

Ever Challenged Union: Exploring Ways Out of the Crises

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The European Neighbourhood Policy at the crossroads
A few remarks on the future framework of the EU's relations with its neighbours

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Abstract

The European Neighbourhood Policy (ENP) was launched to prevent the emergence of new dividing lines between the eastwardly enlarged EU and the diverse pool of its neighbours to the east and south. Over the past decade, the neighbourhood has proven to be anything but a static and homogenous entity. The point of departure for this paper is the Commission Communication *Towards a New European Neighbourhood Policy* issued in March 2015. The author argues that although the EU has positioned itself as a civilian actor, it is thus far a normative power with vital economic and security interests that it needs to attend to urgently. Therefore, it is crucial to review the ENP in a broader context of improved consistency in EU external policies. The ENP stands a chance of serving both the EU and its neighbours once an interplay of the following trinity has been established: a good understanding of the complexity and diversity of the EU's neighbours; the establishment of a monitoring mechanism for the situation in the regions surrounding the EU, including developments in relations between the EU's neighbours and their neighbours; a rapid response to the changing dynamics in the EU's neighbourhood, including the merger of crisis management instruments with ENP tools.

Introduction

The European Union continuously reforms and reviews its instruments with the aim of making itself 'more present in the world'.¹ One of these instruments is the European Neighbourhood Policy (ENP), which is gradually becoming a rather problematic instrument. The ENP was launched in 2003 to prevent the emergence of new dividing lines between the eastwardly enlarged EU and the diverse pool of its neighbours to the east² and south.³ The policy core was built around securing an alternative to enlargement. The fifth round of enlargement forced the EU to address 'a fundamental conundrum besieging European foreign policy [...], the fact that the EU cannot enlarge indefinitely, while at the same time [it] wishes to apply, *mutatis mutandis*, lessons of enlargement, to the neighbours.'⁴ The policy's feature of becoming something other than enlargement in many ways has affected its ability to become a strong instrument in its own right. Moreover, borrowing enlargement tools such as conditionality without careful adaptation to the specific needs of ENP partner countries has also contributed negatively to the evolution of the ENP. Furthermore, the diversity of the countries and territories covered by the policy strongly influences the inability of the ENP to be compelling. In particular, recent years have proven that the European Neighbourhood Policy is in a great need of strategic improvement. Since the EU neighbourhood is becoming less stable and currently used ENP mechanisms have not brought about the desired effects, the ENP is undergoing its next review. This one was launched in March 2015, when the EU High Representative for Foreign Affairs

¹ As inspired by the Presidency Conclusions, Laeken 14-15 December 2001.

² Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine.

³ Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, the Occupied Palestinian Territories, Syria and Tunisia.

⁴ M. Comelli, E. Greco and N. Tocci, From Boundary to Borderland: Transforming the Meaning of Borders in Europe Through the European Neighbourhood Policy, *European Foreign Affairs Review* (12) 2007, pp. 203-218; B. Dimitrova, Remaking Europe's Borders through the European Neighbourhood Policy, CEPS Working Document No 327, Brussels 2010; A. Henrikson, Facing across Borders: The Diplomacy of Bon Voisinage, *International Political Science Review* 21 (2)/2012, p. 124.

and Security Policy and the Enlargement Commissioner presented the Joint Consultation Paper entitled *Towards a new European Neighbourhood Policy*.⁵

The purpose of this analysis is to review the ENP in the light of the issues highlighted in the consultation document. However, the exercise will go further and justify the claim that the ENP stands a chance of serving both the EU and its neighbours once an interplay of the following trinity has been established: a good understanding of the complexity and diversity of the EU's neighbours; the establishment of a monitoring mechanism for the situation in the regions surrounding the EU, including developments in relations between the EU's neighbours and their neighbours; a rapid response to the changing dynamics in the EU's neighbourhood, including a merger of crisis management instruments with ENP tools. In order to address the above objective, the paper starts with an overview of the main deficiencies of the policy, then moves on to an analysis of the current review. The final section provides suggestions on structural and strategic improvements.

1. The European Neighbourhood Policy: weaknesses and deficiencies

1.1. The shadow of enlargement

The launch of the ENP was strongly driven by the need to establish an alternative to the enlargement process. This can be regarded as one of the main sources of weakness of the policy. Since it offers partner countries and territories the option of privileged relations based on a commitment to common values, such as democracy, human rights and the rule of law, but does not allow an option to consider the further development of relations, it is difficult to view it as an attractive long-term form of engagement. This factor is relevant to some of the countries covered by the ENP. In particular, countries such as Ukraine, Moldova and Georgia have been putting forward their European perspectives quite vocally. It may well be that at the time of the inception of the ENP this clear dividing line between the enlargement process and the policy was justified. Nevertheless, one needs to wonder how to

⁵ Towards a new European Neighbourhood Policy, Joint Consultation Paper, Join (2015) 6 final, Brussels 4 March 2015.

interpret it when examined against the objective of the ENP, which was aimed at avoiding the emergence of new dividing lines between the enlarged EU and its neighbours.⁶ Furthermore, this focus on creating an alternative to enlargement made the ENP unable to meet the needs of those neighbours that are not interested in accession to the EU. This is crucial to understanding how unbalanced this policy was in its initial phase. The extension of this eastern-focused measure to the EU's southern neighbours undermined the ENP and the overall position of the EU towards its southern neighbours.

1.2. A weak regional approach

Shortly after its inception, it became apparent that the ENP could not cover all the needs of the EU's diverse neighbours and therefore new regional fora for co-operation were brought into the spectrum of ENP instruments. Ghazaryan has observed that the European Commission envisaged the Eastern Partnership (EaP)⁷ as a step change in comparison with the ENP, and recognition of the Europeanness of eastern partners.⁸ Indeed, this initiative, aimed at reinvigorating relations with eastern neighbours: Belarus, Moldova, Ukraine, Armenia, Azerbaijan and Georgia, was launched in 2009 as 'a more ambitious partnership, based on commitments to the principles of international law and to fundamental values, including democracy, the rule of law and the respect for human rights and fundamental freedoms; complementary to existing bilateral contractual relations, to create the necessary conditions to accelerate political association and further economic integration between the European Union and interested partner countries, and promote stability and multilateral confidence building'.⁹

⁶ Council Conclusions 10189/04 (Presse 195), Luxembourg 14 June 2004.

⁷ Over the past decade, EaP countries have become closer neighbours of the EU. The 2004 enlargement brought Belarus and Ukraine into the immediate neighbourhood of the EU. With Bulgarian and Romanian accession, the EU obtained a maritime border with Georgia. In the event of Turkish accession, the EU will get a direct land border with all the countries of the region. Despite the uncertainty regarding Turkish accession, distant neighbours such as Armenia and Azerbaijan are becoming closer political neighbours of the EU. The extension of the ENP confirmed their European aspirations, especially Ukraine, Moldova and Georgia.

⁸ N. Ghazaryan, *The European Neighbourhood Policy and the Democratic Values of the EU: A Legal Analysis*, Hart Publishing, Oxford-Portland 2014, p. 85.

⁹ Council of the European Union, Joint Declaration of the Eastern Partnership Summit, Prague 7 May 2009, 8435/09 (Presse 78).

There are a number of issues that are common to all or most of the EaP countries. In political terms, all EaP countries appeared as a result of the dissolution of the Soviet Union, and many of the difficulties inherited from the Soviet era have affected their development to date. Their relations with Russia and the development of the exploitation of energy resources make their foreign policies, including relations with the EU, particularly difficult. Russia perceives the region as its sphere of influence.¹⁰ Its involvement in Abkhazia and South Ossetia adds to tensions between Russia and Georgia. The same is true of Russia's role in Transnistria with regard to Moldova-EU relations. The annexation of Crimea, as well as Russian involvement in unrest in Eastern Ukraine, puts the EU's role in the neighbourhood to the ultimate test and in many ways has encouraged the EU to respond quickly to the changing dynamics in its neighbourhood.¹¹ This geostrategic element is not given sufficient attention in either the ENP or EaP dimension. The role of the latter in strategic terms remains weak. The Partnership operates only with political tools such as joint declarations. These documents are unable to actively contribute to improving relations with neighbours' neighbours: in this case the Russian Federation. Although they confirm the EU's support for Georgian and Ukrainian territorial integrity, they do not offer anything else that could make the EaP a viable contribution to stability in the region.¹²

The Mediterranean¹³ dimension of the ENP is also a weak addition to the ENP *instrumentarium*.¹⁴ The remains of colonial links and ties still influence the current relations of EU Member States and the EU with countries

¹⁰ R. Alcaro and E. Alessandri, Engaging Russia: Prospects for a Long-Term European Security Compact, *European Foreign Affairs Review* 2010 Vol 15, pp. 191-207; A V. Papava, The Eurasianism of Russian Anti-Westernism and the Concept of 'Central Caucaso-Asia', *Russian Politics and Law*, vol. 51, no 6, November-December 2013, pp. 45-86.

¹¹ M. Emerson, The EU-Ukraine-Russia Sanctions Triangle, CEPS Commentary, Brussels 13 October 2014.

¹² See e.g. the Joint Declaration of the Eastern Partnership Summit, Riga 21-22 May 2015 <<http://www.consilium.europa.eu/en/meetings/international-summit/2015/05/21-22/>>.

¹³ The Mediterranean region consists of the Northern (Turkey, Malta, Cyprus), Southern and Eastern Mediterranean (these include the Maghreb countries: Morocco, Algeria, Tunisia and Libya; the Mashreq countries: Egypt, Jordan, Lebanon, Syria and the Palestinian Authority). Cyprus, Malta and Turkey were covered by EC policies towards the region until 2004, when Cyprus and Malta joined the EU, while Turkish relations with the EU fall under the accession negotiations framework. The countries of North Africa are also involved in the Africa and Europe Partnership.

¹⁴ K. Pieters, The Mediterranean Countries, in S. Blockmans, A. Lazowski, The European Union and its Neighbours. A Legal Appraisal of the EU's Policies of Stabilisation, Partnership and Integration, TMC Asser Press, The Hague 2006, p. 393.

of the region.¹⁵ Since the very beginning of the European integration process, the European factor has played an important role in the economic development of the EU's neighbours in the Mediterranean. A stable and secure Mediterranean is in the best interest of the EU, and therefore co-operation with this region has been a priority area in the European Union's external relations. The countries of the region not only play an important security role for the EU but are also of economic importance.¹⁶ They provide the European market with supplies of natural resources (gas, petroleum). Instruments aimed at supporting the economic and social transition of partner countries, trade liberalisation and market access for both parties, and strengthening the internal security of the Union were the focus of multilateral approaches such as the Barcelona Process in 1995¹⁷ and its re-launch within a regional forum, the Union for the Mediterranean in 2008.

In 1992, a proposal to reinvigorate relations with the region through increasing development aid and extending trade preferences was presented by the Commission.¹⁸ The reasons behind the need to introduce a new policy framework for the region were not solely influenced by the EC-Mediterranean state of affairs. Changes in Central and Eastern Europe, as well as the drive

¹⁵ Algeria, Tunisia and Syria were occupied by France; Egypt, Cyprus, Gibraltar, Malta and Palestine by the United Kingdom, and Libya by Italy.

¹⁶ The very first European policy for the region was formulated in 1976. The Global Mediterranean Policy (F. Bicchi, *Actors and Factors in European Foreign Policy Making: Insights from the Mediterranean Case*, EU Working Paper RSC No. 2002/47, Florence 2002, p. 4) enabled manufactured goods from the Mediterranean to access the European market. Despite the efforts made, the policy had little impact on the economies of the region. The crisis of the European textile industry, a lack of regional co-operation, but also the accession of Spain and Portugal to the European Communities in 1986 negatively influenced the economies of the region (see further P. D. Koliris' *Global Mediterranean Policy Implications in View of the New EEC Enlargement*, *Journal of Agricultural Economics*, Vol. 35, Issue 3, September 1984, pp. 319-329).

The Moroccan application for EC membership can be regarded as a desperate measure to address frustration at the lack of effective EC-Mediterranean economic co-operation (K. Pieters, *op. cit.* p. 396. The application was rejected in an opinion of the Commission on the grounds that Morocco was not a European country).

¹⁷ 'The southern and eastern shores of the Mediterranean as well as the Middle East are geographical areas in relation to which the Union has strong interests both in terms of security and social stability', *Strengthening the Mediterranean Policy of the European Union: Establishing a Euro-Mediterranean Partnership*, Communication from the Commission to the Council and the European Parliament, COM (94) 427 final, p. 2.

¹⁸ 'The Community has been obliged to take a new look at its role in the region [...], increase the Community's weight and influence for a more stable order in an ever more interdependent and therefore more vulnerable world [...] [The new] policy needs a new concept to underpin the new approach to relations between the Community and its next-door neighbours to the South. [...] this new concept of Euro-Maghreb partnership will also have to have a practical impact in all the appropriate fields.' Commission Communication on the future of relations between the Community and the Maghreb countries, SEC (1992) 401 final, Brussels 30 April 1992.

to create the Internal Market and the establishment of the World Trade Organisation also played an important role. The fact that developments in the eastern neighbourhood influenced the development of policy towards the EU's southern neighbours indicates yet again that the proposals were not made with the specific needs of the region and its countries and territories in mind. In 1994, a proposal for a partnership that initiated the Barcelona Process for the Maghreb, Mashreq and the Middle East¹⁹ was formulated to address economic matters and the security issues that were emanating from the region. The Barcelona Declaration not only addressed security issues but also provided a new context for the development of the Common Foreign and Security Policy (CFSP) in the post-Cold War and post-Maastricht era. The EU was fully aware that changes in the world order would affect the region and as a result a number of risks would affect the security and stability of the EU and its Member States. Political instability and economic and religious tensions were identified as the elements that a new EU policy towards the region should tackle. Yet again, the formula used towards the countries of the region was the same as that applied towards Central and Eastern European countries. The market economy and prosperity were seen as means to provide the basis for democratisation and embedding the rule of law. Economic development, closer economic relations with the EU through trade agreements, and financial assistance were identified as the tools of the EU Mediterranean policy.

The Barcelona Declaration²⁰ was adopted in 1995 and launched the Euro-Mediterranean Partnership aimed at establishing a common area of peace and stability, shared prosperity, including a free trade area,²¹ as well as

¹⁹ Originally, the partnership was aimed at Algeria, Egypt, Morocco, Israel, Jordan, Lebanon, the Palestinian Authority, Syria, Tunisia, Turkey, Cyprus and Malta.

²⁰ Final Declaration of the Barcelona Euro-Mediterranean Ministerial Conference of 27 and 28 1995 and its work programme <http://www.eeas.europa.eu/euromed/docs/bd_en.pdf>.

²¹ 'Cooperation will focus on practical measures to facilitate the establishment of free trade as well as its consequences, including: i) harmonizing rules and procedures in the customs field, with a view in particular to the progressive introduction of cumulation of origin; in the meantime, favourable consideration will be given, where appropriate, to finding ad hoc solutions in particular cases; ii) harmonization of standards, including meetings arranged by the European Standards Organisations; iii) elimination of unwarranted technical barriers to trade in agricultural products and adoption of relevant measures related to plant health and veterinary rules as well as other legislation on foodstuffs; iv) cooperation among statistics organizations with a view to providing reliable data on a harmonized basis;

a partnership in social, cultural and human affairs. The gradual establishment of the free trade area required bilateral vertical liberalisation with the EU but also horizontal trade liberalisation among the Mediterranean countries.²²

The Euro-Mediterranean Partnership faced a great challenge when it became an integral part of the European Neighbourhood Policy. Initially, the inclusion of the Mediterranean countries in the ENP caused some confusion and was perceived as a dilution of EU relations with the countries of the region. In particular, the Arab Mediterranean neighbours expressed their concerns that the ENP could undermine the regional framework offered by the Euro-Mediterranean Partnership.²³ Mass migration, the potentially massive flow of refugees, fundamentalist extremism and organised crime were identified as issues that the EU needed to address methodologically. The direct threat to the stability of southern Member States, especially Spain, France and Italy, showed that the idea of neighbours 'casting a shadow' had spread beyond continental Europe. The perception of the EU's neighbours across the Mediterranean Sea changed and they were no longer considered as distant colonies, as they used to be. Their influence on European security is now much greater, and the impact of conflict between countries in the region poses a threat to regional and international stability.²⁴ Since the establishment of the Barcelona Process new risks have been added and now also include terrorism. This element has enhanced the EU's efforts to improve measures that would enable better control of migration flows.

The biggest test for both the ENP and its Mediterranean dimension came in 2010. Political developments in the region from December 2010 onwards brought new challenges to the EU and its policy towards this group of neighbours. The initial reactions to the uprisings showed reluctance and indecisiveness.²⁵ Forms of support were formulated in 2011 and fell within the

v) possibilities for regional and subregional cooperation (without prejudice to initiatives taken in other existing fora).

²² K. Pieters, *op. cit.*, p. 399.

²³ M. Comelli, E. Greco and N. Tocci, *op. cit.*, p. 212.

²⁴ The presence of Syrian troops in Lebanon, the occupation of Southern Lebanon by Israeli forces; tensions on the border between Algeria and Morocco; and the Israeli-Palestinian conflict.

²⁵ G. Fernández Arribas, K. Pieters and T. Takács (eds.), *The European Union relations with the Southern-Mediterranean in the aftermath of the Arab Spring*, CLEER Working Papers 2013/3.

framework of the existing mechanisms of the ENP, Euro-Mediterranean Partnership and Union for the Mediterranean. The newly rebranded regional dimension of the ENP, now called the Partnership for Democracy and Shared Prosperity with the Southern Mediterranean, confirmed the EU's concerns with security in the region.²⁶ In particular, migration flows, border security, an emphasis on economic stability, and access to the single market as stabilisation tools were identified and supported with the so-called 3M mechanism: money, markets and mobility. Despite these changes that were the result of a broader ENP review, their effectiveness remains questionable.²⁷

1.3. Conditionality

The interdependence between internal reforms, socio-economic transformation and democratisation of the EU's neighbouring partners and the enhancement of relations between the EU and its ENP partners forms one of the main characteristics of the ENP. Nevertheless, the concept of conditionality is not new and above all its origins were developed for enlargement purposes long before it was adopted by the ENP.²⁸ However, mechanisms cannot be transferred from one policy to another, particularly when the policies have such significantly different objectives.

According to the general provisions of the Treaty on European Union, the Member States establish a Union '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

²⁶ The High Representative and the European Commission, Joint Communication 'A Partnership for Democracy and Shared Prosperity with the Southern Mediterranean', Brussels, 8 March 2011, COM(2011) 200 final.

²⁷ In September 2011, the SPRING programme - a strategic financial instrument offering support for democratic transformation, institution building and economic growth - was launched ('EU response to the Arab Spring: new package of support for North Africa and Middle East', Press Release, Brussels, 27 September 2011, available at <http://europa.eu/rapid/press-release_IP-11-1083_en.htm>. See also Commission Implementing Decision of 09 March 2012 amending Decision C(2011) 6828 adopting the Programme of Support to the Association Agreement and the Transition Process for Tunisia under the SPRING programme, to be financed under).

²⁸ K. Inglis, Pre-Accession Strategy and the Accession Partnerships, in: A. Ott and K. Inglis (eds.), European Enlargement Handbook, Asser Press, The Hague 2002, p. 103; D. Kochenov, EU Enlargement and the Failure of Conditionality. Pre-accession Conditionality in the Fields of Democracy and the Rule of Law, Kluwer Law International, Alphen Association Agreement den Rijn 2008.

values are **common** to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.²⁹ The role played by values in strengthening ‘the Union’s identity, its self-perception and self-projection’³⁰ has been applied in the EU’s external relations.³¹ The evolution of the application of values in external relations was marked by the Laeken declaration: ‘The European Union’s one boundary is democracy and human rights. The Union is open only to countries which uphold basic values such as free elections, respect for minorities and respect for the rule of law [...] the role [the EU] has to play is that of a power resolutely doing battle against all violence, all terror and all fanaticism.’³² The European Security Strategy reiterated the EU’s commitment to ‘an international order based on effective multilateralism’, which in regional terms translates as ‘[the] task 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.’³³

The Treaty of Lisbon provided for the constitutionalisation of the EU’s determination to promote its values and international law. The EU expresses its commitment to ‘uphold and promote its values in its relations with the wider world.’³⁴ Article 21 TEU provides further specification of values in external relations, stating that the EU’s international activities will be guided by principles reflecting the values that inspired its own creation, development and enlargement.³⁵ Further characterisation of the role values ought to play in relations with neighbours is given in art. 8 TEU. This provision sets out the

²⁹ Art. 2 TEU.

³⁰ M. Cremona, Values in EU Foreign Policy, in: M. Evans, P. Koutrakos (eds.), *Beyond the Established Legal Orders*, Hart Publishing, Oxford and Portland 2011, p. 275.

³¹ The practice of adding human rights clauses to all international agreements concluded by the EU was institutionalised in 1995, Communication from the Commission on the inclusion of respect for democratic principles and human rights in agreements between the Community and third countries, COM(95) 216 final, Brussels 23 May 1995, in B. Van Vooren, R. A. Wessel, *EU External Relations Law. Text, Cases and Materials*, Cambridge University Press, Cambridge 2014, p. 327. P. Leino, *European Universalism? – The EU and Human Rights Conditionality*, *Yearbook of European Law* (2005), pp. 329-382. A review of conditionality applied in negotiations for the Global Agreement with Mexico is provided by M. Szymanski, M.E. Smith, *Coherence and Conditionality in European Foreign Policy: Negotiating the EU–Mexico Global Agreement*, *Journal of Common Market Studies* (2005) Vol. 43, No 1, pp. 171-192.

³² Laeken Declaration on the future of the European Union, Laeken 15 December 2001.

³³ *A Secure Europe in a Better World*, European Security Strategy, Brussels 12 December 2003.

³⁴ Art. 3 (5) TEU.

³⁵ This is a clear reference to arts. 2-3 and 6 TEU, and also general principles of law deriving from the judgements of the Court of Justice of the EU.

aim of establishing an area of prosperity and good neighbourliness founded on EU values. However, it should be emphasised that it has been clear from the inception of the ENP that these values and their export play a vital role within the ENP's framework.³⁶ The promotion of EU norms and standards for its neighbours and an insistence on neighbours' respect for the fundamental rights advocated by the EU have developed even further so as to constitute an essential condition for the gradual enhancement of relations. Moreover, shared values also form an indispensable part of contractual relations between the EU and its neighbours. The shift towards the promotion of common values, not only EU values, was observed in 2008 when a review of implementation of the European Security Strategy was completed.

The Report on Implementation of the European Security Strategy confirmed that relations with the neighbours covered by the ENP 'should be based on respect for common values, notably human rights, democracy, and the rule of law, and market economic principles as well as on common interests and objectives.'³⁷ The EU in its New Response to a Changing Neighbourhood of 2011 was very explicit with regard to the application of conditionality: 'Increased EU support to its neighbours is conditional. It will depend on progress in building and consolidating democracy and respect for the rule of law.'³⁸ The above mentioned report also confirms the more-for-more approach: 'The more and the faster a country progresses in its internal reforms, the more support it will get from the EU.'³⁹ As noted by Van Elsuwege and Petrov: 'Despite the rhetoric of joint ownership, it is obvious that the Union is the dominant party in a relationship that is characterised by a strict conditionality approach.'⁴⁰

³⁶ M. Cremona, *The European Neighbourhood Policy. More than Partnership?*, in M. Cremona (ed.), *Developments in EU External Relations Law*, Oxford University Press, Oxford 2008, p. 256; M. Cremona, *Values in EU Foreign Policy*, in M. Evans, P. Koutrakos (eds.), *Beyond the Established Legal Orders*, Hart Publishing, Oxford and Portland 2011, pp. 275-313.

³⁷ Report on the Implementation of the European Security Strategy - Providing Security in a Changing World, S407/08, Brussels 11 December 2008.

³⁸ A New Response to a Changing Neighbourhood. Joint Communication of the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, COM(2011) 303 final, Brussels 25 May 2011, p. 3.

³⁹ *Ibid.*

⁴⁰ P. Van Elsuwege, R. Petrov, *op. cit.*, p. 694.

The application of shared values⁴¹ fulfils the ENP aim to use values as a conditionality tool. According to the European Commission: ‘The level of the EU’s ambition in developing links with each partner through the ENP will take into account the **extent to which common values are effectively shared** [emphasis added].’⁴² The Action Plans⁴³ contain a number of priorities intended to strengthen the commitment to these values.⁴⁴ Commitments are also sought on certain essential aspects of the EU’s external action, including, in particular, the fight against terrorism and the proliferation of weapons of mass destruction, as well as abidance by international law and efforts to achieve conflict resolution.⁴⁵

Despite the human rights and democracy clauses in the association agreements, which can be regarded as a form of political conditionality, violations of human rights in one of the countries of the Mediterranean region have never been used to suspend bilateral relations.⁴⁶ J. Wouters and S. Duquet argue that ‘the implementation deficit is due to security concerns of the EU [...]. Instability in the region is to be avoided at all cost.’⁴⁷ The current situation in this region can be described as unstable (both politically and economically), unpredictable and explosive. The events of the Arab Spring triggered yet another review of the EU’s policies towards the Mediterranean.

⁴¹ ‘The Union is founded on the values of respect for human dignity, liberty, democracy, equality, the rule of law and respect for human rights. These values are common to the Member States in a society of pluralism, tolerance, justice, solidarity and non-discrimination. The Union’s aim is to promote peace, its values and the well-being of its peoples. In its relations with the wider world, it aims at upholding and promoting these values.’ European Neighbourhood Policy. Strategy Paper, Communication from the Commission, COM(2004) 373 final, p. 12.

⁴² Ibid.

⁴³ Action Plans are non-binding, agreed jointly with the neighbouring countries concerned. They have minimum duration of three years and are subject to renewal by mutual consent [...] They should be comprehensive but [...] clearly identify a number of key priorities (Council Conclusions 10189/04 (Presse 195), Luxembourg 14 June 2004). The ENP Action Plans are described as examples of EU’s ‘soft power’. As described by M. Cremona ‘they are designed, by setting out the expectations of the EU, to operate as a strong incentive towards reform, and an ‘external’ set of targets which can be used to support government policy against domestic lobbies and vested interests,’ M. Cremona, *The European Neighbourhood Policy*, in: A. Ott and E. Vos (eds), *Fifty Years of European Integration*, TMC Asser Press, The Hague 2009, p. 235.

⁴⁴ ‘These include strengthening democracy and the rule of law, the reform of the judiciary and the fight against corruption and organised crime; respect for human rights and fundamental freedoms, including freedom of media and expression, rights of minorities and children, gender equality, trade union rights and other core labour standards, and fight against the practice of torture and prevention of ill-treatment; support for the development of civil society; and co-operation with the International Criminal Court.’

⁴⁵ Ibid, p. 13.

⁴⁶ J. Wouters and S. Duquet, *The Arab uprisings and the European Union: in search of a comprehensive strategy*, in G. Fernández Arribas, K. Pieters and T. Takács (eds.), *op.cit.*, p. 39.

⁴⁷ Ibid.

The methods and tools of support for the transition to democracy are now based on the more aid for more democracy conditionality within the ENP framework.⁴⁸ The next stage would be the conversion of free trade agreements into a new generation of deep and comprehensive agreements. Nevertheless, it will be political and security developments that influence the process and implementation of tools.

2. Towards a new European Neighbourhood Policy

2.1. A New Response to a Changing Neighbourhood

In May 2011, A New Response to a Changing Neighbourhood was published. It was the result of the strategic review of the ENP that had commenced prior to the Arab Spring,⁴⁹ but was strongly influenced by events in the south. This review established a strong attachment to conditionality and the principle of more-for-more was established. Furthermore, the new approach confirmed the universal values of human rights, democracy and the rule of law as the bases of the revised ENP. The element that offers scope for the positive development of the policy is the introduction of a higher level of differentiation 'allowing each partner country to develop its links with the EU as far as its own aspirations, needs and capacities allow.'⁵⁰ The document also envisaged the strengthening of the two regional dimensions. The overall aim of the new approach was to focus on political association, economic integration, greater mobility of people, and the growing engagement of civil society organisations in partner countries.

The implementation of this new response is not an easy project. A review of individual country reports as well as a review of *Neighbourhood at the Crossroads: Implementation of the European Neighbourhood Policy*,⁵¹ published in 2013, offer a rather grim picture. The neighbourhood was

⁴⁸ S. Blockmans, The ENP and 'more for more' conditionality: plus que ça change ..., in: G. Fernández Arribas, K. Pieters and T. Takács (eds.), op. cit., pp. 53-61.

⁴⁹ Joint Communication by the High Representative of the Union For Foreign Affairs and Security Policy and the European Commission, 'A New Response to a Changing Neighbourhood, a review of European Neighbourhood Policy', Brussels, 25 May 2011.

⁵⁰ Ibid.

⁵¹ Neighbourhood at the Crossroads: Implementation of the European Neighbourhood Policy in 2013, Joint Communication to the European Parliament, the Council, the European Economic And Social Committee and the Committee of the Regions, JOIN(2014) 12 final, Brussels 27 March 2014.

tormented with instability (e.g. Libya), and finding examples of the application of common values (e.g. in Egypt) was problematic, while the events to the east, where Russia has been playing an increasingly violent role, leave the EU with a growing challenge. It is obvious that changes to the policy need to go deeper to enable the EU to be in a position to retain the title of a normative power.⁵²

2.2. Towards a new European Neighbourhood Policy

The new commissioner responsible for the ENP (and enlargement) announced his programme last autumn, in which he stressed that he will devote the first year in office to a review of the ENP. The first signs of the direction of the review came in January 2015, when Commissioner Hahn stated that the review of the ENP will be built on the following principles: differentiation, inclusiveness, flexibility, better use of financial instruments, and increased visibility and ownership.⁵³ Further details emerged in March 2015 when, as already noted, the Joint Consultation Paper *Towards a New European Neighbourhood Policy* was presented at the launch of consultations on the future of EU relations with its neighbours. The paper, as well as a statement made by the High Representative and Commissioner Hahn, confirmed these principles and identified five areas of common interest:

- trade and economic development;
- connectivity;
- security;
- governance;
- migration and mobility.

The document not only acknowledges that the neighbourhood is now less stable than it was before, but also accepts that the offer made to the neighbouring countries did not recognise the needs of differentiated

⁵² I. Manners, Normative Power Europe: A Contradiction of Terms? *Journal of Common Market Studies* Vol. 40, No 2/2002, pp. 235-258; S. Lavenex, F. Schimmelfenning, EU rules beyond EU borders: theorizing external governance in European politics, *Journal of European Public Policy* 16(6)/2009, pp. 971-812; S. Lavenex, EU external governance in 'Wider Europe', *Journal of European Public Policy* 11(4)/2004, pp. 680-700.

⁵³ See further < http://europa.eu/rapid/press-release_STATEMENT-15-3204_en.htm>.

engagement that the partners were interested in. It is a good departure point for a further review of how this multilateral policy can serve individual needs and what role should be given to the regional dimensions of the policy.

The consultation paper contains EU self-criticism regarding the formulation of its policy's objectives. It states that 'the EU needs to define more clearly its own aims and interests, while promoting the values on which it is based.'⁵⁴ This aspect will be crucial for the new or revised ENP. This is really a matter of what the EU wishes to achieve in its future relations with its neighbours. There is no doubt that it is a strategic matter of what the EU wants to bring to the neighbourhood. Furthermore, it is also about the scope of the new(ish) neighbourhood policy. The consultation paper suggests that there should be scope in the future to allow space to accommodate countries currently not covered by the ENP. This is really a matter of a broader approach that will enable the EU to have a better understanding of factors that influence its immediate neighbours and their engagement with the EU, but more importantly will also enable the EU to monitor the emergence of issues that can destabilise its neighbours under the influence of other regional players. This 'bigger picture' would serve the EU better and would also enable it to engage deeper with its vicinity.

It is commendable to see that the consultation paper stresses the importance of an effective ENP 'to be closely integrated into an overall Foreign Policy with a comprehensive approach using all instruments both of the EU and of Member States.'⁵⁵ This is an element that has been neglected in the past, although it is worth recalling that the ENP emerged at the same time as the European Security Strategy⁵⁶ and can be regarded as 'a specific implementation of the strategy'.⁵⁷ Nevertheless, the links of the ENP with the Strategy have not been clearly presented and perhaps the Commission, and more recently the European External Action Service (EEAS), have lost the ability to see the ENP as an integral part of the Strategy.

⁵⁴ Supra n.5

⁵⁵ Ibid.

⁵⁶ A Secure Europe in a Better World, European Security Strategy, Brussels 12 December 2003.

⁵⁷ M. Cremona, The European Neighbourhood Policy. More than Partnership?, in: M. Cremona (ed.), op. cit., p. 244.

2.3. Recommendations

Based on the above, the following recommendations and observations can be made as a contribution to the review of the ENP. There is no doubt that the EU is in great need of a neighbourhood policy. It can be argued that this policy is needed much more now than it was at the time of the inception of the ENP. Despite the urgency of the situation, policy changes should not be rushed. It can be argued that the fact that the consultations are open to a rich pool of stakeholders suggests a transparent process. It is a good opportunity for the partner countries to voice their concerns and aspirations, while the EU can make the differentiation principle truly applicable. The underlying question of how well the multilateral framework can serve differentiated bilateral relations⁵⁸ remains open.

The ENP stands a chance of serving both the EU and its neighbours once an interplay of the following trinity can be established:

2.3.1. A good understanding of the complexity and diversity of the EU's neighbours

A knowledge and understanding of neighbouring countries and territories is the key to EU success in the future. The new or revised ENP policy should be based on a good understanding of the aspirations of the EU's neighbours. This should be achieved in an open policy framework. This means that the new ENP would serve as a basis for relations with neighbours, although the option to take these relations to other levels should not be dismissed. It is particularly relevant to the Eastern neighbours. Some of them have ambitions going beyond the ENP framework and these should not be suppressed. The EU is in a position to offer them a higher level of association. It is a matter of applying the enlargement experience wisely and not denying aspirations on a policy basis. The three countries that last year signed a new generation of association agreements (Georgia, Moldova and Ukraine) should

⁵⁸ N. Skoutaris, Euro-Med, ENP, and UfM: Fostering region-building and promoting interregionalism, in: G. Fernández Arribas, K. Pieters and T. Takács (eds.), *op. cit.*, p. 83.

be given an opportunity to explore their options further. By applying this open approach, the EU would have far more leverage and could achieve much more using strict conditionality in relation to law approximation and democratisation.

2.3.2. Establishment of a monitoring mechanism for the situation in the regions surrounding the EU, including developments in relations between the EU's neighbours and their neighbours

This element has a direct impact not only on security in the neighbourhood but also on the EU's own security. The monitoring mechanisms could be based on the resources and skills base of the EEAS. In addition, the EU should strengthen its field co-operation with the OCSE and NATO. This can only be achieved once the new policy has become a well-integrated part of the EU external action. Policies such as the ENP, CFSP and humanitarian aid should be better co-ordinated. Moreover, the ENP should not be limited to the 16 countries and territories currently covered by the policy. It is a daunting task to establish an exhaustive list of the EU's neighbours. Relations are dynamic, and countries change their aspirations and strategic orientations. Hence, it would be better to have a multilateral policy that offers a basis that is developed further at the bilateral level. Moreover, other neighbouring countries including microstates, should also be covered by this policy in order to establish consistency in the foreign policy area of the EU.

2.3.3. Rapid response to changing dynamics in the EU's neighbourhood, including a merger of crisis management instruments with ENP tools

This element of the proposal is far-reaching. However, recent developments, such as the Arab Spring and illegal annexation of Crimea, suggest that the EU is in great need of effective crisis management mechanisms. The EU should be in a position to respond better to humanitarian crises and improve its diplomacy to prevent armed developments in its vicinity. This is not a matter of an ENP review but a matter of EU security and should be treated as such.

The EU is indeed at the crossroad regarding its position in the world, and therefore a significantly developed crisis management capacity seems to be a necessity that should be included in the future developments of the EU's position in the world. Perhaps it is the right time to not only review the ENP but also to address security strategy matters and introduce a real new phase in the EU's global presence.