

An Assessment of the First Phase of the European Neighbourhood Policy: Perspectives and Revision

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Since its launch in 2004, the European Neighbourhood Policy (ENP) has raised high expectations regarding the establishment of a privileged relationship between the European Union (EU) and its neighbouring countries. The initial Commission documents offered a prospect of new contractual relations, participation in various EU activities and “a stake in the internal market.” From the outset, it was also made clear that this new policy would not replace but rather tries to reinforce existing forms of regional and sub-regional cooperation. Despite the ENP’s ambitious objectives to involve the EU’s neighbours in an increasingly close relationship based upon respect for common values and leading to further political and economic integration, the proposed methodology and geographical scope raised significant questions. For the countries of the Mediterranean, in particular, the potential impact on the Barcelona Process/Euro-Mediterranean Partnership (EMP) was a key concern. Certain partner countries and observers feared for a dilution of the EMP and a shift of the EU’s political attention and financial aid towards the eastern periphery at the expense of the Mediterranean area. Others pointed at the opportunities of the ENP to establish an integrated Euro-Mediterranean market and to increase the effectiveness and coherence of the EU’s activities in the region. More than five years after the entry into force of the ENP, the time has come to make a first evaluation of this policy.

Regional Differentiation and the Challenge of Coherence

The ENP is not the result of a predetermined blueprint, but rather a dynamic process which is in constant evolution. Of particular importance is certainly the increased regional differentiation with the design of more specific policies for different groups of countries. In the southern periphery, the Union for the Mediterranean builds upon the *acquis* of the Barcelona Process in an attempt to deepen the Euro-Mediterranean integration and to increase its visibility for citizens. In the East, the Black Sea Synergy (BSS) and the Eastern Partnership (EaP) constitute the regional framework of the ENP. The EaP includes the six ENP countries in Eastern Europe and the Southern Caucasus (Ukraine, Moldova, Belarus, Georgia, Armenia, Azerbaijan); the Black Sea Synergy also includes the two regional powers Russia and Turkey but not Belarus. Whereas the BSS essentially focuses on the regional problems of the Black Sea area, the EaP is more oriented towards the partner countries’ alignment with the EU. The differences in focus and methodology between the EaP and the BSS cannot conceal that both policy initiatives to a large extent deal with similar problems and challenges. For instance, the integration of the energy markets is a key objective of both the BSS and the EaP thematic platforms on energy security. There is, in other words, an obvious overlap regarding the issues and sectors for regional cooperation and legal approximation. The introduction of new regional initiatives is a logical result of increased differentiation and provides new impetus to the EU’s neighbourhood relations but also raises questions of effective coordination and policy coherence. It is crucial to avoid the ENP disintegrating into a bundle of competing policies,

each supported by a small group of Member States. France and the southern EU Member States focus on the Union for the Mediterranean; for Romania and Bulgaria the Black Sea Synergy is of particular importance; Sweden, Poland and the other Visegrad countries have a specific interest in the Eastern Partnership, whereas Finland is the main promoter of the EU's Northern Dimension and relations with Russia. The challenge is to establish a coherent European Neighbourhood Policy given the constant fight for funding and influence among the Member States and neighbouring countries. It remains to be seen how the new institutional structures, introduced with the Lisbon Treaty, will be instrumental to reaching this objective. In particular, the division of labour between the Commissioner for Enlargement and Neighbourhood Policy, Stefan Fuhle, and the European External Action Service (EEAS) under the leadership of High Representative for Foreign and Security Policy Catherine Ashton is of fundamental importance to ensure policy coherence.

Bilateral Differentiation as an Incentive for Reform

It is no secret that the ENP's methodology has been largely inspired by the EU's recent enlargement experience. The listing of priority areas in individual Action Plans and the assessment of progress in periodic Commission reports resemble the practice of the Accession Partnerships and the regular Commission monitoring of progress towards accession. The close link between the pre-accession strategies and the methodology of the ENP implies that the EU has to address similar problems, such as the gap between internal and external standards or the tension between objective and geo-political considerations in the assessment of a country's performance. In the framework of enlargement, the inclusion of all candidate countries in a comprehensive, inclusive and ongoing accession process counterbalanced by initial perceptions of discrimination. Based upon the image of a competition where all participants join the race at a different stage and advance on the basis of their individual performance, the EU transformed the idea of differentiation into a strong incentive for domestic reform. The ENP is based upon a similar rationale of positive conditionality and it even includes additional incentives, such as increased financial assistance for the best performing countries.

The perception of differentiation as an incentive is based on the assumption that competition between countries that are part of a common policy framework enhances the effectiveness of the EU's conditionality. While this might be true in the specific context of the EU's enlargement policy, the different framework of the ENP has to be taken into account. First, the ENP target countries do not share a clear mutually agreed objective. In comparison to the membership perspective, the final goal of the ENP is less tangible and more disputed. Second, the candidate countries never seriously questioned the necessity of domestic reforms, whereas the ENP includes a number of authoritarian regimes and reluctant participants who are unable or simply unwilling to pay the price for alignment with the proposed EU model of governance. Hence, the basic preconditions for successful conditionality, such as attractive incentives and a favourable domestic context, are absent in the ENP. The effectiveness of the EU's engagement will depend more, therefore, on 'joint ownership' and concrete initiatives rather than on asymmetrically imposed norms and the offer of long-term benefits.

A key weakness of the ENP seems the impossibility to offer an attractive perspective to countries that are not necessarily interested in closer relations with the EU. The impact of the ENP on countries such as Belarus, Libya, Syria and Algeria is at least questionable. Moreover, it is difficult to find an appropriate balance between the differentiation of legal relations at the bilateral level and the ambition to promote regional and sub-regional cooperation. A considerable differentiation in relations between the EU and individual EMP countries might lead, for instance, to a fragmentation of the Barcelona Process. This is particularly the case in the Middle East, where an intensification of bilateral EU-Israel relations could potentially weaken cooperation between Israel and its Arab neighbours. A gradual shift from multilateralism to bilateralism could indeed be observed in the EU's Mediterranean policies, with an increased focus on the establishment of 'advanced' bilateral relations.

Finalité: Everything but the Institutions?

The implementation of the Joint Document establishing Morocco's advanced status in its relationship with the EU represents, according to the ninth meeting of the EU-Morocco Association Council on 13 December 2010, "a real qualitative change

PARTNERSHIP FOR DEMOCRACY AND SHARED PROSPERITY

In light of recent events in the Mediterranean, it is imperative to review the European Neighbourhood Policy (ENP). To this end, the EU has launched the "Partnership for Democracy and Shared Prosperity (PDSP)," an initiative based on a true commitment to the shared values of democracy, human rights, social justice, good governance and the rule of law. It is a **differentiated approach** that is sensitive to the specific characteristics and circumstances of each country.

1. Immediate Response

The EU's first concern was to respond rapidly to the challenges arising in the Southern Mediterranean. This response has included: €30 million in humanitarian aid; facilitation of consular cooperation and evacuation; Frontex joint operations; use of the €25 million in the EU External Borders Fund and European Refugee Fund; High Representative/Vice President visits to Tunisia and Egypt and an international coordination meeting in Brussels; and support for democratic transition.

2. Adaptation of the EU's Approach

The EU's response to events in the Southern Mediterranean countries has led to a review of the ENP to adjust it to the current situation in the Mediterranean. The PDSP is based on the principle of **"more for more,"** that is, those countries that go further and faster with **specific and quantifiable reforms** will receive more support. To this end, support will be reallocated or refocused away from those countries that stall or backslide on the agreed reform plans.

3. Democracy and Institution Building

The EU is ready to support the process of democratic and constitutional transition through the provision of specialised advice, electoral assistance and technical expertise. In the sphere of economic and social development, the EU calls for the creation of a platform for civil society, political parties, trade unions and associations, funded by the EU and with the support of EU political parties, trade unions, foundations and NGOs. Moreover, the EU plans to increase its support for civil society through a **Civil Society Neighbourhood Facility**. Finally, **social dialogue** between trade unions and employers can be supported through the Euro-Mediterranean Social Dialogue Forum.

4. Tackling the Challenges of Mobility

With a view to enhancing people's mobility, the EU considers it necessary to strengthen its capacity-building efforts in the Southern Mediterranean countries in the spheres of borders, migration and asylum and to ensure more effective cooperation between law enforcement services. In addition, the EU has proposed the creation of **Mobility Partnerships** with Partner Countries specifically to manage the movement of people between the EU and each third country. In the short term, the Commission will work with Member States on legal migration legislation and visa policy to support the goal of enhanced mobility. To this end, local Schengen cooperation should be reinforced and full use should be made of the improvements to the EU Visa Code.

5. Promoting Inclusive Economic Development

Small and medium-sized enterprises (SMEs) play a critical role in economic growth and development and job creation. Consequently, the EU is ready to support a sound regulatory framework through co-operation and policy dialogue under the Euromed Industrial Work Programme. This should be accompanied by employment and social policies. To tackle these challenges, funding could be provided by international financing institutions (IFIs), the European Investment Bank (EIB) and the European Bank for Reconstruction and Development (EBRD).

6. Maximising the Impact of Trade and Investment

For trade and Foreign Direct Investment (FDI) to deliver their full potential, they must take place in a favourable business climate. The EU's support measures for trade and investment in each country should be tailored to its specific situation.

In the short-to-medium term, the EU has proposed: accelerating the conclusion and approval of trade liberalisation agreements, especially on agricultural and fishery products with Tunisia and Morocco; launching negotiations on agreements on conformity assessment and acceptance of industrial products; accelerating the bilateral negotiations currently underway on the liberalisation of trade in services; and concluding the **regional Convention on pan-Euro-Mediterranean preferential rules of origin** in 2011.

In the medium-to-long term, the ultimate objective is the creation of comprehensive free trade areas. The countries most committed to economic and political reform could thus be more deeply integrated into the EU single market, including through actions such as regulatory convergence.

7. Enhancing Sectoral Cooperation

In terms of the security and transit of oil and gas supplies, there is clear potential to build a Euro-Mediterranean partnership for the production and management of renewables. Likewise, in the medium term, the Southern Mediterranean could be integrated into the EU's internal energy market, thereby creating an **EU-Southern Mediterranean Energy Community**.

With regard to education, greater use should be made of the Erasmus Mundus, Euromed Youth and Tempus education programmes to increase the number of young people from the Southern Mediterranean who participate in them.

As for the agricultural sector, the EU's Partner Countries should improve efficiency and productivity and ensure the security of the food supply. Rural development could be supported by launching a **European Neighbourhood Facility for Agriculture and Rural Development** based on EU best practice.

Finally, the regulatory environment in the information and communication technology sector should be developed. Likewise, it is vital to ensure the security, stability and resilience of the Internet and other electronic communication technologies.

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PARTNERSHIP FOR DEMOCRACY AND SHARED PROSPERITY (continuation)

8. Regional and Sub-regional Implications

Following the recent dramatic events in the Southern Mediterranean, regional cooperation has become increasingly important. Urgent progress should be made on the Middle East peace process and the positive elements of the Barcelona Process should be integrated with those of the Union for the Mediterranean in a new approach.

9. Financial Assistance

Among other financial assistance, approximately €4 billion is currently available for the period ending in 2013 under the ENPI financ-

ing instrument. Now more than ever before, major efforts must be made to ensure coordination and consistency with IFIs. Additional financing to encourage private-sector investment will be provided under the Neighbourhood Investment Facility (NIF). Moreover, the Commission will provide an information tool and develop an investment protection framework for European companies interested in investing in the region.

As for the macroeconomic assistance required by some countries facing short-term difficulties, EU Macro-Financial Assistance could be considered.

For further information:

http://eeas.europa.eu/euromed/docs/com2011_200_en.pdf

and a model in the region.” The reinforcement of political dialogue, reflected with the organisation of the first EU-Morocco Summit in Granada on 7 March 2010; the increased attention to regulatory convergence with the aim of establishing a Deep and Comprehensive Free Trade Area (DCFTA); and the conclusion of a protocol allowing Morocco’s participation in EU programmes are the main implications of this new status. Moreover, both partners launched a process of reflection on the nature and form of a new contractual relationship to replace the Euro-Mediterranean Association Agreement. An upgrade of bilateral legal relations, regulatory convergence and the prospect of deep and comprehensive free trade are also key characteristics of the Eastern Partnership.

Despite this prospect of closer political, economic and legal relations between the EU and all ENP partner states, the *finalité* of the ENP remains rather ambiguous. Obviously, it is not accession to the Union but something different. At the outset, the Commission proclaimed that “all the neighbouring countries should be 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)” (COM (2003) 104). According to former Commission President Romano Prodi this would lead to a situation where the Union and its neighbours “share everything but the institutions.”

The envisaged long-term goal was a kind of arrangement such as the European Economic Area (EEA) between the EU and Norway, Liechtenstein and Iceland. Significantly, with the further develop-

ment of the ENP, this model gradually paved the way for less far-reaching forms of integration. Rather than an extension of the four freedoms, the main objective is to conclude Deep and Comprehensive Free Trade Agreements (DCFTAs) as a first step towards a Neighbourhood Economic Community (NEC) in the long term. The concept of an NEC seems ill-defined and does not fit within the traditional categories of economic integration such as a free trade area, customs union or internal market. Arguably, the ambiguity about the final goals and instruments of the ENP reinforces the infamous expectations-capability gap as a characteristic of the ENP.

The objective of closer political association and economic integration through a process of legislative and regulatory approximation all sounds very nice but the question is, of course, how those objectives can be achieved. Legal approximation is a complex and expensive exercise. It requires the full support of the partner countries to adapt their national legislation in line with the evolution of EU law, and it suggests the existence of innovative legal instruments to guarantee the uniform application of common legal standards. Moreover, the notions of flexible integration and close cooperation may give rise to different expectations between the partners. With regard to economic integration, for instance, most EU Member States seem reluctant to offer the full extension of the four freedoms, in particular when it comes to free movement of persons. Hence, rather than creating unrealistic expectations, it is important to make progress on concrete issues such as visa liberalisation and energy security.

The Way Forward

Finding an appropriate legal and political format to upgrade the relations between the EU and its neighbouring countries is a work in progress and a process of trial and error. In the past, the ENP has perhaps focused too much on form rather than on substance. It might be true that “the strong symbolism of a new label that marks a strengthened commitment of the Union might help to raise the profile of relations with the EU and thus unlock additional political will and administrative capacity,” as argued by Patten and Solana in their Joint Paper of 2002. However, new labels in themselves are not enough and need to be accompanied by clear and realistic objectives.

In order to be successful, the ENP needs to be pragmatic. A good example of such a pragmatic approach is, for instance, the *mobility partnerships* between the EU and third countries. Based upon the support of the Union and the participating Member States, concrete cooperation projects are developed to improve the opportunities for legal migration to the Union and support the partner countries in the management of migration flows. Such partnerships are not restricted to the management of legal migration to the EU (such as a project of seasonal migration of Moroccan workers to Spain), but also include projects to facilitate circular migration for migrants settled in the EU (such as a programme to support entrepreneurs of Moroccan origin in Europe in setting up sustainable economic activities in Morocco). Another example of pragmatic cooperation can be found in the field of *energy* where the Union has concluded memoranda of understanding with several ENP partners, has established early warning mechanisms and invests in the promotion of increased energy efficiency and the use of renewable resources. Moreover, the recent accession of Moldova and Ukraine to the Energy Community Treaty is a fundamental step towards the creation of a pan-European energy market. The significance of this treaty cannot be underestimated. It implies the establishment of a common regulatory framework for energy markets in the ‘Wider Europe’, to use an old-fashioned term, by extending the application of the *acquis communautaire* in significant areas such as energy, environment and competition law to the territories of the participating countries. So far, no Mediterranean ENP partners have been involved in this example of flexible integration but,

following the example of Turkey, an observer status may not be excluded.

Conclusions

Despite its ‘growing pains’ and limitations, the ENP offers an interesting framework for the exchange of good practices among the various actors operating in the European neighbourhood. It allows for a cross-fertilisation between different regional policies and increases the interdependence between the Union and its neighbours on the one hand, and among the neighbouring countries themselves on the other. For several reasons, such as the continued existence of ‘frozen’ conflicts, the lack of interest among certain partner countries, the inability to offer sufficiently attractive incentives and the ambiguity of its final objectives, the potential of the ENP has not yet been fully exploited. A more focused and pragmatic approach, including a strong social dimension and a connection with EU programmes, such as the Europe 2020 strategy, may help to overcome the remaining stumbling blocks for a more successful implementation of the ENP.

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