁷ As a result, the Turkish Cypriot community was not represented in the parliament and Greek Cypriots could have taken the advantage of the situation. However, the European Parliament did not intend to let Turkish Cypriots block potential parliamentary cooperation in the future and that is why paragraph 7 was inserted into the resolution. It read as follows: "The above arrangements shall be implemented as from 1 November 1973, should a constitutional agreement be reached between the Greek Cypriot and Turkish Cypriot communities. In the event that such an agreement is not reached before that date the question of parliamentary contacts shall be reviewed by the European Parliament and the House of Representatives of Cyprus at that time with a view to implementing informal arrangements as early as possible equivalent to those detailed above."⁸ As there was no progress in bilateral talks at that time, the EEC introduced a substitute solution which enabled it to maintain relations only with a group of Cypriot parliamentarians dominated by Greek Cypriot MP's.

tution in the absence from parliament of Turkish Cypriot members." See: R. R. Denktas, *The Cyprus Problem: What It Is – How Can It Be Solved?*, Nicosia 2004, p. 9.

⁶ *Resolution of 4 July 1973 on Cooperation and Contacts between the European Parliament and the House of Representatives of Cyprus*, in: *European Stand on the Cyprus Problem. Resolutions Adopted by the European Union and the Parliamentary Assembly and the Committee of Ministers of the Council of Europe*, Nicosia 2003, p. 8.

⁷ Z. Stavrinides, *The Cyprus Conflict: National Identity and Statehood*, Nicosia 1999, p. 5.

⁸ *Resolution of 4 July 1973 on Cooperation and Contacts between the European Parliament and the House of Representatives of Cyprus*, op. cit.

The situation underwent a significant change after the events of 1974. An unsuccessful Greek *coup d'état* gave Turkey an opportunity to intervene in the name of protection of Turkish Cypriots. Formal and legal evaluation of the Turkish military operation still stirs up controversies on both sides, however, the EEC representatives did not express any doubts about its real aim and condemned it from the very beginning. On 24 April 1975 the Joint Parliamentary Committee of the EEC-Turkey Association adopted a resolution dedicated among others to the Cyprus question. The Community reiterated its support “for any just and lasting solution to the Cyprus problem based on the recognition of a sovereign, independent state and on the equality of rights of the island’s two communities.”⁹ This way the EEC criticized Turkey and Turkish Cypriots for continuation of military occupation as well as for actual and legal actions which they had taken since August 1974 especially unilateral proclamation of the Turkish Federative State of Cyprus of February 1975.¹⁰ However, it should be underlined that in 1975 the EEC considered Turkey as the side representing Turkish Cypriots.

Although according to Turkish Cypriots the declaration was not equal to proclamation of independence, it was condemned by international community. Some analysts claimed that it was the first step towards independence and creation of a separate Turkish Cypriot state in northern part of Cyprus.¹¹ However, it became a fact eight years later after fruitless negotiations under the auspices of the United Nations. The Turkish Cypriot side did not suppress the truth that lack of progress during the negotiations would result in a formal declaration of independence in order to secure its vital interests, namely security and steady development. For this reason on 15 November 1983 the Turkish Cypriot National Assembly officially declared independence and proclamation of the Turkish Cypriot state under the name the Turkish Republic of Northern Cyprus (TRNC).¹² The European Parliament followed the UN Security Council and its reaction was quick and firm. In the resolution of 17 November 1983 the EP called on “all the parties concerned to support the initiative of the UN Secretary General” and invited “the Council of Ministers to take all the necessary measures so that this action by the Turkish Cypriot sector remains null and void.”¹³ In practice such reaction was amounted to informal isolation of the new political entity on Cyprus. Thanks to that EEC member states did not intend to maintain any political or economic relations with the TRNC.

As regards the informal isolation, the following years appeared to be very difficult for Turkish Cypriots. They were completely dependent on financial aid from Turkey,

⁹ *Resolution of 24 April 1975 on the Recommendations of the Joint Parliamentary Committee of the EEC-Turkey Association Adopted in Copenhagen on 24 April 1975*, in: *European Stand on the Cyprus Problem...*

¹⁰ J. Reddaway, *Burdened with Cyprus: The British Connection*, Nicosia 2001, p. 182.

¹¹ See: C. Palley, *An International Relations Debacle: the UN Secretary-General's Mission of Good Offices in Cyprus 1999–2004*, Portland 2005, pp. 44–45; A. Theophanous, *Cyprus, the European Union and the Search for a New Constitution*, in: K. Fouskas, H. A. Richter (eds.), *Cyprus and Europe: the Long Way Back*, Mannheim–Mölnsee 2003, p. 143.

¹² See: *North Cyprus: Almanack*, Nicosia 1987, pp. 1–51.

¹³ *Resolution of the European Parliament of 17 November 1983 on the 'Declaration of Independence' by the Turkish Cypriot sector of Cyprus*, in: *European Stand on the Cyprus Problem...*, p. 34.

however, they managed to maintain very limited trade relations with a few EEC countries especially the United Kingdom. Unfortunately, it ended when the European Court of Justice “found for the plaintiff and so, from 1994, virtually all direct trade between north Cyprus and its natural market in the EU ceased. This was known to Turkish Cypriots as ‘the embargo’ and was treated as if the European Union had imposed sanctions on the TRNC.”¹⁴ It should be noted that in the case of trade almost nothing has changed for Turkish Cypriots since 1994 and they are still forced to face the same problems due to the lack of international recognition.

In the 80’s and the 90’s the European Parliament tended to criticize Turkish Cypriot leader Rauf Denktaş for lack of progress during bilateral talks or dialogue under the auspices of the United Nations. In the resolution of 15 March 1990 members of the EP expressed a strong conviction that “the overwhelming majority of both Turkish and Greek Cypriots desire a peaceful and united Cyprus which guarantees the political, civil and human rights to ALL Cypriots”¹⁵. In the same document the EP condemned the actions of Rauf Denktaş and underlined that it did not identify them with the Turkish Cypriot community: “Condemning the actions of Mr. Denktaş to attempt to alter the Secretary General’s mandate which led to the collapse of the UN initiative of Wednesday 28 February; Believing that the vast majority of Turkish Cypriots also deplore the spoiling tactics of Mr. Denktaş [...]”¹⁶ Nowadays it is clear that the EEC adopted such a new policy towards Turkish Cypriots in order to support the opposition. European politicians tended to conceive Rauf Denktaş as the main obstacle on the way to a rapprochement between Greek Cypriots and Turkish Cypriots. Any negative stances could have discouraged members of the Turkish Cypriot community from opposing the official policy of their top representatives. For obvious reasons, Rauf Denktaş was trying to strengthen his political position thanks to external threats or external political pressure. Any declarations similar to those of the EP did not fit such tactics.

On 4 July 1990 the Republic of Cyprus submitted its application for membership of the EEC. Although there was no agreement among EEC member states whether the divided island should join the Community, participation in European integration was presented as an important measure to reunite two Cypriot communities. Membership in return for a comprehensive solution seemed to be the best option at that time. Therefore the European Commission, in its opinion on the application by the Republic of Cyprus for membership of 30 June 1993, clearly stated that “the result of Cyprus’s accession to the Community would be increased security and prosperity and that it would help bring the two communities on the island closer together.”¹⁷ On these grounds Turkish Cypriots together with Greek Cypriots were to participate in European integration and derive benefits of it, although in practice the application was submitted only by Greek Cypriots, namely the government of the Republic of Cyprus. The perspective of the end of

¹⁴ D. Hannay, *Cyprus: The Search for a Solution*, London 2005, pp. 234–235.

¹⁵ *Resolution of the European Parliament of 15 March 1990 on the Current Cyprus Situation*, in: *The Cyprus Question*, Nicosia 2003, p. 127.

¹⁶ *Ibidem*.

¹⁷ *Commission Opinion on the Application by the Republic of Cyprus for Membership of 30 June 1993*, in: *European Stand on the Cyprus Problem...*

economic and political isolation of North Cyprus within the European Union was also aimed at Rauf Denктаş who opposed such a plan or, more precisely, any EU-Cyprus accession talks based on the Greek Cypriot application of 4 July 1990. According to the Turkish Cypriot leader, the Greek Cypriot priority was membership of the EU and not a solution of the Cyprus question based on a bi-zonal and bi-communal federal state. He believed that after the accession Greek Cypriots were to take full advantage of EU membership to weaken the Turkish Cypriot position or even banish them from the island: “No one can drag us by force of arms into the EU. We are not going to enter without our status and a divided Cyprus will enter with all its problems. Greek Cypriots will start immediately saying that Turkey is now in occupation of an EU territory, therefore help me, as the government of Cyprus which you have recognized for so long to eject Turkey from Cyprus, to send back my refugees to their own properties, therefore to uproot Turkish Cypriots for the fourth time in 40 years. This will be a continuous problem for the EU.”¹⁸ For this reason Rauf Denктаş was rejecting any invitations to join up representatives of Turkish Cypriots with the official Cypriot negotiation team during the accession talks.

On 6 March 1995 the General Affairs Council reconsidered the Cypriot application for membership of the EU. Pauline Green pointed out that “this meeting was also important because it articulated the case for the support that the EU would have available for the economy of the north of the island, and was explicit that this would be for the Turkish Cypriots community. The Council was clear that the Turkish Cypriot community needed to understand the full advantages available to it upon EU accession more clearly, and went on to urge the other institutions of the EU to improve and increase their links with the Turkish Cypriot community.”¹⁹ Intentions of the EU were clear, yet its message could not reach Turkish Cypriots due to the informal isolation. As the Turkish Cypriot community had only limited access to news on European integration, the governmental interpretation of various EU issues was the only source of information. Obviously, the official interpretation was not pro-European and therefore the Turkish Cypriot authorities did not welcome any EU attempt to persuade Turkish Cypriots of advantages related to EU membership.

Because any bilateral agreement was unlikely to be reached as long as Rauf Denктаş was in office, the EU decided to increase political as well as financial support for the Turkish Cypriot opposition political parties. It became obvious that there would be no progress in the frame of bilateral talks as long as Rauf Denктаş was in power in North Cyprus. The final decision was made during spring 2003 after the Turkish Cypriot leader had rejected another version of the Annan plan and had decided to end talks under the auspices of the UN. In spite of that, Cyprus was to join the EU on 1 May 2004 and such step meant that the *de facto* divided island would join the EU – a scenario which was the least desirable among EU member states. On account of these developments, in May 2003 “the EU proposed a package of measures to aid the Turkish Cypri-

¹⁸ R. R. Denктаş, *Legal Aspects of the Cyprus Problem: Speech Delivered by H. E. Rauf Denктаş President of the Turkish Republic of Northern Cyprus, Strasbourg 23 April 2002*, Ankara 2005, pp. 19–20.

¹⁹ P. Green, *Embracing Cyprus: the Path to Unity in the New Europe*, London 2003, p. 166.

ots. It promised 12 million euros.”²⁰ This way the EU intended to bypass the Turkish Cypriot government and to transfer the money directly into accounts of three municipalities, namely Nicosia, Famagusta and Kyrenia. “It served to boost the reputation and popularity of the newly elected left-wing mayors of those three major municipalities. The impact of these resources on their popularity was expected to have its effect on the fortunes of the left-wing political parties in the important December 2003 parliamentary elections.”²¹ The Republican Turkish Party (CTP) of Mehmet Ali Talat was to become the main beneficiary of the new EU approach, although the Turkish Cypriot government did its best to block the controversial financial aid which it called even a bribery. After Mehmet Ali Talat had been elected as a new prime minister, participation of Turkish Cypriots in European integration from 1 May 2004 became more probable.

Notwithstanding the results of the December 2003 elections, EU politicians knew that the key to solution was to convince the Turkish government. Turkey supported the EU in its actions aiming at the change of government in North Cyprus. The position of the new government, dominated by AKP, was decisive. Lack of mutual understanding and trust between the new government and Rauf Denktaş resulted in a significant political change on the island. Unquestionably no Turkish Cypriot leader could remain in power without the unconditional support of Turkey.

In 2002 it became obvious that the Cyprus question could be the main obstacle on the Turkish way to EU membership and could delay the opening of accession negotiations. For this reason Turkey cooperated with the United Nations as well as the European Union to settle the dispute in April 2004. The final version of the Annan plan, which had been compiled in Bürgenstock in the end of March, was to be accepted in simultaneous referenda by members of both Cypriot communities.²² Both Greek Cypriots and Turkish Cypriots had an opportunity to decide directly about their future for the first time in history. Top EU politicians and UN officers were convinced that Cypriots intended to take advantage of the situation. Nevertheless, the outcome of the referenda of 24 April 2004 dispelled their illusions.

II. After the Failure of the Annan Plan: Upgrading Relations with TC?

Surprisingly Greek Cypriots turned down the proposal and this way they left Turkish Cypriots outside the European Union. 75.83 per cent of Greek Cypriots rejected the Annan Plan while 64.91 per cent of Turkish Cypriots voted in favour of the agreement.²³ The European Union was forced to accept new political circumstances on the island.

Although Turkish Cypriots could not be blamed for the fiasco of the Annan Plan, the European Union has not considered any form of recognition of the TRNC. Thus its of-

²⁰ C. Dodd, *Disaccord on Cyprus: the UN Plan and After*, Huntingdon 2004, p. 32.

²¹ *Ibidem*, pp. 32–33.

²² For more details and comments about the final version of the Annan Plan see: T. Potier, *A Functional Cyprus Settlement: the Constitutional Dimension*, Ruhpolding 2007.

²³ J. Ker-Lindsay, *EU Accession and UN Peacemaking in Cyprus*, Basingstoke 2005, p. 110.

ficial position concerning the Cyprus question remains unchanged. Some EU politicians as well as the Commission openly supported Turkish Cypriots and called to lift embargoes in return for their conciliatory gesture, however, those declarations did not lead to any political steps. Here are a few examples:

- UK Foreign Secretary Jack Straw: “I am glad that the Turkish Cypriot community has voted so clearly for the settlement. I understand very well their wish to end their isolation in the world. [...] I want them to know that this remains our goal too, and that we will continue to work for its ultimate realisation;”²⁴
- the European Commission’s statement of 24 April 2004: “A unique opportunity to bring about a solution to the long-lasting Cyprus issue has been missed. The European Commission would like to warmly congratulate Turkish Cypriots for their ‘Yes’ vote. This signals a clear desire of the community to resolve the island’s problem. The Commission is ready to consider ways of further promoting economic development of the northern part of Cyprus;”²⁵
- EU’s Commissioner for Enlargement Günter Verheugen: “What we will seriously consider now is finding a way to end the economic isolation of Turkish Cypriots.”²⁶

Nevertheless, one can observe some significant changes in bilateral relations between the EU and the Turkish Cypriot community. Top EU politicians or representatives of EU member states have been meeting Turkish Cypriot representatives in North Cyprus since April 2004. Among them were European socialist MP’s (February 2005), EU Enlargement Commissioner Olli Rehn (May 2005), Foreign Minister of Luxembourg Nicholas Schmit (May 2005), President of the European Parliament Josep Borell (October 2005), and British Foreign Secretary Jack Straw (January 2006).

Undoubtedly, such meetings in North Cyprus would have been impossible before the referenda. Besides, in 2005 the Commission’s Directorate General for Enlargement has created a special unit for the Turkish Cypriot community called the Task Force Turkish Cypriot community and headed by Leopold Maurer.²⁷

The fiasco of the Annan Plan was the last thing the EU needed even though it was well prepared for such a scenario. According to Protocol 10 article 1 of the Treaty of Accession of 16 March 2003, “the application of the *acquis* shall be suspended in those areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control.”²⁸ At the same time the parties agreed that “nothing in this Protocol shall preclude measures with a view to promoting the economic development of the areas referred to in Article 1.”²⁹ This way the European Union can provide Turkish Cypriots with financial assistance after the fiasco of the Annan Plan.

²⁴ BBC, 24 April 2004.

²⁵ *Commission Statement Following the Outcome of the Referendum in Cyprus*, IP/04/537, 26.04.2004.

²⁶ I. Black, H. Smith, *EU to Reward Turkish Cypriots*, “The Guardian”, 26 April 2004.

²⁷ *The Commission Sets Up Special Unit for Turkish Cypriots*, “Kıbrıs”, February 2005.

²⁸ *Protocol 10 to the Treaty of Accession of 16 March 2003*; http://ec.europa.eu/enlargement/archives/pdf/enlargement_process/future_prospects/negotiations/eu10_bulgaria_romania/treaty_2003/en/aa00042_re03_en.pdf (28.06.2006).

²⁹ *Ibidem*.

When the Republic of Cyprus joined the EU on 1 May 2004, the whole Cypriot territory became *de iure* EU territory, however, the application of the *acquis* was suspended in its northern part. Ironically, Turkish Cypriots became EU citizens who in practice were left outside the EU.³⁰ Moreover, presence of Greek Cypriot representatives in all EU institutions upset the balance of power on the island. Thanks to that the Greek Cypriot community can put pressure on Turkey and Turkish Cypriots in the frame of EU external relations. As a consequence, the European Union is not impartial in case of the Cyprus question anymore. Even though the Community always supported the Greek Cypriot side, it did its best to remain neutral at least in theory. Such attitude to the Cyprus dispute is not possible any longer as one of the parties has its representatives in EU institutions.

On 29 April 2004 the Council of the European Union adopted regulation No 866/2004 on a regime under article 2 of Protocol 10 to the Act of Accession.³¹ The Council stated in point 2 that “the application of the *acquis* upon accession has therefore been suspended pursuant to article 1 of Protocol 10, in the areas of the Republic of Cyprus in which the government of the Republic of Cyprus does not exercise effective control.”³² At the same time the Council confirmed in point 5 that “article 3 of Protocol 10 explicitly states that measures promoting economic development in the abovementioned areas are not precluded by the suspension of the *acquis*. This regulation is to facilitate trade and other links between the abovementioned areas and those areas in which the Government of the Republic of Cyprus exercises effective control, whilst ensuring that appropriate standards of protection are maintained as set out above.”³³ Since then the European Union has continued political isolation of northern part of Cyprus, but not in economic terms. It supports economic development of the Turkish Cypriot community in order to make up differences in economic growth on both sides of the Green Line.

On the basis of Protocol 10, the EU decided to provide the Turkish Cypriot community with financial assistance. Some analysts claimed that it was a kind of reward for Turkish Cypriots, because they backed the Annan Plan. As a matter of fact, the funds were earmarked for the northern part of Cyprus in the event of a settlement. On 26 April 2004 the Council recommended that these funds should be used to put an end to the isolation of the Turkish Cypriot community. In the budget of 2005 the Commission allocated almost 27 million euro to Turkish Cypriots within the pre-accession strategy.³⁴

³⁰ According to the Turkish Cypriot Public Relations Department, the *de iure* population of North Cyprus is 256,644 people and is predominantly Turkish Cypriot. See: *Facts About Turkish Republic of Northern Cyprus*, Nicosia 2007, p. 4. However, the Greek Cypriot authorities claim that Turkish Cypriot population is much smaller, namely 110,200 people (only 12,9 per cent of all inhabitants on the island). The rest are Turkish immigrants whom Greek Cypriot authorities often label as ‘illegal Turkish settlers’. See: *About Cyprus*, Nicosia 2007, p. 8. Similar data were published in the Harenberg lexicon of 2008 – 78 per cent of the population was Greek Cypriot and 12,3 per cent Turkish Cypriot. See: *Harenberg Aktuell 2008: Das Jahrbuch*, Mannheim 2007, p. 728.

³¹ This document is commonly referred to as the Green Line Regulation.

³² *The Council Regulation (EC) No 866/2004 of 29 April 2004 on a Regime Under Article 2 of Protocol 10 to the Act of Accession*, OJ L 161, 30.04.2004.

³³ *Ibidem*.

³⁴ *General Budget of the European Union for the Financial Year 2005*, Luxembourg 2005, p. 7.

The financial assistance for Turkish Cypriots was blocked for a long time by the Greek Cypriot side. Officially it claimed that these funds could strengthen the position of the unrecognized Turkish Cypriot authorities. It took almost two years to break the deadlock. On 27 February 2006 the Council adopted regulation No 389 (2006) establishing an instrument of financial support for encouraging the economic development of the Turkish Cypriot community. The overall objective of the regulation is that the Community “shall provide assistance to facilitate the reunification of Cyprus by encouraging the economic development of the Turkish Cypriot community with particular emphasis on the economic integration of the island, on improving contacts between the two communities and with the EU, and on preparation on the *acquis communautaire*.”³⁵

Other main objectives of the assistance are:

- the promotion of social and economic development;
- the development and restructuring of infrastructure;
- reconciliation, confidence building measures and support to civil society;
- bringing the Turkish Cypriot community closer to the Union;
- preparation of legal texts aligned with the *acquis*;
- preparation for implementation of the *acquis*.³⁶

As regards the administration of the financial assistance, the Commission is responsible for this task. In total 259 million euro was allocated for the programme which is to be implemented over five years. “Up to July 2008, contracts have been signed for about 20 per cent of the 259 million available. It is expected that contracts will be signed for the rest by the end of 2009. Most of the contracts should be completed by the end of 2011.”³⁷

The financial assistance is a very interesting example how the European Union can support preparations for future reunification. Undoubtedly, money invested in the economic development of the Turkish Cypriot community is money well invested. This way the EU can restrain the widening economic gap between both Cypriot communities in order to avoid, for example, the situation observed in Germany after the reunification in 1990.

Moreover, after April 2004 the European Union also presented proposals on special conditions for trade with those areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control. The Commission presented a proposal for such a Council regulation on 7 July 2004. Article 1 read as follows: “Products that, within the meaning of Articles 23 and 24 of Council regulation No 2913/92, originate in the Areas and are transported directly there from, may be released for free circulation into the customs territory of the Community with exemption from customs duties and charges having equivalent effect within the limits of annual tariff quotas fixed in accordance with Article 4, provided that they are accompanied by

³⁵ *Council Regulation (EC) No 389/2006 of 27 February 2006 Establishing an Instrument of Financial Support for Encouraging the Economic Development of the Turkish Cypriot Community and Amending Council Regulation (EC) No 2667/2000 on the European Agency for Reconstruction.*

³⁶ *Ibidem.*

³⁷ *Turkish Cypriot community*, http://ec.europa.eu/enlargement/turkish_cypriot_community/index_en.htm (30.07.2008).

the document referred to in Article 2(2) and provided that they are not eligible for export refunds or intervention measures. This is without prejudice to indirect taxes due on importation.”³⁸ Besides, the Commission suggested opening of Turkish Cypriot ports and airports which have been closed to direct international trade and travel since 1974. Undoubtedly, if such a regulation was adopted by the Council, it would amount to the end of economic isolation of northern Cyprus. Although it has not been adopted yet due to the Greek Cypriot backlash and nothing indicates that this situation will change in the nearest future, the Commission proposal should be judged an example of good will and a reward for Turkish Cypriots.

Conclusions

The attitude of the European Union towards Turkish Cypriots has undergone some significant changes since April 2004, however, those changes have not influenced its position on the Cyprus question. The European Union has not recognized the Turkish Cypriot state and it does not intend to do that in the future. It remains one of the main principles within integration policy conceptual framework. For that reason the EU maintains official relations only with the Republic of Cyprus and prefers a comprehensive solution based on a bi-zonal and bi-communal federation.

The main changes within the EU’s attitude towards Turkish Cypriots can be divided into two groups. The political group includes direct meetings between top EU and Turkish Cypriot representatives even in the Turkish Cypriot controlled part of the island. Such steps would have been impossible before the referenda, because they might have been interpreted as *de facto* recognition of the Turkish Republic of Northern Cyprus. Besides, influential politicians from various EU member states often declare support for Turkish Cypriots and emphasize their potential constructive role in European integration. Probably this way the EU intends to make certain that the Turkish Cypriot community will also opt for a federal solution in the future.

As regards economic changes, the most significant one is the financial assistance to facilitate the reunification of Cyprus by encouraging the economic development of the Turkish Cypriot community. So far the EU has allocated more than 259 million euro for this purpose. Moreover, the EU presented proposals on special conditions for trade with those areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control. So far these proposals have been blocked by Greek Cypriots. Nevertheless, once they are adopted, they will amount to the end of economic isolation of Turkish Cypriots.

The most important question is whether all above changes will help to solve the Cyprus dispute in the nearest future. According to David Hannay, “much will depend on the prospects for Turkish accession to the EU. If Turkey’s candidature prospers, and so the reality of Turkish accession comes closer, a solution to the Cyprus problem will be-

³⁸ *Proposal for a Council Regulation on Special Conditions for Trade with Those Areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control*, Brussels 7.07.2004, COM(2004) 466 final.

come a necessity; and it is difficult to see any solution straying far away from the Annan Plan which has been so widely endorsed.”³⁹ Undoubtedly, the European Union will support any comprehensive settlement of the Cyprus dispute if it enables Turkish Cypriots to take an active part in European integration. The Cyprus question is constructive neither for both Cypriot communities nor for the European Union.

³⁹ D. Hannay, *Cyprus: The Search for a...*, p. 246.

Overseas Countries and Territories' Status in the European Community

Introduction

Since January 1, 2007, the European Union (EU) has comprised 27 states. However, the relations of particular members to the European Community (EC) are not one and the same. There are special member state territories which, due to historical, economical, geographical or political reasons, are located outside the EU. There are 21 such overseas countries and territories (OCT). They depend constitutionally on four of the EU member states: Denmark, France, the Netherlands, and the United Kingdom. Their nationals have been recognized as Union citizens since 1996. However, these countries do not form part of Community territory. Accordingly, Community law does not apply directly to them, but they benefit from associate status conferred on them by the Treaty of Rome, which forms the basis for the current development policy.¹ The current relations between OCTs and the EC are regulated by article 182–188 of the Treaty establishing the European Community (the EC Treaty), and governed by the consecutive Decision of the Council of Ministers, which are periodically adopted.

I. Historical development of OCTs

Part Four of the European Economic Community (EEC) Treaty created “the association of the overseas countries and territories,” thus meaning that the association dates back to 1957. Consequently, the member states decided to build a bridge between the EEC and the overseas countries, most of which were colonies and territories under French sovereignty.² The original objectives and the means of this association were laid down in Articles 131–135 of the Treaty of Rome.³ Its purpose was “to promote the social and economic development of the countries and territories and to establish close economic relations between them and the community as the whole.” The first Convention of Association was annexed to the Treaty. As Article 131 stipulated, the association was open to “the non-European countries and territories which have special relations with Belgium, France, Italy and the Netherlands, and there were listed in Annex IV to

¹ *Europa – gateway to the European Union*, <http://europa.eu/scadplus/leg/en/s05034.htm>, downloaded 21.08.2008.

² *The European Community and the Overseas Countries and Territories*, Europe Information, DE 76, October 1993, ECSC-EEC-EAEC, Brussels–Luxembourg 1993, p. 6.

³ *EU-Overseas countries and territories (OCT's) relations*, http://ec.europa.eu/development/geographical/regionscountries/regionscountriesocts_en.cfm?CFID=1610166&CFTOKEN=34194474&jsessionid=24303eb5d3703364731d, downloaded 02.06.2008.

the Treaty.⁴ Following the first enlargement in 1973, the association was extended to six countries and territories having relations with the United Kingdom and in some aspects to Greenland under Danish rule in 1986.⁵ Many of the OCTs became independent in the 1960s, as colonialism came to an end. Some first joined the Associated African and Malagasy States (AAMS), formed in Yaoundé in 1963, and then, in 1975, the African, Caribbean and Pacific (ACP) Group of States. Even during that process, the previous OCT association laid down the foundation for the Community future development policy. For the first time, the member states indicated the Community's solidarity with developing countries and territories with special relations to member states.⁶

II. Characteristic of OCTs

Currently, Annex II to the EC Treaty comprises 21 OCTs. These regions are characterized by special linkages to one of the EC member states. 12 OCTs have special relations with Great Britain, six with France, two with the Netherlands and one with Denmark.

The OCTs listed in Annex II to the EC Treaty are:

- 12 British overseas countries and territories:
The Bermudas; Anguilla; Montserrat; the British Virgin Islands; the Cayman Islands; the Turks and Caicos Islands; the Falklands; South Georgia and the Sandwich Islands; Saint Helena and Dependencies; British Antarctic Territory; British Indian Ocean Territory, and Pitcairn;
- Six French territories and territorial communities (*collectivités territoriales*):
French Polynesia; New Caledonia and Dependencies; Wallis and Futuna; the French Southern and Antarctic Territories; Mayotte; St Pierre and Miquelon;
- Two Dutch overseas countries:
Aruba; the Netherlands Antille (Bonaire, Curaçao, Saba, Sint Eustasius, Sint Maarten);
- One Danish autonomous territory:
Greenland.⁷

⁴ Annex IV of the Treaty applied to: French West Africa (Senegal, French Sudan, French Guinea, Ivory Coast, Dahomey, Mauritania, Niger, and Upper Volta); French Equatorial Africa (Middle Congo, Ubangi-Shari, Chad and Gabon); Saint Pierre and Miquelon, the Comoro Archipelago, Madagascar and dependencies, French Somaliland, New Caledonia and Dependencies, French Settlements in Oceania, Southern and Antarctic Territories; The Autonomous Republic of Togoland; The trust territory of the Cameroons under French administration; The Belgian Congo and Ruanda-Urundi; The trust territory of Somaliland under Italian administration and Netherlands New Guinea.

⁵ *The European Community and the Overseas Countries and Territories...*, op. cit., p. 9.

⁶ *Ibidem*, p. 9.

⁷ Greenland is a special case among OCTs. Greenland as a part of the Kingdom of Denmark joined the EEC in 1973. However, after being granted broad autonomy in 1979, Greenland decided to leave the Community in February 1982, following a referendum. This led to the signing on March 13, 1984 of the Treaty which amended, with regard to Greenland, the Treaties establishing the European Communities. Under this Treaty, Greenland was added to the OCT listed in Annex IV of the Treaty of Rome and it figured for the first time among the OCT listed in Annex I of Decision 96/283/EEC of June 30, 1986. Financially, Greenland is treated differently to the other OCTs. It was agreed that it would not get the benefit of the European Development Fund (EDF), but there would be annual compensation in return for the fishing quotas allocated to the Community in its waters.

Table 1

OCTs statistical table

OCT	Population (2007)	Area (sq km)	GDP per capita (ppp)	Major industries
Anguilla	13,677	102	8,800 USD (2004 est.)	tourism, construction, international financial services, banks and insurances
Aruba	100,018	193	21,800 USD (2004 est.)	tourism, international financial services, oil refining
British Antarctic Territory	no permanent local population	1,709,400	ND	ND
British Indian Ocean Territory	no permanent local population ¹	54,400 (60) ⁴	ND	ND
British Virgin Islands	23,552	153	38,500 USD (2004 est.)	tourism, international financial services
Cayman Islands	46,600	262	43,800 USD (2004 est.)	tourism, international financial services
Falklands	3,105	12,173	25,000 USD (2002 est.)	fisheries, tourism, agriculture
French Polynesia	278,963	4,167 (3,660) ⁴	17,500 USD (2003 est.)	tourism, pearls, fisheries, copra
French Southern and Antarctic Territories	no indigenous inhabitants ²	7,747 (7,719) ⁴	ND	ND
Greenland	56,344	2,166,086	32,030 EUR (2005)	fisheries, tourism, minerals
Mayotte	208,783	374	4,900 USD (2005 est.)	Ylang-ylang, aquaculture, vanilla, tourism
St Pierre and Miquelon	7,036	242	6,125 EUR (2006)	fisheries, soybeans, animal feed, mollusks and crustaceans
Montserrat	9,538	102	3,400 USD (2002 est.)	mining and quarrying, construction, international financial services
The Netherlands Antille	223,652	960	16,000 USD (2004 est.)	tourism, petroleum refining, international financial services
New Caledonia and Dependencies	221,943	19,060 (18,575) ⁴	22,734 EUR (2006)	Nickel, tourism
Pitcairn	48	47	1800 £ (2006)	tourism, natural resources
Saint Helena and Dependencies	7,543	413	3,453 £ (2006/2007)	agriculture, fishing, tourism
South Georgia and the Sandwich Islands	no indigenous inhabitants ³	3,903	ND	ND
Turks and Caicos Islands	21,746	430	15,500 USD (2005 est.)	tourism, property development, real estate
Wallis and Futuna	16,309	274	3,800 USD (2004 est.)	barter economy

¹ In November 2004, there were approximately 4,000 UK and US military personnel and civilian contractors living on the island of Diego Garcia.

² *Iles Crozet*: uninhabited except for 18 to 30 people staffing the Alfred Faure research station on Ile del la Possession. *Iles Kerguelen*: 50 to 100 scientists are located at the main base at Port-aux-Francais on Ile Kerguelen. *Europa Island, Glorioso Islands, Juan de Nova Island (Iles Eparses)*: a small French military garrison and a few meteorologists on each possession; visited by scientists.

³ The small military garrison on South Georgia was withdrawn in March 2001 and replaced by a permanent group of scientists of the British Antarctic Survey.

⁴ In brackets only the land area is shown.

Source: The World Factbook 2008; Green Paper: *Future Relations between the EU and the Overseas Countries and Territories*, Brussels, 25.6.2008, SEC(2008) 2067, http://ec.europa.eu/development/center/repository/1_EN_ACT_part1_v8.pdf, downloaded 1.07.2008.

The OCTs share some common characteristics: none of them is a sovereign country, they are all parliamentary democracies and they are all islands, whose ecological richness is extraordinary compared to continental Europe.⁸ Because of these geographical characteristics, the OCTs suffer from narrow-based markets. Most products are imported at high transport costs, and OCTs are vulnerable to any fluctuation in trade exchange. The insular characteristics mean they are particularly exposed to environmental challenges, which, due to global warming, are currently on the increase.

However, there are also significant differences between the OCTs. The difference in the level of economic and social development is exceptionally wide, with Wallis and Futuna categorized by the Development Assistance Committee of the Organization for Economic Cooperation and Development (OECD/DAC) as lower middle income territories, whereas Anguilla, Mayotte, Monserrat, Saint Helena and the Turks and Caicos Islands are upper middle income territories. All other OCTs are not considered by the OECD/DAC as eligible for official development assistance. On the other hand, the standard of living on the British Virgin Islands and the Cayman Islands significantly exceeds the Community average.⁹ The differences also include the financial transfers from their related member states. The geographical location isolates some OCTs from the outside world. The total population of all OCTs is close to 1.2 million inhabitants.

III. Economic and trade cooperation

The Overseas Countries and Territories are the subject of Articles 182–188 of the EC Treaty. On that basis, the given member states decided to bring the non-European countries and territories they have special relations into association with the Community. The purpose of this association has been not changed in comparison to the Treaty of Rome. Consequently, the main principle remains “to promote the economic and social development of the countries and territories and to establish close economic relations between them and the Community as the whole” (Article 182).

According to its provisions, the association aims primarily at serving to further the interests and prosperity of the inhabitants of OCTs in order to lead them to the economic, social and cultural development to which they aspire (Art. 182).

Currently, the cooperation focuses in particular on three issues:

- The reduction, prevention and eventual eradication of poverty;
- Sustainable development;
- The gradual integration of the OCTs into the regional and world economies.¹⁰

On the basis of the association, the OCTs benefit from preferential access to the Community market using the rules of origin, the cumulation of origins and the trans-shipment procedure, as well as financial assistance. However, even though they

⁸ Green Paper: *Future Relations between the EU and the Overseas Countries and Territories*, Brussels, 25.06.2008, SEC(2008) 2067, p. 2, http://ec.europa.eu/development/icenter/repository/1_EN_ACT_part1_v8.pdf, downloaded 01.07.2008.

⁹ *Ibidem*, p. 2.

¹⁰ SCADPlus: *Association of the OCTs with the European Union*, <http://europa.eu/cgi-bin/etal.pl>, downloaded 16.06.2008.

are not third countries, the OCTs do not form part of the single market and must comply with the obligations imposed on third countries in respect of trade, notably rules of origin, health and plant health standards and safeguard measures.

Thanks to this association, member states can benefit from applying the same treatment in trade with OCTs as they accord each other pursuant EC Treaty. Consequently, as Article 183 states, each country or territory applies the same treatment to its trade with member states and with the other countries and territories as is applied to the European state with which it has special relations. Article 184 clearly states that customs duties on goods originating in the countries and territories imported into the member states are prohibited. In other words, the preferential opening of the Community market is the main feature of the trade arrangements adopted for products originating in the OCTs. In fact, since 1991, all products originating in the OCT have been granted free access to the Community market. The reason behind the rules of origin was that products which have been produced or processed locally provide employment, industrialization and therefore development of OCTs.¹¹ Under the rules of origin, a product is classed as originating from the OCTs if (a) the products are wholly obtained in the OCT¹² or (b) the products are obtained in the OCT and also incorporating materials which have not been wholly obtained there; such materials must, however, have undergone sufficient working or processing in the OCT.

However, due to the development and industrialization needs of the OCTs, the authorities of the countries and territories may impose customs duties or quantitative restriction on imports from member states. Likewise, the Community – in special circumstances – has the right to introduce special protective regulations. Nevertheless, imposed regulations can neither cause any discrimination between member states nor exceed the level of duties imposed on imports of products from the member state with which each country or territory has special relations. Moreover, the system applied to the EC may not be any less favorable than that applied to non-EU member countries in accordance with the most-favored-nation principle by the OCTs, unless another OCT or developing countries is involved.¹³

Additionally, the association arrangements provide specific provisions permitting cumulation of origin within materials originating in the EC or in the ACP countries. This solution is in usage when a product is imported from the Community or an ACP state, where first-stage processing took place, and then undergoes subsequent working or processing in the OCT. This extra processing entitles it to be considered as originating in the OCT.¹⁴

¹¹ *The European Community and the Overseas Countries and Territories...*, op. cit., p. 6.

¹² For example mineral products extracted from their soil or from their seabed; vegetable products harvested there; live animals born and raised there. For further information, see the Council Decision of 27 November 2001 on the association of the overseas countries and territories with the European Community, European Commission, Annex III: *Concerning the definition of the concept of 'originating products' and methods of Administrative cooperation*, http://ec.europa.eu/development/icen-repository/1_31420011130en00010077_en.pdf, downloaded 13.06.2008.

¹³ SCADPlus: *Association of the OCTs...*, op. cit.

¹⁴ *The European Community and the Overseas Countries and Territories...*, op. cit., p. 18. However the rule of cumulation does not apply to all products, as there are annual limits on cumulation of

There is also a procedure for the trans-shipment of goods, introduced in 1991.¹⁵ It means that under certain conditions, the products not originating in the OCTs, but imported there from non-EU member countries and on which import duties or charges have been paid in the OCTs, can be imported into the EC in line with the beneficial arrangements for OCTs.¹⁶

It is important to recall that the OCTs do not form the part of the Community single market, and therefore the related four freedoms do not cover the OCT-EU association. In any case, this does not affect the rights conferred upon OCT inhabitants by citizenship of the Union within the meaning of the EC Treaty.

IV. Overseas Association Decision

Provisions of Articles 182–188 of the EU Treaty are governed by a unanimous Council Decision. Currently, the Council Decision of 27 November 2001 on the association of the overseas countries and territories with the European Community¹⁷ (quoted here as: Overseas Association Decision) is in force. The Overseas Association Decision was initially applicable until December 31, 2011.¹⁸ However, following technical amendments made in 2007, its duration has been extended until 31 December 2013,¹⁹ in order to coincide with the duration of the 10th European Development Fund (EDF) covering the period 2008–2013 and the multiannual financial framework for the period 2007–2013.

Defining the new Decision was a challenging task. Until 1991, the year the previous Decision was adopted, the OCT Decisions were similar and in some respect identical to the Lomé Convention. However, the member states decided that new arrangements should take into account more precisely the particular position of OCTs. In addition to the general rules laid down in the EC Treaty, the main objectives of the new Decision were to reflect as much as possible the needs and expectations of the OCTs. Consequently, for the first time, the Commission consulted widely with the OCTs and concerned member states on the provisions of the Decision.²⁰ The complexity of the matter led twice to an extension of the 1991 Decision which was originally due to expire on

origin for two sensitive products: sugar and rice. For further details see: Overseas Association Decision, Annex III: *Concerning the definition of the concept of 'originating products'*..., op. cit., Article 6.

¹⁵ Historically, trans-shipment was introduced following the request by one particular OCT, namely the Netherlands Antilles.

¹⁶ SCADPlus: *Association of the OCTs*..., op. cit. The described procedure does not apply to agricultural products or goods resulting from the processing or agricultural products, with one exception.

¹⁷ Council Decision of 27 November 2001 on the association of the overseas countries and territories with the European Community, European Commission, http://ec.europa.eu/development/icenter/repository/1_31420011130en00010077_en.pdf, downloaded 13.06.2008.

¹⁸ Previous Council Decision 91/482/EEC of 25 July 1991 on the association of overseas countries and territories with European Economic Community was in used till December 1, 2001.

¹⁹ Council Decision of 19 March 2007 amending Decision 2001/822/EC on the association of the overseas countries and territories with the European Community, Official Journal of the European Union L 109, 26.4.2007, pp. 33–41.

²⁰ Firstly bilaterally and then, in April 1999, in a “partnership meeting.”

February 29, 2000, before a final agreement could be reached by the Commission and then adopted by the Council.²¹

The negotiation on trade issues in the new Decision were particularly complex. The main problem originated from the radical trade concession granted to OCTs under the 1991 Decision, and concerned the exports of sensitive Common Agricultural Policy (CAP) products from the OCTs to the Community, as well as the trans-shipment procedure.²²

In the Overseas Association Decision, it was noted that products originating in the OCTs should be imported into the Community free of import duty (Article 35). However if, as a result of the application of the Decision, serious disturbances occur in a sector of the economy of the Community of its member states, the Commission may (following consultation with the Committee) considered taking the necessary safeguard measures (Article 42). Even in that situation, priority should be given to such measures that would least disturb the functioning of the association and the Community, with these measures not exceeding the limits of what is strictly necessary to remedy the difficulties that have arisen. The decision makes clear that particular attention should be paid to the interests of the least-developed OCTs (Article 43).

In this context, the Decision warned that duty-free access of some products from OCTs could cause or threaten to cause serious disruption to the functioning of certain common market organizations under the CAP, in particular those for rice and sugar, which heavily oversupplied the common market. Specifically, mostly notably Aruba and the Netherlands Antilles started importing and lightly processing raw materials under the cumulation of origin procedure in a way that conflicted with the CAP.²³ As a consequence, as stated in the Overseas Association Decision, the whole situation resulted in a greater reduction in the quota allowed for Community producers and therefore a greater loss in guaranteed income for them. Therefore, the disruption led the Commission and the Council to adopt, for the first time ever, safeguard measures. The warning applies mainly to the rules of origin allowing cumulation with products originating in the ACP States and generally resulted in a limitation in scope for use of cumulation of origin.²⁴ This, in turn, gave rise to a long string of legal actions, some of which are still pending in the European Court of Justice or Tribunal of First Instance. In order to avoid such situations in the future, the new Decision contains a rule of origin and sets new quotas, which are intended to strike a balance between the legitimate interests of the OCTs and the Community.²⁵

The mentioned Decision only comprises 20 OCTs, as the Bermudas, upon their request, are not subject to this document. The Decision covers a large number of sectors

²¹ "The Courier ACP-EU", January–February 2002, p. 19.

²² Ibidem, p. 20.

²³ Ibidem, p. 19.

²⁴ The disruption to the functioning of the common market resulted from the following procedure: duty-free sugar and rice were imported from third countries and only processed in OCTs. They were then exported as original OCTs products. In effect, the EC decided that for the sugar sector, the quantity should be progressively reduced and eventually phased out by 2011. As for the rice sector, the decision was made to introduce quota limitations.

²⁵ "The Courier ACP-EU", op. cit., p. 20.

including the environment and health, industry, agriculture and food security, fisheries and trade, transport and communications, mining commodities, energy, tourism and regional integration.

Among the 20 OCTs bound by the Overseas Association Decision, the Community specified the group of “the least-developed OCTs” (Article 3), which are unable to take advantage of regional cooperation and integration. In order to overcome structural and other obstacles in the development of that group, the EC introduced special treatment when determining the volume of financial resources. Priority was given to improving the living conditions of the poorest sections of the population within the context of poverty alleviation.

The OCTs considered to be the least developed are listed in Annex I B of the Overseas Association Decision. The list is not exhaustive, as it can be revised by a Council Decision, acting unanimously on a proposal from the Commission. It can be amended, where the economic situation of an OCT undergoes a significant and lasting change, necessitating its inclusion in the category of least-developed OCTs or where its inclusion in that category is no longer warranted (Article 3). Under the binding Decision, there are seven OCTs classified as the least developed: Anguilla; Mayotte; Montserrat; Saint Helena, Ascension Island, Tristan da Cunha; Turks and Caicos Islands; Wallis and Futuna Islands; Saint-Pierre, and Miquelon.²⁶

Simultaneously, it was noted that global changes observed in the continuing process of trade liberalization, have a broad implication on the relations between the Community, the OCTs’ principal trading partner, as well as ACP neighbors and other economic partners. If they wish, the OCTs are encouraged to integrate gradually into the regional and global economy, thus facilitating an increase in their capacity to handle all these new areas. The needs are produced by changes at world market level, where tariff levels play an increasingly reduced role, while trade in services and trade-related areas assume an ever greater importance in the relationship between OCTs and their economic partners.²⁷

V. Finance cooperation

The OCTs benefit from the European Development Fund (EDF), which is the main instrument for providing Community aid for development cooperation in the African, Caribbean and Pacific countries and Overseas Countries and Territories. The 1957 Treaty of Rome made provision for its creation with a view to granting technical and financial assistance, initially to African countries, which at that time were still colonized

²⁶ See Annex I B to Council Decision of 27 November 2001 on the association of the overseas countries and territories with the European Community, (2001/822/EC), Official Journal of the European Communities, L 314, 30.11.2001, p. 25.

²⁷ The extensive study on the impact of the possible choices of the OCTs on integration within the Economic Partnership Agreements (EPAs) is profiled in: *Overseas Countries and Territories regional integration impact study*, FWC BENEFLot 11, Specific Contract No. 2006/123116, Final Report, July 2007.

and with which some member states had historical links. On 25 March 1957, an implementing agreement setting up the first EDF was signed. Each EDF is established for a period of around five years. Since the establishment of the first partnership convention in 1964, the EDF cycles have generally followed the partnership agreement (convention) cycles. In order to underline the real triple partnership for the very first time in 1992, EDF indicative programmes for each territory were signed locally, by the elected representatives of those territories, the representative of the relevant member states and a representative of the Commission.²⁸ EDF does not yet come under the Community's general budget. It is funded by the member states,²⁹ is subject to its own financial rules and is managed by a specific committee.³⁰ Until now, the EDF has completed nine cycles. The tenth EDF covers the period from 2008 to 2013 and provides an overall budget of EUR 22,682 million. The OCTs are also eligible for loans from the European Investment Bank to finance development projects.

On considering financial assistance for OCTs, the Council decided that it should be allocated on the basis of "uniform, transparent and effective criteria, taking into account the needs and performances of the OCTs" (Preamble (17)). The amount distributed should be guided by criteria including in particular the economic and physical dimensions of the OCTs, the use made of past allocations, respect for the principles of sound financial management and estimated absorption capacity.

Previous experience proving the management capacities of the OCTs authorities suggests that the financial resources granted to the OCTs should be managed more on the basis of partnership with procedures based on the rules in force for the structural funds (Preamble (17)). New procedures are strongly decentralized – following the model of the regional Fund – in order to overcome some of the bureaucratic obstacles, which have in the past resulted in a slow take-up of Community aid.³¹ Consequently, the main responsibility for programming and implementing cooperation were transferred to the OCTs in particular.

The authorities of such territories gained key responsibility for the formulation development and cooperation strategies and their implementation. This strategy is adopted in the form of a Single Programming Document (SPD). The proposal of an SPD is prepared by competent OCT authorities, following consultations with the widest possible range of stakeholders. Through this, it should be needs-adapted and respond to the specific circumstances of each OCT. The proposal is submitted to the Commission and is

²⁸ *The European Community and the Overseas Countries and Territories...*, op. cit., p. 16.

²⁹ For the contribution of member states to 10th EDF see: Internal Agreement between Representatives of the Governments of the Member States, meeting within the Council, on the financing of Community Aid under the multi-annual financial framework for the period 2008–2013 in accordance with the ACP-EC Partnership Agreement and on the allocation of financial assistance for the overseas countries and territories to which part four of the EC Treaty applies, European Communities No. 5 (2007), p. 6. The main contributors to 10th EDF are: Germany (4,649,810,000 euro), France (4,434,331,000 euro) and Great Britain (3,361,472,400 euro).

³⁰ See more at Europe – gateway to the European Union, <http://europa.eu/scad-plus/leg/en/lvb/r12102.htm>, downloaded 01.08.2008.

³¹ "The Courier ACP-EU", op. cit., p. 19.

then subject to an exchange of views between the OCT, the relevant member state and the Commission.³² Monitoring and evaluation are the responsibility of all the partners.

For the five-year period from March 1, 2000 to February 28, 2005, the overall amount of Community financial assistance within the framework of the 9th European Development Fund came to 175 million Euro. Within the limits of this total sum 153 million were allocated in the form of grants. The grants were used mainly to support long-term development, humanitarian aid, emergency aid and refugee aid (145 million Euro) and to support regional cooperation and integration (eight million Euro). The remaining funds were given to finance the OCT Investment Facility³³ (20 million Euro). The Investment Facility is a new tool, as set out in the Cotonou Agreement, mentioned in the Annex II C to the Overseas Association Decision. It is designed to promote commercially viable businesses primarily in the private sector or those in the public sector that support development in the private sector and is managed by the European Investment Bank. The final 2 million Euro were assigned to studies or technical assistance activities on the initiative or on the behalf of the Commission (Annex II A, Article 1).

Consequently, special attention was put to the less-developed OCTs. Out of the mentioned sum of 145 million Euro, 66.1 million Euro were transferred to the OCTs whose economic development is least advanced. The criteria set to determine that those OCTs, whose *per capita* Gross National Product (GNP) does not exceed 75% of the Community GNP according to the available statistical data. The remaining 61 million Euro were allocated to the OCT with a *per capita* GNP not exceeding the Community's GNP. This money should be invested mainly in the activities for social development and environmental protection within the framework of the fight against poverty.³⁴ Under the ninth EDF, the largest amount support was received by Netherlands Antilles (20 million Euro), Mayotte (15.2 million Euro) and New Caledonia (13.75 million Euro).

The 10th EDF covers the period from 2008 to 2013 and provides an overall budget of 22,682 million Euro (an increase of more than 30% over the ninth EDF).³⁵ Of this amount, 21,966 million Euro is allocated to the ACP countries, and 286 million Euro to the OCTs.³⁶ This financial assistance should be allocated using the criteria which include in particular the level of GNP of an OCT, the size of its population and continuity

³² Commission Regulation (EC) No 2304/2002 of December 2002 implementing Council Decision 2001/822/EC on the association of the overseas countries and territories with the European Community, Article 4.

³³ This is a new provision concerning the OCT Investment Instrument and contains Annex II C of Council Decision of 19 March 2007 amending Decision 2001/822/EC..., *op. cit.*

³⁴ There was also a non-allocated reserve of 17.9 million Euro which is set aside in order to finance humanitarian, emergency and refugee aid for all OCTs or to make new allocations in accordance with the development of the needs and performance of the OCTs.

³⁵ General Report on the Activities of the European Union 2006, European Commission, Brussels, Luxembourg, 2007, SEC(2006) 1000 final, <http://europa.eu/generalreport/en/rg2006en.pdf>, p. 174, downloaded 9.06.2008.

³⁶ Internal Agreement between Representatives of the Governments of the member states, meeting within the Council, on the financing of Community Aid under the multi-annual financial framework for the period 2008–2013 in accordance with the ACP-EC Partnership Agreement and on the allocation of financial assistance for the overseas countries and territories to which Part Four of the EC Treaty applies, Brussels, 17 July 2006, Article 1.

with previous EDFs. Again, the special treatment should be reserved for the least developed OCTs, as well as for OCTs which, due to their geographical isolation, have more difficulties in engaging in regional cooperation and integration.³⁷ Attention was paid towards on strengthening the cooperation between OCTs, ACP states and the outermost regions referred to in Article 299(2) of the Treaty.³⁸

Of the 286 million Euro provided for assistance, 250 million Euro should be allocated in the form of grants for programme support for long-term development, humanitarian aid, emergency aid and refugee aid. Of this, 195 million Euro should be allocated primarily to finance the initiatives referred to in the SPD.³⁹ How these funds are to be divided, should be decided by taking into account the size of population, the level of GNP, the level and use of previous EDF allocations, constraints due to geographical isolation, and structural and other obstacles of development. In principle, this amount should be allocated to the OCTs with a *per capita* GNP not exceeding the Community *per capita* GNP.⁴⁰ It means that of all the OCTs with a permanent local population, only the Cayman Islands and the British Virgin Islands do not qualify for a territorial allocation. A further 40 million Euro is given to support regional cooperation and integration, 30 million Euro to finance the OCT Investment Fund and six million euro for studies or technical assistance activities. Finally, the non-allocated reserve of 15 million Euro should be set aside to finance humanitarian, emergency and refugee aid for the OCTs and make new allocations in accordance with the development of the needs and performance of the OCTs.

The OCTs also profit from activities adopted for developing countries such as thematic programs financed by the Instrument for Development Cooperation (IDC) and regeneration and reconstruction measures financed by the Instrument for Stability. They also benefit from humanitarian aid financed by the Humanitarian Aid Instrument.⁴¹ In accordance with Article 58 of the Overseas Association Decision, individuals from an OCT and, where applicable, the relevant public and/or private bodies and institutions in an OCT, are also eligible for the Community programs. According to the Council Decision of March 19, 2007, OCTs are entitled to participate in listed programmes in the fields of:⁴²

- Education and training programmes (e.g.: an action programme in the field of life-long learning; Youth in Action programme);
- The programmes of the “Competitiveness and Innovation Framework” programme;
- Research, development and innovation programmes of the seventh Framework Programme of the EC;

³⁷ Council Decision of 19 March 2007 amending Decision 2001/822/EC..., *op. cit.*, Preamble (6).

³⁸ French overseas departments, the Azores, Madeira and the Canary Islands.

³⁹ Priority was given to social development and environmental protection within the framework of the fight against poverty.

⁴⁰ Article 3 of Annex II Aa of Council Decision of 19 March 2007 amending Decision 2001/822/EC..., *op. cit.*

⁴¹ See: Council Decision of 18 March 2007 amending Decision 2001/822/EC..., *op. cit.*, Annex III, Annex II E: *Community financial assistance budgetary aid for developing countries.*

⁴² OCT nationals can participate in the listed programs within the framework of the quota for the member state to which the OCT concerned is linked.

- Cultural and audio-visual programmes;
 - The HRTF Japan programme (human resources training programme in Japan).⁴³
- According to the Overseas Association Decision (Articles 11–17) cooperation of Community with OCTs supports following fields:
- **Productive sectors** (e.g.: agriculture; forestry; fisheries; rural development; industry; mining; energy; transport; communication; water; banking, finance and business services; technology development and application, research);
 - **Trade development** (e.g.: support for the definition of appropriate macroeconomic policies; support for the creation or reform of appropriate legal and regulatory frameworks as well as administrative procedures; the establishment of coherent trade strategies; support for strengthening the infrastructure related to trade and for improving supportive service infrastructure; development of human resources and professional skills in the field of trade and services; support to private sector development; support for OCTs aiming to improve the quality of their products; support for OCT efforts to penetrate third country markets more effectively; the establishment and development of insurance and credit institutions in the field of trade development);
 - **Trade in services** (e.g.: development and promotion of cost-effective and efficient maritime transport services; ensure regular improvement and growth in air traffic; minimizing the environmental impact of air transport; support for the development of the telecommunication and active participation in the information society; measures to develop and support sustainable tourism);
 - **Trade-related areas** (e.g.: the preparation of laws and regulations for the protection and enforcement of intellectual property rights; promote greater use of international technical regulations, standards and conformity assessment procedures; strengthen cooperation with the OCTs with regard to human, animal and plant health measures; protection of natural environment; cooperate with the OCTs in relation to labour standards and area of consumer policy and consumer health protection);
 - **Social sectors** (e.g.: support for formulating development strategies of each OCT, to human and social development measures; widening access to and improving the quality of basic education; health sector reform activities; population policy and family planning; increasing the efficiency of policies to prevent the production, distribution and trafficking of all kinds of drugs, narcotics and psychotropic substances; water policy and institution building, waste management; cooperation with the OCTs in the conservation, sustainable use and management of their biological diversity);
 - **Regional cooperation and integration** (e.g.: support for fostering the gradual integration of the OCTs into the world economy; cooperation between OCTs; cooperation of OCTs with ACP or non-ACP States and the most remote regions);
 - **Cultural and social cooperation** (e.g.: promotion of cultural identities and intercultural dialogue; cooperation to enhance human resources, notably covering education and training, scientific and technical cooperation, the role of women in development, health and combating drug abuse, population and demography).

⁴³ See: Council Decision of 18 March 2007 amending Decision 2001/822/EC..., op. cit., Annex IV, Annex II F: *Other Community assistance: participation on Community programmes.*

VI. The partnership procedure

The partnership procedure was introduced in 1991 in response to the OCTs request to improve dialogue with the Community.⁴⁴ The association is based on the principle of a trilateral partnership between the Commission, the member states to which the OCT is linked and the OCT itself. This solution has filled a democratic gap in the six Association Decisions taken since 1957, giving the local representatives the possibility to express their opinion.⁴⁵ Currently, there are two main instruments responsible for effective cooperation.⁴⁶ Assessment of the association of OCTs with the EU as well as the exchanging of opinions concerning the procedures in details, made in the form of the "OCT Forum." The Forum meets annually and it is made up of the EC, all the OCTs and all the member states to which OCTs are linked.⁴⁷ The Commission chairs the Forum. The second instrument offers an individual partnership within trilateral partnership.

If an OCT becomes independent, the Overseas Association Decision provides two solutions (Article 61). The first lays down the possibility of provisionally maintaining the rules stemming from the Decision under conditions laid down by the Council, while the second rules on the adjustment to the Decision made unanimously by the Council on a proposal from the Commission, in particular to Community financial assistance.⁴⁸

⁴⁴ "The Courier ACP-EU", op. cit., p. 19.

⁴⁵ *The European Community and the Overseas Countries and Territories...*, op. cit., p. 16.

⁴⁶ SCADPlus: *Association of the OCTs...*, op. cit.

⁴⁷ Where necessary, the member states not responsible for an OCT can also be invited for "OCT Forum".

⁴⁸ On June 25, 2008 the Commission tabled a Green Paper on future relations with OCTs. Following public consultation, the Commission will propose a new partnership that takes better account of the special characteristics and present economic situation in OCTs. The Community stressed the huge differences between the OCTs themselves. It was concluded that relations based on classic development cooperation is out of date in today's globalised world. The theoretical benefits offered to OCTs are eroding as a result of progressive trade liberalization on a global and regional scale. Also, the current agreement very much modeled on the relationship with ACP countries does not correspond to the specific social, economic and environmental challenges faced by OCTs today. The OCTs themselves recognize climate change as a major threat to all of them and their respective economies. The Commission will hold a consultation from 1 July to the 17 October 2008. For Green Paper see: Green Paper: Future Relations between the EU and the Overseas Countries and Territories, Brussels, 25.6.2008, SEC(2008) 2067, http://ec.europa.eu/development/icenter/repository/1_EN_ACT_part1_v8.pdf, downloaded 1.07.2008.

PAWEŁ FRANKOWSKI

New and Old Europe in the U.S. Foreign Policy

Until 2003, the transatlantic relationship was probably the least interesting topic in International Relations. We did not discuss conflicts between Washington and Paris or Brussels, because there were no serious conflicts. Of course, many countries, for different reasons, opposed the American policy (mostly in economic issues), but any European state perceived the United States as an enemy and vice versa. The Iraq crisis has been a stress test for the transatlantic partners, but we cannot imagine that in the event of threat to the European security Americans would leave Europeans alone. Mutual obligations of these two global actors are indisputable. Europe, as a region, became less important for American strategists, because in the post Cold-war world wars were likely to begin outside the continent.

Of course there were clashes in Balkans, but for Washington, Serbia or Bosnia issue was a European problem, not a global one. But Europeans could not find the answer to deal with European security problem, and intervention in Kosovo was the very first warning sign that European vision and American ideas are not compatible at all. The problem of post Cold-War security system raised the question about quality of transatlantic relations, exercised by politicians, newspaper columnists and researchers. Unfortunate speeches divided Europe into new and old, and one of the most cited phrases was “Americans are from Mars (ancient god of war) and Europeans are from Venus (ancient goddess of love).” If we add Donald Rumsfeld’s opinion about old and new Europe¹ it seems that transatlantic relations are in crisis.

This paper answers the questions what is role of Europe, and concept of new and old Europe in the U.S. strategy and does special policy towards “new and old Europe” really exist.

The Cold War’s end did not trigger a “great debate” about the U.S. grand strategy, it elicited a discussion about a grand strategy among foreign policy analysts and scholars of strategic studies. But this type of debate was (and is) absent in the political debate. Instead of that, the U.S. grand strategy has sought for the last decade the indefinite prolongation of what Krauthammer called the United States’ “unipolar moment.” The winning of the Cold War raised few visions of the future of the U.S. foreign policy and the U.S. hegemony. The first idea assumes benevolent hegemony, where the system is multipolar but the hegemony state, on the top, plays the role of a stabilizer. This idea was supported by the liberal members of Clinton’s administration. Equivocation, which characterized the supporters of this option had many reasons. First, the uncertainty of international relations, and follow – lack of possibility of determination of foreign policy. At the same

¹ Defense Link News Transcript: Secretary Rumsfeld Briefs at the Foreign Press Center, <http://www.defenselink.mil/transcripts/transcript.aspx?transcriptid=1330>, downloaded 15.01.2008.

time the U.S. citizens voted for withdrawal from international politics – they demanded from the President active internal politics.²

Simultaneously, with the benevolent hegemony idea, there was developed the unilateral hegemony vision. This idea, which was built on the victory over the Evil's Empire, was characteristic of conservative and neo-conservative wing of American political scene. Realization of this strategy (muscular state, with strong military power etc.) was impossible till 1995, and till gaining the advantage in Congress by Republicans. But it does not mean that the U.S. had (and have) a strategy. American politicians knew that the U.S. had enormous power, both military and economic, but main characteristic of the U.S. activities was "imperialism in a hurry."³

Strategies of U.S. foreign policy were articulated mainly when the state was facing an external crisis or a threat to national security. Also strategies, which emerged after the Cold War, are mixture of American messianism and strictly realistic approach (made by trade treaties and striving to markets' stabilization). Strategy of current administration – it is a strategy of advantage as a result of possibilities and resources.⁴ But strategy and place of U.S. in the world system is not a result of simple increase of American power. It is mixture of ideology, power, resources and the clear idea of participation in the world politics.

A grand strategy has many definitions. R. J. Art proposes to call a grand strategy objectives pursued by the state, including security objectives and so on and specific ways.⁵ On the other hand R. Rosecrance and A. Stein define a grand strategy as the adaptation of internal and external resources to get national security.⁶ A grand strategy is a very broad term, which contains specific instructions: which objectives are to be pursued by the state's leader and how military forces should be used to gain these objectives.⁷ To clearly describe and answer the question of how American strategy look like we have to answer on the following questions: what are American interests in the world and what is the threat to these interests? What are the possible strategies for protecting these interests? Which of these strategies will protect American interests in the best way? What policies and resources should be used to support chosen strategy?⁸ American foreign policy is projected to accomplish two groups of interests: economic and military.⁹ In both these areas Americans use two buzzwords: effectiveness and vision, and American activity is based on these slogans. For the realization of "vision" (secure world, war with terrorism etc.) they decided to war with Iraq. In the name of the effec-

² Clinton won over Bush with economic slogans, despite of Bush's victory in the Gulf's War.

³ M. Ignatieff, *Empire Lite, Nation Building in Bosnia, Kosovo and Afghanistan*, London 2003, p. 115.

⁴ Ch. Layne, *Rethinking American Grand Strategy: Hegemony or Balance of Power in the Twenty First Century?*, "World Policy Journal" 1998, Vol. 15, No. 2, p. 8.

⁵ R. J. Art, *A Defensible Defense*, in: E. Brown et al. (ed.), *America's Strategic Choices: An International Security Reader*, Cambridge 1997, pp. 51–52.

⁶ R. Rosecrance, A. A. Stein, *Beyond Realism: The Study of Grand Strategy*, in: R. Rosecrance, A. A. Stein (eds.), *The Domestic Sources of Grand Strategy*, Ithaca 1993, p. 4.

⁷ R. Art, *A Grand Strategy for America*, Ithaca 2003, p. 1.

⁸ *Ibidem*, p. 2.

⁹ In third group, mentioned in all National Security Strategies after 1989 we can find human right issue, promoting of democracy etc.

tiveness (strategic alliances, informal ententes) they decided to make a distinction between old and new Europe. In all strategies after 1989, Europe is perceived as important, because as we can read in NSS 1996, European stability is vital to American security – a “lesson we have learned twice at great cost.”¹⁰ But even though, in 1996 European issues were rather important, in NSS 2006, Europe is important, but as a ally to fight with terrorism, not as a important pillar of world security.¹¹ NSS received mixed opinion in Europe, and Europeans criticized (and still do criticize) enormously realistic, despite messianic tone of the Bush administration, vision of the world, where institutions and alliance do not matter for Americans. For Europeans, it was unacceptable that the US, in waging war for defence of ideas freedom and democracy, preferred to use the sword rather than the word,¹² and denied any institutional solutions. Reliance on coalition of willing has become policy of the United States, and membership in this coalition to the large extent depends on will of the US not on the will of a prospective member. There were several reasons for this change in the US policy – from strong NATO to loose coalition. First of all, the absence of any threat in Europe caused formal alliances, like NATO, lost their significance. Moreover growing need in the US to make flexible forces to respond crises all over the world, without counting on partners or allies, caused change in the strategic thinking. Alliances, in the US strategy became irrelevant and the trend toward greater U.S. autonomy in conducting U.S. security policy is rather structural than accidental.¹³ This is result of change in world structure of power relations and necessity to defence American national interest, which is not now strictly connected with Europe. Furthermore, unanimity in the large alliance is almost impossible thus it’s better to create temporary coalition than remain in the old, unflexible structures, especially when allies tend to free-riding in the face of threat and even if they prefer collective action, they take actions after a very long discussion. All these factors had caused that Americans started to think about Europe like on old, undecided and at least divided continent. Divided into old the EU members and new, ready to prove their Europeanness.

The category of “new Europe” was introduced to American rhetoric in 2003, and immediately there aroused controversy, mainly among those states which were excluded from “the new Europe” group. The aim of this manoeuvre was to value the newly liberated states and an old, good friend Britain, and to deprecate “the Rest.” It clearly expressed the mood in Bush administration, discontented with European policy towards American activities. America implied that after years of investing in European security and incurring substantial costs, Europe should pay the debt.

So, it looked like this, and “old Europe” states felt threatened.¹⁴ New Europe states, on the other hand, were enthusiastic, and this enthusiasm was translated into engage-

¹⁰ 1996 National Security Strategy, <http://www.au.af.mil/au/awc/awcgate/nss/nss-96.htm>, downloaded 15.01.2008.

¹¹ 2006 National Security Strategy, <http://www.au.af.mil/au/awc/awcgate/nss/nss.pdf>, downloaded 15.01.2008.

¹² F. Berenskoetter, *US and European Security Strategies*, “Security Dialogue” 2005, Vol. 36, No. 1, s. 83.

¹³ See: R. Menon, *The End of Alliances*, New York 2007.

¹⁴ Very good selection of quotations on this issue we can find in M. Cox, *Martians and Venutians in the new world order*, “International Affairs” 2003, No. 79(3), pp. 523–524.

ment in Iraq and Afghanistan. Eagerness of these states, newly re-included into Europe, and now treated by America as better than for example France or Germany, was visible. This rhetoric found positive response in countries, with relatively small potential, like Czech Republic or Poland, which for over fifty years were deprived of national pride. The new means the better, the new must prove that it is better. How to do it the best? Poland is the best example, with F-16 contract and Polish troops in Iraq.

But, we should not harbour an illusion. "New Europe," as a phrase, is a tactical move only, with no positive moves from the United States. In the foreign policy alliances and commitments are important, but in fast globalizing world, economy is more essential. Let's take a look at US Census, and try to assess economic commitment of US economy in Europe. From 2003 to 2007 the US trade with newly liberated states (as Czech Republic, Poland, Slovakia, Hungary, Bulgaria) is clearly in surplus to the advantage of these states. But what does it mean in practice? Are they trading states and they get the advantage from close relations with the U.S.? Definitely not.

Old Europe states have annual surplus as high as 30 billion US dollars and more,¹⁵ thus they are competitors. In long-term the EU countries are neither rivals nor close allies. Even high deficit in foreign trade is nothing bad when currency is strong, and inexpensive foreign import prevents inflation, but now, euro is valued much higher than dollar. When we assess value of the dollar and big deficit in the foreign trade with "old Europe" countries we can understand why "new Europe" states are important in American strategy. That is why "new Europe" leaders are warmly welcomed in Washington.

As I pointed, turning attention to "new Europe" states is not element of strategy. These countries could not provide significant military support, nor they are important markets. But, they are an important factor in the new European Union, which even perceived as a non-equal player, has a significant role in the US strategy. New Europe countries, for different reasons, have supported US activities. They hoped, that strong alliance would prevent the geopolitics game between Germany and Russia. But the last PEW report from June 2007 shows clearly, that "new Europe" countries are not as biased favourably towards the US as two or five years ago. There is no definitive answer why this support falls, but in my opinion it is strictly connected with the lack of immediate gains from Euroatlantic partnership, like foreign direct investments or military aid.

The slippage of support is not alarming, from 10 to 15 percent, but the U.S. image is not as strong as it was five years ago. But even now these countries are probably the best admirers of U.S. foreign policy in the world. Tactical character of "new Europe" is visible on anti-missile shield issue, whose important components would have to be located in Czech Republic and Poland. From economic reasons, the location of anti-missile shield in Germany, where circa 70,000 American troops (and over 100,000 dependents) are stationed, would be more sensible, but American plans to deploy missiles and radars in Poland and Czech Republic respectively should be perceived as a warning sign to "old Europe."

¹⁵ For example France trade surplus in 2007 estimated 10,6, United Kingdom 10,4 in billion US dollars FTD – Statistics – Trade Highlights – Top Trading Partners <http://www.census.gov/foreign-trade/statistics/highlights/top/top0412.html>, downloaded 15.01.2008.

Moreover, in summer 2004, Bush administration announced the plans of large troops redeployment, and the country most affected by this decision would be Germany. This decision inevitably would hit German economy, where thousands of German small firms are based on army contracts.¹⁶ It have been a real danger, thus in the next years the new, less critical to U.S., voices raised in West Europe, particularly in France and Germany.¹⁷ It's worth noticing what factors caused that change. First, political leaders in the crucial European states (Germany, France, Great Britain, Italy and Spain) had changed, and according to this change many European strategists found chance for realignment, and to change the rhetoric from anti-American to at least friendly neutral. Moreover rising China and forthcoming crisis in the US contribute to change in the rhetoric both in Washington and Brussels. Both US and EU has more in common than Robert Kagan believes, especially when compare these two actors with for example PRC and the US.

Second, many European countries started to worry whether Americans would shift their forces from Europe and turn their attention to East. When Americans redeploy their troops it means a significant charge for military budget of all European states. Come countries, for example Germany and France, found danger of exclusion from "circle of trust." That's why the new chancellor Angela Merkel visited the US so quickly, and Nicolas Sarkozy paid visit to Washington and gave a speech in the Congress. Moreover new French strategy, published recently, shows that France is more pro-Atlantic than before – thus new Europe states loose its strategic significance.

Third, the last two years were the best moment for preparing European post-Bush policy (because of coming elections in 2008), and Europeans (right or not) predict that next American presidency will be more open, and not so hawkish as Bush.

Fourth, and even more important, they started to think seriously about neo-isolationism, even it is a rather unimportant idea. All these factors had caused re-structuring of European view, and Europeans started to give positive signals to Washington.¹⁸

Honestly, the U.S. don't treat Europe countries seriously. Why – for the same reason they do not perceive Canada as a rival country. For Canada and Mexico, Washington conducts policy of "foreign proximity," and Europe is perceived through the same lens. Europe is not a problem for Washington, so why should they deal with it? Moreover they do not see the EU as a whole, what is more important – because as data from US Census Bureau show, the EU countries are the US 2nd trading partner. On the list of fifteen trading countries (data for September 2007) Germany has 4,7% (5th position 106

¹⁶ Ole Kruse, *Spokesman of city Wuerzburg, where U.S. Army's 1st Infantry Division is stationed said "Base closures would hit us very hard", German wary of US troop withdrawal*, "China Daily" August 7, 2004.

¹⁷ See, E. Brimmer (ed.), *Seeing Blue: American vision of the European Union*, "Chailot Paper" 105, September 2007, www.iss-eu.org/chailot/chai105.pdf; M. Zaborowski (ed.), *Friends Again EU-US relations after the crisis*, www.iss-eu.org/books/transat06.pdf; J. Dobbins, *New direction for transatlantic security cooperation*, "Survival" 2005, No. 47 (4), pp. 39–54.

¹⁸ For example, Nicolas Sarkozy, president of France, which is traditionally anti-American biased, paid one of his first visit to Washington. Also Angela Merkel, German chancellor, keeps warm relations with the US.

million \$), UK 3,5% 79 million, France 2,2% (less than South Korea, and a little bit more than Taiwan), Netherlands 1,6%.

The amount of trade with the EU countries is comparable with PRC trade.¹⁹ Among top 15 traders, four are from the EU. So, American politicians should take into account that the EU is emerging top-level actor, and could be more important than closest neighbours.²⁰ But, in foreseeable future, the US strategy towards Europe, and especially new Europe countries will not change. U.S. leaders will view international partnerships more pragmatically and today, proposals for building grand alliances of democracies and new mechanisms of global governance are likely to receive scant domestic support.

Scenarios could be more pessimistic for “new Europe” states than they ever thought. As I put above, small states are not partners for the US. They are useful of course in some cases, but nothing else. American politicians could keep bilateral relations with Germany, France or UK just like equal partners, but other states are only clients. The strategy of this administration, is reassurance. A vital part of U.S. foreign policy is to reassure potential allies and foes that America intends to maintain its leadership position in international affairs. At the same time, the United States also must reassure potential allies and foes that it does not intend to use force to radically change the status quo. That’s why Daniel Fried, now assistant for State Secretary responsible for Europe and Euro-Asia (former the US ambassador to Warsaw) did a trip in East Europe countries, to reassure European politicians about strategic importance of this region (due to bilateral talks on anti-missile shield this January). In the same time, U.S. Missile Defense Agency chief Henry Obering paid the visit to old Europe countries, for the same reasons – reassurance.

We should consider problem of transatlantic relations on the three interdependent levels of economy, military affairs and political relations. All three areas are extremely important and it seems that Washington does not differentiate between old and new members of the EU or between old and new Europe. It’s worth to say that very concept of “new and old Europe” is strictly artificial and it was created for tactic game at the start of Iraq war. We should look into theory of alliances and try to answer the question “who is most desirable element of alliance (or entente).” The answer is very clear – the United States, and they clearly know, that at this moment Europeans are condemned to cooperation with the US (even if they try to have a brief flirtation with Russia) and small countries are not partners, and can use only bandwagoning, what is ruthlessly used by the U.S.

¹⁹ The EU has 12,6%, Canada has 18,2% PRC has 12,3%, Mexico has 11,2%, Japan has 6,8%. FTD – Statistics – Trade Highlights, <http://www.census.gov/foreign-trade/statistics/highlights/top/top0711.html>, downloaded 20.01.2008.

²⁰ FTD – Statistics – Trade Highlights, <http://www.census.gov/foreign-trade/statistics/highlights/top/top0711.html>, downloaded 23.01.2008.

ADAM JASKULSKI

The European Security Strategy and National Security Strategy of United States of America: Common Aims or Two Different Views on International Security

Introduction

The attacks on September 11, 2001 compelled the United States to redefine how they engaged in international security and international order after the Cold War. Re-definition was made on the basis of a new security strategy. The first step in this redefinition was taken by President Bush in a speech at West Point on June 1, 2002. In this speech, Bush presented new vision of world order, new threats, the role of United States in this world, and the tools with which the US would confront these threats.¹ The second step was the adoption of new National Security Strategy on September 17, 2002. That was not, however, the only issuance of NSS during the Bush presidency. Because some conditions in international relations changed, there was a need to take several steps forward. The Bush Administration reviewed the NSS of 2002, considered it inadequate, and issued the US Government to proclaim a new NSS in March 2006. NSS 2006 is continuation of NSS 2002; there is no possibility to analyze NSS 2006 without some referring to NSS 2002.

The European Union is a new type of community. Since the establishment of the European Economic Community in 1957, this specific actor of international relations has changed dramatically. Integration in economic matters has been followed by cooperation in political integration, and especially from 1970's, by attempting to collaborate in defining and pursuing a common foreign and security policy. From the beginning, this cooperation was strictly intergovernmental and mainly by this reason ineffective. ECC/EU was not seen on international arena as one actor with one voice, capable to use all means belonging to its member states.

Each chapter of NSS 2006 starts with an introduction to the assumptions made in NSS 2002, and after that shows what has been achieved since that time and what is still left to do in this field. However, the aim of this article is to compare currently valid strategies of the United States and European Union, so only when necessary it NSS 2002 or other documents be called upon. For the European Union, that is first time that organization has issued a security strategy, compared to the US, which has a long tradition in this area. Another "technical" remark refers to the language of strategies; be-

¹ *President Bush Delivers Graduation Speech at West Point*, <http://www.whitehouse.gov/news/releases/2002/06/20020601-3.html>, download 8.06.2008.

cause ESS is the outcome of fifteen views from different countries, it is obvious that it has to be more general and poly-semantic.

I. Analysis of NSS 2006 and ESS

Each strategy at its beginning describes the current situation and refers to the reasons that shaped the situation. A vision of the world, showed in NSS 2006, is an optimistic view of American activity and position in the present world and how it is threatened by terrorists. “America is at war. This is a wartime national security strategy required by the grave challenge we face – the rise of terrorism fueled by an aggressive ideology of hatred and murder, fully revealed to the American people on September 11, 2001.”² The main claim is that, for four years “fighting and winning the war on terror and promoting freedom” has been “guided American policy.”³ However, the most important statement is based on a liberal and idealistic presumption that democracies do not fight with each other; and that way, the US will support democratic “movements and institutions in every nation and culture, with the ultimate goal of ending tyranny in our world.”⁴ The current US Administration only views as democracies actors that meet the needs of their citizens and are responsible members of international community, and that is the best way to bring security to the American people.⁵

In this field of security, some progress was made because US enemies were weakened but not yet defeated. Bush, in his introduction, also makes remarks about progress in other spheres, e.g. “economic development,” “spread of democracy in the broader Middle East,” “attaching world attention to proliferation of dangerous weapons,”⁶ “bringing freedom to Afghan people,” “good cooperation with major world power,” fighting to “secure a united, stable and democratic Iraq” and so on. For the Bush Administration there are two paths for America: a “path of fear” and “path of confidence.” G. W. Bush states that the United States have chosen the second, a path of action, fighting and shaping international order and bringing security to the world.

NSS is built on two pillars. The first one is “promoting freedom, justice, and human dignity – working to end tyranny, to promote effective democracies, and to extend prosperity through free and fair trade and wise development policies” and second one is “confronting the challenges of our time by leading a growing community of democracies.”⁷

These two pillars allow us to formulate main threats to United States security. According to the NSS, the primary danger stream is from the governments, which do not honor their citizens’ dignity and “brutalize their people,” because such governments “threaten the peace and stability of other nations.”⁸ For Bush, these bad governments

² *The National Security Strategy of The United States of America*, Washington, March 2006, introduction.

³ *Ibidem*, introduction.

⁴ *Ibidem*, p. 1.

⁵ *Ibidem*, p. 1.

⁶ *Ibidem*, introduction.

⁷ *Ibidem*, introduction.

⁸ *Ibidem*, p. 3.

are hand in hand with other dangers harming US security and without support from these governments, some of the threats would never happen (e.g. in Bush opinion only such authorities allowed for training terrorists on them ground). Other dangers mentioned in NSS 2006 are: terrorists with global reach, proliferation of weapon of mass destruction and regional conflicts.⁹

Presented in European Security Strategy the outlook on the current situation views European integration as a great success of whole Europe, because it has given Europe a “period of peace and stability unprecedented in European history”¹⁰ and during this period “the progressive spread of the rule of law and democracy has seen authoritarian regimes change into secure, stable and dynamic democracies.”¹¹ ESS emphasizes the role of the United States in this process of progress of European integration and making Europe more secure than it has ever been. Leaders of European Union notice that at the end of the Cold War only the US remained as a superpower, but at the same time, they claim that today so complex problems coming out from international system can not be resolve alone by any single country.¹²

In ESS there is underlined the potential of the EU: 25 states with 450 million inhabitants, a quarter of world GNP, and the role played by EU in resolving conflicts in: Afghanistan, East Timor and DRC. The conclusion made by ESS is that EU is “inevitably a global player.”¹³

Europe, as opposed to US, does not see itself as being at war. The European Union’s officials are aware of existing threats but they underline the contemporary security of EU. As was said above, the EU is seen as a global player, but what is very important when comparing US NSS 2002 and NSS 2006, is that “responsibility for global security is taken on by default, rather than by choice.”¹⁴

However European Union’s leaders also see the challenges of the twenty-first century. The death of many civilians in armed conflict, poverty, AIDS and other diseases, problems with natural resources and migration movements all harm society. The key threats, as defined by the ESS: terrorism, proliferation of weapon of mass destruction, regional conflicts, state failure and organized crime;¹⁵ however, Europeans see that “large-scale aggression against any Member State is now improbable.”¹⁶

This two main aims of NSS are split for nine narrow ones: champion aspirations for human dignity; strengthen alliances to defeat global terrorism and work to prevent attacks against us and our friends; work with others to defuse regional conflicts; prevent our enemies from threatening us, our allies, and our friends with weapons of mass destruction; ignite a new era of global economic growth through free markets and free

⁹ Ibidem, p. 3.

¹⁰ *A Secure Europe in a Better World. European Security Strategy*, Brussels, December 12, 2003, p. 1.

¹¹ Ibidem, p. 1.

¹² Ibidem, p. 1.

¹³ Ibidem, p. 1.

¹⁴ F. Berenskoetter, *Mapping The Mind Gap: A Comparison of US and EU Security Strategies*, “Security Dialogue”, Vol. 36, No. 1, p. 77.

¹⁵ *A Secure Europe...*, pp. 3–5.

¹⁶ Ibidem, p. 3.

trade; expand the circle of development by opening societies and building the infrastructure of democracy; develop agendas for cooperative action with other main centers of global power; transform America's national security institutions to meet the challenges and opportunities of the 21st century; and engage the opportunities and confront the challenges of globalization.¹⁷ Below, presented shortly, will be only the motives of NSS 2006 which have counterparts in European Security Strategy.

Each Chapter of NSS 2006 has three parts: Summary of National Security Strategy 2002, Current Context: Successes and Challenges and The Way Ahead. For this analysis undoubtedly the most significant is the third part because it reflects actions, which can be taken in the nearest future.

To champion aspirations for human dignity, NSS 2006 proposes such means as: ending tyrannies and promoting effective democracies; the US government will support societies which want to choose democracy in their way. The United States will emphasize that democracy cannot be imposed and that it has to reflect historical, cultural experiences and habits of such society. Tactics of action, that it should be more civilian aid or even military force, will vary depend on each specific case.¹⁸

The next aim is to strengthen alliances to defeat global terrorism and work to prevent attacks against United States and our friends; the most important cause it refers to is war on terror. Probably all countries in the world agree that terrorism has to be defeated. Problems occur when it has to define "terrorism," "terrorists," and how fight them. NSS 2006 underlines that the US does not fight Muslims, but terrorists and their murderous ideology. So the war on terror is not only a struggle with terrorists by military measures, but also a battle with murderous ideology.¹⁹

US Strategy tries to explain the sources of terrorism by showing which factors are not explained properly. Terrorism is not: "the inevitable by-product of poverty," "simply a result of hostility to U.S. policy in Iraq," "simply a result of Israeli-Palestinian issues" or "simply a response to US efforts to prevent terror attacks." After that, NSS 2006 says that it springs from: "political alienation," "grievances that can be blamed on others," "sub-cultures of conspiracy and misinformation," "an ideology that justifies murder."²⁰

In working with others to defuse regional contracts, US Strategy offers three levels of engagement: conflict prevention and resolution; conflict intervention; and post-conflict stabilization and reconstruction. On basis of this point, US Congress is authorized to give financial and material support to others countries, because US Administration values US dependence and aiding their allies. In this part, strategy again touches on the importance of democracy as a best means to sustain and develop a peaceful world order, causing democratic systems to resolve all internal conflicts in a peaceful way, meaning that they are not menaces to regional stability and their neighbours.²¹

¹⁷ *The National Security...*, p. 1.

¹⁸ *Ibidem*, pp. 5–6.

¹⁹ *Ibidem*, p. 9.

²⁰ *Ibidem*, p. 10.

²¹ *Ibidem*, pp. 15–16.

Preventing our enemies from threatening us, our allies, and our friends with weapons of mass destruction is the next general aim, which contains several more detailed goals. The first one is to preclude the proliferation of nuclear weapons. This is the easiest way to fulfill the general aim mentioned above. The United States will try to “keep states from acquiring the capability to produce fissile material suitable for making nuclear weapons;” and “to deter, interdict, or prevent any transfer of that material from states that have this capability to rogue states or to terrorists.” NSS indicates that the greatest threats are two countries: Iran and North Korea. NSS also declares action in fighting with the proliferation of biological and chemical weapons, but the Bush Administration realizes that control of proliferation of this type of weapons is much more difficult than in case of nuclear weapons. For that reason, it is important to improve the capacity to detect and respond to biological and chemical attacks, securing dangerous pathogens, and limiting the spread of materials useful for biological and chemical weapons. In fighting with potential aggressors, a mixture of deterrence and defense is needed. In regards to deterring enemies, the US will develop a New Triad composed of offensive strike systems; active and passive defenses, including missile defenses; and a responsive infrastructure. There is also strong commitment from the Bush Administration to cooperate with friends and allies in control of and proliferation of WMD’s, but Strategy states that if danger occurs from US’s enemies, they can use force to attack proactively.²²

US cooperation with other world powers should be based on several principles. First, bilateral relations cannot ignore the regional and global context. Second, relations have to be supported by all institutions, which ought to be reformed in accordance with changes in world system. Third, United States “cannot pretend that their interests are unaffected by states’ treatment of their own citizens.” It is important to notice this statement, because here the United States arrogates the right of intervention in internal affairs of other countries. This claim is supported by a fourth principle, where US declares that they will not “dictate to other states the choices they make,” but they “do seek to influence the calculations on which these choices are based.” The last two are connected with the fifth principle, that United States has to be prepared to act alone when necessary, without the support of US allies.²³

NSS 2006 contains a special part devoted to “US – Europe” relations. There are two motives. One is NATO and second is relations with European countries. NATO is seen as the most significant pillar of US’s policy in Europe. Two processes take place at NATO: enlargement and transformation of this organization, as mean to confront this structure with changing international reality. The second motive emphasizes a common “foundation of shared values and interests” of US and Europe and that Europe is “home to some of our oldest and closest allies,”²⁴ but only United Kingdom is mentioned from members of the EU, as a nation with special relation to United States.

Terrorism is seen as a key threat because it seeks to undermine the openness and tolerance of the European Unions’ societies. In the EU’s opinion, the sources of terrorism

²² Ibidem, pp. 18–23.

²³ Ibidem, pp. 35–37.

²⁴ Ibidem, pp. 38–39.

are: “the pressures of modernisation, cultural, social and political crises, and the alienation of young people living in foreign societies.”²⁵ Underlining this fact is ponderous because that implication means fighting with this danger, which is a part of EU’s societies. That may be the reason, why it is seen as a main danger. Terrorists are inside European Union members countries; very often, they are even citizens of it. After 9/11, the EU experienced two terrorist attacks, in Spain and in Great Britain. In significant ways it is connected to European Union immigration policy and relations to Muslims’ neighbour’s countries.²⁶

Next mentioned are the dangers coming out from proliferation of WMD’s, but as opposite to terrorism, which is part of EU’s societies, proliferation is “potentially the greatest” threat. It shows that proliferation is rather something what can come from external world, especially from Middle East in European’s situation. It’s closely tied with countries, which support terrorist organizations and could equip small groups with such means.²⁷

Failed states are considered as potential dangers because of weak institutions that are linked with an inability to control territories of such states. Quite often groups which have taken power of a state support organized crime, drugs and human trafficking and offer shelter for terrorists. There are also the offspring of regional instability.²⁸

Open borders between members of EU, less restriction in immigration policy among EU member states and other European countries have a great impact on the movement of people with all the advantages and disadvantages of this process. Organized crime is pointed out as one very dangerous threat coming out from this process of bringing down borders in Europe. This is a threat which affects internal and external security of EU members. Organized crime has close connection with failed states; 90% of heroine smuggle to Europe comes from Afghanistan, and about 30% of female victims of human trafficking come from the Balkans Region.²⁹

In ESS regional conflicts are treated as a danger which is very frequently source of other threats, and that is why “the most practical way to tackle the often elusive new threats will sometimes be to deal with the older problems of regional conflict.”³⁰

ESS mentions three strategic objectives: responding to threats, building security in EU’s neighborhood and creating international order based on effective multilateralism. Five threats are mentioned in part of ESS “responding to threats.” Although this list only already suggests a different agenda from the American one, there are a number of similarities between the US and the EU document regarding the tasks at hand. First is conception of preemptive action (NSS) and preventing conflicts (ESS). Second refer to significant of problems whit failure states. Third importance of fighting with proliferation of WMD. Fourth common enemy – terrorists.

²⁵ *A Secure Europe...*, p. 3.

²⁶ *Ibidem*, p. 3.

²⁷ *Ibidem*, p. 3.

²⁸ *Ibidem*, p. 3.

²⁹ *Ibidem*, p. 3.

³⁰ *Ibidem*, p. 4.

European response is based on a statement, that the mentioned threats are “purely military” and that is why they cannot be overcome only by military means. There is need to use a combination of a “mixture of instruments.” For fighting with proliferation of WMD’s measures as: “export controls and attacked through political, economic and other pressures;” to combat with terrorists: “require a mixture of intelligence, police, judicial, military” can be used. It is quite visible, that primary is ascribed to political and economic measures (civilian) and at the last stage military action is stated. Here ESS differs greatly to NSS and it could be seen as a declaration of opposition to the way the US war on terror is conducted.³¹

“Our task is to promote a ring of well governed countries to the East of the European Union and on the borders of the Mediterranean with whom we can enjoy close and cooperative relations.”³²

For the European Union only well functioning multilateral systems of cooperation are able to face the treats coming out from globalization process. This system should be established on “well functioning international institutions and a rule-based international order”³³ European security policy “cannot be detached from the transatlantic context,” but it will be situated not only in this context. It cannot be detached because the United States and Europe, despite differences, share common values and generally also interests. These values and interests are stronger than antagonist forces.³⁴

“In this context, it is notable, though, how little space the document devotes to NATO, which according to the Bush administration is the primary security institution in Europe. And where it is mentioned, the Alliance is framed as a central element of the transatlantic relationship, or as enhancing the operational capability of the EU.”³⁵

II. Comparing NSS 2006 to ESS

As at the beginning of this article differences in formal construction were shown between both strategies; now the case is to show general similarities and disparities of substantial between these strategies.

The main issue is to see that ESS is not real strategy but more pre-strategy concept. It is necessary to define “when, where, why and how the European Union will act.”³⁶

One of main differences between ESS and NSS 2006 refers to the means which will be used, on the one side by United States, on the second side by European Union, to gain aims of their strategies. The most criticized conception in NSS is the possibility of preemptive attack in case of a great threat; however, is important to divide preemptive attack by terrorists (non-states actors) on the one hand and by states on the second hand.

³¹ Ibidem, p. 7.

³² Ibidem, p. 8.

³³ Ibidem, p. 8.

³⁴ J. Howorth, *Transatlantic Perspectives on European Security in the Coming Decades*, “Yale Journal of International Affairs”, Summer/Fall 2005, p. 8.

³⁵ F. Berenskoetter, *Mapping...*, pp. 88–90.

³⁶ J. Lindley-French, F. Algieri, *A European Defense Strategy*, Guetersloh, May 2004, p. 5, www.cap.uni-muenchen.de/download/2004/2004_Venusberg_Report.pdf, download 11.05.2008.

In NSS 2002 in Chapter III, which describes fighting with terrorists, the word “preemptive” was used directly; that changed in NSS 2006 in Chapter III, where Bush Administration resigned from using this word, but they didn’t resign from the concept. Whereas nothing has changed in rules concerning preemptive attack on states, which is more controversial, provisions like this one about preemptive attack on non-states actors remain.³⁷

In ESS there is only the concept of “preemptive engagement” and “conflict prevention” which are essentially different from those used in NSS 2002 and NSS 2006. ESS states that current threats are different from those during the Cold War, the new threats are dynamic. What is also important is that ESS underlines that “none of the new threats is purely military; nor can any be tackled by purely military means. Each requires a mixture of instruments.”³⁸ But there are also different views on European conception of “preemptive engagement.” For M. Leonard and R. Gowan even after changes in basic text presented by J. Solana in Athens in April 2003, ESS “remains almost Rumsfeldian in its warnings about terrorism and rogue states.”³⁹ European Union Leaders’ fears’ could be justified because it is said that such concepts in United States NSS could encourage other countries, like India to use this specific tool in their policy what is very dangerous for international peace.⁴⁰ They emphasize that only United Nation Security Council has right to decide about use of military force against states.

There is very important question; should the European Union issue a new security strategy? Is ESS from 2003 still valid? The reasons why this question has to be asked have come out from external and internal changes which has taken place since 2003 in EU and its’ environment. First, the EU has now 27 members instead of 15 in 2003. That has impact on the level of support from new member states for implementation of ESS. ESS does not reflect the interests, aims and problems, which face 12 new member states. It does not refer to Ukraine, Georgia and other Post-Soviet countries. It is also well known, that countries which became members of EU in 2004 and 2007 are very close allies of United States and share similar vision of International Relations. Most of these countries supported the US invasion on Iraq in March 2003. ESS with its idealistic world view does not suit the interests of most part of new member states.

Next is the problem of responsibility for implementing both strategies. In NSS 2006 and its precedent it is quite clear who is responsible for entering to the force provisions of this Strategy, the US Government. In ESS, European Union is pointed out as an entity responsible for the introduction of this Strategy. But the main task here is to find answers to the question: what does it mean for the EU: One institution? Maybe all institutions? Maybe only some of them? (But that brings as next question – which?) Or finally member states? There is no easy answer for that. First, what is obvious; when we

³⁷ G. L. Guertner, *European Views of Preemption in US National Security Strategy*, “Parameters”, Summer 2007, pp. 31–32.

³⁸ *A Secure Europe...*, p. 7; *ibidem*, p. 34.

³⁹ M. Leonard, R. Gowan, *Global Europe. Implementing the European Security Strategy*, p. 7, <http://fpc.org.uk/fsblob/187.pdf>, download 8.05.2008.

⁴⁰ S. Gupta, *The Doctrine of Pre-emptive Strike: Application and Implications During the Administration of President George W. Bush*, “International Political Science Review” 2008, Issue 29, No. 2, p. 181.

want to talk about ESS, there has to be an agreement between states because nowadays only states have resources, which allow them to act in action where force has to be used. But in this case we have to remember also, that each state has its own security and defense strategy, which could be opposite to ESS in some points. That relates especially to new member states. Institutions are also obliged to implement ESS, but some of them are more important and some of them are less important in this case. Undeniably, the European Council and Council of European Union are the main institutions responsible for that. Other institutions, like the High Representative for ESDP, Political and Security Committee or European Parliament have mainly advisory and consultative roles. But there are not any resources to oblige states to act in accordance with ESS. That shows the weakness of ESS, what is not surprising when we look at whole cooperation in ESDP. A quite different situation can be found in the US, because NSS is important when referring to politics, journalists and public opinion. This internal function of NSS is much more important than its European counterpart.

Probably we may expect reaction from the EU officials after next election in US and as a consequence of that, a new NSS.

When we look at ESS in context of pillars of EU, it is obvious that this Strategy is compared to second and third pillar jointly. It is not as NSS 2006 limited to external action. Threats and answers for threats in ESS are overlapped by the whole pillar structure of EU. The result of this fact is the influential scope of European Union interest. ESS is not a global Strategy like its American equivalent; ESS is delimited, first to the European Union area, second to Europe and third to countries laying very close to Europe with special impact on Middle East. The rest of the world is in the margins of EU interest. ESS refers in some parts to countries lying outside the nearest region, but only in case of failed states, where really the European Union does not offer solutions of the problem. NSS 2006, like its precedent, not only describes management and engages in solving problems, but also gives real methods and means to fight with threats and to shape world according to the vision of United States.

ESS was issued after US military action in Iraq, which divided the transatlantic community very deeply. This new European Strategy was enrolled during the process of internal reforms in EU, set up by Laeken Declaration from December 2001. In this Declaration one of aims put before the Convention for the Future of Europe, was to prepare the EU to play a more essential and central role in world order. Unfortunately, the Constitutional Treaty was rejected in referendums in France and Netherlands, and after that EU has taken attempt to prepare next reforming treaty. It shows the condition of implementation ESS inside EU has been changed.

“There has been no overarching security policy, as it was considered too difficult to reach agreement on one among EU member states; nor was ESDP designed to «defend» Europe. That task was explicitly left to NATO; ESDP aimed instead at developing capabilities for handling crises outside Europe.”⁴¹

The EU had previously avoided that task assiduously, fearing it would be too difficult to bridge the differences between member states. In the wake of the Iraq crisis,

⁴¹ L. S. Lebl, *European Union Defense Policy. An American Perspective*, “Policy Analysis” 2004, June 24, No. 516, p. 3.

though, it suddenly became essential. As Javier Solana subsequently put it, “The Security Strategy was born when Europeans acknowledged that we are stronger when we have a common perception of the threats we face and how to deal with them. Threats are never more dangerous than when we are divided.”⁴²

It is very difficult to compare two documents when one of them counts only fourteen pages and the second has fifty four pages. The first is very general in analyzing threats, shows only few alternatives to solve complicated problems and does not ensure proper means to work out with this problems; the second, opposite to the first one, is well prepared to cope with all of kinds of problems and dangers which can occur, providing a large variety of measures to fight these threats.

It is clear told in many places of NSS that US will lead other countries, their allies to fight which specific threats. There is no part in ESS, where European leaders would make such claims, that they want to lead a world society. It shows a very visible difference between positions and aspirations of United States and European Union.

It is obvious that the European Union is not a state, so this makes for fundamental differences in two things comparing to NSS: first, to whom the strategies are pointed, NSS is mainly for Americans, but it is hard to say for who ESS is created, probably not for European citizens, but for European elites; second, referring to the subject of security, in NSS this subject is nation, in ESS, as we don't have European nation, this subject is European Union.

What is very important to be noted, in NSS from 2002, is that the European Union is mentioned three times, each time mainly as economic organization.⁴³ In NSS 2006, the European Union is mentioned only five times: as an organization which designated Hamas as terrorist organization, partner of NATO in Europe, an organization able to cooperate in civilian stabilization and reconstruction efforts in post-conflict period, a member of group negotiation with Iran, partner in world widening liberal economy.⁴⁴ That shows in a very significant way that the EU isn't a partner for US in building international security, because the US does not see the EU as an organization which is able to act as one actor on the world scene. Divided and without proper military resources, the EU will never be an equal partner to US in this area. As underline “the major fault lines are well known: the US as the self-appointed global defender of the liberal ideal, with a strong tendency towards unilateralism and forward leaning militarism; the EU primarily concerned with the process of European integration, favouring multilateralism and non-military tools.”⁴⁵

In a general view, we may say, that NSS is more ideological and normative in its language, and also in the aims and means, than its European counterpart. In articles and documents analyzing NSS, authors name it as “Bush strategy,” when ESS is considered there is no possibility to name it as someone's strategy. The reason for this fact can be found in sources of both strategies. It is well known that NSS had its origin in Bush's speech in West Point in 2002, where he presented most of priorities of US security

⁴² Ibidem, pp. 3–4.

⁴³ *The National Security Strategy of The United States of America*, September 2002, pp. 19 and 25.

⁴⁴ *The National Security...*, (2006), p. 5.

⁴⁵ F. Berenskoetter, *Mapping...*, pp. 88–90.

policy after 9/11. NSS is more aimed on strategy and dynamic, than it European counterpart.

Summary

How the world is seen in both strategies? The main threats in NSS and ESS are the same, so in some way the views on the international system are the same. But differences occur when we go deeper inside these threats. First, often the United States and EU see sources of potential dangers, and that fact determines which are stipulated to fight with mentioned threats, the best example for that are UE and US statements' in causes of terrorism. Second is America's view on world is more complex and detailed. As it was underline above, that results from the character of ESS, which is an agreement of fifteen unique states. But that fact this brings us better understanding of the American government's understanding of the circumstances of its action. In other words, we may say that the US's action is more predictable. Third, there is great dissimilarity in the vision of the international community. The United States emphasizes that mutual understanding, cooperation in solving international problems and fighting against dangers with other international actors is the crucial point of their security. However, in situations where other states are unwilling to act to struggle with threats, United States will act alone. The Bush Administration is aware of its potential and of America's position in world system; that is why the United States is willing to lead the international community in accordance to its interests. In opposition, the European Union states that international order should be based on international law which is compulsory for all members of international community without any distinctions. The use of power can be only made after the UN Security Council agrees. In the EU's opinion, the international community should govern with accordance of multilateral rule.

United States and European Union are two great powers of the international system. There are important disparities on how international order should look. Despite all differences, US and EU are condemned for each other. Historical and cultural circumstances cause that both great players of world system have a lot in common, in spite of some disagreements. They have to cooperate to defend these similar interests and values.

IRMA SŁOMCZYŃSKA

French Security and Defence Policy in Context of Contemporary Euroatlantic Relations

Introduction

“There is not any freedom, there is not any equality, there is not any brotherhood without security” said French president Nicolas Sarkozy in his speech concerning defence and national security in June 2008.¹ Moreover, he underlined that the contemporary world is marked by incertitude, which in turn is a result of the globalization process. France, as a first rank power, therefore has a special obligation to preserve international peace. To fulfil that task it should have decision-making autonomy as well as a capacity of anticipation. Sarkozy also stressed the importance of a strong *Europe of defence*, which is particularly needed because of the existence of common European interests and the will of European citizens to strengthen the EU in that particular field.²

Taking these statements as a point of departure we should assume that French security and defence policy is highly important in the context of Euroatlantic relations for many reasons. Firstly, France is the only one within the EU member states which strongly advocates so called “European defence.” Secondly, apart from the United Kingdom, Germany and Italy, France is regarded as an important strategic actor and European superpower having a crucial influence on Euroatlantic relations. Thirdly, France’s overall potential and security policy goals make it the key partner or opponent for the U.S. Fourthly, despite many French critics concerning U.S. foreign and security policy, plus, American operations undertaken throughout the world, there are many commonalities between these two players. Fifthly, some changes could be expected in bilateral French-American relations, as well as some policy adaptation process as a result of a new political configuration after presidential elections both in France and in the U.S. That is why some important changes within Euroatlantic relations could be expected in the near future.

I. French pro-European stance

Starting with European defence issues, it should be stressed that the triad – security, interests, and power – is a main pivot within the French security and defence doctrine.

¹ N. Sarkozy, *Défense et sécurité nationale. Extraits du discours de M. Nicolas Sarkozy, président de la République, sur la défense et la sécurité nationale*, Port de Versailles, mardi 17 juin 2008, “Défense nationale et sécurité collective” 2008, No. 7, p. 5.

² *Ibidem*, pp. 7–9.

Because of that, France guards and will guard its autonomy concerning European security and defence cooperation, despite the need to strengthen this cooperation, some autonomous capabilities will certainly be searched for the realisation of national security interests. At the same time, France must continue to aim its efforts at the consolidation of ESDP (European Security and Defence Policy), but European enthusiasm cannot eradicate the pragmatic approach which France always has. Europe should possess its own specific interests as well as its particular defence policy, which would express its geopolitical position especially in a contemporary situation, when Europe does not lay within a key strategic interest of the U.S. The alliance with the U.S. should be treated as fundamental one, but Europe must be able to realize its obligations and preserve the territory independently.³ The utmost aim of the ESDP is to develop the common equipment by pooling national capabilities or creating some joint European ones (at the beginning, as a test for that new approach, a set of A400M transport aircrafts could be created). Moreover, the realization of joint armaments programmes by European consortia supervised by the EDA (European Defence Agency) is highly important for the ESDP to be effective. This close cooperation is particularly important within some fields – like the Galileo programme for example – because that initiative surpasses the possibility of a single EU state.⁴

As Nicolas Sarkozy stated during his presidential campaign, using the real potential of the EU as well as building the European defence structures will be possible only when the political integration within the EU is taken forward. He also added that the interest and input of all the EU states was necessary, although French and British military expenses constitute almost 40% of the overall military expenses of the EU states. That situation means France should be able to move forward with other states which want and are able to develop the European military potential, regardless of those which oppose or delay it.⁵

French administration also stresses that opposing the ESDP to NATO is a huge mistake, because twenty one states which belong to the EU also belong to NATO at the same time. That is why the EU and NATO are complimentary organizations; not rival ones. French foreign minister Bernard Kouchner said openly that there is not a choice between NATO and *Europe of defence*, there is both NATO and *Europe of defence*.⁶ Additionally president Sarkozy and his collaborators underline that NATO cannot evolve into a global organization performing humanitarian, military or police missions as the U.S. probably wants it. Instead of this, NATO should be strictly European, undertaking responsibilities within purely military matters. What is more, the EU should have guaranteed access to NATO planning and command capabilities within the “Berlin Plus” formula, if it is needed.⁷

³ N. Sarkozy, *Profession of Faith. Our Nation Must Continue to Give High Priority to Defence*, “Défense nationale et sécurité collective” 2007, No. 4, p. 39.

⁴ Ibidem.

⁵ Ibidem, p. 40.

⁶ Séminaire Union Européenne-Otan discours d’ouverture du ministre des affaires étrangères et européennes, M. Bernard Kouchner, Paris, 7 juillet 2008, <http://www.ambafrance-uk.org/Seminaire-UE-OTAN-Discours-d.html>, accessed 17.06.2008.

⁷ N. Sarkozy, *Profession of Faith...*, p. 40.

Stressing the importance of the ESDP mechanism, France will continue its commitment within NATO at the same level. That is why the protection should be performed by the EU at first in the name of all European states. NATO should only have a complementary function. But the protection must be strongly linked with prevention, which could be realized by both the EU and NATO, based on an appropriate division of tasks and responsibilities. National defence and security policies of the EU member states, Europeanised to a certain degree, should be a basis for a new European security concept, which will deeply differ from the U.S. pre-emption concept.⁸

As Steven Erlanger and Katrin Bennhold point out, publication of the new White Book on security and defence means a turnover in the traditional French attitude towards transatlantic relations.⁹ “In its first new national defense policy in 14 years, France has decided that its security lies within Europe and NATO, establishing a significant shift from the country’s longstanding notions of moral and military self-sufficiency. Charles de Gaulle pulled France from NATO’s military command. President Nicolas Sarkozy wants closer ties with NATO.”¹⁰ Journalists also underlined the fact that the new French strategy towards NATO and the U.S. can be traced back to a desire to be taken more seriously by the U.S. The EU, as a global player, will be perceived as a reliable partner only when it has the real capability to act. The same is with France, which can double its strategic potential only through the EU mechanism. Although NATO and the EU are treated as “the two sides of the same coin,” it is clear that France would preserve its independence concerning nuclear deterrent and will not allow its troops to serve permanently under foreign command.¹¹ That is why it is hard to agree with Erlanger and Bennhold when they describe this policy shift as “a rejection not only of Gaullism, but also of the generally anti-interventionist and anti-Bush policies of the opposition Socialist Party.”¹² It should rather be perceived as an indispensable adjustment to the new strategic landscape marked by incertitude, globalization and interdependence.¹³ Yves Boyer, the Deputy Director of the Fondation pour la Recherche Stratégique in Paris, notices that Sarkozy wants to move ESDP forward, but “it should be accompanied by realistic expectations of what will be achieved.”¹⁴ Therefore, the pro-European and more transatlantic approach results from political pragmatism and not idealistic stance, which is usually associated with France.

It is worth adding, that traditionally there have been three concurrent groups of thinking as far as French security and defence direction is concerned: neo-Gaullists,

⁸ Ch. Girard, *A Renewed Strategy for the Twenty-First Century*, “Défense nationale et sécurité collective” 2007, No. 3, pp. 45–46.

⁹ *Défense et Sécurité nationale. Le livre blanc* has been presented by the president Nicolas Sarkozy on 17 June 2008.

¹⁰ S. Erlanger, K. Bennhold, *In Defense Policy, France Turns to U.S. and Europe*, “The New York Times”, June 17, 2008.

¹¹ *Ibidem*.

¹² *Ibidem*.

¹³ See: S. Parzymies, *Zmiana czy kontynuacja? Polityka zagraniczna Francji Sarkozy’ego*, “Sprawy Międzynarodowe” 2007, No. 3, pp. 5–40.

¹⁴ *French Security and Defense Policy Under Nicolas Sarkozy*, http://www.wilsoncenter.org/index.cfm?topic_id=6105&fuseaction=topics.event_summary&event_id=237196, accessed 18.06.2008.

pro-Atlanticists and pro-Europeanists. But in a contemporary France we can find another alternative – Brusselists with Nicolas Sarkozy. They support strengthening the EU military capabilities as well as simultaneous transformation of NATO.¹⁵ Olivier Kempf aptly points out, Sarkozy is not so much anti-American, but he is aware of the globalized world and wants to place himself into the democratic camp. That is why it is necessary to promote solidarity between France/Europe and the U.S., although it does not mean that Sarkozy unequivocally supports the Bush administration at the same time. Therefore, the Brussel's option attracts not only right wing politicians but also leftists. But the utmost aim is to acquire influence on U.S. policy. Because of that, Sarkozy's attitude towards security can be called "new pragmatism."¹⁶ Moreover, publication of the French White Book should be perceived as its contribution to renew the European Security Strategy; this revision will be adopted by the Council at the end of the French Presidency in December 2008.¹⁷

Ann-Marie le Gloannec points out in turn, that French foreign policy and diplomacy are characterized by the tendency to ignore allies and partners, which borders on negligence. There is also a strong contradiction between the desire to build a European foreign policy and national policy. That is why the pro-European stance can be regarded more or less as a posturing one.¹⁸ She notices that France, presiding the EU in the second half of the year 2008, has several priorities. Regarding the European defence and security the utmost aim is to improve the EU autonomous planning, command and control capability to ensure the real interoperability of European forces. Moreover, France declares to revamp European Security Strategy and to beef up the EU Operational Centre and European Defence Agency. Le Gloannec also underlines that contemporary incoherence within French foreign and security policy have to be removed. "Sarkozy's policy is not simply about the style, but if the substance is to be preserved, the style should be revamped. While style must certainly be revamped, a greater degree of coherence is required."¹⁹

Although president Sarkozy and his collaborators push for enhancement of *Europe of defence*, they are fully aware of shortcomings they have to face. Decreasing defence budgets in almost all EU member states constitute the main problem. That in turn negatively influences European defence ambitions, because states are less eager to be truly involved in European undertakings. It also means that credibility and cohesion of the EU and NATO can be insufficient to perform their tasks.²⁰

According to Bernard Kouchner, minister for foreign and European affairs, in the next ten years the European Union should acquire a capacity to conduct at the same time: 1) two major military operations aimed at stabilization or reconstruction with up

¹⁵ O. Kempf, *Les Bruxellistes*, "Défense nationale et sécurité collective" 2008, No. 1, pp. 77–79.

¹⁶ Ibidem, p. 80.

¹⁷ J.-P. Masseret, *Europe de la défense: quo vadis?*, "Défense nationale et sécurité collective" 2008, No. 2, p. 24. See also: A. Thiéblemont, *Livre blanc et politique de sécurité nationale*, "Défense nationale et sécurité collective" 2008, No. 4, pp. 147–156.

¹⁸ A.-M. le Gloannec, *Sarkozy's Foreign Policy: Substance or Style?*, "The International Spectator" 2008, Vol. 43, No. 1, p. 16.

¹⁹ Ibidem p. 21.

²⁰ *Seminaire Union Europeenne-Otan...*, p. 5.

to 10,000 personnel, for less than two years, together with a civil component adapted for the reconstruction phase; 2) two rapid reaction missions, realized by a 1500 personnel strong EU Battlegroup and limited in time; 3) one operation aimed at a rapid evacuation of European citizens; 4) one mission tasked with surveillance of no-fly or no-vessel zones; 5) one civil-military operation aimed at humanitarian assistance for up to 90 days; 6) about 10 civilian operations (police or rule of law) of different size, but one of them should be major and longstanding.²¹

These ambitious aims can only be realized when some structural changes concerning projection capability, space and maritime observation and surveillance systems as well as coordination between different in theatre missions will have taken place. Kouchner also stresses the fact that there is a need to enhance the overall efficiency of military expenditures within the EU member states. The best way to achieve this is to rationalize and restructure the European defence industry. Moreover, all these changes should be accompanied with important political shifts: the European Council in general affairs format should assemble ministers of defence, and already existing capabilities to plan and conduct the European operations should be strengthened.²² At the same time, he underlines that France's re-integration with NATO structures is somehow linked with progress within the construction of *Europe of defence*. Kouchner also points out that there is a strategic partnership between the EU and NATO as far as crisis management is concerned. That is why his conclusion is a little bit too simplistic: we need both NATO and ESDP instead of NATO or ESDP.²³ According to president Sarkozy, the most visible symbol of the new French attitude towards NATO will be NATO 60th anniversary summit organized in collaboration with Germany, in Strasburg and Kehl next year.²⁴

An opinion poll concerning transatlantic relations performed in 2007 by Marshall Fund showed that French citizens are among the hardest supporters of the ESDP concept. For the question: "whether the EU should take up international threats independently or in cooperation with the U.S." 58% of the French said – independently (and that was the highest percentage within all respondents). Only 39% of them said – in a cooperation with the U.S. (and that was in turn the lowest percentage within all respondents).²⁵

At the same time, the poll showed that there was a big decline in the support for NATO in almost all European countries. But surprisingly from 2002 to 2007 decline in support for NATO was relatively the lowest in France. It was only 6% (from 61% to 55%) while in Germany it was 19% (from 74% to 55%) and 12% in the UK (from 76% to 64%).²⁶ It proves that the French pro-European stance does not automatically eliminate their pro-Atlantic sympathies. What is even more important, it indicates that French anti-Americanism is a passing stereotype rather than the real component of the French policy.²⁷

²¹ Ibidem.

²² Ibidem, p. 6.

²³ Ibidem, p. 7.

²⁴ N. Sarkozy, *Défense et sécurité nationale...*, p. 11.

²⁵ *Transatlantic Trends. Kluczowe wyniki 2007*,

http://www.transatlantictrends.org/trends/doc/TT07POKFR_FINAL.pdf, accessed 29.06.2008.

²⁶ Ibidem.

²⁷ Ibidem.

II. La France – puissance

It was mentioned at the beginning that France should be treated as one of the most influential and strategic actors within the European arena. Most of the French think that because of historical experiences, as well as contemporary middle rank power status, France is obliged to carry its security and defence policy globally. Building of the international peace and stability is therefore treated as a priority for action, but in the same time, protection of French interests is also extremely important.

According to Hervé Morin, French minister of defence, operational capability of the French armed forces has been strengthened partly thanks to the process of professionalization, which has recently been speeded up. Therefore there is a need to perform some new tasks: to make a greater contribution to comprehensive security, especially protecting the national territory, making the European defence more dynamic, as well as through the optimization of available human and financial resources.²⁸ Moreover, he said that French armed forces allowed France to perform the role of a global power having its historical obligations to defend particular values and stabilize the global order.

Aware of the fact that the new geostrategic landscape is marked by armaments, especially outside Europe, as well as scarce natural resources, he cannot exclude that it may result in a major war. That is why there is a need to adapt the tasks performed by the armed forces to particular security needs. The most important goal of the new defence is protection of citizens within a national territory or outside it (civilians as well as soldiers conducting their missions). Defending French strategic interests – a second important task – should focus on energy security and particularly on openness of all routes necessary for delivering energy and other natural resources. Moreover, France should make a contribution towards strengthening the European defence, beefing up its central position at the same time. It is also highly important for France to have allies, but what is even more important, it should acquire an ability to influence behaviour of its principal allies. Morin is also very clear saying that the French vision of the world should be taken into account by other actors.²⁹

Even a cursory reading of these statements reveals that France has global ambitions concerning security and defence and is motivated by a sense of mission, but simultaneously there is a purely pragmatic approach towards its power status building. By promoting multilateralism and a European approach, France can relatively enhance its global position without painful costs. That is why some say the French do not exactly build common *Europe of defence*, but in fact they try to make it as French as it is possible. According to Morin, France is a UN leader, the ESDP engine as well as one of the pioneering states within the EU. Prioritizing the security goals, he says, France should first make a greater contribution towards the UN efforts aimed at maintaining the global peace. It should be done through better coordination at the Security Council, as well as through increased capabilities necessary for UN peace operations. At the same time,

²⁸ H. Morin, *La défense, les hommes, la France*, “Défense nationale et sécurité collective” 2008, No. 1, p. 5.

²⁹ *Ibidem*, pp. 6–7.

France should strengthen the ESDP, which in turn will be an engine of renewing NATO. Permanent Structured Cooperation within defence and security envisaged by the Lisbon Treaty can also have positive results both for France and other pioneering states. Therefore, France as a key actor within the ESDP gives other European states a spur to undertake military and civilian operations abroad. Morin also stresses that the necessary strengthening of *Europe of defence* can result in revision of French relations with NATO.³⁰

He is explicit about French strategy and underlines that it should be based on several premises. Firstly, contemporary defence efforts should be maintained at least at the same level, as well as the central role of the President as far as security and defence goes, although strong cohesion with the government is needed. Secondly, an autonomy to take any decision concerning security and defence have to be preserved. There is not any possibility to give up that autonomy and to transfer it to another ally or international organization. Thirdly, France should have a capacity to undertake an independent, credible action using its armed forces although cooperation with allies is desirable. Fourthly, defence should not be limited by the territory as such. Fifthly, operational capacity of the armed forces should be optimized.³¹

For Morin, France – *puissance* means: to defend human rights, to make humanitarian vision of the world order a reality and to respect the identity of everyone.³² Prime minister François Fillon additionally points out, that France has just been adapted to the new strategic landscape passing by the new White Book and starting preparations to publish subsequent bills on the military programme (LPM – Loi de programmation militaire). He argues that France has to be able to respond to three challenges. Firstly, there is a need to comprehend security in global terms. Secondly, interdependence of the strategic system marked by distant theatres of operations as well as long-time crises and conflicts should be fully taken into account. Thirdly, budget reality has to be seriously analyzed.³³ Moreover, he says that French security and defence is based on four pillars: nuclear deterrence, projection capability, anticipation and protection. Two pillars out of the four are definitely typical for states having power status – deterrence and projection.

President Sarkozy is also explicit about nuclear capacity saying that “competences necessary for nuclear deterrence should be maintained at the highest level, because it constitutes a fundamental aim for our security.”³⁴ Proliferation of weapons of mass de-

³⁰ Ibidem, pp. 7–8.

³¹ Ibidem, pp. 12–13. Yves Boyer notices, that western approach to warfare overemphasizes technology to the point where it may not be financially sustainable. “An inability to take causalities has prompted this approach, which contrasts with the West’s enemies who have adopted a strategy of ‘total war’ and are more willing to endure combat losses.” He thinks that this is a huge strategic challenge, which we will have to face in a near future. See: *French Security and Defense Policy Under Nicolas Sarkozy...*

³² H. Morin, *La défense, les hommes...*, p. 13.

³³ Intervention du premier ministre, M. François Fillon, devant l’Institut des Hautes Etudes de Défense Nationale, Paris, 21 février 2008, <http://www.ambafrance-uk.org/Intervention-de-M-Francois-Fillon,10323.html>, accessed 28.06.2008.

³⁴ Discours de M. le Président de la République – Présentation du SNLE «Le Terrible», Cherbourg, 21 Mars 2008, <http://www.ambafrance-uk.org/Presentation-du-SNLE-Le-Terrible.html>, accessed 27.06.2008.

struction as well as huge incertitude of contemporary strategic relations determine the need to have some nuclear capabilities. Sarkozy underlines that a nuclear arsenal is strictly defensive by nature, but as an ultimate measure it can be applied in extreme situations but always with conformity to the UN Charter.³⁵

Nuclear deterrence remains as one of the most important strategic functions underscored in the new White Book, although main functions have been moderately re-grouped in comparison with earlier documents. We can read there that three combined strategic functions have to be realized: 1) reconnaissance and anticipation; 2) prevention and deterrence; 3) protection and intervention.³⁶

In order to respond quickly and forcefully to strategic surprise, the first function should be carried out properly and robustly. It comprises intelligence, acquisition of detailed information about theatres of operations, diplomatic activities, forecasting as well as gaining information through all accessible sources.³⁷ Therefore expertise and anticipation form the basis of a new French defence and security strategy. Intelligence (humint, techint, imint) seems to be indispensable to keep a decision-making autonomy and to anticipate.³⁸

Prevention strategy is based on diplomatic, economic, financial, military, legal and cultural means. In that respect the EU together with the UN are central from the French point of view. It should be built around three principle orientations. Before a crisis occurs, an international security system should be improved in order to reduce the probability of an outbreak of a crisis or conflict (military, humanitarian, technologic or natural). Moreover, there is a need to react as quickly as possible, use all peaceful means in order to prevent the transformation of a crisis into a violent one. During a crisis there is a need to limit its effects, also by military means, so a situation will not get out of control. When a crisis or conflict is almost finished there is a need to start a stabilization process as well as reconciliation using economic and diplomatic means and cooperation.³⁹ Prevention means watching a situation constantly and it comprises early warning. It should be complemented by bilateral defence agreements with third states and different systems of cooperation in the security and defence realm. Pre-deployed French forces are also an important element of prevention strategy, but there must be a possibility to conduct a quick redeployment if necessary. It only depends on strategic premises. Therefore ad-hoc and flexible military bases are needed, not permanent ones.⁴⁰

Nuclear deterrence deters the possibility of an armed attack from other states and protects French vital security interests (such as territory, population, sovereignty). Any use of nuclear forces should be legitimate and proportional to the threat. Moreover, French nuclear deterrence should be seen as a part of European deterrence together with British nuclear forces.⁴¹ Operational credibility of the nuclear deterrence is based on

³⁵ Ibidem.

³⁶ *Défense et sécurité nationale. Le livre blanc*, Paris 2008, p. 65.

³⁷ Ibidem, p. 66.

³⁸ Ibidem, p. 133.

³⁹ Ibidem, pp. 66–67.

⁴⁰ Ibidem, pp. 155–157.

⁴¹ Ibidem, pp. 69–71.

permanent sub-marine patrols as well as air components. The level of reactivity of these two components is decided by the President and is strictly determined by the strategic environment. Moreover, they are strategic by nature and they do not constitute equipment to be used in a theatre of operation. There is a possibility to use the nuclear forces to attack political, economic or military centres of an adversary or to paralyse its capacity to act.⁴²

The third strategic function consists of protection and projection being equally important as the two previous ones. It is even underlined in the White Book, that new threats and vulnerabilities make protection of the French population and territory central for the French strategy. Protection means that the French population and national territory should be protected from intentional and non-intentional threats.⁴³

President Sarkozy and his collaborator stress repeatedly that security threats and challenges do not know borders. That is why intervention beyond national territory forms an essential task for the French armed forces. In most cases they will be used abroad within coalition forces, although there is a possibility to use them unilaterally. Firstly, in order to protect French citizens. Secondly, to implement bilateral defence agreements. Thirdly, as a reaction towards actions, which directly threaten French interests. The White Book's authors are explicit about intervention capacity stressing that it should be concentrated in several directions, where French interests are mostly endangered. Therefore the principal axis comes from the Atlantic through the Oman sea to the Indian Ocean, which makes intervention within Asia possible. For interior security the most important region is the Mediterranean Sea and the coast of Africa where illegal traffic is especially dangerous.⁴⁴

Therefore, French forces can be deployed within its national territory and abroad for two types of missions: stabilisation operations (limited contribution from 1000 to 5000 personnel without air and naval support elements, possibly in several theatres of operations, far from national territory, in an unfriendly territory); more demanding and complex operations, (several operational phases, with the possibility of lasting for years). It is worth adding that there is no clear-cut border between these two types of missions. That is why permanent adaptation of forces is needed, as well as a versatile personnel to perform different kind of tasks. In this regard, the protection of French troops combined with a capacity to conduct an offensive attack seems to be essential.⁴⁵

That pragmatic approach towards projection capability can be traced back to former French experiences. The White Book specifies that France always has the possibility to conduct operations abroad, although in the most demanding circumstances these missions have been carried out on a multinational basis. What is important nowadays, is whether the quality and size of French forces used within multinational operations are sufficient. Moreover, France should have its representatives in planning and command bodies, which in the same time gives French authorities some autonomy to take any de-

⁴² Ibidem, pp. 169–170.

⁴³ Ibidem, p. 71.

⁴⁴ Ibidem, pp. 71–72.

⁴⁵ Ibidem, pp. 129–130.

cision concerning operation. France must also keep the possibility to intervene at distant places, which are strategically important for French interests.⁴⁶

Intervention capacity of the French armed forces means that they are able to conduct several types of operations: 1) special operation, which can be carried out independently or within a multinational basis, aimed at the liberation of hostages or captured terrorists; 2) minor independent operations, aimed at evacuating citizens, including those carried out in a hostile environment or undertaken as a retaliation for a direct attack on French interests; 3) significant operations carried out within a bilateral or multilateral basis, which main goal is to maintain or restore peace; 4) major operations at distant places conducted necessarily within a coalition or alliance. In all these cases, intervention should enhance a degree of protection of national territory, and a crisis should justify the necessity to start an intervention. Moreover, French forces should be interoperable and reliable to undertake a full spectre of activities simultaneously.⁴⁷

French pragmatism having been widely seen in official statements, documents and undertaken activities proves that the French view strategic environment in realistic terms. They prefer France performing a limited international role compared to a global France, which they could not afford. Moreover, France being well-established in Euroatlantic structures can become a far more influential player than it has been for previous years.⁴⁸

III. France – major partner or definite opponent for the U.S.?

Because of several internal and external determinants, France is a key partner or an opponent for the U.S. Researchers agree that there are some cycles within the bilateral French-American relations. Generally France becomes a key partner for the U.S. when a serious crisis or conflict in the international system occurs. Despite anti-Americanism, which has been always declared within French foreign and security policy, French behaviour is much more pragmatic, even more loyal than other allies stance.⁴⁹ That was particularly seen during the operation in Afghanistan, where French troops performed their duty under direct American command. Now France has a contingent placed at the 4th position (for 40 participating states) as far as size is concerned (that is 2660 personnel out of 47,600).⁵⁰

Gaëlle Fisher aptly points out, that apart from military involvement in Afghanistan, which definitely shows the change of the French attitude towards the U.S., military rapprochement between France and NATO is still unfinished. If the U.S. agree on French demands concerning control of a key NATO command in return for the French

⁴⁶ Ibidem, p. 199.

⁴⁷ Ibidem, p. 200.

⁴⁸ See comments on new French security and defence strategy drafted by M. Yoshida, *France Adopts a Multilateral Defense Policy*, http://www.atlantic-community.org/index/articles/view/France_Adopts_a_Multilateral_Defense_Policy, accessed 01.01.2008.

⁴⁹ F. Bozo, G. Parmentier, *France and the United States: Waiting for Regime Change*, "Survival" 2007, Vol. 49, No.1, p. 193.

⁵⁰ Data from: http://www.nato.int/isaf/docu/epub/pdf/isaf_placement.pdf, accessed 1.09.2008.

re-integration into NATO military structures, the French could become the most loyal and credible allies that the U.S. desperately need nowadays. She also argues that France and the U.S. share the same geostrategic vision, which is and can be in the near future an important basis for common undertakings within the international environment. "Rap-prochement of the two nations has been facilitated by Sarkozy and Kouchner's support of the United States' tough line regarding Iran's nuclear program. This contrasts with other European leaders' positions as well as Chirac's earlier cautious approach to conflicts and tensions in the Greater Middle East. Sarkozy additionally shares Washington's serious take on security threats to Israel and its critical posture towards Russia and China, especially with regard to their human rights records and their perceived unfair and imbalanced trade policies."⁵¹ Fisher also underlines Sarkozy's new, pro-American rhetoric, which "enables France to voice its vision of the international order."⁵²

But in the meantime, French international activities are rather different or concurrent from those taken by the U.S. French independence, which was marked in a half of January 2008, when a special agreement between France and the Arab Emirates was signed. That document concerns settlement of the French military base in Abu Dhabi, near the strategically important Strait of Ormuz. The base will be operational within a year and its utmost aim is to give all the necessary support for the actions taken by the French forces within the Gulf or the Indian Ocean. Apart from that base, some joint military exercises as well as training for military officers are planned. All these moves can prove that the moderate Arab states want to cut themselves off from an explicit support for the U.S. and simultaneously, it means that France is gradually perceived as a strategic player within the region, just as the U.S. are. Moreover, it means that France becomes a military power in that region instead of its previous balanced power role.⁵³ It proves that Sarkozy has not got rid of his unilateral ambitions. To quote Gaëlle Fisher: "in the light of Sarkozy's prioritization of national interests, these elements of his foreign policy seem less dictated by the intention to revive transatlantic relations or the promotion of multilateralism than by the aim of restoring France's great power status."⁵⁴

Other important issues which determine French-U.S. relations concern future NATO-ESDP ties as well as Sarkozy's alignment with policies of "Old Europe" as far

⁵¹ G. Fisher, *Sarkozy l' Américain?*, http://www.atlantic-community.org/index/Global_Must_Read_Article/Sarkozy_1%27_Am%27E9ricain%3F, accessed 29.06.2008.

⁵² Ibidem. Braving the current of French popular opinion, Sarkozy acknowledges that France has little to gain from systematically opposing the United States. A pro-American approach enables France to voice its visions of the international order. The shift was made explicit as early as May 6, 2007 on the evening of his electoral victory: "I want to reach out to our American friends to tell them they can count on our friendship [...] I want to tell them that France will always be on their side when they need her..." Sarkozy's visit to the United States in November 2007 gave the president the opportunity to express his admiration for the US and emerge as the new central partner for Washington in Europe after Blair's departure. His advisory and parliamentary staff has contributed to the political rapprochement. His foreign minister, Bernard Kouchner, is famously transatlanticist. The president's major foreign policy advisor, Jean David Levitte, spent the last years working on calming the transatlantic storm in his capacity as French ambassador to Washington and has successfully helped the president rebuild strong transatlantic relations."

⁵³ *La France, puissance du Golfe*, "Le Monde diplomatique", 17 janvier 2008.

⁵⁴ G. Fisher, *Sarkozy l' Américain?*...

as the NATO Membership Action Plan goes. First of all, the French are opposed to a global NATO, which in their mind, should remain an organisation of collective defence. Secondly, they are not keen on MAP for Ukraine and Georgia.

Although some clashes in the bilateral relations are visible, France is much more eager to be a loyal American partner than it had been during Chirac's presidency. At the same time the U.S. should bear in mind that France is a more demanding partner, pressing for some autonomy and independence. It is believed that France can become a close American ally if the U.S. behaves more multilateral.

IV. France and the U.S – surprisingly similar

As it was previously mentioned there are certain similarities between French and American foreign and security policies. Firstly, the global attitude to security. Secondly, the consciousness of power status. Thirdly, the assessment of the contemporary geostrategic situation. Fourthly, the possibility of pre-emption strikes. Fifthly, perception of the terrorist threat as the most dangerous one. Sixthly, huge ability to project military and civilian forces. Seventhly, high level of military expenditures including R&D.

There are some new factors, which influence French security and defence strategy: a greater link between threats and risks as a direct result of the globalization process, therefore prevention is the most important strategic function. Moreover, there is a need to use all possible measures, not only armed forces to provide security. A new approach towards security should also take into account the link existing between national and international security, as well as new strategic changes within, for example, space technology, nanotechnology or biotechnology. New warfare with a human being as a point of departure should also be visible in strategic vision.⁵⁵ White Book specifies that French security should be perceived in a global perspective. That is why national security strategy should encompass both external and internal security, military as well as civilian, economic and diplomatic measures. All challenges and threats for the security of the nation should be taken into consideration. Anticipation, preparation and rapid reaction are needed.⁵⁶

In American National Security Strategy from 2002 we can find several main goals, which are: to defend freedom, to defend human dignity and to eradicate evil. This strategy is global and offensive. Goals mentioned above have nothing to do with altruism, but they are a result of the will to ensure the U.S. advantage and to protect the supremacy of American values. The most important triad of terms is: freedom – democracy – free market. We can find a missionary spirit in the whole document.⁵⁷

The consciousness of power status makes both players feel particular responsibility for the international peace and global order. Moreover, they perceive their own security through the lens of global security responsibilities. In the introduction to the White

⁵⁵ *Défense et sécurité nationale. Le livre blanc...*, p. 57.

⁵⁶ *Ibidem*, p. 63. See: N. Sarkozy, *Profession of Faith...*, p. 34.

⁵⁷ See: *The National Security Strategy of the United States of America*, Washington 2002, <http://www.whitehouse.gov/nsc/nss.pdf>, accessed 10.05.2008.

Book, Nicolas Sarkozy states that there are two main objectives for France to achieve. Firstly, it should remain the great military and diplomatic power ready to overcome all challenges as well as to fulfil its international responsibilities. Secondly, it has to remain independent and protect all French citizens.⁵⁸

The U.S. determine their existential interests based at existing threats and their perception. The first existential interest is the defence of a national territory and people against an external attack, which brings about mass victims or threatens the performance of basic duties of the government. The second one stresses the need of a security for the whole North America – land, sea and air territories as well as a space. The third interest is an assumption that a dominance of Europe and North-East Asia by a hostile power needs to be avoided, because these regions are important centers of military and economic power and additionally they are strategically located at the ocean's coast, which "guards" America. And last but not least, support for the key international fields which the U.S. depend on, like trade, financial markets, energy, transportation and environment.⁵⁹ In the predictable future the U.S. will limit actions which realize above mentioned existential interests to war on terror, counteraction proliferation and use of weapons of mass destruction. In geographical terms most of the U.S. actions will concentrate within the Middle East and Asia.

Assessment of the contemporary geostrategic environment makes France and the U.S. even more similar. The French entertain a strong conviction that globalization makes Asian states more powerful, but at the same time their military strategies rival what in turn causes global instability. Because globalization influences every aspect of the international and national security the most important feature of the contemporary strategic environment is complexity.⁶⁰ We witness rapid diffusion of all forms of crises, overexploitation of natural resources as well as an increase of energy demand. Therefore conflicts over natural resources cannot be excluded. ABC weapon production and procurement remains increasingly dangerous. Additionally, new terrorism can hit any country and cause profound consequences within national and international levels. Because some radicalization of violence has taken place, the new type of warfare can be observed as well as the privatization of war. It is extremely visible in Africa. The French as well as Europeans are currently vulnerable to direct threats such as terrorism, ballistic missiles, attacks on information systems, offensive intelligence, organized crime, new natural and sanitary risks, greater influence of technological risks.⁶¹

Main threats for the U.S. constitute: global terrorism, "rogue states" and weapons of mass destruction. Moreover, the strategy takes into consideration the possibility of the new great powers rivalry, arms race, regional conflicts and poverty in developing countries. But these are only challenges, not threats, and can be exclusively dangerous when they are somehow interconnected with the triad: terrorism – tyranny – weapons of mass destruction. The link between terrorism and "rogue states" is perceived as extremely

⁵⁸ *Défense et sécurité nationale. Le livre blanc...*, p. 9.

⁵⁹ J. Thomson, *US Interests and the Fate of the Alliance*, "Survival" 2003-04, Vol. 45, No. 4, p. 209.

⁶⁰ *Défense et sécurité nationale. Le livre blanc...*, p. 13.

⁶¹ *Ibidem*, pp. 49–56.

dangerous.⁶² NSS 2006 is not a turning point, but a simple continuation of the previous one.⁶³ There are also slight differences in the threats' catalogue. Genocide and energy sources depletion were added, as well as threats connected with the globalization process (diseases and pandemics, human trafficking, drug smuggling, environmental threats). A little change that we can see in that document is more declarations of a multi-lateral approach. It means more allies to participate (but still not to lead) in a common action. Additionally, some role for international organizations like the UN is also mentioned. Furthermore the document provides a broader range of instruments for external policy. In spite of the fact that there is still a transatlantic link between the EU and the U.S., NSS 2006 refers only once to the EU as a whole.⁶⁴

French White Book provides for the possibility of pre-emption strikes. Although it is expressed that French strategy excludes any preventive war in certain circumstances in which threats are precisely determined and imminent, some preventive one-time actions are not banned. In some cases preventive deployment of military or civilian measures, without intervention as such, in a zone of potential crisis can prevent the emergence of a crisis or its revision. Preventive deployment results from the French determination to contribute to international stability and to conduct a mission because for humanitarian reasons. Although France has at its disposal all the necessary military and civilian capacities to deploy, these undertakings should be progressively merged into a common European context (especially strategic lift).⁶⁵

In NSS 2006 pre-emptive strike is still a substantial mechanism, but here it is signalled that there are also other ways of action like diplomacy, common action and cooperation with allies and regional partners. Decisions about the pre-emptive strike should be carefully taken regarding all the results of potential action.⁶⁶

As it was mentioned earlier both France and the U.S. perceive the terrorist threat as the most dangerous one. For France, the ability to respond to a strategic surprise determines its ability to provide security. At the same time the most dangerous scenario is a terrorist attack with ABC weapons on the national territory and simultaneously an attack in one of the strategically important places abroad.⁶⁷ For the U.S. the triad: terrorism – tyranny – weapons of mass destruction, as well as the link between terrorism and “rogue states,” are perceived as extremely dangerous.⁶⁸

Huge project capabilities combined with high defence expenditures make both France and the U.S. possible strategic partners. As shown in the table below Americans definitely spent more for defence than the French. Nevertheless, the level of French expenditures seems to be more stable. It is worth adding, that France spent the biggest sum for personnel and equipment out of all European NATO members. Moreover, for

⁶² *The National Security Strategy of the United States of America 2002...*

⁶³ *The National Security Strategy of the United States of America*, Washington 2006, <http://www.whitehouse.gov/nsc/nss/2006/nss2006.pdf>, accessed 10.05.2008.

⁶⁴ E. Posel-Częścik, *Strategia bezpieczeństwa Stanów Zjednoczonych z 16 marca 2006 r.*, “Biuletyn PISM” 2006, No. 19, p. 1.

⁶⁵ *Défense et sécurité nationale. Le livre blanc...*, p. 165.

⁶⁶ *The National Security Strategy of the United States of America 2006...*

⁶⁷ *Défense et sécurité nationale. Le livre blanc...*, p. 39.

⁶⁸ *The National Security Strategy of the United States of America 2002...*

the 100 largest arms-producing companies in the world (in year 2005) there were 11 French companies. The highest 10 rank company was Thales, after six U.S. companies, British BAE Systems, which was placed at 4 rank, Italian Finmeccanica at 7 and European EADS.⁶⁹

According to the European Defence Agency, France spent 43.46 billion Euro on defence in 2006, which means it is in second position after the UK (it spent around 47 billion Euro in the same period) in absolute numbers and the third position calculated as a percentage of the GDP (2.43% after Greece and the UK). Additionally, France is in the first position as far as the number of the military personnel is concerned – 355,800, and the second one concerning the civilian personnel – 84,500 (after the UK).⁷⁰

Not surprisingly France is among the world's leaders concerning R&D (including R&T). The French military budget devoted to that aim comes to almost 3.8 billion Euro (that is second position after the UK, which spent more than 4 billion Euro). The French are also eager to deploy their troops abroad. The average number of troops deployed in 2006 was 17,485 (after the UK – 34,000 and before Germany – 11,170).⁷¹

NATO military expenditure by category in US million \$

		2000	2001	2002	2003	2004	2005	2006	2007
U.S.	Personnel	129085	124894	139,629	159,029	165,465	175,384	171,754	157,770
	P. change	+2.9%	-3.2%	+11.8%	+13.9%	+4%	+6%	-2.1%	-8.1%
	Equipment	74988	88547	106,232	108,017	118,266	123,491	128,304	136,630
	E. change	-8.6%	+18.1%	+20%	+1.7%	+9.5%	+4.4%	+3.9%	+6.5%
France	Personnel	30,315	30,287	30,999	31,001	31,016	30,704	30,053	29,946
	P. change	-1.1%	-0.1%	+2.3%	0.0%	0.0%	-1.0%	-2.1%	-0.4%
	Equipment	9,466	9,700	9,761	10,795	11,322	11,284	12,340	12,000
	E. change	-3.9%	+2.5%	+0.6%	+10.6%	+4.9%	-0.3%	+9.4%	-2.8%
NATO total	Personnel	270,942	266,743	282,719	301,354	310,664	323,023	319,098	304,872
	P. change	+1.8%	-1.5%	+6.0%	+6.6%	+3.1%	+4.0%	-1.2%	-4.5%
	Equipment	120,729	132,781	152,409	154,894	165,735	170,109	176,293	189,128
	E. change	-4.4%	+10%	+14.8%	+1.6%	+7.0%	+2.6%	+3.6%	+7.3%

Source: SIPRI Yearbook 2008, pp. 236–241.

V. Changes cannot be excluded...

All determinants analyzed above entitle me to state that some changes in bilateral relations could be expected. Several years ago, in the aftermath of the U.S. operation in Iraq, *New York Times* journalist Thomas Friedman described France as America's "enemy." But in subsequent years that perception has changed even more radically. In 2006 David Ignatius from *The Washington Post* noted that France may become "Bush's new ally."⁷²

⁶⁹ SIPRI Yearbook 2007, pp. 376–382.

⁷⁰ 2006 National Breakdowns of European Defence Expenditure, <http://www.eda.europa.eu/genericitem.aspx?area=Facts&id=309>, accessed 21.07.2008.

⁷¹ Ibidem.

⁷² F. Bozo, G. Parmentier, *France and the United States...*, p. 181.

Bozo and Parmentier argue that “as in previous episodes, the recent rapprochement between France and the U.S. can be traced to the desire to contain a crisis, the influence of domestic politics, and the realisation that the relationship is too central to be allowed to deteriorate. Both sides recognise that things have gone too far. As Philip Gordon noted: ‘France and the U.S went to the brink, they looked and they didn’t like what they saw’.”⁷³

After painful clashes over the Iraqi war, France and the United States can finally discern similarities they share: common values, similar strategic interests as well as a need to protect their own national security through global undertakings. During the election campaign Nicolas Sarkozy has “criticised French policy for its ‘arrogance,’ adding that there was ‘no future in opposition to the United States’ (to be sure, he also stressed that there should be no ‘alignment’ of French positions with American ones).”⁷⁴

President Sarkozy’s new policy towards the U.S. is backed by the French. According to the previously mentioned opinion poll some changes into bilateral relations can have a place, because U.S. global leadership is evaluated as favourable by 28% of the French and even 7% of them recognized at the same time that U.S. – EU relations were improved (none of the British or German respondents believe that these relations were improved).⁷⁵

⁷³ Ibidem, p. 184.

⁷⁴ Ibidem, p. 187.

⁷⁵ *Transatlantic Trends. Kluczowe wyniki 2007...*

The European Union after the Treaty of Lisbon – Still a Hybrid Legal and Political System

Integration process in the European Communities and the European Union exemplifies the constant search for a compromise among various concepts represented by member states and scholars. The European Union in the 21st century is featured by two main trends. The first is enlargement incorporating the countries of East-Central Europe, the second is impossibility to carry out reforms rooted in deepening of cooperation of members states. The Treaty establishing a Constitution for Europe, a new general international agreement replacing majority of earlier primary law acts, might have been a symbol of reformatory concepts. However, it has not entered into force, as a result of objection of French and Dutch citizens expressed in the referendum in 2005. The second reformatory attempt is the Treaty of Lisbon.¹

This paper constitutes a contribution to discussion on main reforms introduced by the new treaty. The argument is based on three main theses. Firstly, the Treaty of Lisbon does not change a hybrid character of the European Union. Secondly, intergovernmental practices will still dominate in the EU system. Thirdly, democratic deficit as a feature of the system will not be significantly reduced. Main part of analysis is prefaced by general characterisation of the EU governance system.

The most important problem connected with the European Union relates to a regular identification of this specific integration structure. The key-issue is its internal decision-making process that creates a very complicated system of governance. A critical assessment of this phenomenon is connected with two questions: the first is evaluation of that system from a perspective of the role of member states (integration approach), the second is characterisation from a perspective of democracy (democratic approach). The term *governance* can be defined in many ways: as activity of formal governmental structures, as multiple mechanisms of socialisation and social control, as a “good rule” or as ruling by networks.² In this paper a system theory approach is used, equalling the governance to decision-making.

The system of decision-making in the European Union can be perceived with respect to two main features: primary role of member states and the democratic deficit. The first feature is strictly connected with the very reason of European integration after the Second World War. This reason is the convergence of interests of states that creates

¹ *Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon, 13 December 2007*, O. J. C 306, 17.12.2007, pp. 1–271.

² E. Best, *Transparency and European Governance: Clearly Not a Simple Matter*, in: V. Deckmyn (ed.), *Increasing Transparency in the European Union?*, Maastricht 2002, pp. 96–100.

the tendency of ever closer cooperation and defines stages of integration. The economic interest seems to be the most important one in this context while current situations in internal policies of states influence solutions chosen. Evolutionary integration process leading to a political union as well as an active role of international secretariats and Community/Union courts should be perceived as fulfilment of decisions made earlier by member states. The conditions of international cooperation, its institutionalisation and rules result from a relative bargaining power of states' governments that do not give up the sovereignty but rather delegate its elements to the higher level in order to improve the efficiency of their actions. The delegation of monitoring and exercising of international agreements to international secretariats and courts is aimed at controlling of implementation of these agreements by other states. A primary role in the process of deepening and widening of integration is played by governments of the most important states and their cabinet members. Community/Union institutions and their officials are second-order participants of the game.³

This state-centric approach means in no way the total acceptance of the realist theory of international relations in context of European integration. The liberal intergovernmentalism (A. Moravcsik) seems to be a better way of explanation of contemporary situation in the EU. This way of thinking is rooted in a liberal paradigm of international relations that incorporates internal connections between the state and the individual (or the society). State's behaviour in international politics is a direct result of interactions with "internal and transnational social context." Ideas, interests and social institutions affect state's actions by shaping its preferences and main social objectives, which in turn creates the basis for strategic calculations of governments.⁴ The main thesis of liberal intergovernmentalism is perception of integration as an outcome of international bargaining where the main actors are governments that have access to information and ideas. These governments initiate, mediate and mobilize negotiations that are *naturally* effective and deprived of big transactional costs.⁵

This explanation is based on three elements:

- 1) *issue-specific interdependence* clarifying national preferences;
- 2) bargaining process rooted in asymmetric interdependence;
- 3) institutional choice depending on the need of *credible commitment*.⁶

The governments want to negotiate agreements that in the most effective way accomplish national preferences in a given area. This process is an outcome of pressures of internal "constituents" that react on impulses of international politics. National preferences should not be instable and appear only during negotiations (*garbage can* concept) or be rooted in ideological and geopolitical interests. They should rather reflect

³ D. J. Puchala, *Institutionalism, Intergovernmentalism, and European Integration: a Review Article*, "Journal of Common Market Studies" 1999, Vol. 37, No. 2, p. 319.

⁴ A. Moravcsik, *Taking Preferences Seriously: a Liberal Theory of International Politics*, "International Organization" 1997, Vol. 51, No. 4, p. 513; Cf. R. Putnam, *Diplomacy and Domestic Politics: the Logic of Two-Level Games*, "International Organization" 1988, Vol. 42, No. 3, pp. 427–460.

⁵ A. Moravcsik, *A New Statecraft? Supranational Entrepreneurs and International Cooperation*, "International Organization" 1999, Vol. 53, No. 2, p. 273.

⁶ A. Moravcsik, K. Nicolaidis, *Explaining the Treaty of Amsterdam: Interests, Influence, Institutions*, "Journal of Common Market Studies" 1999, Vol. 37, No. 1, p. 60.

issue-specific patterns of substantive interdependence, i.e. depend on the very problem actually negotiated.⁷ There are four empirical proofs of employment of this method. First, the governments present different (not ideological) positions in different substantial areas. These positions refer to benefits expected from policy coordination compared with unilateral policy. Second, negotiators tend strictly to obey instructions they have received from the governments as a result of perception of interests. Third, the positions of member states are relatively stable. Possible flexibility is connected with the shape of the *final package*, positions of the most important states as well as internal (domestic) debate. Fourth, modifications appear if some structural changes in internal policy are foreseen.⁸

Another basic point of European integration is a relative bargaining power of member states. The most important in this context is a trade interest: integration is an outcome of rational choices made by national leaders on the basis of economic factors. Interests of the biggest companies, macroeconomic preferences of governmental coalitions and impact of world market play a huge role.⁹ In process of the building of a new regime the asymmetry of national economies must therefore be taken into account.¹⁰

Decisive role of national interests can be noticed also in shaping the institutional structure of the EU. In every phase of decision-making (initiative, mediation, mobilisation) independent institutions play rather minor role: their competences result from the will of member states that delegate powers to the Community/Union level only if they are not able to control observance of international obligations themselves. Member states tend to delegate powers also in other situations: when future decisions are not sure, when benefits from implementation of agreements by other partners are high and when the costs of delegation are acceptable. Institutional solutions create a kind of a hybrid system.¹¹ The source of the power of European law is after all the ratification of treaties connected with parliamentary assenting act. The European Union is becoming then the *association* of states.¹²

The second feature of the system of governance in the EU, the democratic deficit, is an extremely discussed matter. A common definition of the democratic deficit in the EU refers to a limited influence of the addressees of decisions taken by EU governing bodies on the contents of those decisions. The reason for a deficit is a transfer of decision-making centre from state to the Community/Union level without creating a supplementary mechanism that could offer the citizens possibility of participation and control of EU institutions. The convergence of the EU and the state systems does not remove the deficit. Moreover, the democratic deficit is a two-level phenomenon. It ap-

⁷ Ibidem, pp. 61–62.

⁸ Ibidem, pp. 62–69.

⁹ A. Moravcsik, *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht*, London 1998, pp. 3–4, quoted in: D. J. Puchala, *Institutionalism, Intergovernmentalism, and...*, pp. 326–327.

¹⁰ D. J. Puchala, *Institutionalism, Intergovernmentalism, and...*, pp. 327–328.

¹¹ A. Moravcsik, K. Nicolaidis, *Explaining the Treaty...*, pp. 69–73, 76–77.

¹² P. Kirchhof, *The Balance of Powers between National and European Institutions*, “European Law Journal” 1999, Vol. 5, No. 3, pp. 226–227, 230.

pears at the level of the Community/Union and at the level of member states: in this sense there is a *double democratic deficit* in the EU.¹³

The first level of the democratic deficit is characterised by two further elements: institutional deficit and participation deficit. Institutional deficit is an outcome of division of powers among EU institutions that prefers organs appointed without direct influence of citizens (Council, Commission). Participation deficit reflects lack of active participation of population which results from the size of the system (27 states with ca. 500 million citizens) reducing the possibility of real political discourse. The democratic deficit at the second level is caused by a transfer of many functions of the state to the Community/Union. Member states are no longer allowed to regulate some areas which leaves those areas uncontrolled and undermines the very quality of democracy.¹⁴

The most important reasons for democratic deficit are globalization and intensification of transborder interactions (external reason) as well as a specific for the EU dynamics of those phenomena (internal reason).¹⁵ The expression of the democratic deficit can be found in two dimensions: political participation of adult citizens and the level of freedom of participation in competitive decision-making process. There are six practical arguments for the existence of the democratic deficit in the EU:

- 1) indirect political accountability of the Commission (a main administrative institution);
- 2) a weak political role of the European Parliament (the only institution with direct political background resulting from elections);
- 3) a lack of *lively and Europeanised* system of intermediary institutions (European political parties, associations and media);
- 4) a strict division of initiative and legislation resulting in institutional (instead of political) tensions;
- 5) a character of integration process (negative integration prevails positive integration);
- 6) a lack of European *demos* and a rudimentary level of European society.¹⁶

However, there are also arguments that negate the thesis of the democratic deficit in the EU. The size of the system, its institutional structure, multinationalism, lack of common history, culture, discourse and symbolism cannot be the very reason for lack of democracy. On the contrary: interinstitutional balance, indirect democratic control and a growing role of the European Parliament make European politics *clean*, transparent,

¹³ C. Neuhold, *Das Europäische Parlament im Rechtsetzungsprozess der Europäischen Union. Demokratische Kontrollmöglichkeiten im Hinblick auf die Durchführungsbefugnisse der Europäischen Kommission*, Frankfurt am Main 2001, pp. 8–23.

¹⁴ F. W. Scharpf, *Economic Integration, Democracy and the Welfare State*, “Journal of European Public Policy” 1997, Vol. 4, No. 1, pp. 18–36, quoted in: R. S. Katz, *Models of Democracy. Elite Attitudes and the Democratic Deficit in the European Union*, “European Union Politics” 2001, Vol. 2, No. 1, p. 56.

¹⁵ A. E. Töller, *Komitologie. Theoretische Bedeutung und praktische Funktionsweise von Durchführungsausschüssen der Europäischen Union am Beispiel der Umweltpolitik*, Opladen 2002, pp. 175–176.

¹⁶ M. G. Schmidt, *Demokratiethorien*, Opladen 2000, pp. 430–435.

efficient and functional for the needs of the citizen. The EU system should be confronted with real political systems and not with utopian idealistic visions.¹⁷

A. Moravcsik presents arguments against the existence of the democratic deficit in the EU. A starting point is perception of the EU as not a *superstate* but rather as a loose confederation. Cooperation of member states refers first of all to some elements of economic sphere and aims at regulatory activities. A decentralised implementation of Community/Union policies takes place at member state level. Decision-making procedures in the EU require a qualified majority or even unanimity: thus is the EU not a parliamentary but a division-of-power system. Pluralistic features of the EU make it a *diffuse governance system*. Four strict arguments are used to reject the deficit thesis. First, the EU system has a double democratic legitimacy and is accountable to citizens directly by elections to the European Parliament and indirectly by elected national officials. The latter channel is much more important because of greater identification and loyalty of citizens towards their own states as well as because of high professional level of bureaucrats. The Community/Union institutions work in situation of informative pluralism which helps them to optimize a final decision. Second, the EU system is based on technocracy and collects high scores in terms of substantive democratic legitimacy. Third, a direct participation of population in EU decision-making process is not high but still not lower than in member states. Moreover, a higher level of participation could be dysfunctional: social popularity of independent decision-makers is often bigger than popularity of political organs, the EU is specialized in matters that do not need wide social participation, social debates on EU problems must be decentralised and reflect a need for satisfaction of many social groups (in other case there is a threat of disintegration). Fourth, the EU governance system is aimed at finding the balance between liberal economic model and model of social protection. The opposition to liberal reforms at the EU level can be limited by decentralised approach to the construction of social protection systems in member states.¹⁸

The very existence of the European Union can be perceived as *democratic added value*. A bigger territorial scope results in appearance of great number of new ideas and interests which limits possibility of disregarding of interests of minority groups. Interests that cannot be effectively articulated at state level find new channels at the EU level.¹⁹

The most important questions concerning EU governance are then connected with its democratic character. First, if the European Union is not a state, why should it be democratic? Second, if the European Union represents a new “state-like” type of international organisation, what kind of democracy should it follow?

The European Union is not a state but a *sui generis* political and legal structure. Some elements of state are surely absent in the EU system: possibility of general man-

¹⁷ A. Moravcsik, *In Defence of the “Democratic Deficit”: Reassessing Legitimacy in the European Union*, “Journal of Common Market Studies” 2002, Vol. 40, No. 4, pp. 604–605.

¹⁸ *Ibidem*, pp. 606–619.

¹⁹ R. Dehousse, *European Governance in Search of Legitimacy: the Need for a Process-Based Approach*, in: O. de Schutter, N. Lebossis, J. Paterson (eds.), *Governance in the European Union*, Luxembourg 2001, p. 173.

agement of political process, own army or monopoly of using force.²⁰ There are two limitations of democracy in EU structure: the size and diversity of the system as well as its unfinished nature. The first results in variety of solutions proposed and the second impedes the identification of the citizen with the Community/Union as a system *in statu nascendi*.²¹ Democracy is not the only way of legitimisation: the others are for instance sovereignty or expansion of definition of state in order to incorporate the notion of welfare. There is also possibility to diversify sources of legitimacy in different areas of the Union's activity.²²

The EU system is determined not only by its own structure but also by perceptions of legitimate organisational rules. Constitutional logic of the EU can be perceived not only as logic of political community based on democratic assent of citizens but also as logic of international enterprise or supranational technocracy. Legitimacy depends then respectively on quality of member states' governments or efficiency of the system.²³

The system of governance in the European Union reflects current state of integration process in Europe. A sovereign nation-state is still the most important participant of this process while the Community/Union continues to be a tool of achieving individual goals of every state. The role of the citizen is a second-order issue. This way formal structure and informal behaviour create a non-typical hybrid system. The European Union is a *quasi-polity*, *nascent polity*, *emergent polity* or *would-be polity*.²⁴ The following part of the paper consists of comparative analysis of the Nice system and the Lisbon system with respect to *sui generis* character of the European Union in terms of integration and democratic perspective.

Hybridity of the EU system can be characterised by seven elements:

- 1) the legal construction perceived as the "third" system;
- 2) legal nature of decisions;
- 3) decision-making procedures;
- 4) institutional system;
- 5) the powers of the Community/Union;
- 6) the competences of supranational bodies;
- 7) the possibility of "self-conferral."²⁵

The first element, the perception of the Nice EU as the "third" legal system, has its roots in the lack of treaty provisions dealing with the very nature of European construction. The basis of the specific character of the legal system can be found in Art. 10 TEC:²⁶ "Member States shall take all appropriate measures (...) to ensure fulfilment of the ob-

²⁰ M. G. Schmidt, *Demokratiethorien...*, pp. 430.

²¹ C. Lord, *Democracy and Democratization in the European Union*, in: S. Bromley (ed.), *Governing the European Union*, London 2001, pp. 165–168.

²² M. Albert, *Governance and Democracy in European Systems: on Systems Theory and European Integration*, "Review of International Studies" 2002, Vol. 28, No. 2, pp. 306–308.

²³ B. Kohler-Koch, *The Evolution and Transformation of European Governance*, Vienna 1998, p. 4.

²⁴ D. J. Puchala, *Institutionalism, Intergovernmentalism, and...*, pp. 319–320, 322.

²⁵ Z. J. Pietraś, *Prawo wspólnotowe i integracja europejska*, Lublin 2005, pp. 37–46.

²⁶ Abbreviations: TEC – Treaty Establishing the European Community; TEU – Treaty on European Union; TFEU – Treaty on the Functioning of the European Union (new name of TEC introduced by the Treaty of Lisbon).

ligations arising out of this Treaty or resulting from action taken by the institutions of the Community. (...) They shall abstain from any measure which could jeopardise the attainment of the objectives of this Treaty.” Yet the closer definition of the system must have been reached by the European Court of Justice (ECJ) in its famous judgements, with *Costa* case on the top.²⁷ To put it briefly, it stems from the ECJ case law that Community law is a specific legal order independent from both international and national laws. What is more, national provisions cannot be applied unless they correspond with Community provisions (primacy principle).

There is no reform of this system in the Treaty of Lisbon. The provisions on the character of the legal system and primacy are still not to be found in the primary law. The only new factor is Declaration No. 17 concerning this issue: “The Conference recalls that, in accordance with well settled case law of the Court of Justice of the European Union, the Treaties and the law adopted by the Union on the basis of the Treaties have primacy over the law of Member States, under the conditions laid down by the said case law.” In the same declaration the opinion of the Council Legal Service is recalled: “It results from the case law of the Court of Justice that primacy of EC law is a cornerstone principle of Community law. According to the Court, this principle is inherent to the specific nature of the European Community. At the time of the first judgment of this established case law (...) there was no mention of primacy in the treaty. It is still the case today. The fact that the principle of primacy will not be included in the future treaty shall not in any way change the existence of the principle and the existing case law of the Court of Justice.” The result of the treaty changes is maintenance of the *status quo*.

The hybridity of the second element, legal nature of decisions, is emphasised by the mixture of binding and non-binding acts. In general, the law adopted in the first EU pillar has a form of legally binding acts defined in Art. 249 TEC (regulations, directives, decisions). Recommendations and opinions are also legal acts, though they have no binding force. On the other hand, instruments of the second pillar (Common Foreign and Security Policy) should be characterised as “soft law.” Principles, general guidelines, common strategies, joint actions, common positions (Art. 13–15 TEU) and – with some limitations – international agreements (Art. 24 TEU) cannot be perceived as legal and legally binding acts. Also the instruments of the third pillar (Police and Judicial Cooperation in Criminal Matters): common positions, framework decisions and decisions are not created as legal acts. The only exception are conventions (Art. 34 TEU) that should be perceived as international law.

The system of the sources of EU law proposed in the Treaty of Lisbon is an outcome of deeper reforms. First of all, the division in three sub-systems (corresponding to three pillars) is abolished. Instead, common categories of acts that stem from the Nice first pillar system are created: regulations, directives, decisions (with binding force), recom-

²⁷ Case 6/64, *Flaminio Costa vs. E.N.E.L.*, ECR 1964, p. 585. Cf. case 26/62, *NV Algemene Transport- en Expeditie Onderneming van Gend & Loos vs. Netherlands Inland Revenue Administration*, ECR 1963, p.1; case 11/70, *Internationale Handelsgesellschaft mbH vs. Einfuhr- und Vorratsstelle für Getreide und Futtermittel*, ECR 1970, p. 1125.

mendations and opinions (with no binding force).²⁸ A new element is a further classification of acts: legislative, delegated and implementing acts are strictly defined. On the other hand, in the field of Common Foreign and Security Policy – which loses the doctrinal name of the second pillar – the only act to be used is a decision. The most important feature of CFSP decision is its non-legislative character.²⁹ Surely such a decision is also not a delegated or an implementing act. This could mean that a specific type of EU instrument is introduced that in fact does not differ from its counterparts in the Nice system.

The third element, decision-making procedures, is based on cooperation of inter-governmental and supranational institutions. The most important point is the balance between those two types of bodies. In the first pillar decisions are made by the European Parliament and the Council, the Council or – in case of powers conferred on it – the Commission. The most frequent voting method in the Council (still a key-institution) is based on a qualified majority rule (Art. 205 TEC). On the contrary, in the second and the third pillars the system is founded on a general unanimity principle (Art. 23, 34 TEU) where the role of the European Parliament and the Commission is very limited.

The Treaty of Lisbon does change the situation to a great extent. A new “ordinary legislative procedure” that corresponds to the Nice co-decision is established. The role of the European Parliament and the Commission is strengthened. The qualified majority voting system in the Council is reformed in order to find an agreement quicker and easier,³⁰ but there is one exception: Common Foreign and Security Policy. In this sphere the general principle of unanimity is upheld.³¹ Thus the contradiction majority vs. unanimity will still exist.

The fourth element, institutional system, reflects the relative powers of member states. The composition of main institutions and bodies is based on the rule of the presence of each member state. Formal and real roles of states depend first of all on their population and bargaining power but still every state is “in” and can directly influence the final package. The only exception from that rule is the Commission after 2009 with less members than a total number of member states.

The principle “each member state is represented in each institution” is not disturbed in the Treaty of Lisbon, with the same exception concerning the Commission. What is important, the reform of the Commission is postponed till 2014 when the number of Commission members should correspond to two thirds of member states.

The fifth element, the division of powers between the European Union and member states, is based on some principles. The most important set of rules in this context can be found in Art. 5 and in Art. 10 TEC where principles of limited conferral, subsidiarity, proportionality and loyalty are established. The most important feature of the Nice sys-

²⁸ Cf. Art. 249–249d (288–292) TFEU (in brackets numbers of articles according to the new numbering introduced by the Treaty of Lisbon).

²⁹ Cf. Art. 11, 12, 15b (24, 25, 31) TEU.

³⁰ Cf. Art. 9c (16) TEU, Art. 205 (238) TFEU. There is also a new method of cancelling of decision-making, called “enhanced Ioannina compromise.”

³¹ Cf. Art. 11 (24) TEU.

tem is the lack of strict definition of powers conferred on the EU. In the second and the third pillars the situation is also unclear.³²

The Treaty of Lisbon is a great step towards clarification of division of powers. In Art. 3a (4) and in Art. 3b (5) TEU the four main principles are upheld. Declaration No. 18 in relation to the delimitation of competences and Declaration No. 24 concerning the legal personality of the European Union are added to underline the role of member states in the definition of conferral of powers. The Protocol on the application of the principles of subsidiarity and proportionality emphasises the role of member states' internal bodies, first of all national parliaments, in EU decision-making process.

The most important reform is inclusion of a new title concerning categories and areas of Union competence.³³ A very strict classification of exclusive and shared competence is made in Art. 2b (3) and Art. 2c (4) TFEU. Exclusive competence of the Union relates to the following areas: customs union; the establishing of the competition rules necessary for the functioning of the internal market; monetary policy for the Member States whose currency is the euro; the conservation of marine biological resources under the common fisheries policy; common commercial policy. It is added that "the Union shall also have exclusive competence for the conclusion of an international agreement when its conclusion is provided for in a legislative act of the Union or is necessary to enable the Union to exercise its internal competence, or insofar as its conclusion may affect common rules or alter their scope." To shared competence belong the following fields: internal market; social policy (for the aspects defined in the treaty); economic, social and territorial cohesion; agriculture and fisheries (excluding the conservation of marine biological resources); environment; consumer protection; transport; trans-European networks; energy; area of freedom, security and justice; common safety concerns in public health matters (for the aspects defined in the treaty). What is more, "in the areas of research, technological development and space, the Union shall have competence to carry out activities, in particular to define and implement programmes; however, the exercise of that competence shall not result in Member States being prevented from exercising theirs. (...) In the areas of development cooperation and humanitarian aid, the Union shall have competence to carry out activities and conduct a common policy; however, the exercise of that competence shall not result in Member States being prevented from exercising theirs." As far as shared competence is concerned, the treaty consists only of principal areas. Apart from them, the Union shall share competence with the member states where the treaties confer on it a competence which does not relate to the areas with exclusive competence and to areas where the Union shall have competence to carry out actions to support, coordinate or supplement the actions of the member states. The latter includes: protection and improvement of human health; industry; culture; tourism; education, vocational training, youth and sport; civil protection; administrative cooperation.³⁴ The Protocol on the exercise of shared competence is added to clarify that "when the Union has taken action in a certain area,

³² Cf. Art. 11, 29 TEU.

³³ Part I, Title I TFEU.

³⁴ Cf. Art. 2e (6) TFEU. The Union shall also have some limited competences in the area of economic, employment and social policies of member states, cf. Art. 2a (2) and Art. 2d (5) TFEU.

the scope of this exercise of competence only covers those elements governed by the Union act in question and therefore does not cover the whole area.”

The competence in the area of Common Foreign and Security Policy is defined in Art. 11 (24) TEU. The competence in this realm covers all areas of foreign policy and all questions relating to the Union’s security, including the progressive framing of a common defence policy that might lead to a common defence. The implementation of CFSP shall not affect the application of the procedures and the extent of the powers of the institutions laid down by the treaties for the exercise of the Union competences defined elsewhere. Similarly, the implementation of the policies listed elsewhere shall not affect the application of the procedures and the extent of the powers of the institutions laid down by the treaties for the exercise of CFSP.³⁵

The sixth element, the competences of supranational bodies, is a decisive factor of decision-making system. In the Nice EU the powers of supranational political institutions, the European Parliament and the Commission, are particularly limited and controlled by intergovernmental bodies with a supreme position of the Council and the European Council. The only supranational organ of the second pillar, the High Representative for CFSP, is not equipped with real influence.

Institutional provisions of the Treaty of Lisbon create a very interesting part of reforms. The European Parliament is given new competences resulting from enlargement of co-decision procedure (“ordinary legislative procedure”). The Commission is also included in many new decision-making areas. The most important changes relate, however, to intergovernmental institutions that are featured with supranational elements: the European Council with the President, the Council with the High Representative of the Union for Foreign Affairs and Security Policy. The President of the European Council shall: chair it and drive forward its work; ensure the preparation and continuity of the work of the European Council in cooperation with the President of the Commission, and on the basis of the work of the General Affairs Council; endeavour to facilitate cohesion and consensus within the European Council; present a report to the European Parliament after each of the meetings of the European Council. Moreover, at his level and in that capacity, the President shall ensure the external representation of the Union on issues concerning its common foreign and security policy, without prejudice to the powers of the High Representative of the Union for Foreign Affairs and Security Policy.³⁶ On the other hand, the High Representative of the Union for Foreign Affairs and Security Policy shall: conduct the Union’s common foreign and security policy; contribute by his proposals to the development of that policy, which he shall carry out as mandated by the Council – the same shall apply to the common security and defence policy; preside over the Foreign Affairs Council; be one of the Vice-Presidents of the Commission; ensure the consistency of the Union’s external action; be responsible within the Commission for responsibilities incumbent on it in external relations and for coordinating other aspects of the Union’s external action.³⁷ Those unclear powers of the new bodies are reason for many disputes. Their real role will depend on many factors:

³⁵ Cf. Art. 25b (40) TEU.

³⁶ Cf. Art. 9b (15) TEU.

³⁷ Cf. Art. 9e (18) TEU.

positions of members states, political will and personalities. Before their start it is not possible to evaluate them in context of strengthening of supranational features of the EU system. It is also difficult to judge the growing role of national parliaments in decision-making process, particularly new obligations in areas of information and inter-parliamentary cooperation.³⁸

The seventh element, the possibility of conferral of powers on itself, is connected with autonomy or independence of EU institutions. The Nice system is very conservative in this sphere. There are two ways of “self-conferral.” The first relates to Art. 308 TEC: “If action by the Community should prove necessary to attain, in the course of the operation of the common market, one of the objectives of the Community, and this Treaty has not provided the necessary powers, the Council shall, acting unanimously on a proposal from the Commission and after consulting the European Parliament, take the appropriate measures.” The second way relates to the activities of the European Court of Justice and its case law that in many cases in fact creates new rules and principles.

The Treaty of Lisbon consists of some changes in context of the first way. Provisions of Art. 308 (352) TFEU make self-conferral much more difficult: “If action by the Union should prove necessary, within the framework of the policies defined in the Treaties, to attain one of the objectives set out in the Treaties, and the Treaties have not provided the necessary powers, the Council, acting unanimously on a proposal from the Commission and after obtaining the consent of the European Parliament, shall adopt the appropriate measures. Where the measures in question are adopted by the Council in accordance with a special legislative procedure, it shall also act unanimously on a proposal from the Commission and after obtaining the consent of the European Parliament. (...) Using the procedure for monitoring the subsidiarity principle (...) the Commission shall draw national Parliaments’ attention to proposals based on this Article. (...) Measures based on this Article shall not entail harmonisation of Member States’ laws or regulations in cases where the Treaties exclude such harmonisation. (...) This Article cannot serve as a basis for attaining objectives pertaining to the common foreign and security policy (...)” These provisions are supplemented by two declarations. According to the Declaration No. 41 on Article 308 of the Treaty on the Functioning of the European Union the reference to objectives of the Union does not refer exclusively to promoting peace, EU values and the well-being of EU people with respect to external action. In this connection it is recalled that legislative acts may not be adopted in the CFSP area. In the Declaration No. 42 on Article 308 of the Treaty on the Functioning of the European Union it is underlined that, in accordance with the settled case law of the Court of Justice, Art. 308 TFEU, “being an integral part of an institutional system based on the principle of conferred powers, cannot serve as a basis for widening the scope of Union powers beyond the general framework created by the provisions of the treaties as a whole and, in particular, by those that define the tasks and the activities of the Union. In any event, this Article cannot be used as a basis for the adoption of provisions whose effect would, in substance, be to amend the Treaties without following the procedure which they provide for that purpose.”

³⁸ Cf. Protocol on the Role of National Parliaments in the European Union.

The next problem to be discussed are references of the Treaty of Lisbon to the democratic deficit. First of all, a new title (“Provisions on Democratic Principles”) is added to the Treaty on European Union.³⁹ According to Art. 8 (9) TEU “in all its activities, the Union shall observe the principle of the equality of its citizens, who shall receive equal attention from its institutions, bodies, offices and agencies.” The most important provisions can be found in Art. 8a (10) TEU: “The functioning of the Union shall be founded on representative democracy. (...) Citizens are directly represented at Union level in the European Parliament. Member States are represented in the European Council by their Heads of State or Government and in the Council by their governments, themselves democratically accountable either to their national Parliaments, or to their citizens. (...) Every citizen shall have the right to participate in the democratic life of the Union. Decisions shall be taken as openly and as closely as possible to the citizen. (...) Political parties at European level contribute to forming European political awareness and to expressing the will of citizens of the Union.”

Institutional aspects are described in Art. 8b (11) TEU: “The institutions shall, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action. (...) The institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society. (...) The European Commission shall carry out broad consultations with parties concerned in order to ensure that the Union’s actions are coherent and transparent. (...) Not less than one million citizens who are nationals of a significant number of Member States may take the initiative of inviting the European Commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Treaties.” The procedures and conditions required for a citizens’ initiative shall be determined in accordance with provisions adopted by the European Parliament and the Council, “including the minimum number of member states from which such citizens must come.”⁴⁰

The role of national parliaments in strengthening EU’s democracy is underlined in Art. 8c (12) TEU: “National Parliaments contribute actively to the good functioning of the Union: through being informed by the institutions of the Union and having draft legislative acts of the Union forwarded to them in accordance with the Protocol on the role of national Parliaments in the European Union; by seeing to it that the principle of subsidiarity is respected in accordance with the procedures provided for in the Protocol on the application of the principles of subsidiarity and proportionality; by taking part, within the framework of the area of freedom, security and justice, in the evaluation mechanisms for the implementation of the Union policies in that area (...); by taking part in the revision procedures of the Treaties (...); by being notified of applications for accession to the Union (...); by taking part in the inter-parliamentary cooperation between national Parliaments and with the European Parliament, in accordance with the Protocol on the role of national Parliaments in the European Union.”

³⁹ Title II TEU.

⁴⁰ Cf. Art. 21 (24) TFEU.

All the reforms presented above give rise to the conclusion that the European Union after the Treaty of Lisbon is still a hybrid legal and political system with two main features: domination of member states and the democratic deficit. Strong intergovernmental elements of the Lisbon EU system can be found in eight phenomena. First, the primacy of EU law is still rooted only in case law of the European Court of Justice which makes the dispute between European and national constitutional courts up-to-date. Second, decisions made in the area of Common Foreign and Security Policy have non-legislative nature. The discussion on the character and obligations for member states arising from that policy is therefore not finished. Third, the unanimity is still the main principle in decision-making in the CFSP area. The role of the new High Representative is in this case probably strongly diminished. Fourth, there are still many blocking tools in the qualified majority voting in the Council. Some new methods are appearing, with “enhanced” Ioannina on the top. This makes the whole process more intransparent and strengthens the most powerful states. Fifth, every member state is still represented in every main institution. The only exception is the Commission after 2014 but member states, formally the European Council, are allowed to decide otherwise and maintain the current system. Sixth, the principles of conferral and the presumption of member states’ competence are strengthened while there is still no clear definition of shared competences. The tensions between the EU and national levels are expected. Seventh, self-conferral is more difficult than in the Nice system. The consent of the European Parliament is needed and special exceptions for Common Foreign and Security Policy are predicted. Eighth, the President of the European Council has only symbolic powers. The clarification of accountability and identification issues is still the task for the years to come.

The problem of the democratic deficit is not solved, either. Five phenomena reflect that question. First, the only directly elected institution is the European Parliament with no direct impact on EU policy. The other institutions need not have a stable support in parliamentary organ. Second, the European Parliament is still a “co-legislative” body. Its role is strengthened by enlargement of co-decision sphere but the institution is not comparable with national parliaments. Third, the Commission is still appointed mainly by member states. The results of elections to the European Parliament must be taken into account with this respect but it is hardly imaginable to perceive the European Parliament as first player in that game. Fourth, intermediary institutions are still lacking. There is an institutional stimulus to create European political parties but there is no interest of population to participate in this process. Fifth, interinstitutional divisions are still more important than political divisions. The struggle between the European Parliament and the rest of institutions tends to be a constant element of decision-making process.⁴¹

From a legal perspective the Treaty of Lisbon is a treaty amending and supplementing former international agreements constituting the Communities and the Union. Such a formula is aimed at simplifying the acceptance of the document by member states with parts of population strongly opposed to deepening of integration. The contents of

⁴¹ Cf. M. G. Schmidt, *Demokratietheorien...*, pp. 430–435.

the new treaty are to a great extent identical with the Treaty establishing a Constitution for Europe, which may explain troubles concerning ratification process in some member states. The Treaty of Lisbon is after all the agreement relating to almost every sphere of activity of the European Union. In fact the construction of the European Union and its foundations are not reformed in a revolutionary way. This is only a short step towards identification of the *finalité politique*.

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