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ACCESSION NEGOTIATIONS TO THE EUROPEAN UNION

Vasile Pușcaș[*]

Abstract

This article aims to offer a theoretical background about the framework of EU accession negotiations. Designed as a tool for the understanding and preparation of EU accession negotiations, this material is intended to support institutional players already involved or those who are about to begin new negotiation rounds, as well as political representatives, who wish to learn about the process of EU accession and about integration in the European Union.
Key words: EU accession negotiations, integration, conditionalities, *acquis*, Chief Negotiator

1. The contemporary international system

After the fall of the Berlin Wall and the end of the "bipolar world", the contemporary international system entered a prolonged transitional phase. Neither actors, nor international policies benefited, in the post-Cold War period, from widely accepted and applied principles and rules. And, certainly, the phenomenon of globalization itself is a contributor to the delay of clearly coding the characteristics of the current international system. It is certain that, over the last two decades, many quantitative and qualitative changes had been recorded at global scale, and that an intense, accelerated and diversified process of interactions and interdependences had been developed between societies, which suggests that a "new" international system will emerge only through the incorporation of the determinants of globalization[1]. Considering this increased complexity of today's world as a

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[1] John Baylis, Steve Smith, *The Globalization of World Politics*, Second Edition, Oxford: University Press, 2001, p. 7.

result of the contemporary history we are experiencing, we also state, like David Held, that we are facing a multi-level structure of international and transnational activities, that should be answered, from a global governance point of view, with a multi-centric system, based on multi-layered, multi-dimensional and multi-actor formations[2].

An answer to globalism could be the integrative process, and this will progress only to a regional scale. Meanwhile, the actors (state or non-state) find themselves in the situation of adopting certain decisions in order to manage the effects of global interactions. This - although the criticism that the decision making process is largely restricted to elites continues to be present - develops almost exclusively through competition, rather than through representative, participatory or democratic means.[3] Recognizing the reality of complex interdependence which determines specific behaviors[4], from an individual to an organizational level, the international actors have to face the challenges of all types of global interactions, developing a continuous international management. David Held admits that the institutionalization of global processes may be difficult, but he finds that the decision-makers could promote effective means of resolving global issues, such as the development of a set of criteria, norms, capacities and negotiation arenas[5]. More, the evolution of the "international environment" will generate the professional and scientific concerns (including academic ones) for international management. According to Hodgetts and Luthens, international management imposed itself as an incentive to "think internationally" and to "manage cross-border". The two authors demonstrate that in all categories of interactions – conflict and/or cooperation – the negotiation is one of the most useful tools in the decision making process[6].

Thus, **international negotiation** become an almost daily concern of every international actor, one of the most efficient means of attaining optimal solutions for the increasingly complex problems that we are facing under the circumstances of the globalization phenomenon.

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[2] David Held, *Governare la globalizzazione,* Bologna: Il Mulino, 2005, p. 112..

[3] John Baylis, Steve Smith, *op. cit.,* p. 30.

[4] Jeffery Jensen Arnett, "The Psychology of Globalization", in *American Psychologist*, vol. 57, No.10, 2002, pp. 774-783.

[5] David Held, *op. cit.,* p. 137.

[6] Richard M. Hodgetts, Fred Luthans, *International Management*, Second Edition, New York: McGraw Hill, Inc., 1994, pp. 168-169.

2.   International Negotiation

The negotiation literature of recent years aims, more assertive, to demonstrate that negotiation become a necessity and a quotidian concern. Deborah Kolb and Judith Williams even claim that negotiation is a major component of our family life and work[7]. But, if we accept negotiation as a part of our everyday life, it is because the decision making process today – in politics, business, probably also in family life – is carried out, increasingly, horizontally rather than traditionally hierarchical, and the aim of negotiation is not only the closing of a transaction, but - pursuing an economic model – **maximization, optimal solution, value added**.

Harvard Business Review on Negotiation and Conflict Resolution (2000) sees negotiation as an intergroup, inter-organizational, international "management of differences."[8] Only a few decades ago, international relations were analyzed through the Westphalian paradigm and the diplomatic negotiation was trying to regulate the state's connections of common interests and conflicts. The term *international negotiation* was used to describe the international contextuality rather than the involvement in international processes.[9] Another direction of research and practice of international negotiations was the extension of the one mentioned before, insisting - predominantly - on the international negotiation environment. Regardless of the fact that it was a question of political or economic (businesses) aspects, this formula insisted on the aspect of intercultural communication, seeking to connect a specific oriented negotiation (diplomatic, businesses etc.) to cultural and/or multicultural environmental specificities.[10] As globalization has become more intense, international/global negotiations increased rapidly, becoming for many people and organizations norms, rather than "exotic" activities[11],

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[7] Deborah M. Kolb, Judith Williams, *Everyday Negotiation*, San Francisco: The Jossey-Bass, 2003, p. 340.

[8] *Harvard Business Review on Negotiation and Conflict Resolution,* Harvard Business School Press, 2000, p. 2

[9] Center for the Study of Foreign Affairs, *International Negotiation. Art and Science,* Foreign Service Institute-US Department of State, Washington D.C., 1984, p. 38.

[10] Jeanne M. Brett, *Negotiating Globally – How to Negotiate Deals, Resolve Disputes, and Make Decisions Across Cultural Boundaries,* San Francisco: The Jessey-Bass, 2001, p. XVII.

[11] Roy J. Lewicki et al., *Essentials of Negotiations,* Third Edition, New York: McCraw-Hill, 2004, p. 201.

negotiation itself being seen as a social process taking place in a much larger context.

Thus, contextuality includes, in this case, the **international environment** (political and legal pluralism, international economy, bureaucracy, foreign governments, state of the actors, ideology, culture) – i.e. those "forces in the environment" which are free from parties control and which could influence the negotiation – as well as the **international context** (the relative power of negotiation, the levels of conflic/cooperation, the relations between negotiators, the expected results, the supporters/decidents) – factors over which negotiators may have a certain influence.

For Alain Plantey, the international relations openness to new fields has implied, not only the acknowledgment of the increased complexity of interactions, but also the readjustment of the classical models – Europeans and internationals – of diplomacy and negotiation. ("To negotiate is, therefore, the more useful as the international relations become complicated and their density increases, risking to further accentuate the contrasts, to multiply the disparities, to aggravate the disputes").[12] Of course, the French author envisages the advancement of the characteristic processes of globalization, but also a European experience, from the second half of the last century. He especially asserts that the mutual influence of public and commercial affairs has extended the international negotiation area, becoming increasingly necessary for actors of all types to resort to it. Connecting the institutional negotiation to diplomatic negotiation, aside with predictive negotiation, Alain Plantey provided more complex and realist meanings to international negotiation, which he considers to be both a "tool for displaying national potential (economic, technologic, cultural)" and also "a way to manage and govern the international society".[13]

3. European Negotiation

European Union is the result of institutional, legal, political, economical and cultural construction that took place in the second half of the century. The *Schuman Declaration* (9 May 1950) is a short guide for the

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[12] Alain Plantey, *La négociation internationale aux XXIe siécle,* Paris: CNRS Editions, 2002, p.22.
[13] *Ibidem,* p. 24.

accomplishment of that construction, targeting "an organized and vital Europe." The declaration marked the negotiation path, in order to establish "the basis for a broader and deeper community among people long divided by bloody conflicts."[14] The aim of these negotiations was the "construction of common basis." From the very start of what we can refer to as **European negotiation,** Schuman suggests a multi-party formula (the invitation by the French and German parties of an arbitrator "appointed by common agreement"), and, in addition, the **international environment** characteristic (requesting evaluation from the UN).

Professor Paul Meerts noted that today's European Union is "an enormous international negotiation process", within a multilateral framework.[15] This **negotiation process** has kept until today the groundwork of Schuman's scheme.

Thus, at the European Institute of Public Administration in Maastricht, negotiation is defined as "a process in which two or more parties try to obtain a solution on matters of common interest, in the situation where the parties are in an actual or potential disagreement or conflict".[16] Before considering European negotiation as an expression of exceptionalism, we will mention that Fred Charles Iklé, in his famous work *How Nations Negotiate*, was asserting a similar meaning when referring to negotiation in general terms ("a process in which clear proposals are made in order to reach an agreement, through an exchange or through the achievement of the common interest, in situations where conflicting interests are present").[17] What will sustain is the validity of the assertion that the negotiation for European construction has developed some unique characteristics, of course in a multilateral framework, and even though we can't talk about an European style of negotiation, as the most prestigious national schools of negotiation achieved, we believe that a certain specificity, individuality of European negotiation can be sustained.

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[14] "*The Declaration made on 9 May 1950 in the Salon de l'Horloge of the Quai d'Orsay by the French Minister, Robert Schuman*", in *Selection of texts concerning institutional matters of the Community from 1950 to 1982*, Luxembourg: European Parliament – Committee on Institutional Affairs, 1982, pp. 47-48.

[15] Vasile Puşcaş, *Negociind cu Uniunea Europeană,* vol. 4, Bucureşti: Ed. Economică, 2003, p. 11.

[16] Frank Lavedoux et al., *Handbook for the European Negotiator,* EIPA –Maastricht, 2004, p. 123.

[17] Fred Charles Iklé, *How Nations Negotiate,* New York: Harper of Row Publishers, 1987, pp. 3-4.

The literature on European negotiation has been enriched especially since the last decade of the past century. Certainly, the end of the Cold War, the major challenges of globalization and the progressively more visible tendencies of European Union of imposing its legal recognition within the international system have stimulated theoretical and casuistic debates regarding European negotiation. Without any doubt, the most applied academic and political discussion on the subject of European negotiation was due to the internal reforming tendencies (institutional and political) of the European Union, as well as the project of its extension in Central and Eastern Europe. In 2000, the *Journal of European Public Policy* dedicated a special issue to European negotiations, the authors making interesting contributions to the theory of negotiation and proposing negotiation analyses for the most important aspects of the European policies. Paul Meerts and his contributions went even further, and created, in 2004, a systematic and comparative analysis on European negotiation.[18] Ole Elgström and Christer Jönsson approached the concept and the practices of European negotiation from a procedural perspective, of networks and institutions (2005).[19] In recent years, the focus was on the descriptive and procedural analysis of European negotiations, such as the intergovernmental conferences and treaties[20] or on the power aspects and leadership in European negotiations[21]. Finally, the training centers of European negotiators have proliferated (Brussels, Vienna, Maastricht etc.) and EIPA even published, in 2004, a "Handbook for the European Negotiator."[22]And, of course, the enumeration may continue.

Mentioning this recent debate on European negotiation, we must point out that it reflects what the authors call a new "era of negotiations", which means a very different world from the one in which H. Kissinger used the term for the first time (in the '70s). To the new international context, it is mandatory to add the "three worlds" that compose the European arena of

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[18] Paul Meerts and Franc Cede, *Negotiating European Union,* Basingstoke: Palgrave Macmillan, 2004.

[19] Ole Elgström and Christer Jönsson (Edited by), *European Union Negotiations,* London and New York: Routledge, 2005.

[20] Derek Beach, *The Dynamics of European Integration,* New York, Palgrave-Macmillan, 2005.

[21] Johan Tallberg, *Leadership and Negotiation in the European Union,* Cambridge University Press, 2006.

[22] Frank Lavedoux et al., *op. cit.*, p. 123.

negotiations: (a) borders (spaces and territories); (b) layers (different objectives and various authorities); (c) networks (connections, communications). All these represent, according to Michael Smith, "the new European space of negotiation".[23] Consequently, the same author asserts that European negotiation must not be regarded only as a *process*, but also as a *system* of negotiation. For such a perspective, as M. Smith claims, European negotiation is not only international, but also strongly conservative.[24] And, because we mentioned European negotiation as a *process*, we will add that Elgström and Smith align with the authors who perceive European negotiation as a continuous activity, permanent, a multilateral marathon inter-bureaucratically and political. But the procedural character is given also by the fact that European negotiation is "a process of communication where the actors transmit signals from one to the other to influence the expectations and/or the values of another party" (cf. Christer Jönsson).[25] In addition to these characteristics, the study of the two authors adds the following: the diversity of contexts and negotiation opportunities, the diversity of actors and preferences, the diversity of systemic analysis. But, most convincing, for perceiving European negotiation as a system, one can invoke the arguments of the interdependence of actors, regularity of interaction and the presence (formal or informal) of rules and institutions. Therefore, such multi-level negotiations (European negotiations) are highly institutionalized and permanent, the multiple parties have distinctive roles, formal negotiations are connected to the informal ones, existing a linkage between both the internal levels and sectors, as well as between the internal and external negotiation of the European Union.

4. Accession Negotiations to European Union

The subject of European negotiation has entered to the public consciousness, over the last decade and a half, primarily due to the process of enlargement of the European Union in Central and Eastern Europe. This

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[23] Michael Smith, "Negotiating new Europes: the roles of the European Union", in *Journal of European Public Policy*, 7:5, 2000, pp. 8-10.

[24] *Ibidem,* p. 811.

[25] Apud, Ole Elgström, Michael Smith, "Introduction: Negotiation and policy-making in the European Union – process, system and order", in *Journal of European Public Policy*, 7:5, 2000, p. 674.

is explained by the necessity to develop the profile expertise, together with the intense academic, scientific debate on this subject. Let us remember that, at the beginning of the last decade, the hypothesis of the states from this area adhering to the European Union (and NATO) was considered rather in geopolitical and geostrategic terms.[26] Although this vision kept its mark, especially at a Member State's level, by the end of the fifth enlargement, as the decision to elaborate principles, strategies and application programs began to take shape, the discussion regarding the means through which European Union will negotiate with the candidate countries came into sight.

For the Member States, the accession negotiations represented a significantly difference form from other negotiations of the European Union at the international stage.[27] The states who aspired to become members of the European Union considered the negotiation period to be a trust building process between the negotiating parties, so that a mutual perception is established regarding the way each candidate will be capable to cope with the accession challenges.[28] The politic, economic, journalistic and academic environments in European States, and not only, had paid special attention towards the content and the progress of accession negotiations. Each of these environments tried to explain and project their interests towards these negotiations, thus the attitudes and the communication paradigms had evolved during the last decade, at one point creating the perception that the process of extension was the most predominant activity of European Union, although it has been also said, at least during the Mandate of Prodi Commission, the purpose was to achieve a coherent extension and to deepen (internal reforms) the European Union. For that reason, nowadays

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[26] Prof. Paul Marer considered that the Central and South-Eastern European states' aspirations to become members of the European Union had to been seen, primarily, for the political benefits. See Paul Marer, *Integrating Central and Eastern Europe into Europe* – Paper prepared for Conference on European Identities, Bloomington: Indiana University, February 1994, p. 20.

[27] Lykke Friis, Anna Jarosz-Friis, *Countdown to Copenhagen,* Copenhagen: Danish Institute of International Affairs, 2002, p. 11.

[28] Andreás Inotai, *Some key Issues in Understanding the Negotiations on Accesion to the European Union,* Working Paper, No 122, Budapest: Institute for World Economics of the Hungarian Academy of Sciences, December 2001, p. 16.

we benefit from an extremely rich scholarly and publicist literature on adherence negotiations.

The "discovery" and "rediscovery" of the meaning of accesion negotiations also generated very different opinions, interpretations, suggestions, which only from this point forward will probably frame the object of systematic analysis. In this context, we are presenting a very brief analysis recently developed by Professor Alan Mayhew (Sussex European Institute) on the wave of the fifth enlargement[29], and, afterwards, we will intervene with some specificities, for a more complete understanding of the accession negotiation process.

Professor Mayhew begin his presentation on accession negotiation by describing the political context (international, European, sub-regional) and the institutional framework (European and state). In the analysis on "structures and institutions" engaged in accession negotiation, a particular assertiveness it's noticeable. On the European Union's side, an Intergovernmental Conference (IGC) was established for each candidate country. This shows that negotiations have an intergovernmental nature and that they are bilaterally, between each candidate state and Member States, in a multilateral framework. Formal negotiation sessions take place in IGC, but the most significant sessions are between the Chief Negotiator and the representatives of the Member States, but also between other officials, including ones from other candidate states. Between the workgroups of the Council of Ministers of European Union and the negotiation team of the candidate states **Position documents** (negotiating positions) are exchanged. The European Commission is the one preparing the draft common position for the Council, in response to the position documents of the candidate state. The Commission is also preparing the technical documents about the implications of negotiating positions. With the Commission, the candidate state have more informal negotiations about the means of implementing the acquis communautaire. The European Parliament assumed an increased role in the adherence negotiation process, not only by endorsing the accessiontreaty, but also by raising certain issues and submitting opinions regarding the elements of negotiation.

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[29] Allan Mayhew, *Enlargement of the European Union: An Analysis of the Negotiations for Countries of the Western Balkans,* Sigma Paper No. 27, OECD, Paris, 2007.

The structures and the institutions involved in the accession negotiations, from candidate countries, are different, varying by tradition and, sometimes, even by the domestic political context. All candidate state have a Chief Negotiator, but his position differs from country to country. The coordinating role of the Chief Negotiator is essential and his capacity to exert influence increases in the final stages of negotiations and in the elaboration of the Accession Treaty phase. The Chief Negotiator works intensely with the ministries involved in the "working groups" on the *aquis* chapters, arbitrates between different governmental agencies, advocates for the opinions stated by the negotiation team in front of the government. Of course, he argues the content of the position documents before the European institutions and Member States, defending the objectives of the accession negotiation and the national interest of the candidate state.

In the accession process, the phases of the negotiation of the *acquis* chapters represent a significant part of the preparation for the accession moment. Schematically, the accession negotiation steps are: *screening,* preparing the position documents, negotiation based on position documents, accession treaty, and ratification of the accession treaty. The principles and procedures of accession negotiation take into account both the objectives of the accession process and the technical characteristics of European negotiation. Professor Mayhew mentions the "conditionalities" and "conditions" imposed by the European Union for starting the accession negotiations, without necessarily making a distinction between the two mentioned before, but he is right that the "conditionalities" set (meaning accession criteria) can be used in order to formulate conditions, from the beginning and throughout the development of the accession negotiations. For instance, a major condition for accession is - for the candidate state - to adopt and implement the acquis communautaire, following the negotiations and to establish when and how it will be adopted[30]. It must be emphasized that the accesion criteria are reformulated for each accession wave, depending on the *acquis*'s stage of evolution, on the development of European policies and on the European and international context. In any case, we agree with professor Mayhew that these adherence criteria – political, economical, institutional, administrative and the capacity of European Union to integrate new

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[30] Alan Mayhew, *op. cit.,* p. 15.

members - were defined in such a manner, at Copenhagen (1993) and afterwards, in order to leave to European authorities and Member States the possibility of multiple and different interpretations, giving the possibility to the EU to show that "there can be always considered as unfulfilled in some detail or other aspects."[31] From here, it streams the possibility of flexibility and rigidity of European Union's negotiators. And the flexibility manifests itself through acceptance of some derogations (permanent and temporary), transition periods and technical arrangements. European Union's availability to a certain degree of flexibility was different in the five enlargement wave and differences were detected depending on the *acquis*'s volume, determinations from certain important fields (e.g. Internal Market, Foreign Affairs and Common Security), but also from political circumstances and environment.

The essence of the accession negotiations is the *acquis* which, from operational reasons, is divided into "chapters" (there were 31 for the fifth wave of enlargement; there are 35 for the current accession negotiations). Following Professor's Mayhew generalization, these chapters have a different degree of difficulty, and the candidate states refer to them depending on their domestic preparations. According to the above mentioned author, there are "easy" chapters (e.g. Science and research, Education, Statistics, etc.), chapters with problems of limited significance (e.g. Custom Union, Company law, Financial control etc.), chapters with serious sectoral policies problems (e.g. Taxation, Energy, Transport policy, Fisheries, etc.), chapters with major problems (e.g. Agriculture, Environment, Justice and Home Affairs, Financial and Budgetary Provisions, Free movement of persons, capital etc.) We are subscribing to this classification of *acquis* chapters, only for – what we can call didactic reasons, because, for each candidate state, the degree of difficulty for a certain chapter was different, depending on the level of domestic preparation, and also the weight that one chapter or another has on the specificity of a country's evolution and, last but not least, depending on the way a candidate state formulated its objectives and national interest.

Given the above considerations, we state that the initial positions of the candidate states were that they refer to "the *acquis* and only to the *acquis"*. But the European Union claimed not only the transposition of the

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[31] *Ibidem.*

acquis, also its implementation, within a determined period and as much as possible until the accession date. For technical reasons, candidate states indicated, unilaterally, certain dates for the accession moment (e.g. Hungary – 2002, Romania - 2007). From the "technical date" to the acknowledgment of the "realistic date" of the accession moment, candidate states went through a process of monitoring/evaluation, which influenced the parties' positions in the accession negotiation. The accession negotiation course had to cope with the variables generated by domestic factors (European Union = domestic reform, the evolution of some European policies, major changes in the policy of some Member States; candidate states = the impact of implementing the Community regulations on economy, social, political environment etc.).

Many comments from the beginning of the accession negotiations, in the last enlargement wave, emphasized the disproportionate power ratio in negotiations. Andreás Inotai wrote that the adherence negotiations took place between "parties as unequal as can be"[32], this imbalance being the result of several factors: The Union represented one of the world's most powerful economic groups; The Union always negotiated the accession with one single country, even though there were more states negotiating at the same time; besides the fact that all accession negotiations took place in Brussels, the candidate states were the ones which had to come first with their positions and only after that they followed the position of the European Union. Other authors directly stated that the accession negotiations, even though were based on the win-win formula, were characterized by a high degree of asymmetry.[33] Lykke and Anna Friis show that the European Union is an actor with a very high negotiation power, while the candidate state is out of the loop, soliciting to enter the "Club"; The Member States are more knowledgeable about the *acquis* – the object of the accession negotiations - than the candidate state. And because the accession negotiation is, in fact, o "double negotiation", the advantage is enormous for the European Union, because it may constitute a pressure on the candidate state (The Presidency has the possibility to present a certain common position of the Member States, which the candidate state may intent to modify, but knowing that, it is taking a high risk and that it is time consuming). The

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[32] Andreás Inotai, *loc. cit.*, p. 17.
[33] Lykke Friis, Anna Jarosz-Friis, *op. cit.,* p. 12.

two Danish authors observe that all the accession negotiation waves developed under the spectrum of asymmetry, admitting, however, that the fifth "round" had the highest degree.[34] Another pressure factor for the candidate state may be considered the procedure according to which "nothing is decided until everything is decided". In other words, even though one chapter was negotiated ("temporary closed"), it was not considered finalized until all the other chapters were negotiated as well, the European Union being able to request the re-opening/ re-negotiation of either one of the chapters.

The accession negotiation to European Union has three fundamental characteristics:[35] 1.) is a **process of discovery** = the two parties inform each other about what they want, what they intend, what they offer (information is, therefore, an essential negotiation instrument); 2.) is a **strategic interaction** = the parties seek to influence each other, to shape their behaviors in order to obtain the best possible results; 3.) is an **exchange process** = each party tries to configure the behavior of the other by offering something or making certain concessions. The entire accession negotiation machinery includes: (a) the technical level = the subjects are resolved through referring to a clear set of rules, criteria, without crossing to the complex environment of interdependencies; (b) the political level = the problems in a certain area are solved without appealing to rules, but by entering in a zone of the interactions, of a complex interdependencies of more subjects and fields, the final solution being a "package" which includes also the possible technical themes ("political argumentation" doesn't mean policy, in the common meaning of the word, but the definition of a "package" which also encompasses distinct technical issues, which is accepted by both parties). We will also mention that, in the case of accession negotiations, the final solutions can be influenced through the following means: (a) legal/technical arguments (implies the existence of a set of rules and criteria clearly defined and accepted by the negotiating parties, but also the abilities to use certain techniques); (b) the promotion of common interest, starting from the win-win aspiration and continuing with the effort of all parties to find the best formula; (c) the use of power capacity, which does not mean the use of force, but the ability to impose conditions to the other party, and also the

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[34] *Ibidem,* p.14.

[35] Frank Bollen et al., *EU Structural Funds beyond Agenda 2000,* Maastricht: European Institute of Public Administration, 2000 (Chapter 7).

capacities to reject something desired by the other party, without taking into account legal or technical considerations (power manifests especially at the political level of negotiators).

Conclusions

We close this article on accession negotiation to European Union by emphasizing that the Chief Negotiator has the task to provide the adequate data of accession preparation and to present them in a suitable position. Starting from the information preeminence and its veracity, but also from the domestic and external contextuality, the Chief Negotiators leads the negotiations according to the established strategies and tactics. While the negotiators of the European Union are expected to formulate the positions of the candidate state and to demonstrate the capacity of a complete and rapid compliance of the *acquis*, the Chief Negotiator of the candidate state seeks the most adequate harmonizing formulas, in accordance with the difficulty of the arguments offered by the domestic accession preparation, the stage objectives and the specificity of asserting the national interest. From here develops the possibility of several exchanges of position documents within the negotiations for same chapter, until the parties come to an agreement regarding the promoted solutions. The Chief Negotiator must also deal with the other party's tendencies to use the negotiation power, as it is also required to identify and mobilize the candidate state's power capacities, in the event that the course of the negotiations demands it.

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DEMOCRATIC ANCHORING
OF THE EUROPEAN UNION
TOWARDS POST COMMUNIST COUNTRIES

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Abstract

First, a classification of the international processes of democratic anchoring has been presented: inertial emulation (contagion if spontaneous or convergence if intentional), control (direct by military intervention, or in indirect through arms trade and military assistance), political conditionality (by applying negative sanctions to authoritarian regimes: trade sanctions, cut to economic aid, exclusion from enlargement process) and rewards to democratizing states (democratic assistance, diplomatic pressure, increase of economic assistance). Second, relations between the EU and eastern European candidates to enlargement, through political and economic conditionality, have been analyzed. The outcome of all negotiations was the neutral application of conditionality when the countries entered the EU; some exceptions to neutrality were applied (to Estonia, Latvia, Romania, Bulgaria) at the beginning of negotiations, because of both strategic and inertial reasons. After 2007, EU enlargement has been linked to the judicial conditionality (in Serbia, Bosnia and Croatia); some relevant war criminals had to be arrested to comply with political criteria. Croatia satisfied the EU requests in judicial conditionality and entered the EU in July 2013; negotiations with Serbia started in January 2014. Political conditionality through the reduction of economic aid was applied to some "neighbors", like the authoritarian Belarus; a more limited decrease of EU aid concerned Russia since the end of the 1990s. EU aid to Georgia and Ukraine increased after the two revolutions of 2004, and to Croatia and Serbia after the electoral defeat of nationalist parties in 2000 (and after the arrest of Mladic). All the other countries with gradual transitions (Bosnia, Macedonia, Montenegro, Albania, Moldova, Armenia) neither enjoyed rewards, nor suffered sanctions.

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Democratic assistance was too limited in order to have a relevant political impact. There were external diplomatic pressures in Georgia and Ukraine, but the main cause of the electoral revolutions was the weakness of those states. EU's external anchorage especially mattered for potential candidates to the enlargement (Serbia and Croatia), while it was weaker for neighbors (like Georgia, Ukraine and Russia), because those ones have never been considered potential candidates.

Keywords: EU enlargement; democratization process; political conditionality; EU foreign policy, negotiation theory.

A classification of processes of external anchorage to democracy

In the political science literature there has been an intense debate on the modalities of external diffusion and/or influence of democracy. Pridham (1991)[1] has been the first author to focus on international factors in the democratization processes of Mediterranean countries (Spain, Portugal and Greece) to the external linkage (anchorage), represented by the entrance of those countries in the European Union (EU). Whitehead (1996) has proposed a first classification among: control (by imposition), contagion (non intentional) and consensus (intentional)[2]. Control exemplified cases of military interventions in order to promote democracy; contagion the so-called democratization waves[3]; consensus the international processes of intentional promotion of democracy, like in the European integration – Pridham's "linkage politics" was quoted. Schmitter (1996) has added a fourth category, conditionality, being applied by economic sanctions, while control was based upon military sanctions; EU enlargement was an example of conditionality[4]. Schmitter and Brouwer (2000) have deepened the international modalities of "promotion and protection of democracy",

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[1] Geoffrey Pridham, "International influences and democratic transition: problems of theory and practice in linkage politics", in Geoffrey Pridham, (ed.), *Encouraging democracy. The international context of regime transition in southern Europe, Leicester*, LUP, 1991, pp. 1-28.

[2] Lawrence Whitehead (ed.), *International dimensions of democratization*, Oxford: OUP, 1996.

[3] Samuel P. Huntington, *The third wave. Democratization in late 20th century*, Norman: University of Oklahoma Press, 1993.

[4] Philippe C. Schmitter, "The influence of international contest upon the choice of national institution and policies in new democracies", in Lawrence Whitehead (ed*.), International dimensions of democratization*, Oxford: OUP, 1996, pp. 26-54.

by labeling categories of consensus as assistance, that was going to be applied by positive rewards to democratizing countries: like electoral monitoring, funds aimed at promoting institution building, or supporting pro human rights non governmental organizations (NGOs)[5]. Pridham (2001) has distinguished convergence, implying a direct causal link between external actors promoting democracy and "intentional" domestic reactions (the so-called "anticipated reactions mechanism"), from contagion, where the external influence materializes only by non intentional factors[6]. For example, Eastern Europe countries applied convergence after 1989, according to the expectations clearly defined by the EU; Latin American states just developed contagion in the '80s transition wave. This seems a good clarification, but these appear as two sub-categories of the same analytic category: the inertial diffusion of democratization process. In sum, four modalities of democracy promotion and diffusion were identified: control (by military intervention), inertial emulation (either convergence if intentional, or contagion if spontaneous), political conditionality (by applying negative sanctions to authoritarian regimes), democratic assistance (by materializing positive rewards to democratizing states).

Some more recent contributions tried to further elaborate this classification, but the outcome was the identification of too sophisticated analytic categories, which were not mutually exclusive or non exhaustive. Kubicek (2003) has maintained a tetra-partition (control, contagion, convergence and conditionality), but the latter included both negative and positive sanctions – which were previously labeled as democratic assistance[7]. The increase of economic aid to democratizing countries has also been ambiguously labeled as rewarding or positive conditionality[8], but

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[5] Philippe C. Schmitter, Imco Brouwer, "Promozione e protezione della democrazia. Il concetto, le ricerche, la valutazione", in *Rivista Italiana di Scienza Politica*, 2000, vol.30, n. 2, pp. 187-226.

[6] Geoffrey Pridham, "Rethinking regime-change theory and the international dimension of democratization: ten years after in East-Central Europe", in Geoffrey Pridham, Attila Ágh (eds.) *Prospects for democratic consolidation in East-Central Europe*, Manchester: MUP, 2001, pp. 54-95.

[7] Paul Kubicek, *The European Union and democratization*, London: Routledge, 2003.

[8] Elena Baracani, "EU democratic rule of law promotion", in Leonardo Morlino, Amichai Magen (eds.) *International actors, democratization and the rule of law. Anchoring democracy?*, New York: Routledge, 2009, pp. 53-86.

"reinforcements by reward" do not appear whatsoever conditioned. Other contributions modified the above mentioned classification, by reducing the categories from four to three: inspiration, coalition, and substitution[9]; emulation, promotion and imposition[10]. Emulation and inspiration would be similar to convergence or contagion; imposition and substitution to control. Promotion and coalition would coincide with what Whitehead called consensus, but that was later distinguished between conditionality and assistance. Thus, promotion indicates both positive and negative sanctions. Moreover, coalition has also been used in order to exemplify those processes of external (economic and diplomatic) support to domestic popular protests, aimed at pushing illiberal presidents to quit (like in Georgia and Ukraine). Levitsky and Way (2005)[11] and Burnell (2005)[12] elaborated the category of diplomatic pressures, in order to differentiate them from economic sanctions and rewards. Here is the typology of Schimmelfennig and Sedelmeier (2005)[13] (and Schimmelfennig 2006)[14], that was even more sophisticated:

KEY ACTORS	of consequences LOGIC	of appropriateness
European Union	External (positive and negative) incentives	Social learning
Candidates	Lesson-drawing (intentional)	Lesson-drawing (spontaneous)

[9] Wade Jacoby, "Inspiration, coalition and substitution. External influences on post-communist transformations", in *World Politics*, n.4, 2006, pp. 623-651.

[10] Pietro Grilli da Cortona, "Esportare la democrazia? I fattori internazionali delle democratizzazioni", in *La Comunità Internazionale*, vol.63, n. 3, 2008, pp. 433-57; Pietro Grilli da Cortona, *Come gli stati diventano democratici*, Bari: Laterza, 2009.

[11] Steven Levitski, Lucan A. Way, "International linkage and democratization", in *Journal of Democracy*, n. 3, 2005, pp. 20-34.

[12] Peter J. Burnell, "Political strategies of external support for democratization", in *Foreign Policy Analysis*, vol.1, n. 3, 2005, pp. 361-384.

[13] Franz Schimmelfennig, Ulrich Sedelmeier, *The Europeanization of Central and Eastern Europe*, Ithaca: Cornell University Press, 2005.

[14] Franz Schimmelfennig, *International socialization in Europe. European organizations, political conditionality and democratic change*, Basingstoke/New York: Palgrave/MacMillan, 2006.

Logic of consequences is based on actors' rational behavior, while that of appropriateness relies upon identity, values and norms. The single category of external incentives seems too broad, because it includes both rewards and punishments (both "positive" and negative conditionality). The social learning category (anchored on identity) identifies the expectations that materialize by socialization processes (Whitehead's consensus); the EU fixes norms and candidates conform to them. The two categories of lesson-drawing identify intentional convergence and spontaneous contagion, mostly anchored to domestic processes: in the former lobbies are more relevant, in the latter epistemic communities are. Magen, Risse, Mc Faul (2009) have labeled democratic assistance as "capacity building", and socialization as "normative suasion"; they also put ex post inducements and ex ante conditionality in the same analytic category[15]. Morlino and Magen (2009) have proposed the classification among: (military) control, conditionality (negative sanctions and positive rewards), socialization (by social, educative, technological, cultural processes), example-emulation (intentional lesson-drawing)[16]. However, these categories do not satisfy the mutual exclusivity criterion; EU socialization and candidates' intentional emulation identify two faces of the process. Finally, summarizing sanctions and rewards in only one category seems even more imprecise.

The classification of the external processes of influence on democracy is the following one: inertial emulation (contagion if spontaneous or convergence if intentional), control (direct by military intervention, or in indirect through arms trade or military assistance), political conditionality (by applying negative sanctions to authoritarian regimes: trade sanctions, cut to economic aid, exclusion from enlargement process) and rewards to democratizing states. Incentives may divided into three classes: democratic assistance (specific funds aimed at improving political performances of the recipient country), diplomatic pressure (by declarations or missions, supporting domestic pro-democracy groups), economic assistance (by increasing aid to

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[15] Amichai Magen, Thomas Risse, Michael A. McFaul, (eds.), *Promoting democracy and the rule of law. American and European strategies*, New York & London: Palgrave/MacMillian, 2009.

[16] Leonardo Morlino, Amichai Magen, "Methods of influence, layers of impact, cycles of change: a framework for analysis", in Leonardo Morlino, Amichai Magen (eds.) *International actors, democratization and the rule of law. Anchoring democracy?*, New York: Routledge, 2009, pp. 26-52.

democratizing governments). Democratic assistance consists in economic aid aimed at organizing electoral monitoring or reinforcing political participation (by financing pro human rights NGOs and independent press). It has not to be confused with aid aimed at improving "*good governance*" (reform of the public administration, of the judicial system, of security forces, fight to corruption), that can be compatible with an illiberal democracy or a hybrid regime[17]. Levitsky and Way (2006) emphasized the influence of both leverage (vulnerability of the transition country) and (the intensity of) linkages in the processes of external promotion of democracy[18]. Tolstrup (2013) replied that target governments may obstruct those pressures, by playing the role of "gatekeepers"[19].

These four modalities of external anchorage to democracy may also be linked to the main Western democratic political cultures: the conservative, the liberal, the constructivist and the manichean leftist ones. Before 1989, democratic transitions were the outcome mostly of contagion (thus, of non intentionnal) processes[20], through three democratization waves[21], that have involved Europe and the West (the 1st), then countries like Japan and India (the 2nd after 1945), and finally Latin America (the 3rd since the late 70s); the 4th wave followed 1989. After the cold war, promoters of the conservative political culture still assume that anarchy is the only (inertial) process by which democracy can be exported. External manipulation would have damaging effects and produce anti/West attitudes, crystallization of cultural conflicts and more intense terrorism[22]. Since 1989, promoters of liberalism have supported political conditionality, and foreign policy has been implemented by establishing a linkage between some (usually economic: foreign aid or trade preferences) decisions and political performances of the recipient

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[17] Liborio Mattina, "La riforma delle istituzioni", in Liborio Mattina (ed.), *La Sfida dell'Allargamento. L'Unione Europea e la democratizzazione dell'Europa centro-orientale*, Bologna: Il Mulino, 2004, pp. 85-129.

[18] Steven Levitski, Lucan A. Way, *op.cit.*, pp. 20-34.

[19] Jakob Tolstrup, "When can external actors influence democratization? Leverage, linkages and gatekeeper elites", in *Democratization*, vol.20, n.4, 2013, pp. 716-42.

[20] Lawrence Whitehead, *op.cit.*, 1996.

[21] Samuel P. Huntington, *The third wave. Democratization in late 20th century*, Norman: University of Oklahoma Press, 1993.

[22] *Ibidem*, *The clash of civilizations and the remaking of world order*, New York, Simon and Schuster, 1996.

country (the guarantee of human rights and of the democratization process). In the areas where terrorism is strong, such as in the Arab/Islamic countries, military control[23] has been considered an option: see 2003 Iraq's intervention of the USA and the UK; this preference was promoted by so-called neo-conservatives. Finally, leftist constructivists prefer political rewards: diplomatic pressures, democratic assistance and channeling increasing economic aid to democratizing states. Political conditionality is a "politically incorrect" diplomatic instrument, because it is based on sanctions to poor countries, which have been aided by social-democratic governments (of Scandinavian states and Canada) without rigid political coercion[24]. The leftist manicheans have never considered democratization a priority, and have never supported any international pressure to favor it[25].

Political conditionality to the European enlargement: the first phase (1990-2007)

The European Union has lived different phases of enlargement since the Treaty of Rome that were signed by the six pioneer member states. Before 1989, EU political and economic conditionality towards new candidates (like Spain, Portugal, and Greece) has been weak, as those countries had to be stabilized because of the political threats, coming (for example) from domestic Communist parties. Whitehead (2000) has emphasized that during the Cold War, the military dimension of world politics was very relevant and the priority was the stabilization of some key Mediterranean allies, without too many political constraints[26]. Then, Southern Europe members have had a longer democratic experience in the past than post-Communist states. Finally, the economic performances of the Mediterranean states were also superior to those of the Eastern European

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[23] Lawrence Whitehead, *op. cit.*, 1996.

[24] Philippe C. Schmitter, Imco Brouwer, "Promozione e protezione della democrazia. Il concetto, le ricerche, la valutazione", in *Rivista Italiana di Scienza Politica*, vol.30, n.2, 2000, pp. 187-226.

[25] Fabio Fossati, "Il crescente ruolo delle ideologie nella politica mondiale dopo la guerra fredda", in *Quaderni di Scienza Politica*, vol.13, n. 2/3, 2006, pp. 365-395.

[26] Lawrence Whitehead, "The enlargement of the European Union: a risky form of democracy promotion", in *Central European Political Science Review*, Vol.1, n.1, 2000, pp.16-41.

partners, whose *per capita* income is only 40% of that of the average of the EU members. Naturally, northern new members (like Austria, Sweden, Finland…) had not political and economic problems.

After 1989, governments of Eastern European started to press their western "colleagues" in order to start a new enlargement process. In the 90s, they were living two transitions: political democratization and economic liberalization. The capability of the EU to influence the Eastern Europe candidates emerged in two phases. In the first half of the 1990s, candidates intentionally satisfied EU expectations, that had been fixed in 1993 Copenhagen's political and economic criteria; thus, there was a convergence process. Since 1997, when the EU Commission started to publish its regular reports, political and economic conditionality was launched towards the candidates of Eastern Europe, Cyprus and Malta. Vachudova (2005) has labeled pre-1997 convergence as "passive leverage", while post-1997 conditionality was a form of "active leverage"[27].

The EU started to apply to its eastern partners a patterned timetable, which had been applied also in the previous phases of enlargement: economic assistance (through the Phare program), trade agreements, association agreements[28]. In general, Phare and trade preferences were conceded in a starting phase, but it has to admitted that the EU maintained some protectionist measures towards the candidates (especially through quotas, many of them in agriculture), which mostly remained in a deficit unbalance all along the 1990s[29]; most of them had a bad productive structure which was inherited by the socialist period. Trade exchanges with the EU strongly increased for many of the candidates, reaching levels of 60-65% of the total amount[30]. Enlargement reinforced the consolidation of a continental economic region, and European members could more easily beat their American and

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[27] Milada Anna Vachudova, *Europe undivided. Democracy, leverage and integration after communism*, Oxford: OUP, 2005.

[28] Alan Mayhew, *Recreating Europe. The EU's policy towards Central and Eastern Europe*, Cambridge: CUP, 1998.

[29] Ulrich Sedelmeier, Helen Wallace, "Eastern enlargement. Strategy or second thoughts?", in Helen Wallace, William Wallace (eds.), *Policy-making in the European Union*, Oxford: OUP, 2000, pp. 427-456.

[30] Fabio Fossati, "L'intervento esterno: attori, modalità e strumenti", in Liborio Mattina (ed.), *La Sfida dell'Allargamento. L'Unione Europea e la democratizzazione dell'Europa centro-orientale*, Bologna: Il Mulino, 2004, pp. 37-83.

Asian competitors; for example, only members and candidate could participate in Phare tenders[31].

Since the beginning of the '90s, ten candidate states were finally selected: the "core" central European (Poland, Hungary, Czech Republic and Slovakia), the three Baltic (Lithuania, Latvia and Estonia), two Balkan (Romania and Bulgaria) and only one of the former Yugoslavia (Slovenia). The other partners of Yugoslavia were excluded for two reasons. On one hand, war had continued for several years in Croatia, Bosnia and Serbia. On the other hand, all these countries were suffering different, but often deep, limitations of democracy. The members of former Soviet Union remained under the influence of Russia, except the Baltic States; also Moldova, whose population is mostly Rumanian, and Ukraine, that has a crystallized conflict among its western (pro-European) and eastern (pro-Russian) parts, that fortunately never degenerated into war.

The critical juncture of the enlargement process was the Copenhagen council in June '93. The members of the EU decided to establish the political and economic criteria that should have permitted to individuate the eastern candidates to the enlargement. In fact, these criteria were very general principles on free market and liberal democracy. At the beginning, some governments of the Eastern Europe candidates protested, because they were afraid that such general and flexible criteria could have led to a discriminatory process of enlargement. For example, there were rigid targets, like those of the Maastricht treaty on economic conditionality. However, in the following years, the legal-administrative pre-requisites (the so-called *acquis communautaire*) were also fixed. In June '95 a long White Paper was written at this respect. Since '97, the Commission started to elaborate yearly (very detailed) regular reports that covered all the areas of the enlargement process.

In December '97, at the Luxembourg council, the first five countries were selected in order to start the negotiation process on enlargement. They were Slovenia, Hungary, Czech Republic, Poland and Estonia. This decision was contested for several reasons. Slovakia, Latvia and Lithuania protested for their exclusions. The analysis of the Commission's report suggests the following combination of degree of satisfaction the two criteria of conditionality[32]:

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[31] *Ibidem.*

[32] Michael Emerson, *Redrawing the map of Europe,* Basingstoke: Mac Millian Press, 1998.

ECONOMIC CRITERIA	not ok POLITICAL CRITERIA ok	
not ok	Romania, Bulgaria	Latvia, Lithuania
ok	Slovakia	Poland, Hungary, Czech Rep., Slovenia, Estonia

Three countries were not complying with either economic (Latvia, Lithuania) or political (Slovakia) preconditions. In those years, Meciar's nationalist government in Slovakia had not respected the basic principles of democracy in both political and civil rights –obligations towards the Hungarian minority were lowly guaranteed[33]. The economic indicators of Latvia and Lithuania were clearly inferior to those of Estonia, which was recognized as the best performer in the market transition by the main international organizations like the IMF. Finally, in that year, Bulgaria and Romania were not complying with both economic and political criteria. In fact, *per capita* income was very low and the privatization process was at a starting point. Then, the performance of security forces was not compatible with the practices of liberal democracies, especially towards Rom population, and many other civil rights were being violated, especially those of the children in Romania –the conditions of the orphans' public institutions were very bad.

In December '99, negotiations also started with all the other five candidates. Moreover, the member states decided to apply the "regatta" model" to negotiations, that is to say every candidate had to satisfy the criteria; thus, second *tranche* candidates could also end their task before the others that had started in '97[34]. Slovakia had resolved its political problems, thanks to Meciar's defeat at the elections. Then, Latvia and Lithuania had improved their economic record. The decision to include the two Balkan states was more doubtful, because their political (in the field of guarantee of many civil rights) and especially economic performances were still low. The final decision of the European institutions, made between October and

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[33] Karen Henderson, "Slovakia and the democratic criteria for EU accession", in Karen Henderson (Ed.) *Back to Europe. Central and Eastern Europe and the European Union*, London: UCL Press, 1999, pp. 221-40.

[34] Erik Berglöf, Gérard Roland, "From regatta to big bang? The impact of the European Union accession strategy on reforms in central and eastern Europe", in *Transition Newsletter*, Vol.12, n.1, 2001, pp. 26-27.

December 2002, was based on the acceptance of eight candidates. In fact, there was the exclusion of Romania and Bulgaria, whose economic record was still unsatisfying, while there have been several improvements in the political criteria. These eight countries entered the EU in May 2004, together with Malta and (the Greek part of) Cyprus. Romania and Bulgaria entered the EU in 2007, when they had implemented more structural reform; however, their *per capita* income was still very low[35].

Here is the table that summarizes EU's decision of 2002:

ECONOMIC CRITERIA	not ok POLITICAL CRITERIA ok	
not ok		Romania, Bulgaria
ok		Poland, Hungary, Czech Rep., Slovenia, Estonia, Latvia, Lithuania, Slovakia

The negotiations had followed the "formula-details" model, elaborated by Zartman (1978) and that was previously applied to Latin American debt agreements[36]. The political and economic principles were those elaborated at Copenhagen in 1993; then, negotiations covered the details, that is to say the legal/administrative changes that the Candidates' institutions had to approve before their entrance in the Union. It has to be admitted that in previous phases of enlargement the *acquis communautaire* was completed after the effective adhesion had taken place.

Political conditionality followed *ex post* mechanisms of evaluation; instead, economic conditionality followed mostly *ex ante* criteria. Economic conditionality of the EU was anchored to the advancement of the liberalization reforms and not to rigid quantitative indicators, like *per capita* income. For example, in 1997 Slovakia's violations of political rights were unusual and after those events, the EU Commission emphasized that negative sanctions (the postponement of the starting date of negations with Slovakia) had to be applied. The same occurred with Bulgaria and Romania in the issue of civil rights. Economic conditionality of the EU has not been

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[35] Cristina Chiva, David Phinnemore (eds.), *The European Union's 2007 enlargement*, London: Routledge, 2012.

[36] I. William Zartman, "Negotiation as a joint decision-making process", in I. William Zartman (ed.), *The negotiation process. Theories and applications*, Beverly Hills/London: Sage Publications, 1978, pp. 67-86.

applied to rigid short-term quantitative indicators, like those of the International Monetary Fund towards debtor countries. Economic conditionality of the EU was similar to that of the World Bank, with a higher focus on the structural benchmarks (and the progresses of medium-term reforms). Moreover, the EU did not coerce single candidates towards fast (the so called "shock therapies") or gradual methods of economic adjustment; governments were free to choose their own strategy of adjustment.

In those years, there has been a clear division of labor between the Commission and the governments. The former has been deciding on who is going to enter the EU, while the latter maintained more control on the times of accession. For example, the Council of Nice of December 2000 was an important step in order to redistribute all the institutions' (The Commission, the Council of ministers and the Parliament) quota among old and new members[37]. At the Brussels summit of October 2002 there was also a reordering of contributions and assistance, that had to be decided in order not to permit to the candidates to be creditors of the Union; in fact Agriculture, Structural and Cohesion funds had already been distributed to the members until 2007. After long debates, as usual, a compromise was reached[38].

Political and economic conditionality has not been rigidly applied to the starting phase of negotiations, but only to its final outcome. In fact, in 1997 and 1999 negotiations started with some candidates (Estonia and Latvia), partially complying with political criteria. In 2004 the Balkan countries were not complying with the economic criteria[39], but in 2007 Romania[40] and Bulgaria had complied with the EU targets of economic conditionality. When candidates entered the EU in 2004 (8 of them) and in 2007 (Romania and Bulgaria), they were satisfying Copenhagen's political and economic criteria. The indexes on economic liberalization permit to measure the progress of the liberalization process in the implementation of structural economic reforms. In 2003 Romania had a liberalization index of

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[37] Bruno De Witte, "Anticipating the institutional consequences of expanded membership of the European Union", in *International Political Science Review*, Vol.23, n.3, 2002, pp.235-248.

[38] Fabio Fossati, *op. cit.*, 2004.

[39] *Ibidem.*

[40] Vasile Puşcaş, *European negotiation: a case study. Romanian accession in the European Union*, Gorizia: ISIG, 2006.

24,2 and Bulgaria of 26,2. In 2007, Romania had 27,8 and Bulgaria 28,8. In 2003, the candidate with the lowest index was Slovenia with 27,1, but that country also had the highest *per capita* income. In 2009, Slovenia had 27,1, and thus even Bulgaria and Romania were more liberalized[41].

The influence of the conservatism and the logic of interests in the behavior of the EU was supported by Zielonka (1998)[42], by assuming that the EU neutrality would have been modified by member governments' lobbying: either to guarantee their own partisan interests (especially because of *patron-client* links), or to assure political stability in security issues. Slovakia did not have the same strong lateral support that both Slovenia and Estonia received (especially) by Austria and Finland. Instead, Avery and Cameron (1998)[43] denied this evolution of the European foreign policy, by emphasizing that Latvia and Lithuania also had that support, by Sweden and Denmark respectively, but negotiations did not start with them either in 1997. Thus, Slovakia was not discriminated because of the absence of patrons' support. Then, in 1999 negotiations would have started with Romania and Bulgaria in order to compensate them for the possible negative effects of NATO military intervention against Serbia in Kosovo. In fact, in that year, Romania and Bulgaria were lowly respecting both political and economic criteria. A rigid application of the Copenhagen principles would have led to not admit the two countries to negotiations. Moreover, those two states are different from the other eight countries because they do not belong (like Greece) to the Western-Christian, but to the Eastern/Orthodox civilization (Huntington 1996). In fact, the three countries had strong cultural and economic links; thus, the two Balkan countries were rewarded for their support of NATO military intervention in Kosovo against Serbia: an orthodox state[44].

Then, the other two exceptions of Estonia (in 1997) and Latvia (in 1999) can be better explained by the reflectivist-liberal hypothesis, because

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[41] *EBRD Transition Report*, London, 2010, Fabio Fossati, *op. cit.*, 2004.

[42] Jan Zielonka, Alex Pravda, "Democratic consolidation in Eastern Europe", Volume 2, *International and transnational factors*, Oxford: OUP, 2001.

[43] Graham Avery, Fraser Cameron, *The enlargement of the EU*, Sheffield: Sheffield Academic Press, 1998.

[44] Pierre Hassner, "Fixed borders or moving borderlands?: a new type of border for a new type of entity", in Jan Zielonka (ed.), *Europe unbound. Enlarging and reshaping the boundaries of the European Union*, London: Routledge, 2002, pp. 38-50.

laws on the Russian minorities had not been approved by both parliaments when negotiations started, but were going to be approved: the inertia had already started. In '97 and '99, Estonia and Latvia were lowly respecting minority rights: especially towards Russian immigrates, that are nearly one third of the population. In both countries there were restrictive laws for nationalizations. New measures were taken to favor the allowance of citizenship to Russian minorities; most of them preferred to get temporary permissions and avoid the duties of nationalizations. Commission's reports show that the minority issue in Estonia was resolved only in '98, while in '97 the law was presented in parliament, but had still to be approved. Then, in the last years, the two countries adopted language legislation that limited the rights of the (Russian or also Western European) workers that were not speaking local languages[45]. These anomalies were corrected, but only the 2000 report (thus, not the '99 edition) has established that the two Baltic states (and thus, also Latvia) were respecting civil rights[46]. In sum, political criteria have been applied in a flexible way, assuming that the two countries were going to resolve those problems. This exception to the neutrality thesis can be explained by a reflectivist-liberal hypothesis, based on the inertia of the process[47]. In fact, the decision of 1999 has been interpreted as a transitory step of the enlargement process; many EU countries (and especially Sweden, Denmark and Italy, through Dini) had supported a political approach towards the candidates, in order to avoid deep divisions among them[48]. Thus, the two Baltic exceptions may be interpreted with a reflectivist/liberal hypothesis, based on the inertial decision making process. In fact, the assumption is that if a too rigid political conditionality had been applied, unintentional convergence would have been penalized in all the

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[45] Vello Pettai, "Estonia and Latvia: international influences on citizenship and minority integration", in Jan Zielonka, Alex Pravda (eds.), *Democratic consolidation in Eastern Europe. International and transnational factors*, Volume 2, Oxford: OUP, 2001, pp. 257-280.

[46] Nida Gelazis, "The effects of European Union conditionality on citizenship policies and protection of national minorities in the Baltic States", in *EUI Working Paper RSC*, n. 68, 2000.

[47] Lykke Friis, 'The end of the beginning' of Eastern enlargement – Luxembourg summit and agenda-setting, in *European Integration online Papers (EIOP)*, 1998, vol.2, n. 7.

[48] Lykke Friis, Anna Murphy, "The EU and Central Eastern Europe: governance and boundaries", in *Journal of Common Market Studies*, Vol.37, n.2, 1999, pp.211-232; Lykke Friis, Anna Murphy "Negotiating in a Time of Crisis: the European Union's Response to the Military Conflict in Kosovo", in *EUI Working Paper RSC*, n. 20, 2000.

"doubtful cases"; thus, if negotiations would have been postponed, the final outcome for Estonia and Latvia would have been negative, reinforcing anti-European parties, and endangering the possibility of complying with conditionality criteria at the end of the process.

Finally, the influence of a post-Marxist orientation of European diplomacy -only economic (and not political) conditionality would have mattered[49]- is to be refused, because of the coherent application of political conditionality to Slovakia. Then, in 2007 there were no deep violations of civil and political rights also by Romania and Bulgaria anymore. Pravda (2001)[50] assumed that political conditionality was softer then the economic one. But the empirical evidence does not support that hypothesis. Also economic conditionality expectations were low[51], otherwise the criterion of *per capita* income would have been chosen by the Commission. In that case, both Bulgaria and Romania would not have entered the EU.

In sum, the empirical evidence showed that governments were not able to manipulate the selection process of the Commission that has remained neutral in applying the economic and political criteria of adhesion. Thus, all the process was quite coherent with a liberal diplomatic orientation in foreign policy, and with the functional tradition of integration theory[52]. Instead, the realist and reflectivist hypotheses have been useful to explain only some exceptions to the prevailing liberal trend, precisely when the decision to start negotiation was taken by the EU. Thus, the first phase of the enlargement process has positively conditioned the democratization process of the Eastern European countries, even if many countries (especially those with previous experience of political freedoms) could have reached the same outcome, also through unintentional contagion processes. All the eight candidates to the EU have consolidated in those years good political performances, and Romania and Bulgaria also followed that path, even if with some delays. However, the positive evolution of the Russian minorities

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[49] Alex Pravda, "Introduction", in Jan Zielonka, Alex Pravda (eds.), *Democratic consolidation in Eastern Europe. International and transnational factors*. Volume 2, Oxford: OUP, 2001, pp. 1-27.

[50] *Ibidem.*

[51] Anders Aslund, *Building capitalism: the transformation of the former Soviet bloc*, Cambridge: CUP, 2002; Leszek Balcerowicz, *Post-communist transition: some lessons*, London: Institute of Economic Affairs, 2002.

[52] Fabio Fossati, *op. cit.,* 2004.

issue in Estonia and Latvia was due to EU pressures, because all the other international organizations (the Council of Europe, and the Osce) had been lowly effective at that respect[53].

Naturally, this evaluation concerns a supposed theory on the "enlargement" process, which has been elaborated after the analysis of negotiations with each candidate. Instead, both the realist and liberal hypotheses of the process at the "regional" level have been both confirmed. On one hand, 2004 enlargement has been coherent with the interests of members (finding investment opportunities for their firms, beating American and Asian competitors, preventing illegal migrations…) and candidates: receiving EU structural and agriculture funds, using the EU as an anchor for both democratization and economic liberalization processes[54]. On the other hand, the collective decision to improve the enlargement process was also based on common European and Western values[55], and it has also appeared to all members as the most legitimate[56]. Instead, for example, cooperation in NAFTA has only been coherent with the interdependence thesis, but not with the common values one –Mexico is a Latin country, like all of South-American states.

Political conditionality to the European enlargement: the second phase (since 2007)

In this section, the relations of the EU with five "potential candidates" of former Yugoslavia (Croatia, Bosnia, Serbia, Montenegro, Macedonia), and Albania are going to be analyzed. In July 1999, the EU had launched in Kohl the Stability Pact for South-Eastern Europe, that included Slovenia, Croatia, Yugoslavia, Bosnia, Macedonia, Albania, Bulgaria and Romania. The aim of the pact was stabilizing the democratization and economic liberalization of the Balkan countries, in order to facilitate their future

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[53] Nida Gelazis, *op. cit.*, 2000.

[54] Andrew Moravscik, Milada Anna Vachudova, "National interests, state power and European enlargement", in *East European Politics and Societies*, , vol.17, n.1, 2003, pp.42-57.

[55] Franz Schimmelfennig, "Liberal community and enlargement: an event history analysis", in *Journal of European Public Policy*, vol. 9, n.4, 2002, pp. 598-626.

[56] Franz Schimmelfennig, *The EU, NATO and the integration of Europe. Rules and rhetoric*, Cambridge: CUP, 2003.

adhesion to the EU. Slovenia, Bulgaria and Romania were among the first *tranche* of enlargement candidates and would have become new members in 2004 and 2007. Then, Serbia was temporary excluded by the pact, as far as Milosevic was in power. A diplomat of Montenegro was admitted to negotiations, even if it was not an independent state yet. Those principles were repeated in June 2000 at the European Council in Feira, where those countries were legitimated as "potential candidates"-even if the government of Yugoslavia was still absent-, and in November 2000 at the Zagreb summit. EU economic assistance was channeled to those countries through the Cards fund, established in 2000 – in fact there was a decrease after September 2001.

Thus, a quite rigid division into two groups of eastern European countries had emerged. The recipients of the Stability Pact became the potential candidates and the convergence process would have been the premise of the conditionality process. Instead, the former Soviet Union countries (Belarus, Ukraine, Moldova, the three Caucasus states…) were excluded by those objectives, because they still pertained to the geo-political sphere of influence of Russia[57]. As a natural consequence of these events, also EU aid to that region was more limited.

In January 2000, elections in Croatia were won by the centre-left coalition and the right nationalist party was defeated. Croatia has always had good performances in both democratization and economic liberalization processes. EU conditionality materialized only on "judicial" criteria, by the request to deliver war criminals to the International Criminal Tribunal for former Yugoslavia (ICTY): Ademi, Bobetko, but especially Gotovina, believed to be responsible of episodes of ethnic cleansing towards Serb minorities in Krajina and Slavonia in 1995. Ademi (of Albanian origin) himself asked to be judged by the ICTY. In October 2001 EU, except Netherlands and Great Britain -willing to ratify only after the capture of Gotovina-, signed the Association agreement with Croatia. In 2002 the EU asked to extradite another general, Bobetko. Croatia did not deliver him because of his bad health conditions. The EU was satisfied with the formal acceptance of the ICTY competence for his trial. Bobetko died in April 2003.

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[57] Gwendolyn Sasse, "Linkages and the promotion of democracy: the EU's eastern neighbourhood", in *Democratization*, vol. 20, n. 4, 2013, pp. 553-591.

In March 2008 Ademi would have been absolved by the ICTY. In February 2003 Croatia formally asked the adhesion to the EU. In June there was the Thessalonica summit. In October, the public prosecutor of the ICTY (Carla del Ponte) for the first time declared that Croatia was a reliable partner. The right nationalist party won the November elections. Within the EU, Schroeder's Germany did not appear too rigid on Gotovina, on the contrary of Netherlands and Great Britain. In March 2004, the beginning of negotiations with the EU was postponed because for the scarce collaboration of Croatia with the ICTY. In April, the EU positively evalued Croatia's progresses; Zagreb government declared that he was willing to capture Gotovina. In June 2004, Croatia received the candidate status. In February 2005, Netherlands and Great Britain signed the Association agreement. In March, Carla Del Ponte blamed Croatia for its scarce collaboration on Gotovina's arrest, and the beginning of negotiations with the EU was postponed. In October, Carla Del Ponte declared that Croatia had started to collaborate since two weeks, and negotiations with the EU started. At the beginning of December, Gotovina was arrested in Tenerife[58]. Croatia made much *lobbying* to get the support of France, Italy and Austria, threatening to block negotiations with Turkey[59]. Negotiations started, because Carla Del Ponte had received the information from the Croatian secret services that Gotovina was going to be arrested[60]. In April 2011, Gotovina had been sentenced guilty by the ICTY, but then was found not guilty in the appeals panel in November 2012. After having resolved its border dispute with Slovenia, and having improved the national standard of minorities protection of the Serb community, Croatia ended negotiations in June 2011, and finally entered the EU in July 2013.

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[58] Petra Roter, Ana Bojinovi, "Croatia and the European Union: a troubled relationship", in *Mediterranean Politics*, vol.10, n. 3, 2005, pp. 447-454; Nina Wichmann, *Democratization without societal participation? The EU as an external actor in the democratization process of Serbia and Croatia* Berlin: Lit Verlag, 2007.

[59] Dejan Jovic, "Croatia and the European Union. A long delayed journey", in *Journal of Balkan and Near Eastern Studies*, vol. 8, n. 1, 2006, pp. 85-103.

[60] Franz Schimmelfennig, "EU political accession conditionality after the 2004 enlargement: consistency and effectiveness", in *Journal of European Public Policy*, vol. 15, n. 6, 2008, pp. 918-37; Dejan Jovic, "Croatia after Tujiman: the ICTY and issues of transitional justice", in Judy Batt, Jelena Obradovic Wochnik (eds.), *War crimes, conditionality, and European integration in the Western Balkans*, Chaillot Papers, 2009, n. 116, pp. 13-28.

In October 2000, Milosevic lost the elections, won by the opposition leader Kustunica, and immediately after, the EU declared that Serbia was a potential candidate; the opposition also won the parliamentary elections in December. In January 2001, Carla Del Ponte requested Kustunica to extradite Milosevic. In March, Milosevic was arrested in Beograd and was extradited in June; he would have died in prison in June 2006. In March 2002 the Union of Serbia and Montenegro was established in Beograd. In March 2003 the pro-European prime minister Dindic was killed. In the Thessalonica summit of June, the EU mentioned Serbia as a future partner of the EU, to favor the domestic political situation. In December's parliamentary elections, Seselj's right nationalist party became the first one, but was excluded by the government. In March 2004, a minority government was formed; Kustunica was its president. In July, Carla Del Ponte accused the Serbian government of not collaborating on the delivering to the ICTY of three war criminals: Karadzic (*leader* of Serbs in Bosnia), Mladic (responsible of the Srebenica massacre in Bosnia) and Hadzic (author of many cases of ethnic cleansing in Croatia). In November 2005 negotiations on the association agreement started, but they were suspended in May 2006 for the limited collaboration on the arrest of Karadzic and Mladic. In mid June, negotiations on the association agreement started again, because a new (and more independent from the nationalists) executive had been formed. In May 2007 Tolimir, an assistant of Mladic, was arrested; in June another war criminal (Djorjevic) was captured. In mid June, negotiations on the association agreement started again, also because in mid May a new (and more independent from the nationalists) executive had been formed, after three months of intense negotiations among parties. In February of 2008, there were many street protests in Serbia against the declaration of independence of Kosovo. In April 2008, the EU signed the association agreement with Serbia[61], especially in order to try to influence the elections of following May and favor pro-EU parties, but Netherlands refused to ratify it. In fact, parliamentary elections of May have been won the pro-Europe coalition. The Bosnian-Serb Karadzic was arrested in the July 2008 and extradited to the

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[61] Srdjan Cvijic, "Blocked political system. Serbia 2000-2008", in *Balkanologie*, vol. 12, n. 1-2, 2008, [http://balkanologie.revues.org/index1293.html], 29 October 2013

ICTY[62]. In December 2009, a trade (but not the association) agreement was unblocked by the Commission, without any vetoes from Netherlands[63]. In May 2011 Mladic was arrested in Vojvodina and sent to the ICTY. The president of Commission Barroso declared that it was an important step for Serbian candidature, and its official recognition of Kosovo will not be a pre-condition to enter the EU. In July, Hadzic was arrested and sent to the ICTY. In March 2012, Serbia received the official candidate status. In April 2013 a first agreement of principles on the normalization of relations (but not the official recognition) was reached with Kosovo. In September, the association agreement with EU finally entered into force. In June 2013, the EU Council approved the opening of negotiations with Serbia, that started in January 2014.

Macedonia signed a stability and association agreement in April 2001. The collaboration with the international tribunals on war criminals is good. Conflict with Greece on the choice of the name has not been resolved yet. The granting of candidate status to Macedonia (without excellent political performances) in December 2005 can be explained by the choice of stabilizing peace after the Ohrid agreement promoted by the EU in 2001, after the war promoted by Albanians armed groups[64]. In fact, negotiations with Macedonia have not started yet. Montenegro became independent in May 2006[65] and signed the association agreement in October 2007. In December 2010, Montenegro obtained by the EU the candidate status and in June 2012 negotiations started. The collaboration with international tribunals on war criminals is good.

Bosnia signed the association agreement with the EU on June 2008. It is a not consolidated (con-)federation, still dependent on international instruments of governance; the functioning of common institutions is low and conflicts among the three entities are frequent. Trials against war criminals

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[62] Richard G. Whitman, Stefan Wolff (eds.), *The European neighbourhood policy in perspective*, Houndmills: Palgrave, 2010.

[63] Milica Uvalic, Serbia's transition: towards a better future, Houndmills/New York: Palgrave/Mac Millan, 2010.

[64] Jessica Giandomenico, "Path dependency in EU enlargement. Macedonia's candidate status from a historical institutionalist perspective", in *European Foreign Affairs Review*, vol. 14, n. 1, 2009, pp. 89-112.

[65] Karsten Friis, "The referendum in Montenegro. The EU's post-modern diplomacy", in *European Foreign Affairs Review*, vol. 12, n. 1, 2007, pp. 67-88.

continue, with many legal and practical difficulties. The collaboration with international tribunals is satisfactory, after the arrest of Karadzic in 2008, then of Zuplianin and Stankovic. Albania has signed an association agreement with the EU in June 2006, but (like Bosnia) is not an official candidate. Kosovo is a potential candidate of the EU, and negotiations on the association agreement have started in 2013, but independence is recognized only by 22 members: not by Spain, Greece, Cyprus, Slovakia, Romania. Serbs boycott elections and have built their own institutions.

At the end of 2004, the EU decided to start negotiations (in 2005) with Turkey, even if that country was not totally complying with political criteria. Enlargement commissary Rehn promised that the EU will rigidly apply political conditionality at the end of negotiations[66].

The EU has applied a "judicial conditionality" to former Yugoslavia countries. The insistence of the EU on the extradition of war criminal was not a symbolic diplomatic instrument, but it was the outcome of the perception that only that policy could assure the definitive resolution of the conflicts of the '90s, as the only premise of the compatibility of their nation building process with their entrance in the EU[67]. If those criminal remained in their countries, radical nationalism of the '90s would still find legitimacy in those societies. As Croatia was not investing enough resources in the arrest of war criminal Gotovina, enlargement negotiations were postponed from March to October 2005. Then, Croatia has arrested (in December 2005) and extradited Gotovina, has implemented democratic institutions; thus, Croatia entered the EU in 2013. At the beginning, Serbia's collaboration with the ICTY was limited, and the EU applied political conditionality to the association agreement negotiations, which were suspended in May 2006, because of the unsatisfying collaboration with the ICTY. In 2011, when both Mladic and Hadzic were arrested, Serbia has become an official candidate; now, as its political performances mostly comply with the EU criteria, negotiations should start in 2014. Instead, Bosnia, even if the main war criminal (Karadzic) has been arrested in 2008, is not an official candidate,

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[66] Geoffrey Pridham, "Change and continuity in European Union's conditionality: aims, approach and priorities", in *Democratization*, vol. 14, n. 3, 2007, pp. 446-471.
[67] Franz Schimmelfennig, *op. cit.*, 2008.

because of the bad political performances of post-Dayton federalism[68]. Macedonia and Albania have lower political performances, and if the rule of law is not enough guaranteed by those democracies. Montenegro has higher political performance; thus, negotiation with the EU started in 2012.

Thus, convergence produced positive outcomes in Croatia (1.5), Montenegro (2.5), and Serbia (2), but not in Macedonia (3), Bosnia (3) and Albania (3), where official negotiations on enlargement have not started yet. According to the Freedom House (2013), the standards between 1 and 2 are those of free countries, while those around 3 are the performances of partially free states, which remain illiberal democracies, as far as the rule of law is still lowly guaranteed.

In sum, judicial conditionality has been more anchored to values (the compatibility between the enlargement process and the post-war nation building processes) than to short-term (economic) interests of the EU: through the "logic of appropriateness"[69]. The two (realist and liberal) hypotheses may be also applied to the recent enlargement phase[70]. Sanctions to Serbia in the past -when Mladic and Hadzic had not been arrested yet- confirm the liberal hypothesis anchored to the neutral role of the Commission and no realist corrections -linked to EU members' interests or security assumptions[71] - have emerged so far. There are two interpretations on Croatia, which are referred to the enlargement critical juncture between October (when negotiations started) and December (when Gotovina was arrested) 2005. According to the realist hypothesis, patron's lobbying (Austria) has been crucial to unblock negotiations. Instead, Schimmelfennig

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[68] Geoffrey Pridham, "European Union enlargement to the Western Balkans: political conditionality and problems of democratic consolidation", in Teresa Cierco (ed.), *The European Union neighbourhood. Challenges and opportunities*, Farham: Ashgate, 2013, pp. 9-31.

[69] Joan De Bardeleben, *The boundaries of EU enlargement: finding a place for neighbours*, New York: Basingstoke, 2008; Màire Braniff, "Transforming the Balkans? Lessons learning and institutional reflexivity on the EU enlargement approach", in *European Foreign Affairs Review*, vol. 14, n. 4, 2009, p. 547-63.

[70] Fabio Fossati, *op.cit.*, 2004; Fabio Fossati, "L'Unione Europea come ancora nei processi di democratizzazione dei paesi dell'est Europa dopo il 2007", in *Quaderni di Scienza Politica*, vol. 18, n. 2, 2011, pp. 255-91.

[71] Christophe Hillion, *The creeping nationalization of the EU enlargement policy*, Stockholm: Swedish Institute for European Policy Studies, 2010.

(2008) confirmed the liberal hypothesis because Del Ponte lifted her veto, as she received assurances that Gotovina was going to be arrested[72].

The beginning of negotiations with Turkey can be explained by both realist and reflectivist-liberal hypotheses[73]. There were security reasons to justify the negotiations of Turkey with the EU -stabilizing the region with the enlargement to a NATO country, and hoping to have more mediation capabilities in Middle East conflicts-, and there was the fear that postponing them could have the even worse effect of definitively stopping political and economic reforms in Turkey –thus some "inertia" had to be encouraged[74].

A summarizing typology on conditionality

The analysis of political conditionality applied to European enlargement has permitted the elaboration of the following typology, which also includes other cases of political and economic conditionality. The first dimension is the (flexible or rigid) way of application of the criteria; the second variable concerns the (high or low) density of scrutinized activities: that is to say, if conditionality is applied to many or few negotiations' issues[75].

CRITERIA	Many SCRUTINIZED ACTIVITIES Few	
Flexible	I Eastern Europe enlargement	II Foreign aid
Rigid	III IMF	IV EU Maastricht Treaty

The analysis of the above-mentioned reports of the Commission shows that EU (political and economic) conditionality had two features. On one hand, it was anchored to the flexible criteria of Copenhagen, because there were no quantitative targets for economic and political performances.

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[72] Schimmelfennig, *op. cit.*, 2008.

[73] Franz Schimmelfennig, "The Community Trap: Liberal Norms, Rhetorical Action and the Eastern Enlargement of the European Union", in *International Organization*, vol. 60, n. 1, 2001, pp. 47-80.

[74] Fabio Fossati, "Italy and European Union enlargement. A comparative analysis of left and right governments", in *Modern Italy*, vol. 13, n. 2, 2008, pp. 187-98.

[75] Fossati, *op. cit.*, 2006.

On the other hand, it concerned a very wide range of activities that moreover increased in time; they have recently been extended to other areas like environment. Grabbe (2002, 2006)[76] labeled these two dimensions as uncertainty and density. Instead, political conditionality to foreign aid concerned a very limited range of activities: both flagrant violations of human rights (torture, murders...) and relevant obstacles to the democratization process - some electoral irregularities and civil rights limitations were admitted. At the same time, it has been applied in a flexible way, without previously defined rigid pre-conditions. Moreover, political conditionality to foreign aid[77] has usually been applied through *ex post* mechanisms, after having realized that some opposition leaders were arrested or that the reliability of the elections was seriously hampered.

Instead, economic conditionality applied by the IMF is rigid and concerns a quite wide range of activities; there are targets for the inflation rate, balance of payments, economic growth, debt rescheduling conditions... Recently, medium-range reforms, such as privatizations, are also subject to IMF supervision, through the "structural benchmarks", similar to those of the World Bank. At the beginning, the economic performances of the European Monetary Union "reciprocal" conditionality, established by the Maastricht Treaty, were also similar to those of the IMF, but in the following years targets were reduced to permit to some countries like Italy to enter the Union. In fact, their public deficit was in line with that of other countries, but not their consolidated debts.

Rewards to democratizing states: diplomatic pressures

Political rewards may take three forms: diplomatic pressure to favor free and fair elections; the increase of economic aid to democratizing states; democratic assistance, through funds channeled at favoring democratic groups and free press. These incentives have been especially favored by

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[76] Heather Grabbe, "European Union conditionality and the acquis communautaire", in *International Political Science Review*, Vol. 23, n. 3, 2002, pp. 249-268; Heather Grabbe, *The EU's transformative power. Europeanization through conditionality in central and Eastern Europe*, Houndmills: Palgrave, 2006.
[77] Fabio Fossati, "Cooperazione allo sviluppo: la condizionalità politica", in *Politica Internazionale*, vol. 27, n. 3, 1999, pp. 11-21.

the promoters of leftist constructivism, because this political culture does not support political conditionality, that is deeply "politically incorrect". Negative sanctions against third world authoritarian regimes goes against the principle of cultural relativism, while positive rewards to democratizing states are a "politically correct" instrument of diplomacy. There have been three cases of relevant diplomatic pressures: in the mobilizations -supported by the Usa- against Chavez in Venezuela in 2002 -but they failed-, in the "colored revolutions" in Eastern Europe in 2003/4, and in the Arab spring in 2011/12 in North Africa and Middle East[78].

After the above-mentioned division of eastern Europe into two parts, former USSR countries (except Estonia, Latvia and Lithuania) have never been considered by the EU as potential candidates, and were not targets of political conditionality linked to enlargement. Thus, the external leverage of the EU towards the democratization of those "neighbor" countries has always been very weak. However, the political performances of those countries were mixed, according to the Freedom House (2013)[79]. Belarus (6.5) became authoritarian, after Lukashenko's seize of power in the 90s, while most of the countries were hybrid regimes (Russia 5.5, Armenia 4.5) or illiberal democracies (Ukraine 3.5, with Eastern presidents, Moldova 3, Georgia 3). In fact, Ukraine had also reached the performance of 2.5 (from 2005 to 2009), with Western presidents. Islamic regimes of Caucasus and central Asia remained all authoritarian, and they will not be analyzed in this article.

In sum, some of those countries materialized a democratization process, and the reactions of the EU will be presented in this section on political rewards. There were some critical junctures in that region, linked to the "colored revolutions": especially the rose of Georgia (at the end of 2003) and the orange of Ukraine (at the end of 2004). Western governments reacted with the instrument of diplomatic pressures. In fact, there were some diplomatic missions and declarations, and then some mediation efforts were conducted by the EU in Ukraine and by the USA in Georgia[80].

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[78] Lucan A. Way, "The lessons of 1989", in *Journal of Democracy*, vol. 22, n. 4, 2011, pp. 13-23; T. Carothers, "Barack Obama", in Nicolas Cox, Michael Lynch, Timothy J. Bouchet (eds.), *US foreign policy and democracy promotion*, New York: Routledge, 2013, pp. 196-213.
[79] Freedom House Freedom in the world, [http://www.freedomhouse.org/sites/default/files/FIW%202013%20Booklet.pdf], 29 October 2013.
[80] Fabio Fossati, "L'Unione Europea come ancora nei processi di democratizzazione dei paesi dell'est Europa dopo il 2007", in *Quaderni di Scienza Politica*, vol. 18, n. 2, 2011, pp. 255-291.

In Georgia, in the diplomatic mission of July 2003, president Bush urged Shevarnadze not to rely upon electoral manipulation; after the first round, Powell declared that there had been several irregularities (Fairbanks 2004). During the popular protests of the "rose revolution", Shavarnadze negotiated with the foreign ministers of the USA (Powell) and Russia: not with EU diplomats. Only the American government made pressures to push Georgia to revoke the elections[81]. External diplomatic support to the revolution have been limited[82], as well as the pressures of the American ambassador in Tiblisi (Miles), of the European Council and the OSCE[83]. Finally, Shavarnadze left power after the first (irregular) round, and Saakashvili became the new president in January 2004[84]. In the following years, there were some steps back in both political and civil rights. In Armenia, the governments of the EU and the USA declared that the 2008 (highly contested) presidential elections were fair, and only invited the Armenian president to revoke the emergency state after the popular protests. In Armenia, political performances have worsened after the end of the 1994 war in Nagorno-Karabakh. Thus, in that case Western diplomatic pressure has been low.

Ukraine has always had superior democratic performances with pro-West presidents, like Kravchuk - elected in 1991. After the election in 1994 of the pro-Russia Kuchma, Ukraine turned to a hybrid regime[85]. Before the late 2004 presidential elections, in their diplomatic missions, Bush and Powell discouraged electoral manipulations; these declarations were repeated especially after the first round of elections. Governments of the EU were much shyer in their declarations, except Lithuania and Poland[86]. However, after the first round and the beginning of the "orange revolution", there

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[81] Tanja A. Borzel; Yasemin Pamuk; Andreas Stahn, "Democracy or stability? European Union and United States engagement in southern Caucasus", in Amichai Magen, Thomas Risse, Michael A. McFaul (eds*.), Promoting democracy and the rule of law. American and European strategies*, New York & London: Palgrave, MacMillian, 2009, pp. 150-84.

[82] Joerg Forbrig; Pavol Demes, *Reclaiming democracy. Civil society and electoral change in central and Eastern Europe*, Washington: German Marshall Fund of the US, 2007.

[83] Pamela Jawad, "Conflict resolution though democracy promotion? The role of OSCE in Georgia", in *Democratization*, vol. 15, n. 3, 2008, pp. 619-29.

[84] Charles H. Fairbanks Jr., "Georgia's rose revolution", in *Journal of Democracy*, vol. 15, n. 2, 2004, pp. 110-24.

[85] Lucan A. Way, "Kuchma's failed authoritarianism", in *Journal of Democracy*, vol. 16, n. 2, 2005, pp. 131-45.

[86] Anders Aslund, *Building capitalism: the transformation of the former Soviet bloc*, Cambridge: CUP, 2002.

was a mediation of a team of four diplomats (the secretary of OSCE Kubys, the presidents of Poland and Lithuania, and "mister Pesc" Solana). Bush was informally contacted, without any direct participation in the negotiations[87]. EU governments threatened the canceling of the cooperation agreement and the application of economic sanctions, if Ukraine was going to use violence[88]. Kuzio (2005) emphasized that most of the financing to Ukrainian protesters came from little and medium local firms. Finally, the democratic candidate of the Western part of Ukraine, Yushenko, was elected at the end of 2004, defeating the "eastern" Yanukovych[89]. However, after the elections of 2010, won by the pro-Russian president Yanukovych, Ukrainian political performances have worsened again[90]. According to Tocci (2008)[91], the EU has never envisaged membership possibilities for Ukraine. However, it is the only former Ussr country, that has signed (in 2008) a sort of association agreement with the EU, leading to the constitution of a free trade area. In Moldova, elections have always been almost fair, and there have never been relevant protests[92].

In sum, there have been some diplomatic pressures of the EU in Ukraine (and of the USA in Georgia), but these have not been the most relevant factor of the "colored revolutions"; previous governments failed because of the weakness of their institutions[93]. The impact of other factors (contagion effect, the geo-politics of Eastern Europe, charismatic leaders, mobilization capabilities of the opposition, independence of the media, the intensity of state intervention in the economy) played a more limited role[94].

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[87] Michael A. McFaul, "Ukraine imports democracy. External influences of the Orange revolution", in *International Security*, vol. 32, n. 2, 2007, pp. 45-83.

[88] Tanja A. Borzel; Yasemin Pamuk; Andreas Stahn, *op. cit.*, 2009.

[89] Taras Kuzio, "The opposition's road to success", in *Journal of Democracy*, vol. 15, n. 2, 2005, pp. 117-30.

[90] Tomas Valasek, "Ukraine turns away from democracy and the EU", in *Centre for European Reform Policy Brief*, October 2010.

[91] Nathalie Tocci, *The European Union as a normative foreign policy actor*, Brussels: Center for European Policy Studies, Working Document n. 281, January 2008.

[92] Fossati, *op. cit.*, 2011.

[93] Lucan A. Way, "The real causes of the color revolutions", in *Journal of Democracy*, vol. 19, n. 3, 2008, pp. 55-69; Lucan A. Way, "A reply to my critics", in *Journal of Democracy*, vol. 20, n. 1, 2009, pp. 90-97.

[94] Michael A. Mc Faul, *op. cit.*, 2005; Valeria J. Bunce, Sharon L. Wolchik, "Favourable conditions and electoral revolutions", in *Journal of Democracy*, vol. 17, n. 4, 2006, pp. 5-18; Fossati, *op.cit.*, 2011.

Rewards to democratizing states: the increase of economic aid

The increase of economic aid towards democratizing states is another political reward. The EU has increased development cooperation when political progresses of eastern countries were discontinuous: towards either candidates - when the nationalist governments of Croatia and Serbia were defeated at the elections at the beginning of the 2000 - or "neighbors" (after the electoral revolutions of Georgia and Ukraine). When changes have been gradual, EU aid neither rewarded nor sanctioned them. For example, when the political situation has worsened in Georgia some years after the rose revolution, the EU did not decide any economic sanctions[95]. No sanction was applied to Armenia, whose political performances worsened after 1994.

The following table reports "regional" aid commitments of the EU - thus, decided in Brussels, and not by the single European governments- after 1995:

Table 1 – EU aid commitments to some post-communist countries (1995-2011)

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Cro		0,2	20,6	7,9	3,0	21,6	51,3	131,2	70,4	103,3	127,9	160,3	144,5	240,7	199,2	192,4	
Mac	0,6	13,7	35,8	28,1	98,7	21,1	55,7	40,5	50,2	77,4	50,6	66,4	66,6	100,6	112,1	119,3	135,6
Ser			20,2	11,3	123,1	693,9	298,8	430,1	402,2	477,3	390,3	426,6	339,6	735,5	256,0	245,5	1327
Yug		204,3		0,7	223,2	47,3	46,2	140,9									
Mon												25,7	37,1	43,3	44,4	41,0	59,1
Bos	138,5	0,1	256,4	83,9	162,2	93,3	101,4	108,7	105,6	106,6	73,0	71,4	90,4	125,3	150,0	143,6	236,6
Alb	11,8	38,6	62,2	64,1	89,1	30,4	37,4	49,1	53,9	104,1	58,8	55,2	69,6	98,3	103,4	115,5	189,1
Kos															319,5	213,6	320,2
Mol			13,4		17,7	0,9	19,0	15,5	28,8	13,7	66,7	12,6	120,5	126,1	88,0	291,7	140,0
Ukr											161,2	201,0	241,7	248,9	186,7	200,5	209,3
Geo	17,5	41,6	13,6	25,0	11,6	15,8	38,9	17,2	8,6	52,0	18,7	86,3	40,9	223,5	209,8	106,9	187,4
Arm	15,3	32,1	6,9	16,7	13,6	16,5	7,3	35,2	4,4	23,3	18,1	42,4	43,2	42,6	101,2	41,0	73,7
Bel											21,3	6,4	13,7	15,5	21,4	17,5	30,7

(Source: OECD 2012, in million dollars)

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[95] Fossati, *op. cit.*, 2011.

Statistics show that potential candidates of former Yugoslavia received more aid that those of former Ussr. The EU (and also the USA) increased aid towards Croatia after 2001, when the right nationalist party was defeated (Oecd 2010). EU rewarded Serbia even more after Milosevic's defeat in 2000; USA economic assistance had already increased in 1999[96]. EU funds increased even more, after the 2008 elections, where the pro-Europe coalition won. Then, after the arrest of Mladic in 2011, EU aid increased five times more. In the other cases characterized by a slow and gradual democratization process, there were no relevant reductions or increases of the EU economic aid, linked to the democratic performances. In 2005 and 2006 funds to Bosnia diminished, together with political improvements (after 2004); most aid was channeled in 1997 and 1999, in order to stabilize Dayton's agreement, but institutions were still illiberal. In Montenegro, being a democracy since its institution, only 2006 data are available. In Macedonia, there was a step back in the democratization process in 2000, and another deeper in 2001, the year of war. In 1999 aid was increased especially to help the government to face the refugees flow from Kosovo; in 2000, funds had decreased, and in 2001 (with the war) they increased; in 2002, when democratic performances improved, aid decreased. Funds increased again in 2004, when the country was close to receive the candidate status (but without relevant political progresses). In Albania, democratic performances worsened in 1996 and in 1998; that negative standards lasted until the year 2000. EU aid did not follow political performances, because in 1996 and 1998 there was an increase, because the economic "pyramids" crisis had to be stabilized; in 2005 and 2006 funds again decreased. In 2008, EU aid increased for all the countries.

OECD data are incomplete on Ukraine and Belarus, and those on Russia are missing. Thus, here is another table on Tacis commitments of the EU. Tacis funds -abolished in 2006- represented most of the EU aid, except others of technical nature.

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[96] Aaron Presnall, "Which way the wind blows. Democracy promotion and international actors in Serbia", in *Democratization,* vol. 16, n. 4, 2009, pp. 661-81; OECD Statistical Compendium (Cd-Rom), Paris, 2012.

Table 2 – EU Tacis funds to some post-communist countries (1991-2006)

	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
MOL	1,1	9,0	0,0	10,0	9,0	0,0	18,0	0,0	19,5	0,0	19,5	0,0	25,0	0,0	42,0	0,0
UKR	28,7	48,3	43,3	50,5	72,5	76,0	59,0	44,0	38,6	63,5	63,0	67,0	50,0	70,0	88,0	100,0
GEO	5,0	9,0	6,0	8,0	6,0	16,0	0,0	16,0	0,0	0,0	4,0	14,0	0,0	27,0	0,0	20,0
ARM	2,3	9,6	17,0	0,0	6,0	14,0	0,0	10,0	0,0	7,8	0,0	10,0	0,0	10,0	0,0	17,0
BEL	8,9	14,6	9,0	7,0	12,0	0,0	0,0	5,0	0,0	0,0	0,0	0,0	5,0	0,0	8,0	4,5
RUS	212,0	111,0	151,0	150,0	161,0	133,0	133,0	140,0	98,0	53,0	80,0	90,0	105,0	94,0	80,0	57,0

(Source: EU Commission 2008, in million euros)

These data also show that the EU also applied some political conditionality to development cooperation to former Soviet Union countries, but that policy was not effective at all, as no enlargement possibility had been envisaged for those countries. For example, EU foreign aid has been reduced after intense violations of the democratic principles, like in Belarus and Russia. Aid was strongly cut (after 1997) in the only authoritarian post-communist state: Lukashenko's Belarus. In fact, after a decision of the European Council in 1997, the EU only sent humanitarian or regional aid to Belarus, and some democratic assistance. Since 2007, Belarus was excluded by the generalized system of trade preferences[97]. Sanctions did not produce any political effect on Belarus, because of its privileged relation with Russia[98].

When Putin limited the democratization process and attacked Chechnya at the end of the 1990s, Tacis funds decreased of nearly 1/3. Political conditionality had a lower application in Russia, because that regime was not as authoritarian as Belarus. Moreover, there had been the parallel increase of EU aid to democratizing countries (Ukraine and Georgia). Then, also Russia was willing to decrease European aid as a consequence of Putin's conflict stance in the energy sector. Tocci (2008) emphasized that the EU effectiveness of political conditionality towards Russia has been

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[97] Richard Youngs, *Is European democracy promotion on the wane? Brussels: Center for European Policy Studies*, Working Document, n. 292, May 2008.

[98] Mathieu Briens, "Belarus and Lybia: wider Europe's 'pariahs'?", in Dieter Mahncke, Sieglinde Gstohl (ed.), *Europe's near abroad. Promises and prospects of the EU's neighbourhood policy*, Brussels, PIE Peter Lang, 2008, pp. 213-34; Elene Koresteleva, "The limits of EU governance: Belarus' response to the EU neighbourhood policy", in *Contemporary Politics*, vol. 15, n. 2, 2009, pp. 229-45.

low, and the European governments never pressed Putin to improve democracy and human rights[99]. The EU also failed in its effort to develop cooperative relations in the energy sector, especially for the free-riding attitudes of some member countries, like Germany, France and Italy[100]. Thus, EU negative sanctions did not produce any political improvements in Belarus and Russia, because European economic aid was not a relevant outcome, especially for an energy exporting country like Russia, on the contrary of enlargement perspectives.

The second empirical evidence concerned the increase of aid to Georgia and Ukraine[101] after the two revolutions. The EU increased funds towards Georgia after the roses revolution of December 2003, that led to the retirement of Shevarnadze. Previous gradual political steps back in 2000-2003 had not been sanctioned by the EU. Then, aid increased also in 2006, when Saakashvili had a political involution. The worst political climate was the consequence of the EU economic incentives to the government after 2004, and the decrease of democratic assistance that before 2004 had been channeled (from USA, EU, international institutions, like Soros Foundation) to Georgian NGOs[102]. USA aid had the same trend, with increases in 2004 and 2006[103]. Then, the USA applied the "lesser evil" diplomacy to their Georgian allied[104]. In Ukraine, Tacis funds increased after the orange revolution of 2004, which led to the election of western presidential candidate Yushenko. In 1994, after the election of the eastern candidate Kuchma, and the following political involution[105], EU aid had decreased (to a more limited extent), but was still inferior (for example) to that channeled to Russia. Way (2008)[106] emphasized that foreign aid -especially of the USA,

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[99] Tocci, *op. cit.*, 2008.

[100] Anna-Lena Hogenauer; Michael Friedel, "The EU and Russia: strategic or short-sighted partnership?", in Dieter Mahncke, Sieglinde Gstohl (eds*.), Europe's near abroad. Promises and prospects of the EU's neighbourhood policy*, Brussels: PIE Peter Lang, 2008, pp. 257-276.

[101] Youngs, *op. cit.*, 2008.

[102] Susan Stewart, "The interplay of domestic contexts and external democracy promotion: lessons from Eastern Europe and South Caucasus", in *Democratization*, vol. 16, n. 4, 2009, pp. 804-824.

[103] OECD, *op. cit.*, 2010.

[104] Povilas Zyelis, "New version of the Kirkpatrick doctrine in the post-Soviet space", *Democratization*, vol. 17, n .5, 2010, pp. 878-898.

[105] Way, *op. cit.*, 2005.

[106] *Ibidem*, 2008.

which were nearly the double of that of the EU[107] - was relevant both in democratizing Ukraine, and in Russia (a no change case). Ukraine received a relevant flow of democratic and economic assistance before 2005, especially by the USA, permitting an efficient supervision of the electoral process. After the worsening of political performances in 2010, there was not any decrease of EU aid. Then, the EU did not help Ukraine to reduce its dependence from Russia in the energy sector[108]. The total amount of bilateral EU aid followed similar trends, even if with some delay after Brussels' decisions[109].

Data on the other countries with gradual transitions (Moldova and Armenia) confirm the absence of correlation between EU aid and political performances. In Moldova, after the political involution in 2002, funds remained at an intermediate level, even if superior to those of more democratic years. In 2005, the increase of funds depended on the launching of the *EU-Moldova Action Plan* by the EU. In Armenia, aid has not followed specific domestic political events; funds had remained stable and increased since 2006, when the *European Neighbourhood Policy (ENP) Action Plan* was launched. In the meanwhile, political performances had strongly worsened.

The empirical evidence on the evolution of EU foreign aid supports the theoretical choice of not summarizing in one analytic category negative and positive conditionality. The EU does not give rewards or sanctions within a gradual continuum from very negative, negative, to neutral, to positive and very positive. Negative sanctions are applied after intense violations of democratic principles; in intermediate cases, that is to say with illiberal democracies or hybrid regimes, there is no reaction. If political and civil rights are improved, rewards only materialize when the democratic transition is discontinuous: thus, not depending on the quality of democracy either.

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[107] Baracani, *op. cit.,* 2009.

[108] Judith Burger, "The implementation of the neighbourhood policy in the East: the case of Ukraine", in Dieter Mahncke, Sieglinde Gstohl (eds.), *Europe's near abroad. Promises and prospects of the EU's neighbourhood policy*, Brussels: PIE Peter Lang, 2008, pp. 165-84.

[109] OECD, *op. cit.,* 2010.

Rewards to democratizing states: democratic assistance

Among the three instruments, democratic assistance is the most "constructivist" one and has been applied by Western countries, since the second half of the '90s, when political conditionality to development cooperation had failed to produce relevant effects[110]. In fact, the main feature of democratic assistance is its limited capability to produce political effects. Thus, it is an example of "organized hypocrisy". Western countries apply and emphasize democratic assistance, precisely because are conscious that it has limited effects[111].

The EU channeled democratic assistance to candidate and neighbor countries. In the first phase, it had been low, as in the '90s EU economic aid (Phare) to the candidates was limited (5%), in comparison to structural and cohesion funds channeled to its members. Only 2% of the Phare was devoted to democratic assistance[112], while a larger 25% went to support to institutions (public administration and regionalization) and to expenditures in training and research[113]. Economic aid to former Yugoslavia states was around 5% of funds directed to EU member countries. In the first half of the last decade, EU democratic assistance to the second *tranche* of Eastern Europe candidates represented a percentage superior to 2%: Croatia 28%; Bosnia 19%; Serbia 14%; Montenegro and Kosovo 8%; Macedonia 5%; Albania 3.5%. Data on former USSR (in the second half of the decade) were over-estimated, because percentages include aid to improve *good governance*. Ukraine and Armenia received 30%, Georgia 26%, Moldova 18%. In Belarus, as economic aid was totally cut, nearly 60% of the few funds of 2005 were channeled to support civil society. In Russia, EU democratic assistance was nearly 4% of the total (in the first half of the decade), but since 2005, Putin refused EU aid to independent NGOs[114]. Thus, in former USSR (and also in Bosnia), traditional democratic assistance (to support independent NGOs

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[110] Fossati, *op. cit.*, 1999; Thomas Carothers, *Critical mission. Essays on democracy promotion*, Washington: Carnegie Endowment for Democracy and Peace, 2004.

[111] Youngs, *op. cit.*, 2008.

[112] Karen Smith, "Western actors and the promotion of democracy", in Jan Zielonka, Alex Pravda, *op. cit.*, 2001, pp. 31-57; Youngs, *op. cit.*, 2008.

[113] Fossati, *op. cit.*, 2004.

[114] *Ibidem*, 2011.

and press agents) has been limited. The EU focused on good governance, to improve the public administration effectiveness and favor the *acquis* transfer[115].

In sum, EU democratic assistance rewarded democratizing countries, and especially the candidates with more concrete possibilities to enter the Union (like Croatia) or the "neighbors" which were living uncertain political transitions (like Georgia and Ukraine), but did not sanction illiberal democracies, hybrid or authoritarian regimes. This occurred precisely because democratic assistance had to compensate the effects of illiberal democracies (Bosnia), and of hybrid or authoritarian regimes (Armenia, Russia, Belarus)[116]. That policy was perfectly coherent with the constructivist ideology of politically correctness[117].

Thus, the external anchorage to promote democracy in former USSR has been weak. This is the reason why Edwards (2008)[118] and Sasse (2008)[119] have emphasized the low consistency of the EU's neighborhood policy. Only Ukraine, and only with pro-West presidents, has materialized a democratic convergence process, but it has not been rewarded by the granting of any candidate status by the EU, that never envisaged membership perspectives, because this could have led to conflict with the eastern and pro-Russia population[120]. Diplomatic pressures of the EU in Ukraine (and of the USA in Georgia) were not the most relevant factor of the "colored revolutions"; those governments or regimes failed because of the weakness of their institutions. Thus, the absence of an effective rewards policy of the EU towards Ukraine has weakened its democratization process, and in 2010 the presidential election were won by the pro-Russia and lowly democratic candidate. Then, Sasse (2013)[121] emphasized that the economic, political and

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[115] Richard Youngs, "Democracy promotion as external governance?", in *Journal of European Public Policy*, vol.16, n.6, 2009, pp.895-915; Richard Youngs, *The European Union and democracy promotion: a critical global assessment*, Baltimore: Johns Hopkins University Press, 2010.

[116] *Ibidem*, 2008.

[117] *Ibidem*, 2011.

[118] Geoffrey Edwards, "The construction of ambiguity and the limits of attraction: Europe and its neighbourhood policy", in *Journal of European Integration*, vol. 30, n. 1, 2008, pp. 45-62.

[119] Gwendolyn Sasse, "The European neighbourhood policy. Conditionality revisited for the EU's eastern neighbours", in *Europe-Asia Studies*, vol. 60, n. 2, 2008, pp. 295-316.

[120] Burger 2008, Lavenex, Schimmelfennig 2010.

[121] Gwendolyn Sasse, "Linkages and the promotion of democracy: the EU's eastern neighbourhood", in *Democratization*, vol. 20, n. 4, 2013, pp. 553-591.

cultural linkages with Russia had limited EU's promotion of democracy[122]. However, Lavenex and Schimmelfenning (2013)[123] emphasized that EU's relations with "neighbors"[124] have been characterized by functional cooperation among the administrations, without any coercive democracy promotion in the short term. Haukkala (2008)[125] has labeled EU's neighborhood policy (through negotiations without enlargement perspectives) as a "normative power"[126]. In sum, negative sanctions to Belarus and Russia were not effective, and diplomatic or economic incentives to Georgia and Ukraine mostly remained symbolic.

The relation between enlargement and democratic consolidation in Eastern Europe

However, the side-effect of low impact of the EU in the democratization process of countries pertaining to the geo-political sphere of influence of Russia has been precisely the contrary in the relations between EU and its candidates. In fact, the EU enlargement process has strongly favored the democratic consolidation of the eastern European candidates, after the political transition phase, whose main "engine" has been the fall of the Soviet block. European integration represented the external "anchor" that has favored both economic and political reforms. The same hypothesis was supported by Pridham (1991)[127], who had emphasized that the enlargement towards Mediterranean countries represented the external linkage that reinforced democratic consolidation. Those countries made many post-

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[122] Michael A. Mc Faul, Nikolai Petrov, Andrei Ryabov, *Between dictatorship and democracy. Russian post-communist reform*, Washington: Carnegie Endowment for International Peace, 2004.

[123] Sandra Lavenex, Franz Schimmelfennig (eds.), *Democracy promotion in the EU's neighbourhood. From leverage to governance?*, London: Routledge, 2013.

[124] Michael Emerson, "Just good friends? The European Union's multiple neighbourhood policies", in *International Spectator*, vol. 46, n. 4, 2011, pp. 45-62; Sandra Lavenex, "Concentric circles of flexible European integration: a typology of EU external governance relations", in *Comparative European Politics*, vol. 9, n. 45, 2011, pp. 372-393; Richard G. Whitman, Stefan Wolff (eds.), *The European neighbourhood policy in perspective*, Houndmills: Palgrave, 2010.

[125] Hiski Haukkala, "The European Union as a regional normative hegemon: the case of European neighbourhood policy", in *Europe-Asia Studies*, vol. 60, n. 9, 2008, pp. 1601-1622.

[126] Tocci, *op. cit.*, 2008.

[127] Pridham, *op. cit.*, 1991.

accession adjustments[128]. Instead, the post/second world war democratization of other European countries had mostly domestic origins (except, again, its starting point). However, this hypothesis is solely linked to the critical juncture between transition and consolidation, and this relevant passage has probably not been studied enough in the literature[129]; then, other domestic factors may have influenced the different degrees of speediness of the political stabilization in each eastern candidate.

The most recent enlargement phase can help to elaborate some medium-term diagnoses on the democratization process. Kitschelt (2003) emphasized that the institutional legacies of the past would have influenced the democratization process of Eastern European countries[130]. The democratic transition would have been simpler in the countries with bureaucratic (and democratic regimes: East Germany, Czech Republic and, in part, Poland) or national-accomodative (and semi-authoritarian: Hungary, Slovenia, Croatia and, in part, the three Baltic states, Slovakia, Serbia) communism in the past, and more difficult in those with a patrimonial (and authoritarian: Albania, Macedonia, Bulgaria, Romania, Moldavia, Ukraine, Russia, Belarus, Georgia, Armenia) past. Kitschelt did not elaborate any diagnosis for Bosnia, as that country did not exist in recent decades. Kopstein (2003)[131] and Pop-Eleches (2007)[132] emphasized that past (institutional and cultural) *legacies* had influenced the democratization process more than EU political conditionality[133].

The 2004 enlargement confirmed Kitschelt's hypothesis, because all new members pertained to the former two categories. Moreover, the EU has stabilized other four frontier cases between nationalist and patrimonial communism: all the three Baltic states and Slovakia. Instead, the 2007 enlargement towards Romania and Bulgaria did not confirm Kitschelt's

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[128] Rachel A. Epstein, Ulrich Sedelmeier, *International influence beyond conditionality: post-communist Europe after EU enlargement*, London: Routledge, 2009.

[129] Fossati, *op. cit.*, 2011.

[130] Herbert Kitschelt, "Accounting for post-communist diversity. What counts as a good cause?", in Gzegorz Ekiert, Stephen E. Hanson (eds.), *Capitalism and democracy in Central and Eastern Europe. Assessing the legacies of communist rule*, Cambridge: CUP, 2003, pp. 49-86.

[131] Jeffrey Kopstein, "Review essay. Post-communist democracy: legacies and outcomes", in *Comparative Politics*, vol. 35, n. 2, 2003, pp. 231-50.

[132] Grigore Pop-Eleches, "Historical legacies and post-communist regime change", in *Journal of Politics*, vol. 69, n. 4, 2007, pp. 908-926.

[133] Arista Maria Cirtautas, Franz Schimmelfennig, "Europeanisation before and after accession. Conditionality, legacies and compliance", in *Europe-Asia Studies*, vol. 62, n. 3, 2010, pp. 421-441.

hypotheses, as the two Balkan countries had a patrimonial communist regime in the past, but their democratization process seemed quite stable after their entrance in the EU in 2007[134]. The 2013 enlargement was coherent with Kitschelt's diagnosis, as Croatia had a semi-authoritarian past, and should fully democratize in the future. Serbia (and Montenegro) is another frontier case, like the other four (Baltic states and Slovakia), and should democratize (and enter the EU), according to Kitschelt. Macedonia, Albania and all former USSR countries had an authoritarian and patrimonial past; according to Kitschelt's hypotheses, they should have an unstable political future[135]. Ukraine (with a patrimonial regime and authoritarian past) has had (but only with Western presidents) good political performances, but democracy has worsened after the 2010 victory of the Eastern president. In sum, Ukraine, like Moldova, remained an hybrid regime[136].

The main alternative hypothesis is that of the socio-economic modernization level[137]. Countries with a more stable political future would increase (Macedonia, Ukraine, Russia), but precisely these cases (and especially the latter) do not empirically support this thesis. Thus, the explanation capability of the historical legacies hypothesis has been partial. In sum, the democratization process of the candidates has been reinforced by the EU enlargement[138] in all the countries with a democratic or semi-authoritarian past, including some frontier cases (the Baltic States, Slovakia, Serbia); instead, in Romania and Bulgaria it has been modified by the EU political conditionality. In Ukraine, a non candidate country with a patrimonial and authoritarian past, the democratization process has been reinforced, even if only partially and for limited time periods, by the cultural proximity with the West. Thus, this seems another "frontier" case and the coherence of Kitschelt's hypothesis has to be tested again in the next years.

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[134] Franz Schimmelfennig, Hanno Scholtz, "Legacies and leverage. EU political conditionality and democracy promotion in historical perspective", in *Europe-Asia Studies*, vol. 62, n. 3, 2010, pp. 443-460.

[135] Fossati, *op. cit.*, 2011.

[136] Roberto Di Quirico, "La democrazia si è fermata a Bucarest. Limiti e prospettive del processo di democratizzazione nei paesi ex-sovietici vicini dell'Unione Europea", in *Rivista Italiana di Scienza Politica*, Vol. 40, n. 1, 2010, pp. 59-82.

[137] Joergen Moeller, Svend-Erik Skaaning, "The three worlds of post-communism: revisiting deep and proximate explanations", in *Democratization*, vol. 16, n. 2, 2009, pp. 298-322.

[138] Geoffrey Pridham, *Designing democracy. EU enlargement and regime change in post-communist Europe*, Houndmills: Palgrave, 2005.

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THE EU NEGOTIATIONS EXPERIENCED IN V4 COUNTRIES

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Abstract

The evolution of the negotiating activity of Visegrad four countries is knowing in recent times an intensification and a step change in respect to the ineptitude of the past in which the bargaining attainments with the EU Commission have been, during the period of pre-accession processes, very limited. The opportunity for a discussion of some aspects of the changed conditions, that underlie the birth/rebirth of a greater verve, is proposed by the negotiation processes currently in progress of the new Multiannual Financial Framework 2014-2020. This article focusses on the comparison between V4 countries, carrying out an analysis on the two phases of pre and post-accession. It highlights the results achieved in the socialization process to the EU rules in some key sectors of the pre-accession negotiations (the first section of the article) and the relatively positive allocation of funds, reached in the new MFF, showing a dynamic relationship between Visegrad countries in the post-accession processes (the second session).

Key words: European economic integration, Visegrad four countries, EU accession, Cohesion Fund

Introduction

In the exploration of the pre-accession processes of the transition towards an open economy and a democratic process in Czech Republic, Hungary, Poland and Slovakia (hereafter V4 countries), we encountered recurring caveats about the very limited aptitude, or worse, the ineptitude, to pre-accession negotiations activities.

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Close before the enlargement (the big enlargement, the fifth), accession countries and EU Commission have worked hard to ensure the transposition of the *acquis communautaire*. In 2002, with the time that became tight, the V4 (just a decade out from a centrally-planned economy - communist countries) were facing a race against time in order to legislate on issues of public finance, the four fundamental freedoms, on the laws of the common market, etc. It happened that during the fervour of those days, some of the laws were approved by Parliaments without a complete and exhaustive discussion and revision, even presenting inherently some incompleteness; concerning that, the EU Commission has played a significant role of control and monitoring having to assess the presence of minimum requirements concerning the overall legislation and new administrative structures.

The aim of this paper is to gain insight to some of the key negotiation factors that have determined the pre-accession process in V4 countries, based on the idea that processes and relevant activities during the pre and post-accession obtained a different impact in the implementation of the *acquis communautaire* and more recently in the preparation of the new Multiannual Financial Framework 2014-2020 (hereafter MFF), as well as in the absorption of cohesion funds.

In pursuing this objective, the article collects the reflections of the author based on an exploration and analysis of the Comprehensive reports and other official EU documents, as well as on the analysis elaborated by scholars based on the negotiating positions in the field (in this context the first section), and on the statements prepared by the authorities of the V4 countries (in the following section of the article)[1].

The description, although short of the materials used in the analysis, of the indicators and the results, is set forth below between the first and second sections parts. Through bounding the weakest and highest single results / goals, we have attempted to recreate the scenario of the negotiations in the two analysed periods in order to see how the quantifiable points compare with the initial big picture.

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[1] The first part of this article derives from a deep re-elaboration of the PhD thesis of the author discussed at the IUIES (International University Institute for European Studies of Gorizia), with the title "The integration after Eastern enlargement: Convergence or divergence of the EU economies?" under the supervision of Prof Jozef Komornik (Comenius University of Bratislava), 2005.

Preliminarily we opted for reconsidering the process of structural reforms of the state administration in the V4 in the last years before the accession when there was a growing acceleration of new laws adopted by the national Parliaments. Therefore the focus of the first section has been made on analysing the "Comprehensive Monitoring Reports" issued by the European Commission in 2003; by evaluating and comparing these documents, it has been possible to assess the consistency, or otherwise, of the development and adaptation of legislation to the EU[2]. Subsequently, we have analysed the delicate phase of negotiation for the cohesion policy, for the programming of the new Multiannual Financial Framework 2014-2020.

Key strategic and sector issues of the negotiation activity in the pre-accession period

Could it be confirmed a common relation among the administrative structures in the V4 during the pre-accession period? In order to respond to the question we must take in consideration the aspects concerning the many differences between and within V4 countries, besides common features and trends, both structural and cultural.

The Copenhagen European Council in 1993, has requested a number of conditions to be achieved before accession, and principally in order to gain the membership, the candidate countries were requested to prove stability of institutions guaranteeing democracy. The Copenhagen Council defines these conditions in terms of economic and political criteria as well as of the ability to assume the obligations for membership. Moreover, to possess consolidated "rule of law", human rights and protection of minorities, the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union. The qualification of member state presumes that the candidate shall

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[2] In this part of the article, we intend to discuss about the preconditions that were supposed to promote the development of the rule of law in the V4. In particular proceeding to examine the difference between formal rules and applied legislation Emmert mentions that "EU needs rule of law a lot more than it needs, for example, an internal market" (Frank Emmert, "Rule of Law in Central and Eastern Europe", in *Fordham International Law Journal*, Volume 32, Issue, 2008,
[http://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=2143&context=ilj], 20 October 2013).

be capable to take the obligations including adherence to the aims of political, economic and monetary union. The European Council of Madrid has further specified these criteria in June 1995, highlighting the importance not only of incorporating the *acquis* into the national legislation, but also of ensuring its effective application through appropriate administrative structures. The systematic assessment by the European Commission included the detailed administrative structures that are required to implement the twenty-nine Chapters of the *acquis* including the functions strictly mandatory and the basic characteristics that such structures should have fulfilled.

In consideration that inadequate public administration systems, as described by several authors[3], constitute a key obstacle for the promoting a market economy in post-communist countries, the most attempts, just before the accession, had been directed to readdress and to review functionally the institutions according to the "best practice" available in the Western Europe[4]. In fact, "good governance" should reflect the principles of effectiveness and efficiency, or, in other words, the problems of the local society should be re-addressed timely and with equilibrate use of the available resources. Fifteen years before the accession date, functions and structures of the public administration were not able to undergo any of the rapid changes that the four countries have initiated turning from a state of command economy to democratised states with a free market economy[5].

The annual assessment of the administrative capacity done by the European Commission has repeatedly stressed over the same common constraints in the public administration of the accession countries. We believe that specific aspects related to the public governance are still persisting in the V4 countries. These weaknesses are still affecting the proper functioning

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[3] See for instance Miroslav Beblavy, "Management of Civil Service Reform in Central Europe", in *Mastering Decentralization and Public Administration Reforms in Central and Eastern Europe*, 2002,
[http://www1.worldbank.org/publicsector/civilservice/june2004seminar/Chapter 3.pdf],
20 October 2013.
[4] See Liborio Mattina (ed.), *La sfida dell'allargamento. L'Unione Europea e la sfida della democratizzazione dell'Europa centro-orientale*, Bologna: Il Mulino. Mattina, 2004, pp. 91-94.
Transition, convergence to market economy and the post-socialist transformation is well described by Bernard Chavance, Eric Magnin, *National trajectories of post-socialist transformation: is there a convergence towards Western capitalism?*, 1998,
[http://www.colbud.hu/honesty-trust/chavance/pub01.pdf], 20 October 2013.

of the institutions created or adopted before the EU accession. We could, in fact, observe uncertainty concerning the general conceptual mandate regarding the role of state toward the economic and social sphere, with persistent old institutional infrastructures that public managers are reluctant to handover, keeping alive shadow areas where sometimes still persist corruption and misuse of public power[6]. Moreover, when the enforcement of EU law requested a change in the informal rules and practices and/or in the formation of new institutions, it happened that were retreated. According to the rational choice approach, we should agree that, sometimes, the formal rules tend to be guided by the self-behaviours of the actors involved in the public sector[7]. What are the rules-on-book (formal rules) and the rules-on-use (informal rules) has been evidenced by the work of Falkner and Treib (utilizing the terminology "dead letters"[8]), describing the case when the formal rules are supposed to be implemented in a weak state, unable to involve sufficient administrative resources[9].

The strategy paper called "Towards the enlarged Union. Strategy paper and report of the European Commission on the progress towards accession by each of the candidate countries" (2002) identifies the obligations that the candidate countries had to accomplish from the beginning of 2004 in order to complete the criteria for membership; the Commission was

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[6] See the recent report on corruption and risks, published by Transparency International Hungary (2012).

[7] Concerning the persistent links between legacies and post-communist democracy behaviour see Grigore Pop-Eleches, "Historical Legacies and Post-Communist Regime Change", in *The Journal of Politics*, Princeton University Vol. 69, No. 4, November 2007, pp. 908–926. [http://www.princeton.edu/~gpop/HistoricalLegaciesandPostCommunistRegimeChange.pdf], 20 October 2013.

[8] As Falkner and Treib put it: "[…] many of the legal provisions….have so far largely remained dead letters", Gerda Falkner, Oliver Treib, *Three Worlds of Compliance or Four? The EU-15 Compared to New Member States*, Institute for Advanced Studies, Vienna, 2008, p. 14, [http://www.eui.eu/Documents/DepartmentsCentres/AcademyofEuropeanLaw/CourseMaterials UL/UL2009/Conant/ConantReading2.pdf], 20 October 2013.

[9] Also Dimitrova emphasises on the weak implementation of the formal rules by local governments: "Observers have not been very optimistic about the real impact of the adopted formal rules and many have suggested that the new legislation would exist only on paper", Antoaneta L. Dimitrova, *The new member states of the EU in the aftermath of enlargement: Do new European rules remain empty shells?*, 2010, p. 5, [https://openaccess.leidenuniv.nl/bitstream/handle/1887/15003/Dimitrova++JEPP+RA+final.pdf? sequence=4], 20 October 2013.

charged notably to produce six months before the envisaged date of accession a Comprehensive Monitoring Report for the Council and the European Parliament[10].

The reports on the state of preparedness for the EU membership for each country[11], were issued, with the information updated to September 2003. Each report is pushing the country to adopt important tasks to be performed before the time of accession in order to overcome the weaknesses in the institution building and harmonization with the *acquis communautaire*, alerting their administrations of the serious consequences in the event of failure. The Commission was deemed to take appropriate measures to safeguard the functioning of the Union in all areas and in particular in the internal market.

Prior to September 2003 the Commission has intensified the monitoring in order to assess whether the commitments of the accession countries were met in practice, considering that the date of accession was very close. Basic commitments, based on the Treaty obligations, consider to enforce the full *acquis* from the starting of the membership, although a limited number of exceptions were agreed upon in areas where transitional arrangements were stipulated during the negotiations. The findings of the monitoring reports were communicated to the concerned countries for guidance in their further preparation for accession, in the most important cases, including specific gaps in the alignment and implementation of the EU legislation, eventual misalignments have been anticipated through a special official warning to the Governments, notifying that the lack of adequate measures would lead to a negative assessment. The findings were described utilising three well distinguished ranking levels:

- (*) the first ranking level includes all those "issues where a country is ready or just minor issues remain to be addressed". (As we explain below, we excluded this first category from analysis, because it can be deducted per difference from the other two).

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[10] See list of obligations that accession countries should fulfil (EC 2002).
[11] EC 2003a, 2003b, 2003c and 2003d.

- (**) the second ranking level includes "remaining issues requiring enhanced effort and an increased pace of progress to ensure that the findings are resolved by the time of the accession".
- (***) the third ranking level addresses "issues of serious concern, where immediate decisive actions needs to be taken for the country in order to be ready by the date of accession". The EU Commission, concerning this ranking level, states that if the problem will not be solved by the time of accession, the findings may lead to a situation where a new member state will not have the full benefit of membership.

The Comprehensive Reports for Poland, Czech Republic, Hungary and Slovakia follow the scheme synthesized here below, utilizing the subsequent five analytical categories: IST (normative - institutional), SOC (social), ECON (strictly economic), POLIT (strictly political) and finally CULT (cultural). Accordingly, in Table 1 we grouped together the twenty-nine negotiation Chapters into the selected five analytical categories.

Table 1 – Negotiation Chapters

Analytical categories	Chapters of the *acquis communautaire*
IST	- Free movement of goods (°)
	- Free movement of persons (°)
	- Free movement of services (°)
	- Free movement of capital (°)
	- Company Law (°)
	- Competition Policies (°)
	- Statistics
	- Regional policies and structural funds (°)
	- Justice and Home Affairs (°)
SOC	- Social Policy and Employment (°)
	- Environment
	- Consumer and Health Protection
ECON	- Agriculture (°)
	- Fisheries
	- Transport Policy
	- Taxation (°)
	- Economic and Monetary Union (°)
	- Energy

Analytical categories	Chapters of the *acquis communautaire*
	- Industrial Policy (°)
	- Small and Medium Enterprises
	- Telecommunication and Information Technologies
	- Customs Union
	- Financial Control (°)
	- Financial and Budgetary Provisions
POLIT	- External Relations
	- Common Foreign and Security Policy
CULT	- Science and Research
	- Education and Training
	- Culture and Audio-Visual Policy

We selected for analysis fourteen from the twenty-nine Chapters of negotiation (highlighted with a symbol in the above table) following a detailed analysis of the levels assigned to the four countries into the respective Comprehensive Monitoring Reports. We excluded from the analysis the negotiation Chapters where the ranking level was considered by the Commission as "issues where a country is ready or just minor issues remain to be addressed" with symbol (*); but we excluded also, in order to simplify our analysis, the Chapters on fisheries for all V4, the Chapter on market policies in Poland and the Chapter on road transport in Czech Republic, all received negative ranking level. The Chapters, which we will comment in detail in the following pages, fall in the most relevant analytical categories, respectively IST, SOC and ECON.

Once more, the highlighted ranking levels do not take care of the positions where the countries are considered ready, or just minor issues remain to be addressed; therefore our attention is addressed toward two negative findings: "enhanced effort requested" (**), and "issues of serious concerns" (***).

Free movement of goods: all four countries received (**) level on public procurement. Implementation of the "new" approach directives in this sector implies the conversion of a system based on mandatory over-prescriptive technical requirements and a state run mandatory certification into one where the regulatory sphere is limited to essential safety requirements, technical specifications have to be handled by voluntary standards.

Free movement of persons: Poland and Czech Republic received (***) level and Slovakia (**) on recognition of qualifications and lack of training in health care sector. The Community action in the important area of free movement of persons is limited to the organization of the mutual recognition of professional qualifications defined by specific directives (general systems directives as per directive 89/48/EC and 99/42/EC) and the sectorial directives for lawyers, architects and health care professions. The recognition of professional qualifications is based on mutual trust between different national authorities and on previous coordination of the national legislations and training (and titles recognition).

Freedom to provide services: all four countries received the (**) level for general financial services. It is foreseen a main institutional authority for the supervision activity of the three financial sectors: banking, insurance industry and capital market. In order to oversee these credit institutions, the supervisory authority should in general prove to be autonomous and independent, to have sufficient qualified staff, not under-remunerated, to be mostly self-financed by the market participants (but in the case of the banking sector, to be under the financial support of the National Bank).

Free movement of capital: Poland and Czech Republic received (**) level on fight against money laundering. In order to prove the administrative capacity, it is needed to demonstrate having implemented the directive no. 97/5/EC, establishing the body responsible for handling the customers complaints on cross-border credit transfers. Anti-Money laundering obligations should be guaranteed by a special Financial Intelligence Unit established under the Ministry of Justice, or Ministry of Finance or Police (to this unit should be guaranteed full independency).

Company Law: all four countries received (**) level for property rights protection and state aid area. This Chapter includes inter alias the principle of accounting and auditing procedures and the intellectual and property rights. Regarding the last one, there should be at minimum one national authority to which nationals and non-nationals can present applications for one or different kinds of intellectual and industrial property protection. The State Aid office has the task to develop a comprehensive inventory covering all direct and indirect aid granted to the private sector by different institutions of the national, regional and local government.

Competition policy: Slovakia received (***) level, with a finding related to the state aid to Steel Sector in Kosice. Afterwards, Slovakia achieved a transitional exemption to continue granting fiscal exemption on income tax to the beneficiary of steel industry till the year 2009.

Agriculture: all four countries received (**) level for lack of common market organization in different agricultural products and (***) level for all the Agricultural Paying Agencies. In agricultural sector the *acquis* is related to the free movement of goods and the full implementation and management of the Common Agriculture Policy (CAP), being reformed recently. Trade (both internal and external of the single market) is facilitated through a general safeguard of the public, animal health and welfare and meeting consumer expectations. Mutual recognition between authorities of the member states allows the abolishment of checks in intra-Community trade in the mentioned areas. Regarding the agricultural markets, the implementation, management and control of the CAP requires the creation, modification and/or reinforcement of appropriate administrative structures specifically required by the *acquis*.

Taxation: Slovakia and Poland received (**) level on VAT and excise duties. The tax policy in EU mainly lies with the member states being a symbol of national sovereignty of the country overall economic policy. In general EU therefore plays only a subsidiary role on taxes and social security contributions. Its aim is not to standardize the national systems of taxes and contributions but simply to ensure that they are compatible.

Economic and monetary union: Poland received (**) level due to lack of independence of the Central Bank. The first prerequisite for the economic and monetary union is the independency of the Central Bank. Furthermore member states should be able to conceive and implement a consistent set of economic policies, fiscal surveillance, statistic information and liberalization of capital movements.

Social policy and employment: all four countries received (**) level on European Social Funds programming. The European Law requires, *inter alia*, according to the Insolvency Directive (80/987/EEC, Art.5), the Independent Guarantee Institution for workers in case of insolvency of their employer; the Equality Body, provided by the directive 2002/73/EC for the promotion, analysis, monitoring and support to equal treatment of all persons without discrimination on any ground; the directive implementing of equal treatment between persons irrespective of racial or ethnic origin (2000/43/EC, Art. 13).

Industrial policy: Poland received (**) level on privatization and restructuring. For the implementation of this Chapter no specific administrative structures are formally requested, although the listed key institutions are commonly involved in policy making and implementation: the privatization and restructuring agency, the competition authorities, the development agency for FDI and export promotion, SME agency, chambers of commerce, business associations, etc.

Regional policy: all four countries received (**) level concerning legislation, institutional structures, financial management and control. Because structural and cohesion funds are directly applicable from the date of accession, the V4 were not able to prove the compliance with the related community policies and to have in place - for the effective implementation of these regulations - the legislative framework, which is namely related to the determination of the eligible areas, the planning and programming, norms regarding programme and project implementation and management, monitoring, control and evaluation.

Justice and home affairs: all four countries received (**) level concerning legislation on fraud, money laundering, corruption and asylum policy. The *acquis* in this field focuses on an independent, reliable and efficient judiciary system in order to implement measures that prevent and combat organized crime, terrorism and illicit drug trafficking and to implement efficient external border controls, asylum and immigration policies. Specific administrative bodies adequately staffed with infrastructures and equipment have been requested in several areas of justice and home affairs.

Financial control: all four countries received (**) level. Enhanced effort is requested in order to control over structural actions expenditures, and to ensure the respect of EU financial interest. In order to perform these actions, the countries revealed a weak institutionalisation of the Public Internal Financial Control (PFIC) system ensuring that financial management of the public funds, control over structural actions expenditures, national budget spending centres including foreign funds should comply with the legislation and national budget in terms of sound financial management, transparency, efficiency, effectiveness of the economy.

At first we could make a general consideration and observe very high similarity in the degree of preparation of the four countries. In spite of that, we can discern some discrepancy only in few Chapters and notably in

Chapter "Free movement of persons" where - due to the mutual recognition of professional qualifications - Poland and Czech Republic were charged by the level (***) - issue of serious concern -, meanwhile Hungary has been considered to be ready and Slovakia just to demonstrate an enhanced effort. In the Chapter "Free movement of capital" Poland and Czech Republic obtained an (**) quotation, in "Taxation" Slovakia and Poland also (**) quotation. Poland received the same level in Chapter "Economic and monetary Union" and in Chapter "Industrial policy". It remains of greater relevance the negative levels (***) for all V4 on free movement of persons and on agriculture in particular for the weak control system and integrated administration; remarkable the accumulation of negative levels in justice and home affairs sector, social policy, regional policy, competition policy, free movement of goods and financial control.

The scenario at this point needs to be built-up on the re-prioritization of these negative points in order to assess the results of this accession negotiation process. The aggregate of these quantifiable findings is showing how the results is fitting with the preliminary big picture that we have drafted.

During the period of pre-accession the negotiation process was very weak, or inexistent, because of the lack of space for a real bargaining of the conditionality: the processes were developing top-down, imposed from the outside (Europe was considered to behave as a "norm sender"). This conditionality has proved that in this specific path, during the pre-accession, the perspective members had only once choice: or to have the strength to modify these conditions – inacceptable for the Western members states and therefore for the EU Commission – or, and this was the only solution, to accept them, in order to achieve the only alternative so far possible, that was to access the Union. It seems that, although a possible ambiguity in the rules, the stakes were so high that none of the V4 countries had hesitation to accept the proposed conditions; even more, they were pressing for acceding to the Union. Nevertheless, what happened could be considered an embryonic model of negotiation process, where the Western EU member states (and within them the most powerful) had right to impose, asking to new ones for socializing with the rules. In conclusion the process of economic reform in the V4 was affected by several well

distinguished "sensitive issues" that are commonly recognized by the literature on enlargement to be predominant through all countries[12].

Even if ineffectiveness and limits of governance were widespread in the systems[13], we can also see some positive aspects linked to the impetus towards a difficult but effective path in implementing the directives and give enforcement to the regulations, which featured the V4 also in all subsequent ten years after accession in 2004[14].

Scholars discuss about inadequate or deficient provisions, delays on building up new institutions, failure to follow the rapid evolution of adapting to the new EU legislation. This apparent controversial lecture[15] of the application of the European *acquis* should be considered by keeping in consideration the fundamental distinction between two different periods of time: the pre-accession and post-accession.

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[12] Inotai asserts that in the pre-accession often misused or misunderstood terms concerning the process forced the countries to "realise that talks with the EU follow rules that differ substantially from those known and applied in traditional diplomacy", András Inotai, *Some Reflections on Possible Scenarios for EU Enlargement, Some Key Issues in Understanding the Negotiations on Accession to the European Union*, Institute for World Economics, Hungarian Academy of Sciences, Working Papers No. 122, December 2001, p. 2,
[http://mek.oszk.hu/03800/03896/03896.pdf], 20 October 2013.

[13] Limits of governance are effected by credibility of conditionality according to Frank Schimmelfennig, Ulrich Sedelmeier, "Governance by conditionality: EU rule transfer to the candidate countries of Central and Eastern Europe", in *Journal of European Public Policy*, Taylor & Francis Ltd., 2004, pp. 673-674,
[http://www.mzes.unimannheim.de/projekte/typo3/site/fileadmin/research%20groups/1/teamB reader/Schimmelfennig%20%26%20Sedelmeier_Governance%20by%20conditionality.pdf], 20 October 2013.

[14] See Gerda Falkner, Oliver Treib, *Three Worlds of Compliance or Four? The EU-15 Compared to New Member States*, Institute for Advanced Studies, Vienna, 2008, p. 14,
[http://www.eui.eu/Documents/DepartmentsCentres/AcademyofEuropeanLaw/CourseMaterials UL/UL2009/Conant/ConantReading2.pdf], 20 October 2013.

[15] Eastern candidates to the EU preferred the word "unification" to Europe, which implies to take in consideration their experiences in participating into the building up of the Union, instead of the exportation and appropriation of the juridical corpus related to the economic and institutional model applied with the *acquis communautaire*.

The negotiation process of the new Multiannual
Financial Framework 2014-2020

During the accession time, the V4 countries have found less interest in cooperating among them. A renewed increase of common meetings can be observed from mid-2011 due to the interest to cooperate in the delicate phase of negotiation for the cohesion policy, and for the programming of the new Multiannual Financial Framework 2014-2020, this also brought moreover to the intensification of common relations with countries of the Eastern Neighbourhood and Western Balkans.

Committees on Public Administration and Regional Policy of the V4 countries have taken in this last period important decisions: the adoption of a joint platform concerning the cohesion policy and consequently a series of official statements and a reinforced negotiation attempts for the achievement of the desired objectives. Here below we recall the most relevant adopted statements / declarations:

- Joint Statement from the 5th Meeting of the Committees on Public Administration and Regional Policy of the Parliaments of the Visegrad Group Countries and Croatia; Warsaw, 28–29 January 2013
- Executive Summary of the Polish Presidency in the Visegrad Group July 2012–June 2013 - Joint Declaration of the Visegrad Group and Slovenia on the Negotiation Process of the Commission's Proposals for the Cohesion Policy 2014–2020 ; Katowice, 12 October 2012
- Joint Statement of the Heads of Governments of the Visegrad Group, Joint Letter to the EC; Prague, 22 June 2012
- Final statement from the Conference of Presidents of Parliaments of the V4 Countries, Prague, 15–16 Sept. 2011

Analysing the declarations issued in occasion of the official meetings, the documentation available on web site of the European Commission and the literature produced by the scholars in the last three years, we propose herein from Table 2 onwards a summary of the negotiation positions, somewhere divided in the columns according to the involved countries or in a common row when the matter was shared by all members.

Table 2 – General negotiation position of the V4 concerning the EU budget

Specific issue	Poland	Czech Republic	Hungary	Slovakia
Cohesion budget	Against reduction	Against reduction	Against reduction	Against reduction
Contributions / resources	Better from beneficiaries of single market	Better abandon VAT and customs based resources	New policy-driven programming; own resources to fund the policies; against VAT	GNI and TOR based resources; against VAT; not tax base system
Support to (new) challenges / priorities	Favourable (climate change)	Education; research; security; infrastructure projects	Climate change; energy security; ageing population; JHA, R&D, etc.	JHA; climate; Lisbon reform; bio-energy; bio-diversity
CAP	No changes after new CAP	Against reduction	Against reduction	No changes after new CAP
System of rebates	Unfavourable	No specific request	Unfavourable; favourable to GNI and traditional own resources (TOR)	No rebates; simplification of own resources; GNI based and TOR

Regarding the "Joint Statement" approved in January 2013, the V4 countries have adopted to withdraw from linking the contributions to the direct payments based on Gross National Income (GNI) and to consider corrections and rebates replaced with own resources receipts on revenues from Value Added Tax (VAT) and new Financial Transaction Tax (FTT), (which is being considered positive by all V4). While for the agricultural budget they agreed to avoid changes, eventually to keep the "rural" instead of "direct" support. Their position on cohesion policy is focused on safeguarding the previous level of structural funds and possible to increase spending on research and innovation (but with some different positions among the V4). All countries agreed on de-bureaucratisation of the funds management (in particular concerning the award system, multi-funds support based on common joint information and simplified procedures), moreover to keep

the "n+3 rule", to ensure eligibility of not-recoverable VAT, to avoid reducing Cohesion fund due to additional support received by the Connection Europe Facility programme. The V4 countries, as it emerged from the documents, targeted specific attention to the macroeconomic conditionality and they pressed the EU Commission against delays in programming and starting of the implementation of projects. Finally V4 declared the intention to share knowledge among them for the planning and implementation of programmes, to enhance equal treatment and avoid un-transparent bilateral negotiations.

Previously in a Joint declaration (October 2012 in Katowice) the V4 countries requested / re-affirmed to choose capital regions to be considered as important engine for economic growth, but at the same time to ensure flexibility in the solutions for regions that are closed to the capitals (being in general more developed) avoiding to jeopardise the achievement of results. Moreover they revealed serious doubts about the impact of the macroeconomic conditionalities requested by the Commission on future efficiency and effectiveness of the cohesion policy itself. They suggested more flexibility in the implementation (considering that the pre-financing should be ensured and the de-commitment rule guaranteed in a more flexible manner). Regarding the programming of funds, the V4 countries waved between old approach inherited during the planned economy requesting the Commission to provide strategic guidance particularly in the territorial and sectoral coordination of resources / policies and a more pro-active approach.

Concerning the EU policies we can identify, during the last V4 meetings, a specific behaviour for each of the V4 countries. Poland is eager to participate to Euro plus pact and to fiscal compact, it seems interested to enter in Eurozone, but it is worried about the risk herein involved. Poland declared to be favourable to keep allocations to the cohesion and to the second pillar of CAP and researching new allocations utilising the FTT, which could lower the contributions.

Czech Republic has different view concerning political and economic integration and the future of EU; the country rejected Euro-Plus Pact (in March 2011) and Fiscal Compact (in March 2012), opposing a broader coordination in economic and fiscal policies, being interested in maintaining monetary independence and to follow its own way on economic stability. While Czech population is against the adoption of Euro.

Hungary seems to have a government non properly EU friend, spreading worst negative image among the EU partners; but paradoxically having always accepted the EU proposals with except to the harmonisation of taxation. In the last two years Hungary has supported the accession of Croatia and the big projects for the strategy of Roma minorities, the Danube strategy, moreover Hungary coordinates actively the EU economic governance "Six Pack". Finally the country is in favour to keep CAP funds more than other countries.

Slovakia seems concerned with acceptance of the anti-crisis measures, and about the participation to the aid programmes for Greece, moreover to joining the European Financial Stability Facility (EFSF); while Slovak government is generally supporting the Union. In the meantime is sensitive to cuts to the EU budget and favourable of a quick compromise with other countries in order to avoid losing momentum and prolonging negotiations concerning structural funds.

V4 countries share among them some issues concerning the following common positions. First of all in particular concerning the inevitable aspect that they are net-beneficiaries of the EU budget, they support the common goal to narrow the competitiveness gap with knowledge based economies in particular for upgrading labour skills, boosting human capital and improving infrastructure; they have a strong interest to the application of FTT (which could improve their net-position by 5 percent to 10 percent); but at the same time they are in particular against concentrating this policy on the poorest regions or in the poorest countries because in the future there will be a re-nationalisation bringing further demands.

Undouble in some aspects the V4 countries are in discordance, and this is probably the result of different relations that each V4 member has with other EU Member States (MS) or blocs of MSs. Some substantial conditions seem to differentiate the interest of the V4 countries: like the different extent of the agricultural sector, different position regarding austerity and growth debate, and several aspects certainly affected by a different participation role in Eurozone.

The articulation of the negotiating positions has been quite differentiated in the past, while for some aspects in the most recent statements / declarations there is more similarity of viewpoints among all four countries; indeed the

negotiation process has reached the first milestone with the final decision concerning the total allocation of funds per country, but still a lot of bargain is open (at the time of writing this analysis) with the EU institutions concerning the negotiation of the cohesion policy regulations and the strategic programming. In the future planning, particularly when designing the operational programs, it will be relevant to see how much and with which tools V4 countries will comply with requirements outlined by the EC commission. So far, a first distribution of funds, which is briefly commented in the follow up of this section, seems to demonstrate that support to the V4 countries is properly addressed, the completion and implementation expected results are now in the hands of the governments of individual countries.

Coming back to the identified positions concerning the new MFF 2014-2020, we will only list the principal ones here below, as they are thoroughly described and discussed before:

• to exclude the reduction of funds, avoiding restrictions of funds due to insertion of "part" of the Connecting Europe Facility within Cohesion Fund.

• to ensure equal treatment from EC and from the major EU MSs, avoiding reduction of the EU co-financing.

• to maintain the eligibility of non-recoverable VAT.

• to keep the ex-ante conditionality; while the efficient use of the cohesion and structural funds should not be built on sanctions but in positive incentives avoiding to interfere with choices of investment decided by V4.

• to ensure the negotiating power to central governments (avoiding to charge the burden of negotiations to local and regional governments). Include capital regions to cohesion policy support avoiding to put at risk the results.

• to utilize preventive actions to prevent financial corrections at the end of the programming.

• to avoid increase of the administrative burden excluding new accreditations, the requested simplification should address to the result oriented system.

• to find a solution for large projects in the infrastructures, avoiding production by phases.

• to adopt the new regulatory package proposing proportional control system is welcomed but this regulations need improvement.

• to request the EU Commission to allocate sufficient resources for negotiations in order to exclude delays in the actual programming phase.

We could easily fix the listed positions as properly targets of the V4 countries; in fact the declaration that the "Friends of Cohesion" have issued is including a statement underlining the intention to clarify the Non-Paper of the "Friends of Better Spending"[16] in the way to defend the new cohesion policy as a 'major tool for investment, growth and job creation'[17].

In June 2013, the allocation of funds for the Cohesion policy was finally decided by European Parliament and Council. The previous estimates of national Cohesion policy allocations according to the Economic Policy Research Centre (EPRC) in January 2013[18] were giving a total allocation of €20,74 billion for Czech Republic, € 18,28 billion for Hungary, € 76,62 billion for Poland and €14,04 billion for Slovakia; while, as we are going to present, the financial allocations agreed finally in June 2013 for Czech Republic and for Hungary were increased by over 2 billion; meanwhile for Poland were lowered by quite 4 billion and for Slovakia by 1 billion too. In the Table 3 we display the detailed amounts.

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[16] "Friends of Cohesion policy" is a strong grouping of countries, among others Czech Republic, Poland, Slovakia and Hungary formed to coordinate policy objectives in the cohesion area. While "Friends of better spending" characterised as the grouping of net-contributors has been also active mainly from the year 2012; these two groups are complementary and include the large part of the EU Member Countries.

[17] See for example Carlos Mendez, Fiona Wishlade, John Bachtler, *Negotiation boxes and blocks: Crafting a deal on the EU Budget and Cohesion policy*, EoRPA Paper 12/4, University of Strathclyde, Glasgow, 2013, p. 10.
[http://www.eprc.strath.ac.uk/eprc/documents/PDF_files/EPRP_82.pdf], 20 October 2013.

[18] Carlos Mendez, Fiona Wishlade, John Bachtler, *Negotiation boxes and blocks: Crafting a deal on the EU Budget and Cohesion policy*, EoRPA Paper 12/4, p. 31, University of Strathclyde, Glasgow, 2013 [http://www.eprc.strath.ac.uk/eprc/documents/PDF_files/EPRP_82.pdf], 20 October 2013.

**Table 3 - Allocation on cohesion policy for the V4 countries MFF 2014-2020
(in Millions of Euro)**

Values in Million €	CZ	HU	PL	SK	Total V4	Overall EU	V4/EU
Cohesion Fund	6.539,00	6.291,00	24.189,00	4.346,00	41.365,00	66.130,00	62,55%
Less Developed Regions	13.599,00	13.405,00	45.756,00	8.459,00	81.219,00	163.704,00	49,61%
More Developed Regions	78,00	414,00	2.010,00	40,00	2.542,00	49.336,00	5,15%
Territorial Cooperation	297,00	316,00	613,00	195,00	1.421,00	8.919,00	15,93%
Total	20.513,00	20.426,00	72.568,00	13.040,00	126.547,00	288.089,00	43,93%
Country/V4	16,21%	16,14%	57,34%	10,30%			

*Source: own elaboration based on data agreed between the European Parliament and
the Council at the end of June 2013. Data collected on 27 October 2013 web page:
http://ec.europa.eu/regional_policy/what/future/eligibility/index_en.cfm*

The V4 countries are attracting 62,55 percent of the overall
allocation for Cohesion fund in the EU countries and 49,61percent of the
overall allocation for the Less Developed Regions in EU. Including the
funds allocated to the More Developed Regions and to Territorial
Cooperation, together with the first two already mentioned, the share of EU
budget linked to these funds is totaling 43,93 percent; in this way the V4
achieved, according to these numbers, a good result when also compared to
their population which is not more than 13 percent of the EU overall
inhabitants. The allocation for cohesion policy in the V4 countries for the
next framework (2014-2020) accounts for € 1.965 pro capita vs. € 583 pro
capita for the average of total EU inhabitants. This large discrepancy is
justified by the critical situation of the regions less developed in the Union,
which receive support from cohesion and structural funds. Drawing
parallels between the allocations recently decided and the previous MFF
2007-2013, we can observe that the overall amount for cohesion policy for
the V4 is decreased from € 130,13 billion to € 126,55 billion, losing 2,75
percent in respect of the previous seven years framework. Not all countries
have the same result: we see, in fact, that Czech Republic has lost 22,67

percent of the total amount, followed by Hungary with 18,04 percent, while Slovakia has increased by 13,41 percent and Poland by 8,01 percent. The difference of allocations with the previous MFF is depending to the changed "policy architecture" of the cohesion policy, for which different categories of NUTS 2 regions are defined affecting the previous spatial coverage; but mostly because of the mechanism for allocating the funds: Cohesion fund (CSF), Less Developed Regions fund (LDR), More Developed Regions fund (MDR) and European Territorial Cooperation programmes funds (ETC).

Examining more in detail the stratification of funds according to the planning made by the EU Commission, the following Figure 1 is giving an indication about the different conditions of the V4 countries compared with each other. The ranking of the country among V4 in percentage of the overall allocation for total cohesion policy (in the figure expressed as "Total Funds"), the ranking in terms of percentage of population ("Population x 1000"), the same for GDP ("GDP total 2007"). Finally the three funds contained in cohesion and SF funds: the ETC (European Territorial Cooperation programmes), the CSF (Cohesion fund), LDR (Less Developed Regions) and MDR (More Developed Regions) funds.

The figure 1 – (radar diagram) is giving a concise overview of the MFF 2014-2020 allocations to the different cohesion policy and structural funds in terms of relative percentage (weight); this weight is calculated over the total of the V4. In that way, we could observe that Slovakia is covering, in terms of population 8,37 percent of the overall V4, but in terms of GDP is higher (9,18%), and concerning the total funds for Cohesion policy of the next MFF 2014-2020 even more higher (10,30). With regard to the remaining stakes of the diagram, Slovakia has a share of the Cohesion Fund and receipts for Less Developed Regions respectively of 10,5 percent and 10,42 percent, while when we look at the allocation for receipts to the More Developed Regions just a very small part (1,57%) of the overall V4; finally the 13,72 percent of ETC funds. A balanced situation in terms of relevance for each of the Cohesion and Structural funds with the relative importance of the country in terms of population and GNI would result according to the above diagrams in positioning the distribution of data within the same circular sector.

Figure 1 – Population, GDP, Cohesion Fund, Less Developed Regions, More Developed Regions, ETC and total funds according to new budget allocations (June 2013) per country. Values in percentages
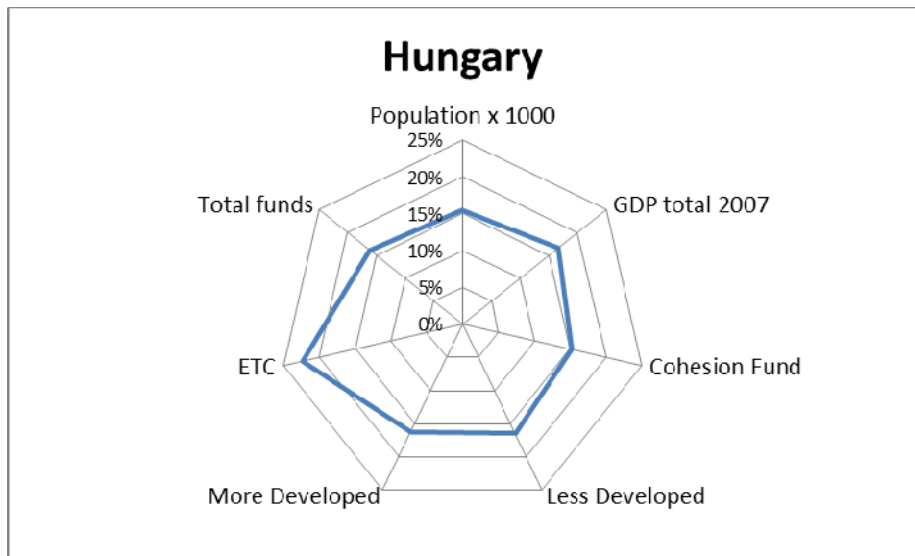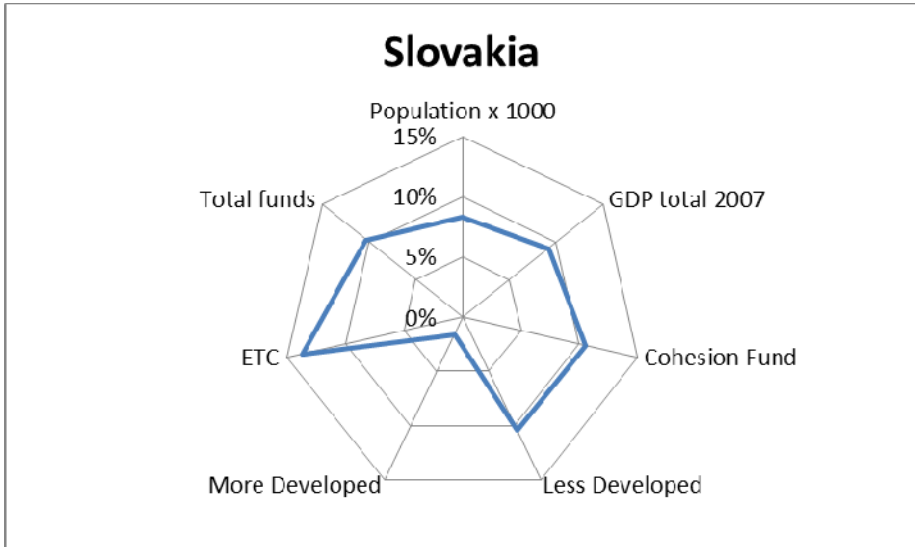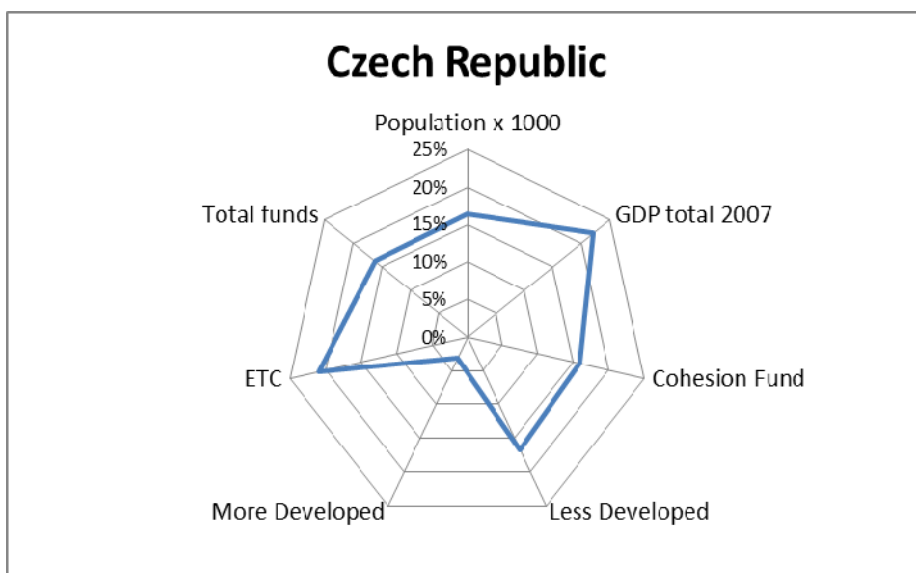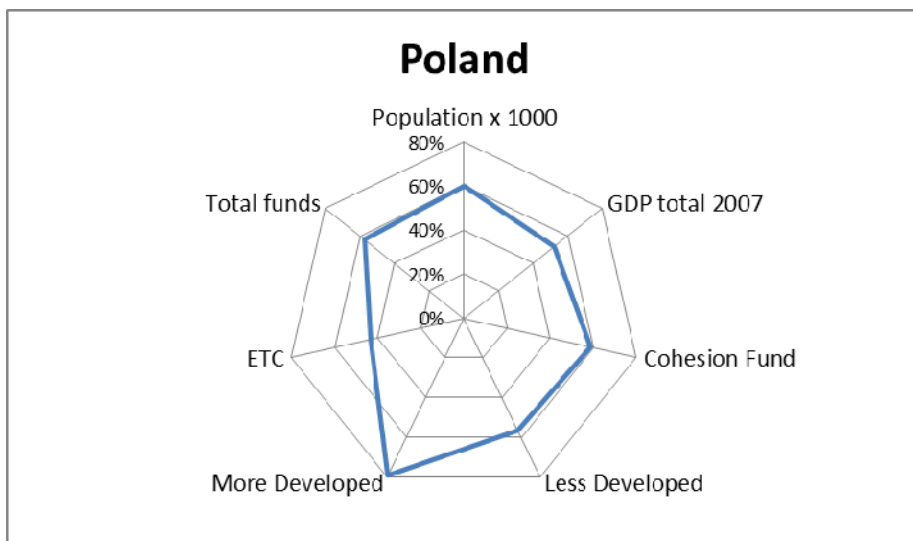
Source: own elaboration based on data agreed between the European Parliament and the Council at the end of June 2013. Data collected on 27 October 2013 web page (last update 12-09-2013): http://ec.europa.eu/regional_policy/what/future/eligibility/index_en.cfm

Looking to the four diagrams we would quickly perceive the unbalanced values: in relation to funds for More Developed Regions, Slovakia and Czech Republic benefit from a very limited stake, when, in contrary, Poland is covering the 80% of the overall V4. Excluding for the moment the two funds ETC and MDR, we can say that the Slovak stake of allocations is equilibrate around 10% of the overall V4, corresponding to the importance of GDP with little increase in respect of the population share; Hungary is placed around 15% quite with all stakes keeping this value; Poland around 60% of the overall V4 but with Cohesion funds little higher than the respective GDP value. Finally Czech Republic with GDP value at over 22% but with the Cohesion funds around 16%.

Another important marker, the level of disbursement of the funds of the 2007-2013 MFF (considering the last registration, which is, in our case, 13 June 2013) should describe the relative performance between the four countries. Therefore, if we put in comparison the average GNI position and the amount of funds for the cohesion policy disbursed till that date, we detect Czech Republic and Slovakia with some 2 percent to 5 percent predominance of the disbursement in comparison with the GNI, while Poland and Hungary has a lower performance in respect of the GNI (also in that case showing similar magnitude of discrepancy between disbursement and wealth of the country)[19]. We should take in consideration that the potential for cooperation of these countries resides in creating opportunities where different actors develop participative skills and in the meantime they appreciates socio-political proficiency of their actions; it seems, in fact, quite hard to agree in a common negotiation strategy because of different targets, but the supposed differentiation about economies could be a strategic convenient position utilized by the negotiators in order to avoid possible interferences that could arise from a too strict relation among them; it looks clear that differences concerning the weight and different speed of the growth of economic sector conditioned by different contingencies are quite substantial, indeed as concerns the regulations and practice that govern the economies of the V4 countries similarity should be recognized.

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[19] Concerning the EU budget, revenue and expenditure we utilized data from the following web page: http://ec.europa.eu/budget/figures/interactive/index_en.cfm

Conclusion

Pre-accession and post accession / EU Structural Funds negotiations have been afforded by the V4 countries with a different spirit. Is seems true that in the pre-accession round there was a little to negotiate because the conditionality expressed by the Member States and by the Commission was extremely rigid and the time at disposal for introducing the *acquis* in the national legislation very short. In this sense, the process of Europeanization, because of the pre-accession conditionality, has speeded-up the full process. In the second round of the Multiannual Financial Framework (MFF 2014-2020), the "real" negotiations with the European Commission the V4 countries are displaying a matured sense of "ownership" of their negotiation potential: this seems to be consequence of the awareness that the Central East European countries have been potentially enough powerful to guide the most of the net-beneficiaries countries towards a "reclaim of negotiation space", even through strategic actions indirectly supported by some powerful partners.

In the year 2004, the V4 countries were urged to join the Union with a preliminary process of "socialization" to the EU rules, (probably too early compared with the slow process of transposition of the *acquis*), through a stress imposed by a conditionality which considered the strict requirement: to participate / align to the *acquis* or to be excluded, without real serious margins to negotiate. This behaviour has proved to be part of an embryonic model of negotiation that was followed by the European Commission, and inside the European institutions, with the most recent accession countries. The model could be identified recently on different internal EU negotiations (for instance for the negotiations of the EU budget, for the stability and growth pact, etc.). In the time of accession, the process of EU building was characterized by the expected adoption of the European Constitution and a broad spirit of cooperation among the Member States, within a Union governed by a prevalent decision process linked to the unanimity, and not to the majority of votes, which was calling for full responsibility even to the smallest of the Member States. The building up of the enlarged EU Single Market was backed up by the hope for consolidation of a strong common political participatory process of democracy.

Ten years after, in a period characterized by a deep economic and social crisis, this expectation is seriously transforming in disaffection and the emergence of new logics where the lack of compactness around shared

programmes has facilitated the consolidation of power of the EU strongest countries at the expenses of the smaller ones. The last ones have found a partial solution by developing cross-alliances with the most powerful countries (we would make reference to the statement issued by the V4 declaration "avoid un-transparent bilateral negotiations"). The need for balancing the power with the bigger countries has pushed the V4 to intensify external bilateral negotiations, but mainly to reinforce the cooperation between themselves, in order to open up a bigger negotiating space in particular in occasion of the new EU financial framework. The intensification of the relations among V4 could be maintained also in the future, the economic and social strength of the V4 will be strictly linked to their ability to reinforce cooperation among themselves, and with the Western Balkans but above all to open a space towards East with the neighbouring countries.

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ROMANIA'S E.U. ACCESSION NEGOTIATION PROCESS

Melania-Gabriela Ciot[∗]

Abstract

The present article describes briefly the accession negotiation process of Romania. It will present the general frame of a accession negoations process: the main dimensions, the topics, characteristics, the institutional framework and the coordination of the negotiation process.

Key words: accession, negotiation, process, chapters, position papers

The major political decision of Romania's accession to the European Union was taken by the European Council of 16-17 December 2004 and the Treaty of Accession to the European Union held next year in April 2005. Romania has become, since 1 January 2007, a member of the European Union, according to the projection of the Accession Treaty.

The European negotiation process keeps "still today the foundation of Schuman's scheme"[1]. The tendency of the European Union to impose itself in the contemporary international system, to meet the challenges of globalization, of the end of the Cold War, provoked theoretical debates in theory and impressive casuistry[2].

The subject of the negotiations to the European Union is currently in the public consciousness due to enlargement towards Central and Eastern Europe[3]. For the Member States, the accession negotiations had a different shape than others in the international scene, and for countries aspiring to membership of the European Union, they had the meaning of a "process of building trust between the negotiating parties, so that to create a mutual

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[1] Vasile Puşcaş, *România spre spre Uniunea Europeană. Negocierile de aderare (2000-2004)*, Bucureşti: Institutul European, 2007, p. 24.

[2] *Ibidem*, p. 25.

[3] *Ibidem*, p. 26.

perception about how each candidate will be able to face the challenges of accession"[4].

Analysis of the accession process should include contextual elements related to stakeholders, the effect of negotiation guidelines, the negotiating strategies and tactics of the EU / Member States, the impact of the accession criteria on the candidate's internal training, the internal training evaluation and negotiation chapters and the comparative picture of the results obtained by other countries in negotiating accession[5]:

- high degree of institutionalization (formal and informal rules framework in which behavior patterns evolved);

- the permanent, continuous and interconnected degree of negotiations (the result of a negotiation results in a new negotiation situation, while the actors involved continue to interact);

- distinctive character and role of the players involved in negotiation;

- great importance of informal negotiations, in close connection with formal negotiations;

- connections between sectors and levels, and between internal and external negotiations.

The figure below (1) gives a schematic presentation of the enlargement process:

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[4] Andras Inotai, *Some Key Issues in Understanding the Negotiations on Accesion to the European Union*, Working Paper, no. 122, Institute for World Economics of the Hungarian Academy of Science, Budapest, December, p. 16, apud *Ibidem*, p. 27.

[5] Ciprian Goriță, *Negocierile de aderare la Uniunea Europeană*, Bucureşti: Editura Economică, 2008, p. 13.

Fig. 1: The Accession Process, after Vasile Pușcaș, 2007, p. 665

A European state addresses to the European Council an application for UE membership

The European Council calls on the Commission to submit a Review

The European Commission shall state to the Council its opinion on the state's application

The Council (unanimously) adopts the decision to start negotiations with the candidate state

The Council, through the presidency, leads negotiations with the candidate

The Commission proposes and the Council agrees by consensus the guidelines of the EU position in the accession negotiations

The draft Treaty of Accession is the agreed by the EU and the candidate

Accession Treaty is subject to approval by the EU Council and the European Parliament

European Parliament approves the Treaty of Accession with simple majority

The EU Council unanimously approves the Accession Treaty

The Member States and the applicant state officially sign the Accession Treaty

Member States and the applicant state ratify the Accession Treaty

After ratification the Accession Treaty enters into force: the candidate becomes a member state of the EU

In the European Union negotiations are closely connected to the preferences and interests of the state and nonstate actors, to the enforcement of institutionalized rules and the "special moments" of political and economic development of the EU in the direction of deepening the integration and enlargement[6].

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[6] *Ibidem*, p. 34.

On behalf of the European Union is established an Intergovernmental Conference (IGC) for each candidate country, so negotiations are bilateral, between each candidate and the Member States in a multilateral framework[7]. In the IGC formal negotiating sessions are being held, but the most significant take place between the Chief Negotiator and the Member States' representatives,but with other officials as well, even from other candidate countries[8]. The exchange of **Position Papers** is realized between the working groups of the Council of Ministers of the European Union and the negotiating team of the candidate state; the European Commission is preparing draft of the common positions for the Council, in response to the candidate state's position papers, and also technical documents about the implications of the negotiating positions[9]. A significant part of the informal negotiations and arrangements for the implementation of the *acquis communautaire* are carried out with the Commission.

On behalf of the candidate countries, the structures and institutions involved are different[10], but they all have a Chief Negotiator; what differs is his position related to the government structures. The coordinating role of the Chief Negotiator is essential, and his ability to influence is visible in the final phase of the negotiations and drafting of the Accession Treaty[11]. He works closely with line ministries, involved in working groups on the chapters of the *acquis*, he "arbitrates between different government agencies, supports the views expressed by the government negotiating team, [...] argues position document contents to the European institutions and Member States, supporting the goals of the accession negotiations and the national interest of the candidate state"[12]. We emphasize that the Chief Negotiator has the power to take the appropriate data for the preparation for accession and to present them in suitable positions to the momentary goals of the future candidate state. This leads negotiations according to set out strategy and tactics, seeking the most appropriate formulas to harmonize the objectives and the specific assertion of national interest stage. He must deal with the

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[7] Vasile Pușcaș, *op. cit.*, p. 27.

[8] *Ibidem*, p. 27.

[9] *Ibidem*, p. 28.

[10] *Ibidem*.

[11] *Ibidem*.

[12] *Ibidem*.

tendencies of using the bargaining power of the other party[13]. To be noted that, for each wave of accession, the criteria are being reformulated, according to the stage of evolution of the *acquis*, the European policy development and the European and international context[14].

The features of the negotiating system of the European Union and the EU accession negotiations are rendered synthetically in the table below (Table 1)[15]:

Table 1: Characteristics of the negotiation system in the European Union and the EU accession negotiations (after Ciprian Goriță, 2008, pp. 35-36)

Main dimensions of the negotiating system in the European Union	Topics of the negotiating system in the European Union	Characteristics
Negotiations on the European Union	Negotiations on the nature of the European Union (for accession to the European Union or EU development)	- intergovernmental process of harmonization of different national interests - interdependencies between networks, politicization of procedural developments, high density of networks
	Negotiations within the committees (comitology)	- performed in various arenas/ meetings - take place as group negotiations - comply with the characteristics of the international multilateral negotiations (unequal participants with individual strategies) - importance of supranational dimensions
Negotiations within the European Union	Multiple international structures	- influenced by institutional dynamics and the form of the assemblies - impact of the supranational dimension

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[13] *Ibidem*, p. 31
[14] *Ibidem*, p. 28
[15] Ciprian Goriță, *op.cit.*, p. 35-36

	Forming coalitions	- instrument to influence the agenda - pressure on coalition formation increases proportionally with the number of participants - there isn't an established pattern of coalition
	Cultural diversity	- differences in negotiation style (Teutonic, Gallic, Saxon) - developing a common culture of negotiation, in a professional and organizational sense
	Legitimation	- transfer from security issues to economic and social ones - growing demand for democratic participation: increasingly significant role of civil society, which means a new dynamic of networks
Negotiations of the European Union	Changing environment	- with each enlargement, the negotiation environment has changed, becoming more heterogeneous with the increasing number of members (networks are growing in importance) - need to streamline the functioning of the Union: new techniques of negotiation
	Crisis situations	- need for coherent and efficient foreign and security policy: at present the result of a negotiated agreement

The accession negotiation steps are: *screening*, preparing position papers, position papers, negotiation based on the position papers, the acccession treaty, ratification of the accession treaty[16]. The principles and procedures of the accession negotiation take into account the objectives of the accession negotiations process and the technical characteristics of European

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[16] *Ibidem*

negotiations[17]. The figure below (2) synthetically presents these stages in the process of negotiating the accession to the European Union[18]:

Fig. 2: The process of negotiating accession to the European Union (after Vasile Pușcaș, 2007, p. 666)

CANDIDATE STATE

- Inter-ministerial negotiating team
  Negotiating team
- Government
  Integration Committee
  Negotiating team
- Government
  Integration Committee
  Negotiating team
- Government
  Integration committee
  Negotiating team
- Parliament
  Referendum

FORMAL NEGOTIATION

- Screening sessions in Bruxelles
- CIG reunions in Bruxelles or Luxemburg
- CIG reunions in Bruxelles or Luxemburg
- Last CIG reunions

EUROPEAN UNION

- European Commission
  EU presidency
- EU Council
- EU Council
- EU Council
- Parliament of the Member States
  European Parliament

STAGES

- Stage I: *Screening*
- Stage II: *Preparing position papers*
- Stage III: *Negotiation based of the negotiating positions*
- Stage IV: *The accession Treaty*
- Stage V: *Ratification of the Accession Treaty*

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[17] *Ibidem.*

[18] *Ibidem*, p. 666.

The substance of the accession negotiations is the *acquis*, divided into chapters, 31 for the fifth wave of enlargement, 35 ongoing accession negotiations, with different degrees of difficulty, and the candidate countries relate to them according to the internal stage of preparation[19]. In Romania's case, these chapters were: *Free movement of goods, Free movement of persons, Free movement of services, Free movement of capital, Company law, Competition policy, Agriculture, Fishing, Transport policy, Taxation, The economic and monetary union, Statistics, Social policy and employment of labor, Energy, Industrial policy, Small and medium enterprises, Science and research, Education, training and youth, Telecommunications and information technology, Culture and audiovisual policy, Regional policy and coordination structural instruments, Environmental protection, Consumer protection and health, Justice and home affairs, Customs union, External relations, Common foreign and security policy, Financial control, Financial and budgetary provisions, Institutions, Diverse*[20].

The candidate states shall indicate the *technical date* for the moment of accession (for example, Romania - 2007) and from setting that date to acknowledging the realistic date of the moment of accession, the candidate countries have undergone a process of monitoring/evaluation[21]. The accession negotiations were influenced by variables generated by internal factors (in the European Union: internal reform, the development of European policies, changes in the policy of Member States, in the candidate countries: the impact of the implementation of Community rules on the economy, the social, political and external factors (eg, the war in Iraq, transatlantic relations)[22].

The accession negotiation is based on a win-win formula and is characterized by the fact that: 1) is a process of discovery, both parties informing each other about what they want, what they intend, what they offer, 2) is a strategic interaction - parties seek to influence each other, to adapt their behavior to get the best results, 3) is an exchange process in which each side tries to configure the behavior of the other[23].

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[19] *Ibidem*, p. 29.

[20] *Ibidem*, p. 5.

[21] *Ibidem*, p. 29.

[22] *Ibidem*, p. 30.

[23] *Ibidem*, p. 31.

Important elements of negotiation are: (1) the <u>technical-level</u> - issues are resolved by reference to a clear set of rules, criteria, without going into the interdependencies, (b) the <u>political level</u> - problems in an area not necessarily solved by calling on a set of rules, but getting into the interactions area, the complex interdependencies of several topics and areas[24]. The final solutions may be influenced in several ways: (a) legal arguments/technical (implies a set of rules and criteria clearly defined and accepted by the negotiating parties, and the skills to use them), (b) promotion of mutual interest, starting from the win-win aspiration and continuing with the effort of all parties to find the best formula, (c) the use of power capacity, using the ability to convince the other side with conditionalities and the capabilities to reject something that the other party wants, without taking into account the legal and technical considerations[25].

It is important that the accession negotiations are conducted at several levels. Currently, the Member States reach the agreement on a mandate for negotiations with the candidate state, at the technical and political level of the European Commission, and then the opinion is analyzed by Enlargement Group of the EU Council, the permanent representatives discuss it in COREPER (Committee Permanent Representatives), following that the decision on a certain opinion is to be taken by the Foreign Ministers of the Member States[26]. On the basis of this mandate, the Member State holding the Presidency of the EU Council negotiates the specific conditions of accession with the candidate country[27].

The accession negotiations are conducted through the Accession Conferences at two levels: ministers / heads of delegations and chief negotiators / deputy chiefs of delegations. According to the procedure, during a presidency of the EU Council are held at least one meeting at the ministerial level and one at the deputy chiefs of delegations, with the possibility that the frequency of these meetings to be adapted according to the needs. The Accession Conferences are held separately, with each of the candidates[28].

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[24] *Ibidem*, p. 31.

[25] *Ibidem.*

[26] Ciprian Goriță, *op. cit.*, p. 44.

[27] Likke Friis, Anna Jarosz, *When the going gets tough: the EU's enlargement negotiations with Poland*, în *Journal of European Integration*, University of Cambridge, vol. 23, no.1, 2000, pp. 12-13, apud *Ibidem*, p. 45.

[28] *Ibidem*, p. 51.

The political-institutional and procedural characteristics of the process of accession negotiations are schematically represented in the figure below (fig.no. 3)[29]:

Fig. 3.: The institutional framework of the accession negotiations (after Vasile Pușcaș, 2007, p. 667)

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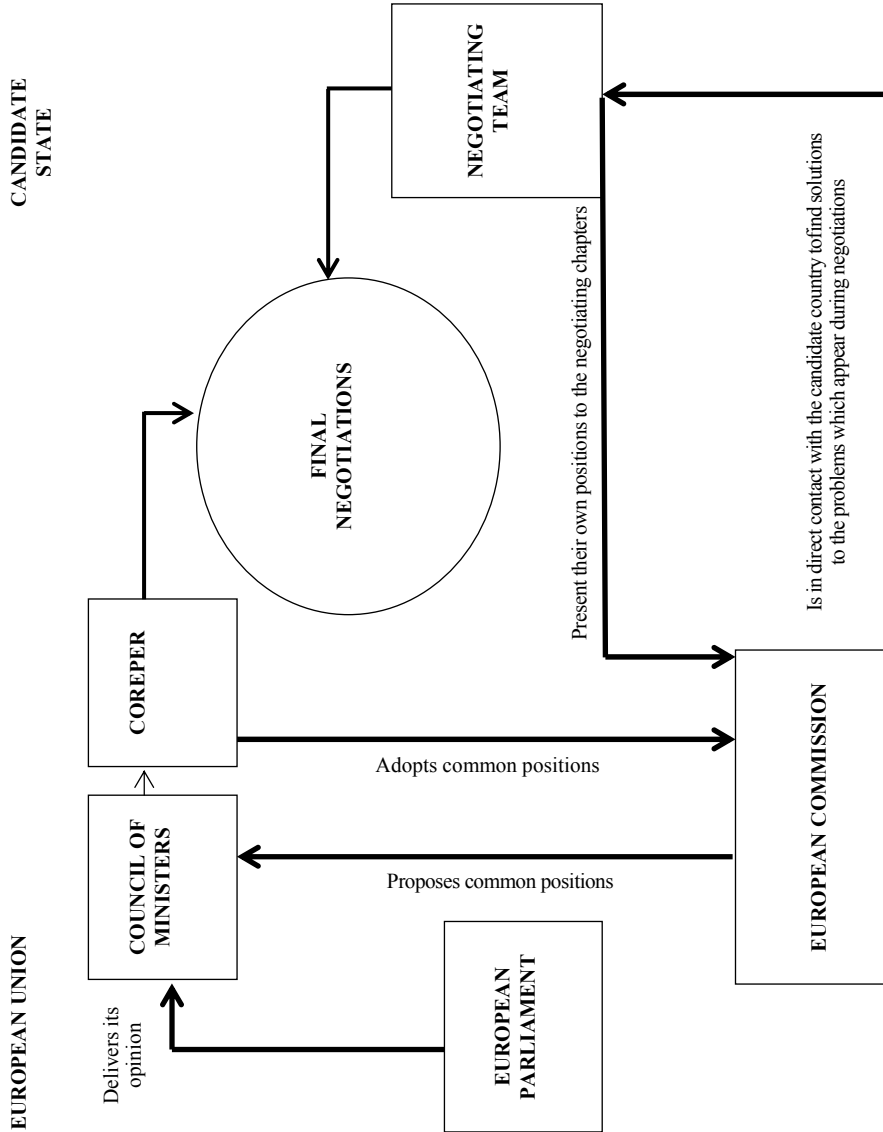
[29] Vasile Pușcaș, *op. cit.*, p. 667.

The draft of EU accession provided a framework for the modernization of the Romanian society, on the condition of the structural reform of the economy, institutions, laws, political system, the rule of law, etc., according to the Copenhagen criteria[30]. The Europeanization process refers to the internalization the values, laws, and procedures of the European Union and represents a "practical and desirable opportunity" of "real, systematic and integrated" modernization in Romania[31].

Like other candidate countries, the dynamics of the negotiations for the accession to the EU, between 2000-2004, took into account elements of strategy: institutional, policies and developments in the external environment and internal negotiation, external perceptions the preparation of Romania's conduct, strategic objectives on the criteria for accession and negotiation chapters, but also the forecasts on the evolution of negotiations[32]. The internal preparation had to be linked to the developments in the EU policies and with other components of the external environment of negotiation[33].

The negotiations for the accession to the EU started in February 2000, amid a strong geopolitical substrate and the internal effect was one of accelerating the country's modernization[34]. For Romania, at the proposal of the Commission and of the European Parliament; the European Council has added conditionalities linked to effective action of implementing the reform of childcare institutions and measures to redress the macroeconomic situation of the country[35].

Very important for the negotiating process was the need to coordinate the interests and actions of domestic actors, in the context of considering the institutional structure which held the EU accession negotiations. The schema of coordinating the negotiation process in terms mentioned above, may be expressed as:

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[30] *Ibidem*, p. 32.

[31] *Ibidem*.

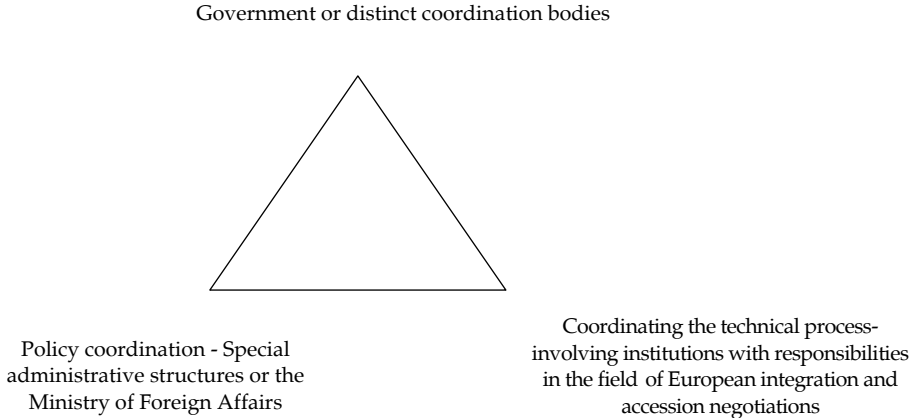[32] Ciprian Goriță, *op. cit.*, p. 339.

[33] *Ibidem*.

[34] Vasile Pușcaș, *op. cit.*, p. 34.

[35] *Ibidem*.

**Fig. 4.: The schema of the negotiation process coordination
(after Brusis și Emmanouilidis, apud Ciprian Goriță, p. 341)**

Government or distinct coordination bodies

Policy coordination - Special
administrative structures or the
Ministry of Foreign Affairs

Coordinating the technical process-
involving institutions with responsibilities
in the field of European integration and
accession negotiations

From an EU perspective, the strategic evolution of negotiations with the second group of candidate countries ("Helsinki", which of Romania was part of), took after the same model of approaching the negotiation as the "Luxembourg" group members, ie of opening the easy chapters of negotiation first. Due to the double size approach of the negotiation process (internal training and external environment of negotiation) during the year 2000, the negotiations were opened for nine chapters and provisionally closed for six[36]. Right from the beginning of Romania's accession negotiations, the EU position was that membership involves "fully accepting the present and future *acquis*, as well as the rights and obligations arising out of the institutions and policies system of the Union"[37].

Specific of the fifth wave of EU enlargement was the fact that the structures and institutions of the community part were the same as in previous enlargements, while the countries of Central and Eastern Europe have developed a different institutional framework to achieve their objectives of accession[38].

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[36] Ciprian Goriță, *op. cit.*, p. 340.

[37] Vasile Pușcaș, *op. cit.*, p. 36.

[38] *Ibidem*, p. 39.

The accession negotiation process involves significant management activity, linked to the coordination between governmental agencies and public administrations. The states from the Central-Southeastern Europe have coordonated for policies, politics and procedures. There were two options for policy coordination: the European Affairs Ministry, who was to be responsible for this, or creating a specialized body. Romania has created the Ministry of European Integration, but only at the end of 2000 (MIE) with functions on: strategy, regulation, representation, state authority, administration. The responsibilities of this ministry were also of leading and coordinating the activity of the National Delegation for the negotiation of Romania's accession to the European Union, but also the negotiation process as a whole, linking its specific activities to those of ministries and other public administration authorities[39].

The European negotiation for EU membership accession was strongly institutionalized, even by the "intergovernmental expression", very important being the principle of transparency[40]. Therefore, Romania has made public all position papers and the negotiating team has given significant attention to public communication.

In December 1999, amid the Helsinki European Council decision to start accession negotiations with Romania, the Bucharest Government has appointed a Chief Negotiator for EU accession, but only by GD. No. 243 of 22 February 2001, was established the National Delegation of Romania's EU accession negotiations, composed of the head of the National Delegation (Chief Negotiator), co-chairs of sectoral delegations (Secretaries of State for European integration from in line ministries) and members of sectoral delegations (working groups). The National Delegation was intended to assess the readiness of each chapter in view of the conduct of negotiations, organizing and evaluating the process of negotiating accession to the European Union, following the commitments assumed by Romania[41]. The second article of the GD. No. 243 stated that the Chief Negotiator was a member of the Romanian Government, as a Minister-delegate[42].

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[39] *Ibidem*, p. 40.

[40] *Ibidem*, p. 46.

[41] Vasile Pușcaș, *op. cit.*, p. 41.

[42] *Ibidem*

The National Delegation had regular consultations with parliamentary parties, in the completion phase of the position papers, regular briefings of the Parliamentary Committee for European Integration and sectoral committees were held, the public debate being permanently encouraged[43].

Completing the negotiation process of Romania, in December 2004 led to the possibility of Romania to become an EU member on 1 January 2007, but also to the emergence of solutions of development, and economic and social management. Romania has also achieved by the accession negotiations, in addition to the Treaty of Accession, 50 transitional periods and derogations (most of all former candidate countries), but the most important thing obtained "would be the assessment of the effects, the impact of implementing solutions for applying the *acquis* in all areas covered by the *accession negotiation chapters*"[44].

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[43] *Ibidem*

[44] *Ibidem*, p. 54

EUROPEAN ENLARGEMENT AND NEW FRONTIERS OF CENTRAL AND EASTERN EUROPE

Mircea Brie[*]

Abstract

The borders of Central and Eastern Europe (CEE) today are the result of a complex process conducted decades after the fall of communist regimes in this part of Europe. With the opening towards the west, with the change of political and economic regimes came the implementation of democratic reforms of CEE societies and this led to the beginning of a complex integration process. The latter is undoubtedly associated with profound changes in the form and role of borders between states and the new Western partners. The old barriers open, the borders become increasingly soft. Old movement restrictions are removed. The main idea of the integration process is not to settle barriers, but to attenuate them. From this perspective, internal borders become more and more inclusive and less visible. Security and border traffic control are transferred to external borders that become more and more exclusive, more restrictive if we respect the logic above. Such a theory is valid up to a point. Internal borders do not simply become more open, more inclusive; there is an integration process taking place in steps. The EU external border greatly expanded eastward, and in this context the old borders have become simple internal borders. Associated to an integration process, we find a process of dilution to the disappearance of internal borders with the Schengen space integration (old borders remain expressions of sovereignty, the national limits no longer serve to separate people, goods and capital).

Keywords: Europa, frontiers, enlargement, European Union, NATO, Euro, Shengen, identity, culture, Europeanism, good neighbourhood, crossborder cooperation

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Introduction

European enlargement into Eastern Europe, the identity of the European space, in particular of the European Union, is a complex issue that involves many controversies in the debate. The starting point in this study is the analysis of the European integration process of Central and Eastern Europe and the identity of this area in relation to the European East-West dichotomy through its borders. A debate on the European Union's external borders and proximity space can be made in terms of a comprehensive approach to capture both the official views of the organization and that of the various concepts contained in the specialised literature.

One of the first *hypothesis* of this analysis is that the typology and the organization of border space reflect the image and identity of the European Union, namely the various stages of the integrating process, of expansion towards the former communist space of the Western European model of community organization. Another hypothesis stems from the close relationship between the European enlargement and the opening (dilution!) of the former fortress-type borders of the old communist era. The former external borders of the EU acquire by enlargement, in addition to limit the role of national systems of jurisprudence, a more symbolic value. The new frontier is rather a space contact than one os separation.

Since the beginning of our research it is required to specify that the debate leaves room for at least two types of border spaces considered as external: the first results from the geographical boundaries of the European Union and the second from the territorial expansion of the Agreement for the Implementation of the System Schengen[1]. To these two we add the expansion of the NATO security space, and the configuration of the euro area as a distinct economic and monetary space within the EU. In terms of this approach, the perspective of the external border debate is driven by clear legal norms[2]. Nevertheless, the Community law on the frontier is

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[1] Ioan Horga, Mircea Brie,"Europe between Exclusive Borders and Inclusive Frontiers", in *Studia Universitatis Babeş-Bolyai*, Series *Europaea*, Cluj-Napoca, 2010, p. 64.

[2] Mircea Brie, Ioan Horga, "The European Union External Border. An Epistemological Approach", in *Revista Română de Geografie Politică*, 2009, p. 15.

given by: "all legal norms adopted by members of a community of states on access, stay of any other citizens of another State (whether a member of the Community or not), on crossing internal or external borders by persons, vehicles, and goods and joint regulations on border management, both internal and external"[3].

From the EU perspective, the external border of the European Union represents the geographical limits set by Community agreements and treaties. From the perspective of the Schengen Agreement, the external borders are defined as "land and maritime borders, as well as airports and sea ports of the Contracting Parties, if there are not internal borders"[4]. "Notwithstanding the definition of internal borders ... airports are considered as external borders for internal flights"[5]. Crossing these borders can be made in principle "only at border crossing points and according to their opening hours"[6]. Moreover, the new European treaties stress and regulate the principles of individual freedoms, including the free movement of people which is paid particular attention. The final provisions of the Treaty on the functioning of the European Union, governed by the Lisbon reform of the old "European constitution", surprise, despite the repeal of Article 67 of the old treaty text[7], in a manner very clear that the Union shall constitute an area of freedom, security and justice[8]. To achieve these standards and also to guarantee the citizens' rights, the EU set out their basic obligation to protect and control the external borders. However, all the protocols on external relations that make references to external borders provide "the need

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[3] Vasile M. Ciocan, *Bună vecinătate şi regimuri frontaliere din perspectivă europeană*, Oradea, Cogito Publishing House, 2002, p. 88.

[4] *Convenţia din 19/06/1990, publicată în Broşură nr. 0 din 19/06/1990 de aplicare a acordului de la Schengen din 14 iunie 1985 privind eliminarea graduală a controalelor la frontierele comune*, Schengen, 19 iunie 1990, art. 1. Apud Ioan Horga, Mircea Brie, *op. cit.*, p. 16.

[5] *Ibidem*, art. 4, para 4.

[6] *Ibidem*, art. 3, para 1.

[7] Text of *Tratatului de instituire a unei Constituţii pentru Europa*, title V , chapter 1, surprises in articles 67-76 *Dispoziţiile generale ale Spaţiului de libertate, de securitate şi de justiţie*. See the text of the constitutional treaty in Marianne Dony, *Après la réforme de Lisabonne. Les nouveaux européens*, Bruxelles, 2008, pp. 35-164.

[8] *Charte des droits fondamentaux de l`Union proclamée le 12 décembre 2007*, cap. II, art. 6-19. Apud Marianne Dony, *op. cit.*, pp. 270-277.

for Member States to ensure effective control of their external borders[9]."
Beyond the external borders of the European Union and the Member States
(most of them being internal borders of the EU), we identify numerous
other types of borders that are not directly the subject of this study. We
refer here to cultural boundaries[10], ethno - confessional, social, symbolic or
ideological ones[11].

European enlargement eastward and new perspectives on border

The borders of Central and Eastern Europe (CEE) today are the
result of a complex process conducted decades after the fall of communist
regimes in this part of Europe. During the Cold War, Europe was divided
into two by the two military blocs (NATO and the Warsaw Pact). On the
line between the two military blocs emerged a *hard* border, *closed*, called the
Iron Curtain. Subsequently, the European Union and NATO expansion
eastward, through the integration of most of the former communist states
of Europe, led to the disappearance of the *barrier* that had separated
Europeans from Europeans.

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[9] Such a phrasing we can find also in *Protocolul asupra relaţiilor ale statele membre cu privire la trecerea frontierelor exterioare* (1997), annexed to *Tratatului asupra funcţionării Uniunii Europene.* Apud Marianne Dony, *op. cit.*, p. 235.

[10] See additionally Ioan Horga, Mircea Brie, *Europe: A Cultural Border, or a Geo-cultural Archipelago*, in *The Cultural frontiers of Europe*, *Eurolimes*, vol. 5, volume edited by Alina Stoica, Didier Francfort, Judit Csoba Simonne, Oradea, 2010, pp. 155-169; Mircea Brie, Ioan Horga, *Le frontiere culturali europee: tra l'identita dello spazio europeo e le politiche comunitarie*, in Sorin Şipoş, Gabriel Moisa, Mircea Brie, Florin Sfrengeu, Ion Gumenâi (coord.), *The Historian's Atelier. Sources, Methods, Interpretations*, Romanian Academy, Centre of Transylvanina Studies, Cluj-Napoca, 2012, pp. 107-126; Alina Stoica, Mircea Brie, *The Cultural frontiers of Europe. Introductory Study*, in *The Cultural frontiers of Europe*, *Eurolimes*, vol. 9, volume edited by Alina Stoica, Didier Francfort, Judit Csoba Simonne, Oradea, 2010, pp. 5-8; Mircea Brie, Ioan Horga, "Europa: frontiere culturale interne sau areal cultural unitar", in *Moldoscopie*, nr. 3 (L), 2010, Chişinău, pp. 123-143.

[11] Ioan Horga, Mircea Brie, *Europe between Exclusive Borders and Inclusive Frontiers…*, pp. 73-82; Mircea Brie, Ioan Horga, *The European Union External Border…*, pp. 22-29.

Map 1. The Iron Curtain (NATO vs. Warsaw Pact Nations)

Source: Personal adaptation after
http://mrparana.weebly.com/section-114.html, viewed on 07.01.14

Begun with the unification of Germany, this process of European enlargement to the East has proved to be particularly important for shaping a new reality in the form and role of borders in Central and Eastern Europe area. CEE states integrated into Euro-Atlantic structures that include three former Soviet republics (the Baltic States), and now have embraced this integrating idea following the only logical existing alternative of security (NATO) and the impulse of prosperity offered by the European Union. This need for very strong security in this part of the world was born from a psychosis, real or less real in the years after the fall of communism, of the continuous "siege" of Russia. In fact, this need for security has proven to be much stronger than other needs of states and of the population also because these countries first sought integration into NATO security.

Map 2. NATO members and partners (2014)
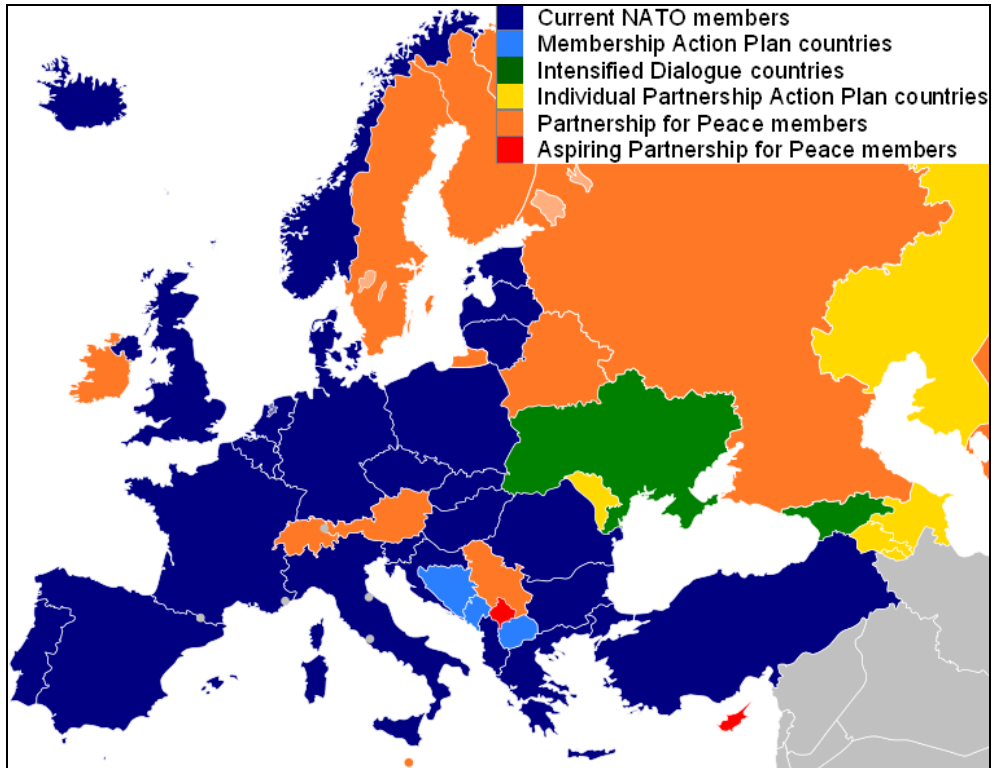
Source: Personal adaptation after http://commons.wikimedia.org/wiki/
File:NATO_affiliations_in_Europe.svg, viewed on 07.01.14

NATO expansion eastward led to the shaping of a new security border significantly expanded eastward compared to the former Iron Curtain that demarcated the area of influence of NATO vs. the Warsaw Pact. Today in CEE, with few exceptions, the NATO space overlap exactly over the EU space. Moreover, we can not but note that from the Baltic Sea to the Black Sea the external borders of the two organizations overlap exactly. These, associated to the last events of the year 2013 after the EU summit in Vilnius during which Ukraine refused the Association Agreement with the EU, allow us to distinguish a more or less clear east-west European divide line that coincides largely with the new external border of the EU and NATO. It is possible however, that as a bonus for its pro-European orientation, Moldova

be included in a space with a more *open* border. In the near future, by easing the visa policy to the point of even eliminating it, the EU could demonstrate to the Moldovan citizens its mutual interest in including the Republic of Moldova on the west side of the "new frontiers".

Map 3. European Union (2014)

Source: BBC, http://www.bbc.co.uk/news/world-middle-east-24367705, viewed on 06.01.14

Returning to the form and character of the borders of the communist period, we mention that beyond the boundary the east-west separation line, the communist states led own policies of building their fortress-type borders. Countries like Romania thus become real prisons for their own citizens, crossing the border being clearly regulated and controlled by the Party apparatus through subordinate institutions of the state. With the opening towards the west, with the change of political and economic regimes

came the implementation of democratic reforms of CEE societies and this led to the beginning of a complex integration process. The latter is undoubtedly associated with profound changes in the form and role of borders between states and the new Western partners. The old barriers open, the borders become increasingly *soft*. Old movement restrictions are removed. The main idea of the integration process is not to settle barriers, but to attenuate them. From this perspective, internal borders become more and more *inclusive* and less visible. Security and border traffic control are transferred to external borders that become more and more *exclusive*, more restrictive if we respect the logic above[12]. Such a theory is valid up to a point. Internal borders do not simply become more open, more *inclusive*[13]; there is an integration process taking place in steps. On the other hand, we cannot consider as fully equal good and *inclusive/open*, or bad and *exclusive/close*. A simple example can confirm our hypothesis: in war areas, borders are relatively open to refugees[14]. However, we cannot conclude that we have an *inclusive* border "open just for pleasure" like European borders to which community integration tends as a model[15]. On both sides of the border new CBC forms have appeared[16] and they are likely to lead to disappearance of the old cleavages imposed by the old barriers.

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[12] Mircea Brie, *Europe from Exclusive Borders to Inclusive Frontiers: Case Study Romanian - Ukrainian Frontier*, in Ioan Horga, Istvan Suli-Zakar (coord.), *Cross-Border Partnersip with Spacial Regard to the Hungarian-Romanian-Ukrainian Tripartite Border*, Oradea-Debrecen, 2010, pp. 23-36.

[13] Gerard Delanty, *Border in Changing Europe: Dynamics of Openness and Closure*, in *Eurolimes*, vol. I, *Europe and Its Borders: Historical Perspective*, ed. Ioan Horga, Sorin Sipos, Oradea, Institute for Euroregional Studies, 2006, p. 51.

[14] *Ibidem*, p. 50.

[15] Ioan Horga, Mircea Brie, *Europe between Exclusive Borders and Inclusive Frontiers, …*, pp. 63-86.

[16] See additionally Ioan Horga, Istvan Suli-Zakar (coord.), *Cross-Border Partnersip with Spacial Regard to the Hungarian-Romanian-Ukrainian Tripartite Border*, Oradea-Debrecen, 2010; Mircea Brie, Istvan Polgar, Florentina Chirodea, *Cultural Identity, Diversity and European Integration. Introductory Study*, in Mircea Brie, Istvan Polgar, Florentina Chirodea (coord.), *European Union. Identity, Diversity and Integration*, supliment *Analele Universității din Oradea, Seria Relații Internaționale și Studii Europene*, Oradea, 2012, pp. 7-20; Mircea Brie, *Ethnicity, Religion and Intercultural Dialogue in the European Border Space*, în Mircea Brie, Ioan Horga, Sorin Șipoș, *Ethnicity, Confession and Intercultural Dialogue at the European Union's East Border*, Editura Universității din Oradea/Editura Universității din Debrecen, supliment *Eurolimes*, Oradea/Debrecen, 2011, pp. 11-18; Mircea Brie, *The European Neighborhood Policy, Mass-media and Cross-border Cooperation*, în *Analele Universității din Oradea, Seria Relații Internaționale și*

Map 4. Eastward enlargement of the European Union (1995-2013)
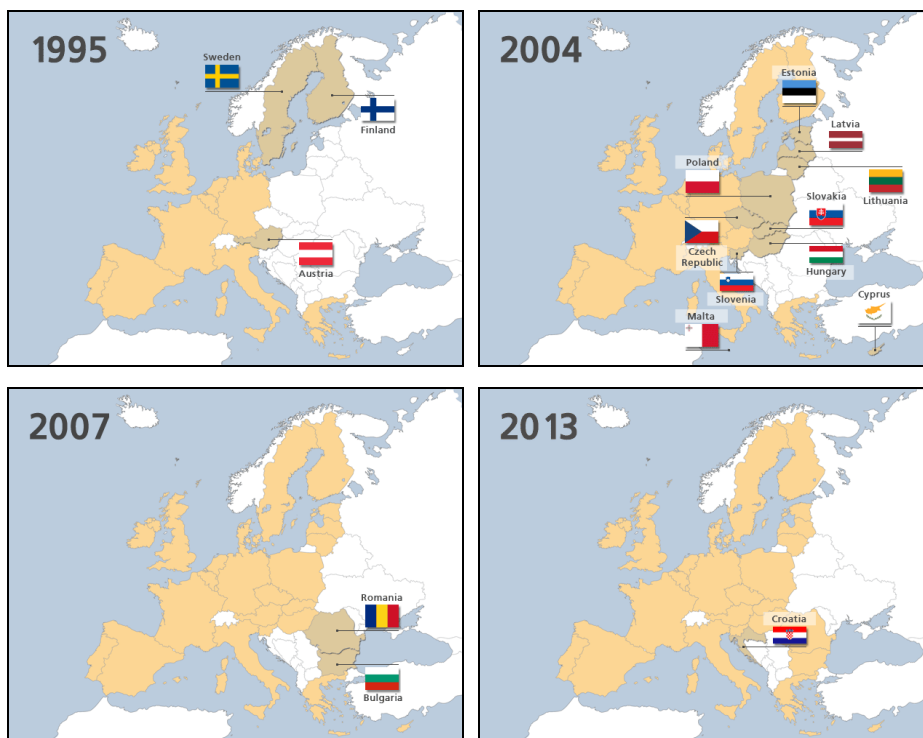
The EU external border greatly expanded eastward, and in this context the old borders have become simple internal borders. Associated to an integration process, we find a process of dilution to the disappearance of internal borders with the Schengen space integration (old borders remain

Studii Europene, 2009, pp. 81-86; Mircea Brie, Gabor Kosma (eds.), *From Smaller to Greater Europe: Border Identitary Testimonies* (*Eurolimes*), Oradea, 2006; Mircea Brie, *European Instruments of Cross-border cooperation. Case study: the Romanian-Ukrainian border*, în *Identités, citoyennetés et démocratie, 20 ans après*, sous la direction de Fabienne Maron, Grzegorz Pozarlik, Editions Bruylant, Bruxelles, 2010, pp. 265-280; Ioan Horga, Mircea Brie, *La coopération interuniversitaire aux frontières extérieures de l'Union Européenne et la contribution à la politique européenne de voisinage*, in Ioan Horga, Grigore Silaşi, Istvan Suli-Zakar, Stanislaw Sagan (editors), *The European Parliament, Intercultural Dialogue and European Neighbourhood Policy*, Oradea, 2009, pp. 232-251.

expressions of sovereignty, the national limits no longer serve to separate people, goods and capital). Meanwhile, in association to the need to ensure a comprehensive security required by all EU space, the new external border becomes more restrictive, darker, more *hard*. The new reality therefore leads to hilarious situations : where there was no barrier boundaries (as is the case of the Baltic countries and Russia borders or Belarus - partners in the former USSR) now has become such a barrier. It is therefore possible to witness the shaping of a "new Iron Curtain" on the Baltic-Black Sea line overlapping the EU border, the NATO norder and even the Schengen area border after the probable entering of Romania and Bulgaria of the Schengen space.

Map 5. Shengen area 2004 vs. 2014

Souce: http://www.sussexineurope.org/ eurotopics.htm, viewed on 07.01.14
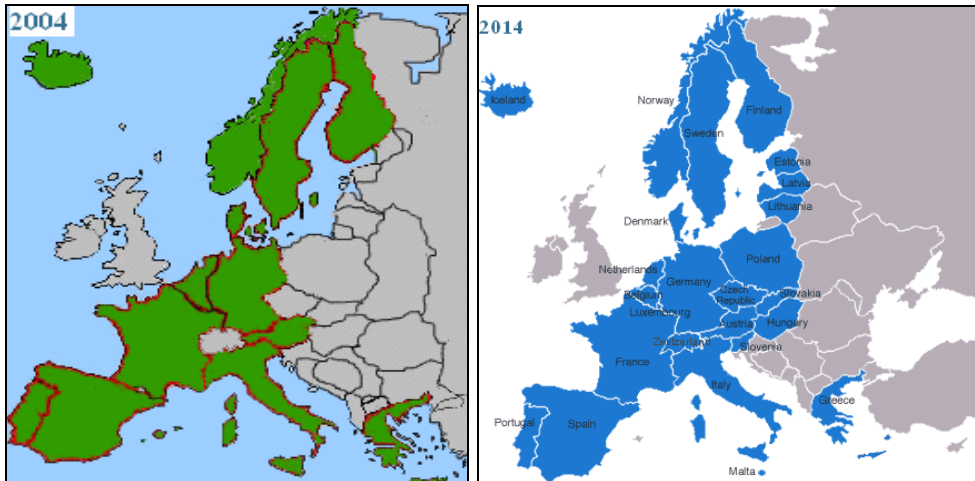
Souce: http://www.mediavisa.net/schengen- area.php, viewed on 07.01.14

The analysis of the typology and the forms taken by the new frontiers in CEE becomes more complex when the debate makes room for other reference factors such as the euro, namely the shaping of the Eurozone monetary space not only distinct but also as a space with a strong economic and social identity. The distinct reporting to Eurozone relative to the rest of the EU space is increasingly present in the context of financial and economic crisis and the sovereign debt.

Map 6. Eurozone 2004 vs. 2014

| Source: http://commons.wikimedia.org/wiki/File: Eurozone_map-1999.svg, viewed on 06.01.14 | Source: http://www.bbc.co.uk/news/world-middle-east-24367705, viewed on 06.01.14 |
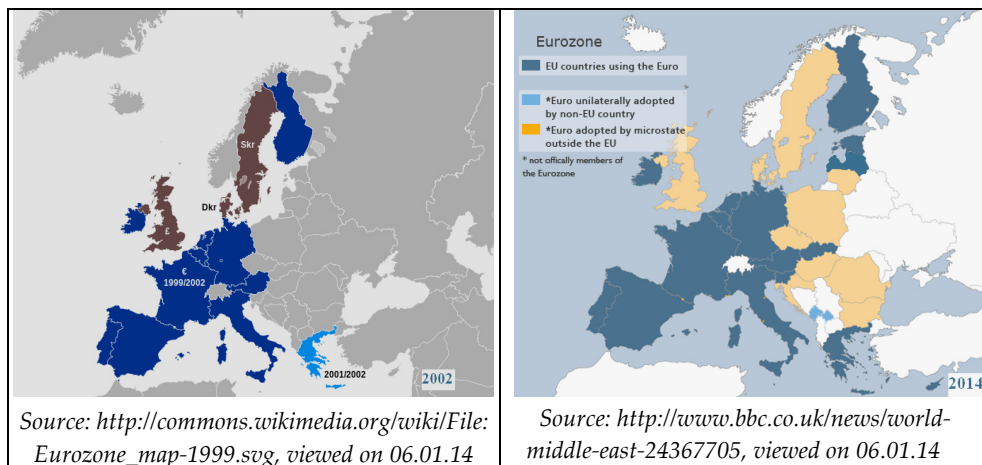
In general, the concept of border is associated with the *hard* physical border, a concept related to the barrier that can be crossed provided certain special conditions and requirements (visa to enter that country is the best example of a restrictive requirement in the case of *hard* border). On the other hand, a state can have *hard* borders with a neighbouring country, while having *soft*, open borders with another neighbouring country[17]. A border can be both *hard* and *soft* at the same time. A state can eliminate visas for the citizens of a state while strengthening and reinforcing requirements in border control[18]. In the European Union, community institutions suggest that Member States should have *hard* external borders and *soft* internal borders. Visa, border police control on people and goods crossing the border are characteristic of *hard* border. Unlike this type of border, the *soft* border is characteristic of a more flexible transit system with no restrictions of circulation for goods and persons[19]. There are several steps to reach this type of border. They consist of the following: eliminating visa, reducing taxes for people and goods to zero, facilitating and strengthening

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[17] Nanette Neuwahl, "What Borders for Which Europe?", in Joan DeBardeleben (ed.), *Soft or Hard Borders? Managing the Divide in an Enlarged Europe*, Hampshire, Ashgate, 2005, p. 24.

[18] See Olga Potemkina, *A „Friendly Schengen Border" and Ilegal Migration: The Case of the EU and its Direct Neighbourhood*, in *Ibibem*, pp. 165-182.

[19] Joan DeBardeleben, *Introduction*, in *Ibidem*, p. 11.

human contacts on both sides of the border including cultural, educational, and training programmes, etc.

The enlargement of the European Union to the east, a process materialised by integrating several former communist countries, has led to changing the view on former community borders, to pushing the external frontiers to the border of these countries. The *hard* border that would provide protection to community citizens according to European institutions has thus become the concern of the newcomers. Nevertheless, within the community there are supporters of other European states: Poland constantly supports Ukraine, Romania supports the Republic of Moldova and Serbia, Hungary or Slovenia support Croatia and the examples can continue. Despite community restrictions, these states try to develop contacts and *soft* border constructions with their partners outside the community. These states' European integration has led to a certain isolation of Russia (associated with a *hard* type reaction), which was disturbed by the enlargement of the EU at the same time with the enlargement of NATO. They are all part of a complex process generated by community mechanism, geopolitical realities and macroeconomic strategies. Thus, European enlargement determines the outline of new models of neighbourhood relations somehow different from the former relations between nation states[20].

This complex perspectives in which the CEE borders could be seen and analysed are added up with the nuances offered by the Neighbourhood Policies, and by the special partnerships that EU and NATO countries in Eastern Europe have. the Union perspective on foreign relations has had in the past decade the *European Neighbourhood Policy* as a starting point and a support, the results of which were noted by the European Commission as being positive[21]. Along with this, the European Union's foreign policy was directly supported by two general instruments impacting on the external border : the pre-accession policy (in this category are included all potential candidates for membership) and the development policy for third countries[22].

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[20] Ioan Horga, Mircea Brie, *Europe between Exclusive Borders and Inclusive Frontiers*…, p. 72

[21] See *Communication de la Commission. Une politique européenne de voisinage vigoureuse*, Bruxelles, 05/1272007, COM(2007) 744 final (in cont. *Comunication de la Commission...*).

[22] Annabelle Hubeny-Berlsky, *Le financement de la PEV- la réponse proposée (1)*, in Laurent Beurdeley, Renaud de La Brosse, Fabienne Maron (coord.), *L`Union Européenne et ses espaces de proximité. Entre stratégie inclusive et parteneriats removes: quell avenir pour le nouveau voisinage de l`Union?*, Bruxelles: Bruylant, 2007, p. 313.

In such a construction, both among members and in direct relation to the neighborhood at the external borders policies should focus on dialogue and constructive cooperation between all parties involved. A special role in this equation is gaining the promotion of education and human capital through various programs financed and supported by the European Union[23].

Under the influence of the European neighbourhood policy, the concept of external border of the European Union tends to acquire new means of expression. On the one hand, we see a flexibility of contacts between the two sides of the border. Such a trend is enhanced by the means of cross-border cooperation through Euroregions and European instruments successfully implemented at the external border. On the other hand, the remarkable actions of the European Union through which they attempt to implement policies for regional cohesion at the current borders are, according to some analysts, the proof that the European Union is consolidating the current external borders, thus considering, at least for the moment, the option of slowing down the enlargement to the east without effectively closing the gates to this enlargement. We can conclude to pointing out that the implementation of the European neighbourhood policy leads to altering the perception of external border; moreover, the implementation of European instruments for cross-border cooperation tends to move current border to the outside by building a new symbolic one including a peripheral privileged area having the advantages of neighbourhood[24].

Conclusions

The analysis regarding the forms taken by the new frontiers of the CEE space after the EU eastward enlargement do confirm the hypotheses from which we started this study. On the one hand, the European borders, both internal and external, reflect the image of European identity and of realities be it, local, regional or whole (political, cultural and socio-economic).

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[23] Ioan Horga, Mircea Brie, *Europe between Exclusive Borders and Inclusive Frontiers…*, p. 74; Ioan Horga, Mircea Brie, "Cooperarea inter-universitară la frontierele externe ale Uniunii Europene şi contribuţia la politica europeană de vecinătate", in Sorin Şipoş, Mircea Brie, Florin Sfrengeu, Ion Gumenâi (coord.), *Frontierele spaţiului românesc in context European*, Oradea/ Chişinău: Editura Universităţii din Oradea/ Editura Cartdidact, 2008, pp. 440-459.
[24] Ioan Horga, Mircea Brie, *Europe between Exclusive Borders and Inclusive Frontiers…*, pp. 74-75.

Analyzing borders we can conclude that they are the expression of our identity as a people, as a political or cultural system. As are our borders so are we, and so is the European Union. On the other hand, the European enlargement through the integration of former communist countries is associated with a process of dilution of the old frontiers, opening them so that new peoples have easier access to new partners.

Whether they have political, economic, social, cultural, mental, religious, or ethnic support, the borders are perceived as a space that separates humans and territories, but also cultures and identities. From another perspective, "the border is identified as an area of contact, as an overlap of of social, economic, cultural features of two states". It is the contact of two cultural areas of identity, the space of a cultural mixture. From this vantage point, in such an area it is possible to build an identity that goes beyond the ethno-cultural barrier.

The main conclusion of an investigation on concepts of external border is that the European Union has an external border that can be both stiff and flexible depending on the realities and challenges of the moment, on tensions or social and economic, political and legal openness, as well as on the complex internal reality of the European Union Member States. Despite diluting to "extinction" of internal borders, in "Europe without borders" emerge and consolidate all kinds of different types of borders between people, borders which can take the various forms.

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INTERESTS AND PRIORITIES OF EU AT ITS SOUTHERN FRONTIER

Ioan Horga*, Alina Mogoș**

Abstract

In a globalized world the neighbouring areas gained an increased importance as they started to act also as filters for threats and risks coming from more remote areas. Especially after the creation of the Schengen area and the removal of the internal frontiers inside this zone, the external borders and the neighbouring areas of the EU gained a special status as there were increased pressures to better secure them and prevent outside threats to enter the Community and then move unhindered in the area. The Southern frontier of the European Union is found in the Mediterranean Sea and is one of the frontiers that raise many security concerns for the member states. Traditionally, the Mediterranean is perceived as a region that unites three continents, different cultures and religions. As the external

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frontiers of the EU become more preeminent and fortified in this case, the southern boundary became more a separation line. It is one of EU's today preoccupation and challenge to unify the area and reach stability and security in the region as many of its interests and objectives can be linked with this region. It is the aim of this article to establish which are the threats and risks that made EU interested in prioritizing the area and develop several strategies and programmes as well as cooperation frameworks.

Key words: EU interest, EU priorities, Southern frontier, Mediterranean region, Barcelona Process, Euro-Med

Most of the European Union member states acknowledge and pledge for a more united and cohesive Union, but the processes of decision-making and policy-making prove that based on the areas of intervention, there are various interests and priorities that reflect more poles inside EU. Depending on which policy is under discussion, during the history of European integration the EU was divided in more groups of states reunited by some specific historical or cultural linkages or around similar interests and threats. Regarding the divisions North-South[1] and East-West there were already many other writings about. The Southern states of Europe often were confronted with the criticism of the Northerners and as a reaction they have often responded to the attitudes of the North arguing that they are failing in showing solidarity to their problems and specific needs. In most of the cases this fragmentation has been caused by the fact that the Southern frontier of EU from a geographical point of view is drown in the Mediterranean, dividing a sea that it was and still is considered by many a world in itself.

The European states from the Mediterranean Sea manifested from Ancient times a huge interest for region. In the Mediterranean Sea various empires ruled and tried to unite the area: the Roman Empire, the Byzantine Empire, the Greek Empire and the Ottoman Empire. Attempts from the European sides to connect the two shores of a sea dividing continents are to be found all over history: France, Spain and Italy had several disputes trying to annex the territories of their neighbours from the other side of the

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[1] Gerard Delanty, "Peripheries and Borders in a Post-Western Europe", in Gerard Delanty, Dana Pantea and Karoly Teperics (eds.), *Eurolimes, Vol IV – Europe from Exclusive Borders to Inclusive Frontiers,* Oradea, Debrecen: University of Oradea Press, 2007, p. 66.

sea. The French colonial Empire also marked the history and evolution of other 5 Mediterranean states that were its colonies: Morocco, Tunisia, Algeria, Lebanon and Syria, while Libya was an Italian colony. So history proves that the Mediterranean European states have always had an interest in the region and in gaining influence over the non-European sides of the sea. However, with the European Union we can speak about a sort of unification of the European part of the Mediterranean. United, the European side of the Mediterranean naturally was expected to gain influence and power in the region.

The EU has more programmes for enhancing cooperation within the Mediterranean, this proving that the Southern states succeeded in advancing their interests within the organization and translating them into an EU interest in the region. But it remains under question if EU succeeded in enhancing a true cooperation and an important in the area. There are more EU programmes and initiatives of cooperation with the Mediterranean states that reflect various interests and objectives of the EU in the area, most of them being a reflection of the priorities of the Southern states in the region. This article aims to explain which are these interests and priorities of EU in the Mediterranean and how are they reflected within EU strategies and programmes in the area. We will emphasize how the whole EU can benefit from the results of an enhanced cooperation with the Mediterranean neighbours and how the Southern frontier threats and opportunities are relevant also for the Northern part of EU. This is to be said in order to determine if the EU can find one voice to speak in a more influential way with the Mediterranean states.

In order to reach the objectives underlined above, as a methodology we have mainly focused on the analysis of documents and official discourses. We analysed official EU and member states documents and strategies, as well as speeches and interviews of some EU and EU member states officials, but also of some scholars and leaders of the non-EU Mediterranean states. In order to better understand the region and the interests of individual member states we consulted various books and articles regarding the Mediterranean states' history and foreign relations.

As it regards the theoretical framework of the article the analysis will fall mainly under the constructivist approach as we consider the importance of discourse, identity and socialization, but when we refer to how the

European interest was formed at the EU level regarding the Mediterranean issue, some prescriptions related to liberal intergovernmentalism have to be taken into consideration, although, ontologically we see the evolution and transformation of interests and preferences from a constructivist point of view. The liberal intergovernmentalism can provide a satisfactory explanation for the formation of an EU interest in the Mediterranean region. According to the liberal intergovernmentalism perspective the emergence of a European interest occurs as a consequence of occasional overlapping national preferences and interests.[2] If we consider the many disputes the Southern member states of EU had with non-Mediterranean EU states regarding the need for EU to prioritize as of strategic importance the Mediterranean and how the bargain took place in order to develop strategies and programmes for this region and increase the financial aids, we find ourselves under the liberal intergovernmentalist logic. But if the inception can be explained this way, the evolution and development of this EU interest can be seen as following under the constructivist logic.

The EU Southern Frontier – a very divisive boundary?

For the former Minister of Foreign Affairs of Malta, Michael Frendo, "there is no Europe without the Mediterranean. The European and Mediterranean realities are intrinsically tied together historically, culturally, socially, politically. Europe's engagement in the Mediterranean is not some peripheral issue in its foreign and security policy: it is central, essential and crucial to it since we are speaking of one geo-political region where Europe, Africa and even Asia, meet and where cultural and religious plates overlap and cross each other."[3] Such affirmations and argumentations are very often found in the speeches of EU Mediterranean countries that tend to emphasise upon a space that has to be in some way united and a priority for the whole EU. William Wallace argues that "Europe is an imaginary space, shaped and

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[2] Federica Bicchi, "Defining European Interests in Foreign Policy: Insights from the Mediterranean Case", in *ARENA Working Papers*, No.13, 2003, p. 1.

[3] Former Minister of Foreign Affairs of Malta Michael Frendo, *A voice for Europe in the Mediterranean- Challenges and Opportunities*, Speech delivered at the 7th Manuel Chrysoloras Internatonal Lecture, Athens, 26th June 2009, accessed on 15 September 2013, [http://www.foreign.gov.mt/default.aspx?MDIS=336&NWID=448].

reshaped by politicians and intellectuals to serve their changing purposes. [...] An operational, institutionalized Europe cannot be reconstructed without drawing boundaries, without bringing some states in and leaving others out... no boundary, no state – and by extension, no boundaries, no effective European institutions."[4] This reflects that for having an EU entity, defining its borders is of true importance, this being an important function of borders: to individualize and materialize an entity,[5] to be able to define the limits of the power of an entity. At the same time, this reflects also other two important assumptions relevant to our current study: the idea of Europe as an imaginary space and the fact that the process of drawing boundaries in order to construct EU means leaving some states out, therefore excluding them. So, extrapolating, EU needed to create and highlight its boundaries and this process implied both inclusion and exclusion of states. In the Mediterranean Sea, this EU imaginary space led to the creation of a dividing line between the two shores of the sea. Especially with the Schengen Agreements there were created two types of borders, internal and external, while the former vanished, the external ones become more closed and preeminent as their significance increased in a meaningful way.[6] At least from people's point of view the Southern frontier started to become more and more impermeable and as it acted more and more as a barrier in front of migration, a wall of a fortress, starting to be seen as a "boundary of separation".[7] Currently, EU faces a difficult situation as it tries to create partnerships with the countries outside its borders, and to establish "boundaries of contact", but at the same time the issue of illegal migration imposes the closure of the borders. As EU could be treated as an imaginary space so the Mediterranean region was seen as an imaginary space that

[4] William Wallace, "Where does Europe end?: dilemmas of inclusion and exclusion", in Jan Zielonka (ed.), *Europe Unbound. Enlarging and reshaping the boundaries of the European Union*, London and New York: Routledge, 2002, p. 82.

[5] Ruben Zaiotti, *Cultures of Border Control: Schengen and the Evolution of Europe's Frontiers* Chicago: Chicago University Press, 2011, p. 3.

[6] Ioan Horga and Mircea Brie, *Europe between Exclusive Borders and Inclusive Frontiers*, Studia Universitatis Babeş-Bolyai, Series Europaea, Cluj-Napoca, 2010, p. 25 [http://mpra.ub.uni-muenchen.de/44156/1/MPRA_paper_44156.pdf].

[7] David Newman, "Boundaries, Borders and Barriers: Changing Geographic Perspectives on Territorial Lines" in Mathias Albert, David Jacobson, Yosef Lapid (eds.), *Identities, Borders, Orders. Rethinking International Relations Theory*, London: University of Minnesota Press, 2001, p. 142.

united continents, cultures and peoples. Drawing the EU's Southern frontier separated the European states of the Mediterranean from the other states, emphasizing the differences and inhibiting in a way the cooperation between the two shores of the Mediterranean. This, prevented the possibility, at least for a while, to find a XXI century solution to unite the peoples and governs of the region. At the same time, the existence of this Southern frontier implies that now not only Spain, France, Italy, Malta, Greece have neighbours the other non-European Mediterranean countries, but the whole EU have them as neighbours, and this means that at imaginary level Sweden as EU member state has as neighbours these countries, although it benefits indirectly of the advantages and disadvantages of this neighbourhood, while the its Southern partners benefit directly.

The Southern frontier of EU is not only a geographical line, but also a cultural, economic and political boundary. In history, the classical Europe was the Mediterranean Europe: Greece and Magna Graecia and Italy. From a cultural point of view, today's EU cultural Southern frontier was first acknowledged by the ancient Greeks, who defined themselves in direct opposition to the Asian other.[8] With the EU this cultural division became again very preeminent especially for the people.

At the same time, the foreign policy cannot exist without borders, as there is the need to demarcate what is foreign- outside, and what is inside.[9] Having a clear boundary in the South implied also the need for the EU to have a foreign policy for the Mediterranean Neighbours. As Danuta Hübner, Member of the European Commission responsible for Regional Policy, acknowledged "discussing about frontiers of Europe is rarely about geography, ethnography or even history and more about foreign policy, security, governance".[10] The fact that we discuss about threats and interests of EU at the southern frontier prove that this affirmation to be valid.

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[8] William Wallace, *op. cit.*, p. 86.

[9] Christopher Hill, "The geopolitical implications of enlargement", in Jan Zielonka (ed.), *Europe Unbound. Enlarging and reshaping the boundaries of the European Union*, London and New York: Routledge, 2002, p. 95.

[10] Danuta Hübner, "The Borders of Europe", Speech delivered at The Club of Three Conference on the Frontiers of Europe, Warsaw, 3-6 February 2006,
[http://presseuropa.com/press-releases/danuta-hubner-member-of-the-european-commission-responsible-for-regional-policy-the-borders-of-europe-the-club-of-three-conference-on-the-frontiers-of-europe-warsaw], 28th September 2013.

Assesing which are the threats, risks and interests of EU
at the Southern Frontier

From a historical point of view Federica Bichi observes four stages in how the EEC/EU related to the Mediterranean area. The first one would correspond to a period in which EU neglected the regional dimension of the area and negotiated mainly on bilateral basis with riparian states. This period would be comprised from the birth of EEC/EU to 1972.[11] We can understand why it was like this if we consider the fact that only two of the member states were in the Mediterranean and both were very affected by the war and in a process of reconstruction and accommodation of other interests with their new partners. So focusing on the neighbourhood could not have been a priority since the creation of the EEC, as the member states were trying to figure out how to work together and how it will be developed the EEC. The second stage Federica Bichi emphasises started with 1972 since when the EEC started to address the area as a region and launched the Global Mediterranean Policy. This attention could be easily understood if we consider the fact that during this period the Arab-Israeli conflict affected also the EU and the world assisted to the emergence of the terrorist threat. In these years, member states initiated the Euro-Arab Dialogue, including all the Arab Mediterranean countries and other Arab League member states. In 1980 it was signed the Venice Declaration by which the EEC acknowledged the fact that there are traditional ties and common interests that link Europe to the Middle East that pressures them to play a special role in solving the Israeli-Arab conflict, that affects peace in the region.[12] With the 1980s there is a third phase of relations with the area characterised mainly by a fall of importance of the region on the EEC agenda, followed by a fourth stage with the 1990s when the member states revisited the Global Mediterranean Policy and launched the Euro-Mediterranean Partnership in 1995.[13]

At the insistence of France, Spain and Italy it has been made a commitment at Barcelona in 1995 to transfer to the Mediterranean non-EU states approximately 70% of the sums being given to the Central and East

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[11] Federica Bichi, *op.cit.*, p. 12.

[12] European Council, ''Venice Declaration'', 13 June 1980,

[http://eeas.europa.eu/mepp/docs/venice_declaration_1980_en.pdf], accessed on 23 August 2013.

[13] *Ibidem.*

European countries until the end of the century, but the implementation of transfers was precarious.[14] This could be explained also by the fact that for the Northern EU member states the Mediterranean was not seen as a priority. Traditionally it seemed that EU programmes and policies regarding the Maghreb states and the Middle East states at the Mediterranean were more about how to content the peoples of these countries in their own states, to discourage the pressure of illegal immigration[15]. The recent developments show how limited the result of these initiatives was.

We can say that until the last two decades the EU as an organization manifested limited interest in the Mediterranean; it almost neglected the area, despite the fact that from the points of view all five sectors of security[16] the area was of true importance for EU. Although there might have been objective reasons for such a neglect, such as the fact that the EEC was a new project under construction, that the member states had other priorities like rebuilding and developing their economies and a common market inside the EEC space and the EEC/EU had different institutional priorities, it might have been worthy to pay a toll to history and wonder why during time various powers tried to control and dominate the Mediterranean. And these facts can be easily understood if one takes into consideration the North-South European dimension, as Southern EU member states demanded for increased financial and political support to Southern Mediterranean countries.[17] As it can be observed from the four stages that Federica Bichi presents, until the 90s the EU was interested in the area and developed partnerships and programmes only when confronted with a crisis that had a potential to affect most of its members. Proximity was for long time the main direct variable that influenced the EU member states setting of a region as being a priority or not. With Schengen, proximity tended to become a little less important and helped the Southern frontier states better militate for their interests in the region, as threats like terrorism, illegal migration and organized crime targeted mainly the rich and prosperous Northern part of EU. It appears that three factors had the potential to generate

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[14] Christopher Hill, *op. cit.,* p. 104.

[15] Christopher Hill, *op. cit*, p. 111.

[16] See Barry Buzan, *People, states and fear: an agenda for international security studies in the post-Cold War era,* Colchester: ECPR, 2007.

[17] Franco Praussello, *Sustainable Development and Adjustment in the Mediterranean Countries,* Milan: FrancoAngeli, 2006, p .129.

enough solidarity for the member states in order to put on their priority list the Mediterranean and these are: energy security, illegal migration and terrorism. Before the EU acknowledged that the Mediterranean is of "vital importance"[18], the states not directly linked with this sea became interested in the region only after they became aware of the seriousness of terrorism and illegal migration and the how the events from outside the Southern frontier can impact upon EUropean energy security.

During time, two EUropean states, France and Spain, were interested in the Mediterranean region because they perceive it as potential source of "international recognition of their role in world affairs"[19]. And France especially was very preoccupied in accomplishing such an objective, settling things in the Mediterranean was seen as an opportunity to show the world that it is still a great power. Hence the reason for which France, for example, wanted to be the first on the ground when Libya crisis arouse and to take leadership to solve the situation. As overall, France failed to achieve this objective; so it became a strong promoter of the idea that EU should have a bigger role in the Mediterranean as this could bring it more international prestige and recognition of its power.

Sarkozy appealed to all the Mediterranean leaders to move from dialogue to politics, this emphasizing the limited results achieved by previous cooperation between EU and Mediterranean non-European countries. Sarkozy's proposal was using the same phrasing in which the Barcelona Process Agreement was formulated, proving the French interests in drafting and enhancing further cooperation in the region. In his Tangiers speech, Sarkozy pointed out some EU preoccupations and interests related to the region: stopping and preventing illegal immigration, fighting terrorism and extremism and organized crime. For Sarkozy, the Mediterranean Sea represents not only its intellectual, moral and spiritual sources, but also its future.[20] Solving the problems in the Mediterranean would mean less for

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[18] European Council, "Common Strategy of the European Council of 19 June 2000 on the Mediterranean Region", in *Official Journal of the European Communities,* 22 July 2000, [http://www.consilium.europa.eu/uedocs/cmsUpload/mediEN.pdf].

[19] Federica Bicchi, *op. cit*., p. 15.

[20] Former Minister of Foreign Affairs of Malta Michael Frendo, "A voice for Europe in the Mediterranean - Challenges and Opportunities", Speech delivered at the 7th Manuel Chrysoloras Internatonal Lecture, Athens, 26th June 2009, [http://www.foreign.gov.mt/default.aspx?MDIS=336&NWID=448], 15 September 2013.

EU to be preoccupied for, less money to invest in, less domestic problems to solve and more resources to allocate for expanding its influence in areas that are not in their proximity. To put it in other words, it would be easier to pursue the recognition of the status of EU power after the organization takes care of things in its own yard and on the things from the immediate outside of the yard. The Mediterranean is a region that poses more weights upon EU's shoulders, there are many issues to be solved and tackled with in the area. The stability in the region is precarious due to many interrelated tensions in the area, that range from conventional disputes over territory and resources to social and economic problems related to the poor level of development of the non-EU Mediterranean states, to religious conflicts and asymmetric threats like terrorism.[21] Cyprus issue is a source of tension, the antagonism between Greece and Turkey hampers stability as the two states have geographical disputes that escalated in the aftermath of the discovery of important energy resources in the area. At the same time, the Arab Spring raised more problems in the region and increased illegal migration flows to the EU. Turkey has territorial disputes with Syria, Israel and the Palestinian Authority have already a history of frictions, Morocco and Spain relationship knew a negative trend due to the enclaves of Ceuta and Melilla and the uninhabited island of Perejil. [22]The Mediterranean area offers plenty of case studies of how borders can influence and affect international relations and security and stability. To these border disputes, Sven Biscop adds as potential sources of conflict the shortages of water, the desertification, nationalism and fundamentalism as well as the absence of democracy and the poor economic situation all of which can imperil the security of EU southern frontier. As it can be seen, the Mediterranean represents a case study also for the 5 security sectors that Buzan has brought in the international relation theory as there are sources of insecurity related to political, societal, economic, military and environmental aspects. The lack of democracy, of support for the regimes and the low level of legitimacy of the leaders connected with the popular discontent caused by the poor economic and social development of the Arab countries shoring the Mediterranean already lead to the Arab Spring that spilled over from one state to the other affecting Tunisia, Libya, Egypt and Syria.

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[21] Sven Biscop, *Euro-Mediterranean Security: A Search for Partnership*, Aldershot: Ashgate Publishing Limited, 2003, p. 1.

[22] *Ibidem*.

From an economic point of view one of the main EU interests in the Mediterranean region lies in the supply of oil and gas, as 1/3 of gas imports for the EU originates in the Maghreb, at the same time oil and gas represent 80% of total Mediterranean exports to the EU and states like Algeria and Libya are much dependent on EU as up to 95% of their energetic exports are linked to the EU. The oil from Gulf States is shipped across the Mediterranean and as well, major pipelines cross and will cross Mediterranean to transport gas and oil from Central Asia and Caucasus.[23] Petroleum interests are very important for EU member states, for example, Libya, the country with the eighth largest oil reserves, is the second largest source of oil for Germany.[24] All of these provided for all member states incentives for investing resources in securing the area and especially the freedom and security of navigation. It was indeed the energy concerns that forced European states to take a collective stance and declare its interests in the Middle East and Mediterranean since the oil shock of 1973.[25]

For Italy, the Mediterranean region is an area of instability and due to its position it is somehow overexposed to the threats and risks like illegal trafficking, transnational crime, illegal immigration, terrorism infiltrations, nuclear proliferation problems. Because of this, for Italy is a high priority to share responsibility in securing the region and it seeks the support of its partners from various international organizations, especially within EU.[26] In 2007 the immigration rate in Italy increased with 20%,[27] illegal migration being perceived as one of the major threats not only for the Italian state but also for other EU member states, because as Italy is in Schengen area and usually illegal migrants target states richer than Italy, like the Scandinavian

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[23] Sven Biscop, *op. cit.*, p.17.

[24] Belachew Gebrewold, "Migration as a Transcontinental Challenge", in Belachew Gebrewold (ed.), *Africa and Fortress Europe. Threats and Opportunities*, Aldershot: Ashgate Publishing Limited, 2007, p. 19.

[25] Osama Al Ghazali Harb, "Introduction" in Al Siyassa Al Dawliya and European Commission, *Europe and the Middle East - perspectives on Major Policy Issues: What does the future hold for the EU's efforts in the Middle East?*, 08 October 2010, 9, [http://eeas.europa.eu/delegations/egypt/documents/syasah_dawlia_final_en.pdf], 23 August 2013.

[26] Marta Dassu and Maurizio Massari (Eds.), "Rapporto 2020. Le scelte di politica estera" (Report 2020. The foreign policy choices), *Gruppo di riflessione strategice (Strategic reflection group)*, October 2007, 57, [http://www.cooperazioneallosviluppo.esteri.it/pdgcs/italiano/Cooperazione/Pdf/Politica_Estera.pdf], 23 August 2013.

[27] *Ibidem*, p. 65.

states or Germany. Italy's islands of Lampedusa, Pantelleria and Sicily are acknowledged to be, together with Malta as ones of the preferred destinations for illegal migrants to try to reach the EU ground.[28] For EU, it has become a priority to aid Italy, Malta and Greece in securing their borders, but at the same time it is also a test for solidarity between the member states. Although, it is an issue that affects the majority of the member states especially because of the openness of the borders provided by the Schengen Agreement, the states from the North might not fully understand the difficulties the Italian authorities face in order to prevent illegal immigration. The Italian government requested EU assistance in order to manage the situation, but also to share the costs of protecting its own borders, but also the EU's borders. Frontex first arrived in August 2006 to organize joint EU naval patrols that were followed by continuous upgrading and militarization of border controls which numbers in the light of the Arab Spring continued to increase dramatically despite all the fortifying measures. [29] Italy offers an interesting case study for the purpose of this article, as the illegal migrants are coming especially from the other shores of the Mediterranean: Libya and Tunisia, showing the implications that the Southern boundary has upon dividing the region, especially if we consider the fact that between 1992 and 2002 the main reason for immigration was the reunification of family.[30] Of course, in recent times the main reason changed and can be linked especially with economic motivations and with the Arab Spring. Illegal migration, together with terrorism are the two main threats that generated the creation of the G-5 in may 2003 by Great Britain, France, Italy, Spain and Germany, whose main purpose was to fight these threats collectively and create a security zone in the Mediterranean Sea. The preoccupation was to stop the illegal migration especially from North Africa to Europe.[31] Controlling immigration was a priority issue also of Spain's EU presidency who suggested together with Britain to impose sanctions against the countries whose

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[28] Great Britain: Parliament: House of Lords: European Union Committee, *FRONTEX: The EU external borders agency, 9th report of session 2007-08*, Political Science, 2008, p. 35.

[29] Ariane Chebel d'Appollonia, *Frontiers of Fear. Immigration and Insecurity in the United States and Europe*, New York: Cornell University Press, 2012, p. 120.

[30] *Ibidem*, p. 122.

[31] Belachew Gebrewold, "Migration as a Transcontinental Challenge", in Belachew Gebrewold (ed.), *Africa and Fortress Europe. Threats and Opportunities*, Aldershot: Ashgate Publishing Limited, 2007, p. 2.

cooperation in combating illegal immigration was inadequate[32]. Despite the fact that the freedom of movement and the abolishment of internal frontiers are considered important achievements of the EU, the objective to fight illegal immigration and prevent it from spreading all over EU lead to the adoption of a declaration that allows Member states to reintroduce border controls at internal borders if there is a true need to do so.[33]

Table 1. Mediterranean region importance in addressing EU threats and objectives comprised in the European Security Strategy

Threats and objectives according to the "European Security Strategy – A secure Europe in a better world (2003)[34]	Mediterranean Region Impact (references in the ESS)	Potential Mediterranean region's impact
THREATS: Energy dependence ("Europe is the world's largest importer of oil and gas. Imports account for about 50% of energy consumption.")	"Most EU energy imports come from Gulf, Russia and North Africa."	Most of energy imports come from EU's Mediterranean neighbours or from other partners through the Mediterranean.
Terrorism, violent religious extremism.	-	Traditionally it is considered that violent religious and nationalist extremism associated with terrorism derived from the Mediterranean Arab countries.

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[32] Ahmed Al-Shahi and Richard Lawless , "Introduction", ed. Ahmed Al-Shahi and Richard Lawless, *Middle East and North African Immigrants in Europe,* (New York: Routledge, 2005), p. 22.
[33] European Commission, "Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 562/2006 in order to Provide for Common Rules on the Temporary Reintroduction of Border Control at Internal Borders in Exceptional Circumstances", COM (2011) 560 final, Brussels: September 16, 2011, 2 A [http://ec.europa.eu/dgs/home-affairs/e-library/docs/pdf/560_en_en.pdf], 23 August 2013.
[34] European Council, "European Security Strategy – A secure Europe in a better world", Brussles 12 December 2003, accessed on 14 August 2013, [http://www.consilium.europa.eu/uedocs/cmsUpload/78367.pdf].

Threats and objectives according to the "European Security Strategy – A secure Europe in a better world (2003)[34]	Mediterranean Region Impact (references in the ESS)	Potential Mediterranean region's impact
Proliferation of Weapons of Mass Destruction	"We are now, however, entering a new and dangerous period that raises the possibility of a WMD arms race, especially in the Middle East. Advances in the biological sciences may increase the potency of biological weapons in the coming years; attacks with chemical and radiological materials are also a serious possibility."	Within last years more non-EU countries shoring Mediterranean were preoccupied with developing WMD as the cases of Libya and Syria prove it. Although not at the Mediterranean, Iran's ambitions to develop nuclear capabilities are a potential source of conflict.
Regional Conflicts Problems ... impact on European interests directly and indirectly, as do conflicts nearer to home, above all in the Middle East.	The Mediterranean area generally continues to undergo serious problems of economic stagnation, social unrest and unresolved conflicts. The EU's interests require a continued engagement with Mediterranean partners, through more effective economic, security and cultural cooperation in the framework of the Barcelona Process.	In the Mediterranean there are border and resources disputes: for example Turkey-Cyprus, Spain-Morocco, Syria-Israel, Israel- Palestine etc. Religious and ethnic conflicts – Arab-Israeli conflicts
State Failure: bad governance, corruption abuse of power... and civil conflict corrode states from within.	-	The Arab Spring already showed how state failure can impact upon EU especially if considered the illegal immigration the number of refugees, the economic implications.
Organised Crime: Europe is a prime target for organised crime.	-	Being one EUropean border it impacts upon preventing organised crime groups entering EU.

Threats and objectives according to the "European Security Strategy – A secure Europe in a better world (2003)[34]	Mediterranean Region Impact (references in the ESS)	Potential Mediterranean region's impact
OBJECTIVES: Building Security in our Neighbourhood	Our task is to promote a ring of well governed countries to the East of the EU and on the borders of the Mediterranean.	There must be reached stability in the Mediterranean to fulfil such objective.
Enlarge but not create new dividing lines in Europe	-	Southern Frontier creates dividing lines in Mediterranean that can be overcame through increased cooperation and partnerships
Resolution of the Arab/Israeli conflict is a strategic priority for Europe	Resolution of the Arab/Israeli conflict is a strategic priority for Europe	The Arab – Israeli conflict is a conflict comprised in the Mediterranean region.

Table 1 emphasizes the objectives and the threat assessment set by EU in its first European Security Strategy issued in 2003 as well as the references to the Mediterranean region. The last column is assessing the potential of the region to influence the objectives and fight against the threats contained in the strategy. As it can be observed there can be made important connections between all objectives and threats contained in the strategy and the Mediterranean region and Mediterranean states, this proving why the region became an EU priority and an area of vital interest. The direct references in the European Security Strategy to the Mediterranean region in connection to the above mentioned threat and objectives might seem a little limited, but neither other regions receive in the strategy more attention. The 2008 Report on the Implementation of the Security Strategy[35] grants more importance to the region's impact especially upon the issue of illegal migration, radicalism and regional conflicts.

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[35] European Council, "Report on the Implementation of the European Security Strategy – Providing Security in a Changing World", Brussels, 11 December 2008, 6, [http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressdata/EN/reports/104630.pdf], 23 August 2013.

Priorities and objectives of EU cooperation with
Mediterranean countries

Having clarified which are the threats and risks upon EU security coming from the Mediterranean that lead to making the region a "vital area" for EU interests, it might be interesting to briefly point to some EU strategies concerning what constitutes a priority for EU in the area. Being analysed all the above threats, we can resume some general objectives and interests of EU at its Southern frontier like "fostering good governance, prevention of illegal migration, safeguarding of energy resources",[36] develop a "zone of prosperity and a friendly neighbourhood-a ring of friends".[37]

One of the first and most important for today dynamics is the declaration that laid down the basis for a EU-Mediterranean countries partnership - the Barcelona Declaration, adopted in 1995 at the Euro-Mediterranean Conference. This declaration set up some EU and Mediterranean countries objectives among which establishing a common area of peace and stability, create an area of shared prosperity (in this sense the EuroMediterrranean Agreements have an important role to play in the establishment of a free-trade area) and promoting understanding between cultures and exchanges between civil societies.[38] The Barcelona Declaration referred also directly to the importance of energy by emphasising the pivotal role of this sector - it can be said that after security matters, the second important EU interest in the region is energy.[39]

In the Common Strategy of the European Council of 19th June 2000 on the Mediterranean Region, it is also argued to be of strategic importance to the EU its Southern neighbourhood as "a prosperous, democratic, stable

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[36] Ralph Thiele, Wolf Kinzel, Frank Kolstelnik, Ger Fohrenbach et al., *Mediterranean Security After EU and NATO Enlargement,* Rubettino: Centro Militare di Studi Strategici, 2005, p. 82.

[37] European Commission, "Wider Europe-Neighbourhood: A new framework for relations with our Eastern and Southern Neighbours", Brussles, 11 March 2003 (COM (2003) 104 final), p. 4.

[38] "Barcelona declaration adopted at the Euro-Mediterranean Conference", Barcelona, 27-28 November 1995, [http://trade.ec.europa.eu/doclib/docs/2005/july/tradoc_124236.pdf],
15 March 2013.

[39] Sanam S. Haghighi, *Energy Security. The External Legal Relations of the European Union with Major Oil and Gas-Supplying Countries*, Oxford and Portland: Hart Publishing, 2007, pp. 361-367.

and secure region, with an open perspective towards Europe is in the best interests of the EU and Europe as a whole."[40] This first article of the strategy reflects in sub-text the nature of the interests and objectives of EU in the region: economic, political and from a security point of view. Accordingly, EU wants to invest in the economic development of the area and the establishment of democratic governments, which EU tends to see as stable and prone to peace. Achieving these objectives could serve the EU interests. The EUropean goals written in the strategy are the following:

> - to make significant and measurable progress towards achieving the objectives of the Barcelona Declaration and its subsequent acquis;
> - to establish a common area of peace and stability through a political and security partnership;
> - to establish a partnership in social, cultural and human affairs: developing human resources, promoting understanding between cultures and exchanges between civil societies, to promote the core values embraced by the EU and its Member States, including human rights, democracy, good governance, transparency and the rule of law;
> - to encourage and assist Mediterranean partners with the process of achieving free trade with the EU and among themselves in the terms of the Barcelona Declaration, economic transition and attracting increased investments to the region;
> - to strengthen cooperation in the field of justice and home affairs as outlined by the Tampere European Council;
> - to develop the basis for normal good-neighbourly relations and encourage the parties to engage in regional cooperation;
> - to contribute to the consolidation of peace in the region, including economic integration and mutual understanding between civil societies;
> - to increase the effectiveness, impact and visibility of EU actions and initiatives in the region.[41]

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[40] European Council, "Common Strategy of the European Council of 19 June 2000 on the Mediterranean Region", *Official Journal of the European Communities*, 22 July 2000, [http://www.consilium.europa.eu/uedocs/cmsUpload/mediEN.pdf]. 23 August 2013.
[41] *Ibidem*.

All these measures aim to contribute at the development of new trading and economic partners, and offer another image of EU's strategic view of its relations with its Southern neighbours, that move beyond the considerations related to security and migration to international prestige and influence leverage.[42]

Terrorism is another important threat to EU security as many EUropean strategies and declarations point out, despite this fact, it can be seen in the above list of areas to cooperate and objectives, that terrorism is not one of the priorities. Although it can be found in the long and wide list of the 39 branches of policy of Barcelona declaration.[43] The European Neighbourhood Policy Action Plans do not contain neither measures that aim to increase cooperation on border controls with the specific aim of tackling terrorism, although references to cooperation in the field exist, but are few and of little substance.[44] It can be said though that objectives as the ones presented above, can have a contribution to the fight against terrorism as it mainly combats against some of the causes.

Another EU priority towards it concentrates efforts is solving the Arab-Israeli conflict and find a peaceful resolution of the dispute that constitutes a heated source of violence in the region. Being member of the Quartet (with the UN, the US and the Russian Federation) it launched in 2002 a "road map for peace" aimed at resolving the conflict. In this particular matter, EU's objective is a two-state solution with an independent, democratic Palestinian state.[45]

Conclusions

In European and Arab state history, the Mediterranean space played an important role, still today, the area is a high priority for European Union and all the shoring member states. Consensus for a unitary approach of the

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[42] Rapporteur Vincent Peillon, "Draft Report on the Union for the Mediterranean (2009/2215(INI))", 26 February 2010, 4. Source: EU Archives in Florence, DORIE Database.

[43] Michael Emerson, Gergana Noutcheva, "From Barcelona Process to Neighbourhood Policy, Assessments and Open Issues", *CEPS Working Document*, No.220/March 2005, p. 3.

[44] Christian Kaunert, Sarah Leonard, "EU Counterterrorism and the European Negihbourhood Policy: An Appraisal of the Southern Dimension", in *Terrorism and Political Violence*,Vol. 23, 2011, p. 299.

[45] European Union External Action, "The EU and the Middle East Peace Process",
[http://www.eeas.europa.eu/mepp/index_en.htm].

region from part of the EEC/EU came in moments of crisis, like the oil shocks and terrorist attacks, energy security concerns proving to be ground for the first common interests of EU member states in the region. The main interests of EU in the region are linked to illegal migration, terrorism, energy security and bringing to an end the Israeli-Arab conflict. In order to achieve these interests, the Union listed in several documents objectives and actions to be taken in the light of the cooperation forums that it created with the Mediterranean countries. As it can be seen the EU interests and priorities are linked specially with security concerns and economic developments, but in the last decades the region is seen also as a potential source for EU's international prestige, although until the Community manages to have some important results in achieving the various objectives set up, this region could offer many examples of EU's lack of effective power in bringing stability in an area of high instability and insecurity.

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LOBBYING THE EU:
THE EXAMPLE OF REGIONAL LOBBIES

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Abstract

In today's terms, lobbying means representing, promoting and defending a particular interest, by influencing the political decision-making process. Lobbying can also be referred to as public or governmental affairs, advocacy or strategic communication. European lobbying and interest groups constitute one of the principle components of decision-making influence. The present article will present different example of regional lobbies.
Key words: lobby, regional lobby, local lobby, lobbying strategies

The definition and the meaning of "lobbying"

The word *"lobbying"* derives from the Anglo-Saxon parliamentary tradition. The *"lobbies"* were the hallways in front of the debating chamber of the Houses of Parliament in London, where the public could meet Members to persuade them, to support or oppose a cause.

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Although, in some languages and in some countries the notion of lobbying has a negative image and it is sometimes criticised for "seducing" politicians or evokes images of corrupt practices, it is a real established part of the democratic political process and a natural counter-power in the decision-making process. Lobbying is also much more of a technical profession than a political one, allowing members of the civil society to take part in the legislative process.

Lobbying the EU

Since the beginning of the EU's history the number of lobbying groups has increased significantly as both federations of companies and companies themselves have been opening their representations in Brussels.

At present, the EU is responsible for forming, designing and influencing approximately 80% of all economic and 50% of all political decisions taken in the Union today.

Some 70% of European legislation has an impact on business, therefore a presence in Brussels is as vital for civil society, local governments and their associations as for companies to influence policy-making and ensure effective implementation and react appropriately to a rapidly changing environment.

Currently, the size of the lobbying arena in Brussels outweighs that of Washington. In an effort to give a further boost to the transparency of the EU's decision-making process, in June 2011 the European Parliament and the European Commission launched a joint, public *"Transparency Register"* which provides more information than ever before on those who seek to influence European policy.

This register replaces the one set up by the Commission in 2008, which already contained more than 4,000 organisations. These have been gradually transferred to the Joint Transparency Register and it has also extended its coverage well beyond traditional lobbyists to include law firms, NGOs, think tanks and any organisation, or self-employed individual, engaged in influencing EU policy making and implementation.

Registrants have to provide more information than before, such as the number of staff involved in advocacy, the main legislative proposals they cover, as well as the amount of EU funding they received.

By signing up to the Transparency Register, organisations will commit to a Common *Code of Conduct* pledging, for example, always to identify themselves by name and the entity they work for, and not to obtain information dishonestly.

The registration is not mandatory but all organisations that have nothing to hide are in the register and provide the public and the institutions with information about their work. All those who are not in the register risk being asked by the public opinion why they cannot be transparent and seeing their daily work made more difficult by not being registered, in particular through the requirements of the European Parliament.

According to the Transparency Register, in January 2012, the number of professional consultancies, such as law firms or self-employed consultants stood at 370, there were 1538 in-house lobbyists such as the trade-profession associations, 968 non-governmental organizations, 210 think tanks, research and academic institutions, whilst the organisations representing churches and religious communities amounted to 23 and the organisations representing local, regional and municipal authorities came to 178, for a total of 3287 entities registered.

Figure 1: Different types of lobbying in Brussels
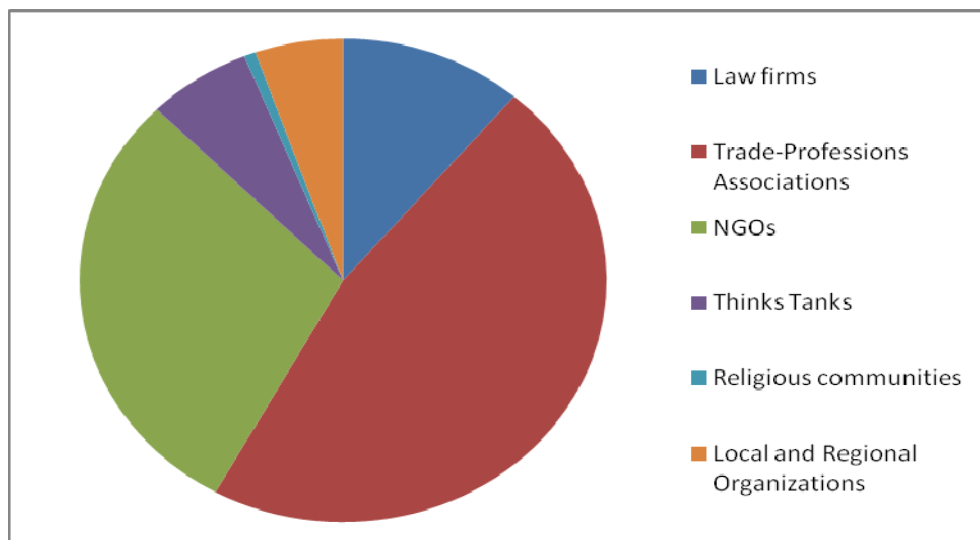
Sources: Transparency Register January 2012

Types of lobbying

There are several different ways in which the various lobby groups may be categorised.

First of all, lobbying can be either public or private: *Public lobbying* refers to institutional interest representation. A region, a town or even a government may lobby through its Permanent Representation to increase its power or to advise the European Parliament or the Commission concerning a legislation it favours. *Private lobbying*, which is a growth industry in Brussels, is based on companies or federations of companies, even SMEs. Not only trade unions, consumer associations, but also individual companies work on monitoring the legislation and following step by step European regulations of their sector of interest and occasionally even trying to influence the legislation.

Lobbying can also be proactive or reactive. *Proactive lobbying* is practiced by many pressure groups to encourage the European Commission to produce a proposal. *Reactive lobbying* is necessary when the European Commission decides to start a proposal or a discussion document or holds a public hearing. These frequently anticipate a future directive. They provide an opportunity for interest and pressure groups to respond with reactions, ideas and suggestions.

Lobbying strategies and activities

The various lobby groups follow different strategies in influence making:

Multi-national companies are enterprises that manage production or deliver services in more than one country. Playing an important role in globalisation, these companies could be significantly impacted by the EU legislation process, so they are very active in monitoring the legislation process and reacting to decisions against their interests. Usually, they manage their interests by having a Brussels-based public affairs office, generally with one senior manager and some policy officers under the direct responsibility of a member of the central board.

Industry associations are trade groups operating in the same sector and their main purpose is to influence the legislator in a direction favourable to the group's members. Usually, they have an office in Brussels with a

Secretary General and a staff of approximately 20-30 employees. Their main role is to negotiate industry positions with their members and represent these industries to the EU institutions that consider them as legitimate stakeholders. Considering that these associations bring together different groups of trade, while in the same industry field, sometimes they could encounter some difficulties in securing a consensus among their members. Although they have their own offices, multi-national companies are often also represented by these associations.

Companies' federations regroup companies, often of small or medium size, that are unable to open a representation office on their own. Sometimes, they are organised as EEIG (European Economic Interest Grouping) and their efficiency lies in the strategy to follow step by step the interests of their members. They could be national or European. Often, the European federations do not have companies as direct members, but they bring together national federations.

Local governments are represented either through their own office in Brussels or via their national or European local government associations. Often towns with their own office are State capitals or main cities.

Regional government offices are reasonably resourced and usually have their own Brussels office. Although after the start of the economic crisis, some countries, such as Spain and the United Kingdom, decided to reduce their regional offices, regions in Brussels usually employ few staff and have significant resources. Regions most likely lobby for EU funds and they are considered by the EU Institutions as real stakeholders, being invited to participate in semi-formal and formal EU meetings.

Non-governmental organisations (NGOs) refer to organisations that are not a part of any government and are not conventional for-profit business. Operating independently from any form of government, in case they are funded by governments, the NGO maintains its non-governmental status by excluding government representatives from their membership. Usually, they pursue wider social aims that have political aspects. In Brussels, they are present according to their type and the interest that they represent. Some are highly resourced and organised because they are funded by National Governments; others are less powerful because of the lack of resources.

Think Tanks are bodies that conduct research and engage in advocacy in areas such as social policy, political strategy, economics, and technology as well as in the creative and cultural field. Most think tanks are non-profit

organisations and they are funded by governments, advocacy groups, universities, or businesses, or derive revenue from consulting or research work related to their projects. Often in the EU arena, think tanks are funded by important European politicians or former Members of the European Parliament (MEP) that remain active in their activities as an honorary member of the board.

Lobbying firms are companies that lobby for their clients. Sometimes, they represent permanently a client that does not want to have his own office in Brussels. However, they can also work for some spot actions for a determined period: for instance clients can ask for their help in a particular moment when their interests are discussed at European level. Not being able to afford a real Brussels representation, SME's often choose for this solution. However, also multi-national companies at any given time may need a lobbying firm in addition to their permanent EU representation office. Sometimes lobby firms are law firms or consultancies.

The lobby groups base their activities on three basic pillars:

- *Legislative monitoring* is the activity that offers the most current information on the policy issues demanded. Monitoring means to be updated, receiving analysis and key information on legislation and policy issues as they happen. Newsletters and blog content, as well as policy papers, analytical charts and info-graphic, are instruments for an effective monitoring of European legislation.

- *Business intelligence* means understanding the significance of often confidential, yet nevertheless strategic information on competitors. Gathering such information is to be obtained in a legal manner, by using specific methods and networks to ensure its lawful conduct.

- *Networking* is identified as a pillar of lobbying activity, which requires the identification of the actors, such as politicians and civil servants, and the "allies" in order to create coalitions such as European professional associations and federations, European media, businesses and non-governmental organisations.

Regional and local lobby: the representations to the EU - Some examples

At present, there are 270 regional and local representations in Brussels according to the 2011 edition of the Stakeholder.eu / Directory for Brussels.

Over the years, regional and local representations have been instrumental in fostering partnerships. Interregional cooperation is certainly one of the great assets of European unification and the Brussels regional offices have been contributing to establishing links in the EU arena and cooperation among Regions.

However, for these regional representations, some difficulties still remain, such as the possibility for a region to address directly the EU Institutions, the large competition among regional offices and also the capacity to focus on the real specific interest for a Region. The Brussels regional offices as well as the regional associations and the Committee of Regions are all important tools to reduce these difficulties.

The organisation of Brussels regional offices can be very different according to regions and countries. Often, regions with a tradition of strong cooperation or that represent an important level of governance at national level have a significant number of people working in the EU Representations. However, political changes can have an impact on the organisation of the offices and sometimes lead to a reduction in the number of employees. Furthermore, the recent austerity measures adopted in many countries of Europe have forced several regions to close their offices in Brussels or to drastically reduce the number of their employees.

The biggest regional representations in terms of the number of employees are probably the German Länder. They have a tradition of strong cooperation and represent an important level of governance at national level. Therefore, they are very visible in the EU scenario. For instance, most of them are part of various specific associations and they can play an important role also at the level of the Committee of the Regions.

For instance, the Bayern office in Brussels is one of the biggest EU representations. It is also very well located, just half way between the Committee of the Regions and the European Parliament. The building looks like an old castle and it symbolically corresponds to the economic weight that Bayern has within the European continent.

Other regions have decided to share the costs of their offices, opening independent representations, although located in the same building. This is the case of the German Länder of Mecklenburg-Vorpommern that shares its Brussels office not only with the other German region of Saxony Anhalt, but also with the Comunitat Valenciana from Spain. This solution also facilitates an intense exchange of best practices and very close cooperation.

Regional cooperation is mostly conducted among neighbouring regions. Taking the example again of Mecklenburg-Vorpommern, it cooperates with different Regions from the Baltic Sea Basin, such as West Pomerania and Pomerania in Poland or Varsinais Suomi (Southwest Finland). However, a region can also be involved in cooperation that is not cross-border: indeed, for example, a twinning between Mecklenburg-Vorpommern and Poitou-Charentes in France has been running for many years.

Another interesting example of Brussels-based regional offices is when this is the result of a partnership between the public and private sector. It is the case for instance of the Region of Valencia, that in order to advocate, represent and promote the interests of its institutions, enterprises, entities and citizens in the EU, created the Fundación Comunidad Valenciana - Región Europea in 2003.

This foundation aims to be a broker of partnerships and to reinforce positioning at European level, to play an active role in the boosting of the main economic areas, to contribute to this change by creating a strategy post "Objective Convergence", preparing civil society for the change and also to work for the internationalisation of SMEs through EU Programmes.

Some regions such as Lombardy bring together in the Brussels office different regional stakeholders that contribute to their economic development. Basically, the Brussels office is not only a "pure" diplomatic representation, but it represents other expressions of civil society. For instance, "Casa Lombarda" groups different economic (Assolombarda, Union Camere Lombardia, Finlombarda) and accademic (Politecnico di Milano, Università Cattolica) actors.

Another interesting example is the Brussels office of Tuscany that has decided to implement the different EU policies at regional level. The Tuscany Brussels office focuses on research and innovation, biotechnology and bio-agriculture, renewable energies and transport. Furthermore, it is

very active in different European networks such as the *European Regions Research and Innovation Network* (ERRIN), the *Association of European Regions for Products of Origin* (AREPO) or the *European Association of Regional and Local Authorities for Lifelong Learning* (EARLALL).

In terms of location, some Italian regions have decided to share the costs of their offices with regions from other countries. This is the case of Emilia Romagna, for example, that shares its Brussels office with the French Region or Aquitaine, the German Land of Hessen and the Polish region of Wielkopolska. It is also the case of Friuli-Venezia-Giulia that has decided to have as "Brussels neighbour" their "natural neighbour" which is the Region of Istria in Croatia. Others, like Tuscany, Lazio, Umbria and Marche bought in 2006 independent offices, but located in the same building (Schuman 14) and they founded the "*Regioni Centro Italia Representation*" in order to share the common costs of the building and to co-own an additional floor where the common meeting room is located.

The Common Representation of the *European Region Tyrol-South Tyrol-Trentino* is again a further example of a representation in Brussels. Indeed, since 1995, the two Italian provinces of Trentino and Alto Adige founded with the Austrian region of Tyrol the first trans-boundary office. This example goes beyond sharing the costs or co-owing a meeting room, because it represents a real common and cross-border representation.

Regional and local lobby: European organizations

Regional and local organisations are independent bodies that incorporate membership from different Member States. They have been established to foster cooperation, political and economic integration or dialogue amongst Member States. They share the wish to defend common interests and they use cooperation to foster their development. These organisations are usually divided by the interest that they fight for and they have been growing in importance and number since the creation of EU Regional Policy back in the 70's, which today represents almost one third of the EU budget. Some examples of the biggest and most powerful organisations are listed in the following paragraphs.

The Council of European Municipalities and Regions (CEMR-CCRE)

The Council of European Municipalities and Regions was founded in Geneva in 1951 by a group of European mayors; later, it opened its ranks to the regions and became the Council of European Municipalities and Regions.

Today, it is the largest organisation of local and regional governments in Europe; its members include over 50 national associations of towns, municipalities and regions from 40 countries. Together these associations represent some 150,000 local and regional authorities.

CEMR's budget is about €2 million, the main part of which comes from the membership fees of its national associations. The rest (about 10%) consists of an annual grant from the EU Commission in the framework of the "Active European citizenship" programme.

The CEMR works to promote a united Europe that is based on local and regional self government and democracy. To achieve this goal it endeavours to shape the future of Europe by enhancing the local and regional contribution, to influence European law and policy, to exchange experience at local and regional level and to cooperate with partners in other parts of the world.

The CEMR works in many fields of activity such as regional policy, transport, the environment, equal opportunities, and governance. Its committees and working groups seek to influence draft EU legislation to make sure the interests and concerns of local and regional authorities are taken into account from the earliest stages of the EU legislative process.

The CEMR is particularly proud of its unique town twinning network. Today, there are over 26,000 twinning projects linking towns from all over Europe. On this issue, CEMR works closely with the DG Education and Culture of the European Commission.

Eurocities

EUROCITIES is the network of major European cities. Members are the elected local and municipal governments of major European cities. It was founded in 1986 by the mayors of six large cities: Barcelona, Birmingham, Frankfurt, Lyon, Milan and Rotterdam. Today, they bring together the local governments of more than 140 large cities in over 30 European countries.

Through six thematic forums, a wide range of working groups, projects, activities and events, they offer members a platform for sharing knowledge and exchanging ideas. They influence and work with the EU institutions to respond to common issues that affect the day-to-day lives of Europeans.

The main objective is to reinforce the important role that local governments should play in a multilevel governance structure aiming to shape the opinions of Brussels stakeholders and ultimately shift the focus of EU legislation in a way which allows city governments to tackle strategic challenges at local level.

With 75% of Europe's population living in cities, their fundamental purpose as a network is to shape European policy both to ensure it is based on front line experience and to increase recognition and resources for cities in addressing Europe's strategic priorities. To this end, EUROCITIES works closely with the European Commission, both at political and technical level, as well as with the European Parliament, the Committee of the Regions and EU Member States.

The Assembly of European Regions (AER-ARE)

The Assembly of European Regions is the largest independent network of regional authorities in wider Europe, bringing together over 250 regions from 35 countries along with 16 interregional organisations.

Established in 1985, the AER is a forum for interregional cooperation and a lobbyist for regional interests on the European stage. The AER's policies are driven by a Presidium and Bureau consisting of regional Presidents and high-level politicians. Those policies are implemented within three working Committees and two Standing Committees, which are chaired by regional politicians and coordinated by staff within the AER's General Secretariat in Strasbourg and Brussels.

Originally, the AER's main task was to have the place and role of the regions acknowledged in the construction of a democratic Europe, close to the citizens. Consequently, right from the beginning, the AER has been committed, above all, to promoting regionalism and to institutionalising the regions' participation in European politics.

The creation of the Congress of Local and Regional Authorities of Europe by the Council of Europe in 1994 followed by the creation of the Committee of the Regions by the European Union in 1995, are proof of these principles in action.

The Conference of Peripheral Maritime Regions (CPMR-CRPM)

The Conference of Peripheral Maritime Regions of Europe (CPMR) brings together some 150 regions from 28 States from the European Union and beyond. Representing almost 200 million people, the CPMR campaigns in favour of a more balanced development of the European territory and it operates both as a think tank and as a lobby for regions.

Through its extensive network of contacts within the EU institutions and national governments the CPMR has, since 1973, been targeting its action towards ensuring that the needs and interests of its member regions are taken into account in respect of policies with a high territorial impact.

Its main focus concentrates on social, economic and territorial cohesion, Integrated Maritime Policy and transport accessibility. European governance, agriculture and rural development, research and innovation, energy and climate change, neighbourhood and development, also represent important areas of activity for the association.

The CPMR is a unique organisation, being sub-divided into six Geographical Commissions, corresponding to the European maritime basins: the Baltic Sea, the North Sea, the Atlantic Arc, the Mediterranean, the Balkan and Black Sea and the islands. The Geographical Commissions represent important fora for constructive debate and sharing of best practices on common issues and concerns. These Commissions symbolise the backbone of the CPMR, contributing to its reflections and to the preparation of its policy papers.

As a political forum, the CPMR helps to articulate the common interests of peripheral maritime regions at European level. Being the first body to have brought European regions together for discussion and debate, it has acquired an increasingly large audience over the years. Indeed, the CPMR has acknowledged expertise and privileged access to information and it provides its member regions and European partners with sharp analysis on topics of concern for their territories.

The committee of the regions and the open days

Established in 1994 with the Maastricht Treaty, the Committee of the Regions is an Inter-institutional body of the European Union, and not a lobby association. It votes on political recommendations for European strategies and participates in the preparation of Community legislation.

The Committee of the Regions (CoR) is the EU's assembly of regional and local representatives. It is a political assembly of holders of a regional or local electoral mandate serving the cause of European integration. Through their political legitimacy, they provide institutional representation of all the European Union's territorial areas, regions, cities and municipalities. It ensures that the principles of subsidiarity and proportionality are upheld so the decisions are taken and applied as close to the citizens as possible and at the most appropriate level. Thus, they ensure that common policies are implemented more effectively and with closer proximity to the citizens.

However, the members of the Committee of the Regions are often interested in promoting the interest of their regional or local authorities or enhancing cooperation in Brussels.

The OPEN DAYS correspond to the European Week of Regions and Cities, and is an annual four-day event, organised in October, during which cities and regions showcase their capacity to create growth and jobs, implement European Union Cohesion Policy, and prove the importance of the local and regional level for good European governance. The event is a European networking platform for experts in regional and local development. It takes place at the Committee of the Regions but the Brussels-based local and regional representations to the European Union are also invited to open their doors to visitors simultaneously. Exchange of good practice in economic development and social inclusion, cross-border cooperation, public-private partnerships, regional innovation and community-led local development have become some of its many topics. This main regional Brussels-based event is organised by the Committee of the region in partnership with the European Commission (DG REGIO).

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EUROPEAN FUNDS, BARGAINING TOOLS IN THE EUROPEAN UNION

Polgár István[*]

Abstract:

*The article entitled ´European Funds, bargaining tools in the European Union"
aims to present the obstacles, problems and tensions which existed during the
European construction and integration process with a special regard on Central
and Eastern Europe. Also, is focusing on a wide variety of European development
and regional policies, which represents the solution for a permanent and harmonious
development of the European Union.*

Keywords: European, regional, diversity, community, development

European Union and integration in the European Community
developed itself on three basic ways, creation of a common market,
development of common institutions and several common policies. Market
integration has progressed a long way, although it stops and restarts again.
The institutional integration is left behind, but the must difficult of all is
represented by the common policies, espacially where they have required
founding.

With the reform of the Structural Funds, regions have gained a key
role in the design and implementation of regional policy. Yet some of the
weakest regions were not equipped with appropriate institutional structures
and have struggled to benefit.

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While the reform may have given regions an entitlement to participate, we argue that some have lacked the capacity to do so effectively. In this context, enlargement raises questions over the future of the Funds, and how far a commitment to cohesion and convergence can be maintained.

The concept of "Europe without borders" can provide the solution to the ethnic problem on the continent. Some politicians and political scientists consider that the model of the "nation state" has not been able to provide sustainable finality through the citizenship institution. Limited in its defining pattern, the classic citizenship offered only a kind of equality principle, abstract, to residents within the borders of a national state, but the same borders did split many ethno-cultural communities, dividing the population into two categories, the majority and the inhabiting minorities[1].

The disappearance of multinational empires such as Russia and Austria-Hungary at the end of WWI led Central and Eastern Europe to building national states firstly based on ethnic and demographic criteria, but also on economic and strategic interests of the powers at that moment.

History has proven that the way in which the managing of a new European architecture was envisaged during the interwar period was doomed from the start, as the myriad of ethnic enclaves marring the national unity of the successoral states were as many reasons to trigger revisionist actions, which in reality were only the mask that concealed economic interests. This situation was due to the fact that between citizens of different ethnic groups in the same country rose „internal frontiers – as defined by Professor Andrei Marga - separating the parties and their stages from each other (...) limits their areas of availability, values, ideas"[2].

In turn, the communist Europe shaped into a separate structure. Unlike Western Europe, the binding of this superstructure was the common ideology and not interpersonal relationships, an ideology maintained when the situation was thought to require armed intervention. Such an event shows failure of communist ideology to build social order based on justice and freedom[3].

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[1] Renate Weber, *Un concept românesc privind viitorul Uniunii Europene*, Iași: Editura Polirom, 2001, p. 53.

[2] Andrei Marga, *Filosofia unificării europene*, Cluj: Biblioteca Apostrof, 1997, p. 92, p. 140.

[3] Ştefan Delureanu, *Geneza Europei comunitare: mesajul democrației de inspirație creştină*, Bucureşti: Editura Paideia, 1999, p. 368.

Ethnic intolerance that marked the history of Europe over the centuries has failed to find a cure even under the dome of the proletarian internationalism. Adrian Marino believes that it only froze and preserved the seeds of ethnic adversity. The results of these pseudo-politicians were seen as soon as the system collapsed, the most dramatic example being that of Yugoslavia[4].

On the same issue, the former counterintelligence officer, Paul Abraham, said in a paper that, based on information collected during nationalist demonstrations in Hungary in 1989, Romania experienced fear of military intervention from Hungary to occupy Transylvania[5].

Analysis of the system shows that the basic characteristic note describing the vicinity of the two antagonistic blocs was fear, a sentiment felt on both sides of the "iron curtain" that led to the birth of the so-called "strategy of intimidation", which in turn chipped some of the sovereignty of the states that made up the two military sides[6].

After WWII, the West seems to have learned from the tragic experience that a new European structure can no longer be built from antagonistic positions and sought to gap and extend bridges to facilitate convergence between the states of the free world, eventually ending up as the European Community, or "Little Europe". Advances performed here since the early years, especially in inter-system communication, have been felt even in the neighbouring communist countries. Hungary is one such example. Arrangements for travelling abroad being in Budapest more liberal than in the rest of the Communist bloc countries, allowed an innovative blast into the country by accepting into a centralized state economy of a small segment of private enterprises. After the fall of communism, their contribution has proven to be most important in Hungary's transition to a market economy[7].

The fall of communism in Europe has created new situations and the dismemberment of Yugoslavia and Czechoslovakia demonstrated the

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[4] Adrian Marino, *Revenirea în Europa: idei şi controverse româneşti : 1990-1995*, Bucureşti: Editura Aius, 1996, p. 398.

[5] Florin Abraham, *Transformarea României: 1989-2006: rolul factorilor externi*, Bucureşti: Institutul Naţional pentru Studiul Totalitarismului, 2006 , p. 74.

[6] Andrei Marga, *op. cit.*, pp. 53, 142, 167.

[7] *Ibidem*, pp. 138, 177.

volatility of postwar borders, at least in the latter case through a peaceful process. In these circumstances, the American politician Henry Kissinger expressed the need to adapt the NATO strategy on the old continent because – noted he – a "paradoxical tend to believe that in Europe two categories of boundaries can be defined: those guaranteed although not threatened, and those threatened but that cannot be guaranteed"[8].

Analysed through the economic lens, the "national state" in its classic sense is perceived both by the local investor, as well as the foreign investor as an obstacle to the smooth exchange of goods and consequently, a source of diminishing of profit. "Europe without borders" could provide the ideal space in which inputs could freely cooperate, in real conditions of competitiveness, and trade might move towards a market free from customs duties, excise or other protectionist means[9].

National economies have proved incapable of responding within parameters of maximum efficiency to world market demands, to global exchange and to capital movement, therefore the latest solutions recommend the adoption of "borderless world" concept, developed by Kenichi Ohmae in 1995.

Regional economic policies offered for a while solutions to microeconomic problems, but not to the macroeconomic ones. However, they were the first form of cross-border cooperation and brought coherence and synergy to different economic and equity instruments[10].

However, the procedure for accession to the European Union is extremely difficult today because it is conditioned by a long line of institutional and economic parameters which optant states must meet in advance; there are also subjective reasons that go beyond the statutory framework of the European Union.

Along with states targeting their entry into the Union, there are countries on the continent that fall within the institutional and economic standards claimed by the Union but which are not interested in joining the

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[8] *Apud*: Adrian Năstase, Roxana Nicolae, *România şi noua arhitectură mondială: studii, alocuţiuni, interviuri, 1990-1996*, Bucuresti: Asociaţia Română pentru Educaţie Democratică, 1996, p. 191.

[9] Renate Weber, *op. cit.*, p. 58.

[10] Aurel Iancu, Eugen Simion, *Dezvoltarea economică a României: competitivitatea şi integrarea în Uniunea Europeană*, Bucureşti: Academia Română. Secţia de Ştiinţe Economice, Juridice şi Sociologie, Editura Academiei Române, 2005, pp. 6, 625.

organization, such as Switzerland or Norway. This does not mean that they would fall outside the circuit of cultural and economic values. It is obvious that we are dealing with two kinds of community aspirations.

That is why Renate Weber proposed in 2001 the establishment of some pre-accession federative structures, which then be integrated in the Union. "The existence of the two dimensions allows the absorption of an initial failure of the federal project without having the entire European edifice collapse. On the contrary, the enlarged EU will be a welcoming «house», from where, after reconsideration, it may be returned with a new project of political integration" - concludes the future Romanian MEP[11].

These federative structures could perpetuate their existence even if the EU would become inoperative for any reason. An entity of this type could be the "Danube Federation", a structure planned since the '20s of the XX century, adapted to the current requirements, bringing together Austria, Slovakia, Hungary, Romania and Bulgaria[12].

In 1996, Adrian Marino had proposed a transposition in the real world of older project of establishing a Danubian confederation. He saw Romania's membership to such a structure as a possibility only if our country will be able to defuse the conflict between Romanians and Hungarians. During his travels through Europe, Marino noted the existence and the persistence of a collective *forma mentis* at the inhabitants of former Austro-Hungarian regions such as Austria, Bohemia, Moravia, Slovakia, Hungary, Slovenia, Croatia, Banat, Transylvania, Bukovina, a feeling which could facilitate the creation of a confederation also from an interethnic understanding angle[13].

Membership to the European family does not preclude the national element. Nationalism played a decisive role in forming the modern nations of Europe. According to Professor Andrei Marga, "conservative nationalism" would be the element that could jeopardize the channels of communication with other nations, through the fear that a suprastructure as the EU would create the very conditions for the disappearance of the national identity of the people that make it up. The Union's main feature is that the largest

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[11] Renate Weber, *op. cit.*, p. 79.

[12] *Ibidem*, p. 351.

[13] Adrian Marino, *op. cit.*, pp. 260, 274.

proportion of the composing nations coexist well with each other, and within them the same can be said about the majority with the minority[14].

In addition to these findings, Adrian Marino believes that there must be made a clear distinction between the "need for national identity" and the "national extremism", which by its bursts of aggression and chauvinism not only fails to serve the aspirations of national identity, but is even able to compromise them[15].

An important role in removing ethnic barriers in the perspective of European integration of the Eastern European countries lies in the exchange of information between communities after 1990, more often circulated through personal experience gained in this respect by those who lived "abroad" and managed to adapt to the requirements of other social realities[16].

Internally, the removal of ethnic barriers could be possible only if educating both subjects, the majority and the minority, in the spirit of recognizing "ethnic otherness" and of promoting multicultural dialogue. It is a requirement of the today citizenship that ethnic minority rights be defended, a requirement that can only be met through adequate training programs. The level of tolerance of the majority towards minorities indicates the development of "civic nationalism" or "liberal nationalism" as a form of modern nationalism[17].

But the Conference of the EU Stability Pact in March 1995 delivered significant reasons of concern for Romania and gave rise to vivid discussions about the opportunity and the price she had to pay in return for accession, in particular the paragraph in the French party document that, when referring to the agreements to be concluded within the Pact, read that "it cannot be excluded that such arrangements lead to minor changes of frontiers whose intangibility would have been ensured by the conference", given that a number of acceding countries constrained by circumstances assumed the borders after WWII[18].

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[14] Andrei Marga, *op. cit.*, pp. 51, 141, 315.

[15] Adrian Marino, *op. cit.*, p. 321.

[16] Ioana Petre, Ecaterina Balica, Dan Banciu, *Tineret, norme şi valori: repere pentru o sociologie a tineretului* , Bucureşti: Editura Lumina Lex, 2002, p. 43.

[17] *Ibidem*, pp. 26, 124, 152.

[18] Valentin Stan, *România şi eşecul campaniei pentru Vest* , Bucureşti: Editura Universiţătii din Bucureşti, 1999, pp. 153, 175.

In 1995, Romania's preparations to add the accession file to join the European Union reached a halt at the chapter of concluding bilateral treaties with neighboring countries, as Hungary introduced in the draft document the Recommendation 1201 (1993) of the Parliamentary Assembly of the Council of Europe, document that referred to the collective rights of minorities. Unlike Slovakia, Romania failed for this reason to conclude the treaty end until March 20, 1995 when the Stability Pact Conference was meeting[19].

The Romanian part considered that the requirements were met with respect to protecting "the rights and freedoms of persons belonging to minorities", a condition Romania assimilated to the "collective rights of national minorities" – a claim disputed by the Hungarian part although that internationally there was no such thing as a universally accepted definition of collective rights; moreover, art. 10 of the Framework Convention clearly specifies that "The Parties undertake to recognize all persons belonging to national minorities the right to use freely and without hindrance their minority language in private, as well as in public, orally and in writing"[20], without mentioning anything about collective rights.

Corroborating the particular requirement with documents issued by the UDMR (Hungarian Democratic Union of Romania), Professor Valentin Stan establishes that in 1995 it was about a disguised form to obtain ratification of a form of "internal self-determination" targeted by both Budapest and the Hungarian minority in Romania, following the model of the "autonomous community" in the Spanish Constitution enacted as a form of self-government of Catalonia and the Basque communities. In his opinion, the "ethnic vote" established by the UDMR within the Hungarian minority is in opposition to the concept of democracy because it places group interests above the general interest of society. "If we consider the Western democratic system we must accept that the «ethnic vote» in itself undermines any democratic system, since it indicates that ethnic issues outweigh in importance the economic, social and political issues. The ethnic vote diminishes the election purposes because it assumes that the interests of the ethnic group, *per se*, are more important than the various interests of individuals within the group. In situations where such divisions exist, the choices become a declaration of loyalty" - states Professor Stan[21].

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[19] *Ibidem*., pp. 175, 231.

[20] *Ibidem*, pp. 161-163, 236.

[21] *Ibidem*, pp. 216, 239, 266.

The same terms are used by another analyst to qualify the insistence of the UDMR to force the creation of a so-called "Szecklerland" and the insistent stubbornness with which Romania's situation is compared to that of Yugoslavia in international environments[22].

Also, Recommendation 1201 (1993) hindered the process of concluding the bilateral Friendship and Cooperation Treaty between Romania and Ukraine, this time the contesting being Romania, in relation to the status of the Romanian minority in Ukraine[23].

Returning to the Romanian-Hungarian problem, the sociological surveys jointly undertaken by Romania and Hungary in a programme to test youth tolerance towards foreigners in the two countries provided interesting results. As expected, the young Hungarians in Romania registered a greater valuing of the importance of minority rights by comparison with the Romanian majority, the nationalist attitude of the latter, however, could not be regarded as a negative reporting on ethnic otherness.

A similar attitude was recorded at young Hungarians in Hungary, but towards the immigrants, because minorities in Hungary are insignificant, being almost completely assimilated by a refined policy of denationalization. It was found that young Hungarians have a relatively low tolerance towards immigrants, a feature that was made in consonance with attitudes towards other ethnic groups or nations. But the public perception of immigration has similar forms in other European countries, as well[24].

As concerns the level of awareness of belonging to the European culture and civilization, the investigation established that only 6% of young Hungarians were aware of their country's membership to Western Europe and 7.5% thought that the country belonged to the Eastern Europe. In contrast, 14% of young Romanians located Romania in Central Europe, 25% in the Western Europe, while 33.8% located it just in Europe. It is one of the expressions of insufficient valorization of liberal nationalism in comparison with the conservative nationalism[25].

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[22] Călin-Radu Ancuţa, *Interesul naţional şi politica de securitate*, Bucureşti: Institutul Român de Studii Internaţionale, 1995, p. 121.

[23] Victor Duculescu, *Instituţii de drept public şi relaţii internaţionale în dinamică*, Bucureşti: Editura Lumina Lex, 2002, p. 195.

[24] Ioana Petre, Ecaterina Balica, Dan Banciu, *op. cit.*, pp. 101, 125, 142, 144.

[25] *Ibidem*, pp. 53-54, 104.

However, the main category of beneficiaries of European integration is the youth, because, unlike previous generations who remember controversies and conflicts that troubled the peace of the continent over the years, the younger generation is not haunted by ghosts of the past[26].

Conflicts can be settled only if the states involved do not remain ingrained for too long in incompatible positions. Therefore, the contribution of the European Union to this kind of problems was possible to produce results only where the parties agreed to change positions, otherwise a requirement of the European integration process. The model in this regard was the manner in which the antagonistic positions between France and Germany turned in time to common.

To the other end, we can look at the former Yugoslavia, where the ethnic conflicts simmered throughout the period of the Cold War, although apparently all seemed "good and beautiful", and in a blink of an eye, once the conditions maintaining her in a latent state disappeared, everything collapsed in a most violent manner[27].

Unfortunately even the European Union provides examples of the conflicts that have not been resolved, like the situation in Cyprus where NATO and the EU's strategic interests were decisive in the decision to accept the Cypriot state in the Union[28], or the situation in Greece, an older Member State, but who refuses to recognize the right as international political subject of the Republic of Macedonia[29], or the situation maintained between Spain and the United Kingdom on the British occupation of the Gibraltar, catalogued by the specialised literature as minor national "identity crisis", but kept under control.

Even if the European Union and the Schengen spectrum will virtually abolish national borders, the mark of the past clenched between boundaries can survive if between official statements of the leaders of European states and their concrete policy there is guilty ambiguity between majority-minority relations in the everyday life.

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[26] Ştefan Delureanu, *Geneza Europei comunitare: mesajul democraţiei de inspiraţie creştină*, Bucureşti:Editura Paideia, 1999, p. 278.

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THE EUROPEAN NEGOTIATIONS FOR THE 2014-2020 MULTI-ANNUAL FINANCIAL FRAMEWORK – A STATE-CENTRIC VS. MULTI-LEVEL GOVERNANCE REFLECTION

Romana Sălăgeanu[*]

Abstract

The paper offers a reflection on the negotiations at European level for the multi-annual budget of the European Union for 2014-2020 from two perspectives, the state centric and the multi-level governance one. It concludes that the Council – made up by representatives of the member-states – is no longer the sole decisive actor in negotiations at European level. The collective control over European decision-making processes spreads within the European Parliament as well. Therefore, the arena of bargaining processes on which the European Union is build spans.
Key words: budget negotiations, member-state control, multi-level governance

Introduction

Theorists of international relations have been aspiring to understand and explain the behavior of the states and actors involved in the process of European integration. But European integration seems to put more at stake than just states which behave in a certain matter when they are dealing with the supranational level. Both the Westphalian nation-state and the interstate system that outgrew its territorial government organization would be put at stake.[1]

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[1] Ben Rosamond, *Theories of European Integration*, Hampshire: Palgrave, 2000, p. 1.

The nation-state, as a construction of the 19th century, has been faced with a great challenge, namely the European integration. The state-centric theoretical approach sustains that the nation-state is actually still strong whereas the multi-level governance approach tends to undermine the power of the nation-state. This paper takes a closer look at the assumptions of these two theoretical approaches, which seem to be opposed, mainly looking into the role of the member-states within high-politics negotiation processes, such as European budget negotiations. Negotiations are "a process in which two or more parties try to obtain a solution on matters of common interest, in the situation where the parties are in actual or potential disagreement or conflict"[2]. The topic of budget is highly sensitive for member-states and the negotiations environment has been faced with disagreements and conflicts, both among member-state governments as among institutions at European level.

Firstly, the paper offers an overview of what the European budget comprises and of its crucial relevance for European governance. The negotiations for the EU budget are significant from the perspective of seeing negotiation as "a social process taking place in a much larger context"[3] and regarding the European Union as a continuous negotiation process[4]. Secondly, the paper will discuss premises of the two theoretical approaches and their applicability for this particular type of negotiations at European level.

1. The 2014-2020 multi-annual financial framework

The European Union has been developing a specific culture of governance processes in order to achieve its goals. Part of the governance is the regulation-making process. Regulations for the budget of the European Union have been decided upon after difficult negotiation processes, due to the sensible character of the financial aspect, financial sovereignty being one of the most highly regarded characteristic of the member-states.

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[2] Vasile Pușcaș, *EU Accession negotiations* (A Handbook), Vienna: Hulla & Co Human Dynamics, 2013, p. 16 *apud* Lavedoux et. al., *Handbook for the European Negotiator*, Maastricht: EIPA, 2004.

[3] *Ibidem*, p. 15.

[4] *Ibidem*.

The multi-annual financial framework (MFF) is the budget of the European Union established for a period of seven years, the next being for 2014-2020.[5] This framework will be legally binding through a regulation for which the Council must decide unanimously and the European Parliament must give its consent. Firstly, the Commission provides a proposal – presented in June 2011 – upon which negotiations among member-states would be based. However, the negotiations have been involving many actors from different institutional levels as well, such as working groups, high-level groups, according to the configurations of each institution. Difficulties arose with regard to high-level policies such as the agriculture payments and the allocations for cohesion policy, which together comprise more than a half of the budget of the EU.[6]

The financial aspect of the current MFF negotiations has been influenced considerably by the financial crisis of the last years. But such negotiations have been traditionally considered sinuous struggles with a last minute agreement. Kölling and Serrano Leal argue that the meaning of the MFF result is highly significant for the future of the EU since it involves the actual budget figures, the policy goals that should be achieved and the institutional influence of various players in the decision-making process.[7] The European Parliament finally gave its consent for the MFF on the 19th November 2013[8], permitting the Council to finally approve it as well within the Council, therefore ending "two and a half years of intense negotiations"[9]. Depending on this specific financial regulations depend also many other regulations such as the ones from the Cohesion package. The configuration

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[5] For details on the commitment appropriations see European Commission, "One trillion euro to invest in Europe's future – the EU's budget framework 2014-2020"
[http://europa.eu/rapid/press-release_IP-13-1096_en.htm], 30.11.2013.

[6] Kölling, Mario; Cristina Serrano Leal, "The Negotiation of the Multiannual Financial Framework: Budgeting Europe 2020 or Business as Usual?" 2012,
[http://www.realinstitutoelcano.org/wps/portal/rielcano_eng/Content?WCM_GLOBAL_CONTEXT=/elcano/elcano_in/zonas_in/ari68-2012_mff_negotiation_europe2020], 29 October 2013, p. 1.

[7] *Ibidem.*

[8] The decision should have been taken in the September EP plenary and it was again delayed for November. Euroactiv, EU's long-term budget bedeviled by details, 2013
[http://www.euractiv.com/eu-elections-2014/details-bedevil-eu-long-term-bud-news-531168], 18.10.2013.

[9] European Commission, *op. cit.*

of the cohesion policy in the different member states and regions depends on the allocation of the funds, which are made not only by a specific formula based on GDP criteria, but also on the precise features of the negotiations.[10]

Within the member-states there have formed two trends that divide the negotiations parties into the *Friends of Cohesion Policy* and *Friends of Better Spending*. Whereas, the goals – such as the Europe 2020 Strategy, are no dispute issue, the way of achieving these separates the member states into the two groups.[11] These different perspectives on the budget have led to further difficulties of negotiations and to further delays of reaching an agreement within the Council, from the European Council meetings in July 2012 to the ones in October and December 2012 and until the one in February 2013 that would determine the ceilings of the budget. But an informal political agreement on the MFF was reached among the European institutions only in June 2013.[12] However, the formal decision of the EP had been delayed in order to meet some of its conditions, such as finding solutions for the payment shortfalls in 2013 – which would reflect in the budget for 2014 – and completing the negotiations for several EU programs. The EP voted when progress on these issues was considered sufficient. Therefore, among EP priorities, the MFF comprises broad flexibility to move unpaid payment appropriations within the categories and yearly allocations.[13]

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[10] Dunford, Michael; Perrons, Diane, "Regional Inequality in the EU: How to Finance Greater Cohesion", in *European Planning Studies*, iFirst article, 2012,
[http://www.consilium.europa.eu/special-reports/mff/documents#1], 29 October 2013.

[11] Friends of Cohesion: Bulgaria, Croatia, the Czech Republic, Estonia, Greece, Hungary, Lithuania, Latvia, Malta, Poland, Portugal, Romania, Slovakia, Slovenia and Spain. Italy sympathizes with the group. Friends of Better Spending: Austria, Germany, Finland, France, Italy, the Netherlands and Sweden. Kölling, Mario and Cristina Serrano Lea, *op. cit.*, p. 2.

[12] The political consent of the EP was given on the 3rd July 2013. European Commission, Parliament adopts resolution on MFF 2014-2020 - Statement by Financial Programming and Budget Commissioner Janusz Lewandowski, 2013,
[http://europa.eu/rapid/press-release_MEMO-13-646_en.htm], 28 August 2013.

[13] European Parliament, "Budget Committee approves EU's 2014-2020 budget and 2014 budget deal", [http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+IM-PRESS+20131114IPR24605+0+DOC+PDF+V0//EN&language=EN] 30.11.2013.

2. The state-centric approach

The core assumption of the state-centric approach is that European integration does not challenge the autonomy of nation-states. National executives are the key players of the intergovernmental position. The contended idea of this theoretical point of view is that the state sovereignty is preserved or even strengthened through the membership in the European Union.[14] Member-states make use of the information loaded supranational arena in order to reach agreements, meaning that the access to this European stage is an advantage for them. These agreements reflect the interests and the relative power of member states, whereas the state sovereignty is preserved or even strengthen through EU membership. According to the principle of the lowest common denominator of the participants, each government decides on the depth of the integration.[15] Therefore, each national government would have the power to control the threshold of European decisions' impact its state. However, especially in the case of unanimity decisions, where such thresholds could block a decision, the negotiating parties would require a clear interest's range that could offer deviation scope.[16]

Moravcsik describes the bargaining environment of the EU as one where states enter voluntary, where decisions take place on an 'information-rich' stage and where the transaction costs of EU bargaining are kept low. He also draws the attention towards the use and the benefit of the member states within the European institutional environment, especially for purposes of legitimation and pursuit of preferences.[17]

The Commission proposed a 1% of the EU-GNI budget for 2014-2020 – in terms of payments – which would mean a 5% increase with respect to the budget for 2007-2013, whereas most national budgets have been decreasing due to the crisis. The Commission also adapted the MFF proposal to austerity demands of some member-states for two reasons, to avoid a standstill of negotiations and in order to keep some influence during

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[14] Kermit Blank; Liesbeth Hooghe, Gary Marks, "European Integration from the 1980s: State-centric vs. Multi-level Governance", in Mette Eilstrup-Sangiovanni, *Debates on European Integration. A Reader*, Hampshire: Palgrave Macmillan, 2006, pp. 357-358.

[15] *Ibidem*

[16] See the example of the Luxemburg compromise.

[17] Ben Rosamond, *op. cit.*, pp. 137-143.

the negotiations.[18] But, the proposal of the Commission would also include aspects initiated by the European Parliament, therefore extending the scope of actors involved in the regulation-making process of the European budget. Moreover, in its proposal, the Commission included new elements such as the concentration on key policy priorities, the emphasis on European added value of European funding, introduction of conditionality for the regional policy – both ex ante and ex post, flexibility as a demand of the European Parliament a.o. However, the most sensitive matter for the member states has been the overall ceiling.[19] Therefore, the significant role of the member-states position is considered by the Commission when drafting the regulations and their financial means. But, as the two trends sustained in the Council show, national governments cannot control individually the content, such as the figures for the budget. Moreover, the proposal is no longer considering only the preferences of the national governments, but of the other decision-maker (EP) as well.

On the one side, another actor with preferences introduced by Kölling and Serrano Lea is the Presidency of the European Council. As the presidency would give impulses to the negotiations dynamic at various institutional levels but would also present compromise possibilities.[20] Hence, the institutional structure of the EU confines member-states having the presidency to an increased effort for finding agreements and less for the enforcement of own national preferences.

On the other side, national governments would not be "compelled to swallow policies they find unacceptable"[21]. But governments would have to follow both the national strategy and interests and the European common goals. Thereby, the national governments would be facing a double dilemma during negotiations.

Benz discusses two dilemmas which can be found in the interplay of European and national institutions. First, there is the 'divided government problem' in the interplay between the European Parliament and the Council.

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[18] For example, it also proposed a 5% reduced budget for European administration.

[19] Mario Kölling and Cristina Serrano Lea, *op. cit.*, p. 4.

[20] *Ibidem*, p. 7.

[21] Liesbet Hooghe, Gary Marks, "Multi-level Governance in the European Union", in Brent F. Nelsen, Alexander Stubb (eds.), *The European Union: Readings on the Theory and Practice of European Integration*, 3rd Edition, Lynne Rienner Publishers, 2003, p. 284.

This problem addresses the issue of negotiation, in which the members of the Council are involved. They have to reach a joint policy-making at the European level while trying to pursue national interests. The distributive bargaining strategies of governments are factors which could lead to failures in joint policy-making. This is why the national governments ought to involve both the national and the European perspective in establishing their strategies. The double-level acting of the national governments is very important because the European Parliament – as a veto player – does not offer the predictability of its decision-making.[22] This has been made clear by the refusal of the European Council's agreement on the MFF by the European Parliament in March 2013.

However, national governments were not involved in the decision-making process only after the Commission has presented its proposal. The division between the two types of friends within the Council has emerged during the preparation of the proposal. Member-states that are also net payers to the EU budget have presented their demands to the president of the Commission in opened letters; such as the one from December 2010, in which the UK, France, Germany, the Netherlands and Finland would demand an increase of the MFF below the rate of inflation.[23] Such actions would stimulate other member-states to support austerity measures for the European budget as for the national ones as well. On the other side, the new member-states[24] would also build a coalition and defend their interests of defending the cohesion policy from further cuts. Some of them even proposed applying macroeconomic conditionality to all European policies.[25]

A further dispute was among regions and national governments regarding the category of transition regions, where French and German regions, and Spain, would oppose their governments and support this category.[26] Therefore, the scope of involved actors in this negotiation process has been very wide, increasing the difficulty of finding a compromise.

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[22] Arthur Benz, "Compounded Representation in EU-Multi-Level Governance", in Beate Kohler-Koch, *Linking EU and National Governance*, Oxford: Oxford University Press, 2003, pp. 86-87.

[23] Mario Kölling and Cristina Serrano Real, *op. cit.*, p. 8.

[24] Together with Portugal, Greece and Spain.

[25] Mario Kölling and Cristina Serrano Real, *op. cit.*, p. 9.

[26] *Ibidem*, p. 9.

Another core claim of the state-centric view is "that policy making in the EU is determined primarily by national governments constrained by political interests nested within autonomous national arenas."[27] Therefore, one should not underestimate the power of those in charge, respectively those who have the command of the national governments:

> "The primary interest of governments is to maintain themselves in office… this requires the support of a coalition of domestic voters, parties, interest groups and bureaucracies, whose views are transmitted, directly or indirectly, through domestic institutions and practices of political representation. Through this process emerges the set of national interests or goals that states bring to international negotiations."[28]

The power of member-states negotiations stretches also at topics that would be based on a formula, such as the allocation of European funds. Dunford and Perrons argue that such "policy's formula-driven allocation mechanisms are overridden by politico-economic considerations in driving final allocations", especially due to the first agreement during budget negotiations, namely deciding on the expenditure ceiling.[29]

Agence Europe reports that the common agricultural policy and the cohesion policy are the policies that underwent the main part of the cuts during the November 2012 negotiations in the Council. There have been many inflexible positions within the Council, such as the British demand to further cut the budget, or the Czech clear mandate to veto a bad agreement for the country. On the other side, the European Parliament would not consider the context from February a favorable one for reaching an agreement.[30]

Hence, the Council is indeed the "EU's intergovernmental institution par excellence"[31], but it is more than that. It is "a unique blend of the intergovernmental and the supranational"[32] due to its close work with the

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[27] Liesbet Hooghe, Gary Marks, *op. cit*, p. 284.

[28] Ben Rosamond, *op. cit.*, p. 137 apud A. Moravcsik, "Preferences and Power in the European Community: a Liberal Intergovernmentalist Approach", in *Journal of Common Market Studies*, 31 (4), 1993, p. 483.

[29] Michael Dunford, Diane, Perrons, *op. cit.*, pp. 2-4.

[30] Agence Europe, no. 10781, 8 February 2013.

[31] John Peterson, Michael Schackleton, *The Institutions of the European Union*, Oxford: Oxford University Press, 2nd edition, 2006, p. 78.

[32] *Ibidem.*

other supranational institutions, especially the European Commission and the European Parliament. The interests of the member states represented in the Council of Ministers are "aggregated under conditions frequently owing more to supranationality than to intergovernmentalism"[33]. Moreover, the outcome of the decision-making of the Council of the European Union is regarded as a testimony to "collective purpose, collective commitment and collective ideas"[34]. Regarding the multi-annual financial framework negotiations, one can notice the immense scale, the multi-level dimension of involved actors and the difficulties of negotiations that arise from the differences between high and low level matters after making the Commissions' proposal public: "the negotiation has involved different players –the European Commission, the European Parliament and the Council– as well as different institutional levels –working parties, high-level groups, the Committee of Permanent Representatives (COREPER), different Council configurations and the European Council–. So far, there have been agreements on low-level issues, but the high level issues –such as agriculture payments and cohesion policy– have barely been discussed"[35].

The increased transfer of competences towards the EU and the target of the Commission to achieve goals such as the ones of the Europe 2020 Strategy would later be made difficult by the negotiations about the distribution of resources, such as in the case of the multiannual financial framework. Meanwhile, the yearly budgets for 2013 and 2014 have been further negotiated and cuts are further part of the negotiation strategies.[36]

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[33] *Ibidem.*

[34] *Ibidem*, p. 79, apud F. Hayes-Renshaw, H. Wallace, *The Council of Ministers,* Basingstoke and New York: Macmillan, 1997.

[35] Mario Kölling, Cristina Serrano Leal, *The Negotiation of the Multiannual Financial Framework: Budgeting Europe 2020 or Business as Usual?,* 2012, [http://www.realinstitutoelcano.org/wps/portal/rielcano_eng/Content?WCM_GLOBAL_CONTEXT=/elcano/elcano_in/zonas_in/ari68-2012_mff_negotiation_europe2020], 24 September 2013.

[36] Euractiv, *Lewandowski 'puzzled' by new demands to cut EU budget,* 2013 [http://www.euractiv.com/priorities/commission-vows-fight-cuts-2014-news-530230], 25 October 2013.

3. The multi-level governance approach

The last decades have triggered competition among different levels within the EU, regional economies vs. national and global ones, competition for policy innovation, therefore giving impulses to competitive regionalism, which has been embarked on by states, the European Commission or international organizations.[37]

The multi-level governance approach puts European decision-making processes in a different light than the state-centric view, because it analyses the independent role of European-level actors. It breaks the pattern of the supported ideas of the state-centric model, which considers European actors and institutions to be the agents of the national governments, which act according to the guidelines and interests of the national governments. Hooghe and Marks "marshal considerable evidence to demonstrate that member states have lost individual and collective control over the European decision-making process."[38]

The loss of control and the accountability problem for the national governments, as well as the operation of sub-national actors at both national and supranational level are elements which support the approach developed by Hooghe and Marks.[39] They argue that "the state sovereignty has been diminished by restrictions on the ability of individual governments to veto EU decisions and by the erosion of collective control through the Council of Ministers."[40] However, main decisions such as the ones for the budget of the EU are still based on tight negotiations that have the purpose of achieving an agreement among all member-states. Such decisions have great impact also on the subnational authorities that should make use of much of this budget.

The Council negotiation box for the MFF from 2013 acknowledges the existence of the new transition regions category whereas in June 2012 its existence was still debatable. Moreover, the negotiation in Council would regard not only the existence of this category but also the transition

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[37] Michael Keating, Paul Cairney, "Introduction: Policy-making, Learning and Devolution", in *Regional and Federal Studies*, Vol. 22, No. 3, 2012, p. 240.

[38] Liebet Hooghe, Gary Marks, *op. cit.*, p. 281.

[39] *Ibidem*, p. 285.

[40] *Ibidem*, p. 286.

rules it involves, such as support for decreasing funds allocations, the safety net. The progressed negotiations on the MFF have changed the allocations scales. The category has been kept, but the percentages of the safety net and of support amount decreased for the transition regions from 2/3 (June 2012) to 63% (October 2012) to 60% (February 2013) for the safety net and from 75% (June 2012) to 64% (October 2012) to 40% (February 2013) for the amount support.[41] This particular category would apply to regions from the UK, Germany, France, and Spain. This would mean that those national governments would have been faced during negotiations in the Council with both the need to defend their national contributions to the EU budget, by reducing it, but also with demands from their own regions as from regions from other member-states to consider appropriate transitional rules. Such demands from regions would also be backed up by supranational institutions.

In his state of the union address on 11.09.2013, President Barroso emphasized the interconnectivity among the different administrative and political levels within the EU, bringing forward cooperation patterns:

> "The EU budget is the most concrete lever we have at hand to boost investments. In some of our regions, the European Union budget is the only way to get public investment because they don't have the sources at national level. Both the European Parliament and the Commission wanted more resources. We have been in that fight together."[42]

According to Andrew Moravcsik, the collective decision making actually enhances the state control because the national governments will agree only insofar as "policy coordination increases their control over domestic policy outcomes, permitting them to achieve goals that would not otherwise be possible."[43]

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[41] European Council. "7/8 FEBRUARY 2013 Conclusions - Multiannual Financial Framework", 2013, [http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/135344.pdf, called on 23.08.2013.]; Council of the European Union, "Multiannual Financial Framework (2014-2020) - Negotiating Box", 2012,
[http://register.consilium.europa.eu/pdf/en/12/st11/st11539.en12.pdf], 23 August 2013.

[42] European Commission, "Let us now make sure that the programmes can start on the 1st of January 2014", [http://ec.europa.eu/budget/mff/index_en.cfm], 24 October 2013.

[43] Liesbet Hooghe, Gary Marks, *op. cit.*, p. 286.

The argument of the state-centric view according to which the qualified majority voting does not undermine the sovereignty of the member states and that the Luxembourg compromise allows member state to protect their national interests is being countered by the argument of the multi-level governance approach, which claims that the Luxembourg veto is "restricted by the willingness of other national governments to tolerate its use."[44]

According to multi-level governance, polity processes were created in which authority and policy-making influences are shared across multiple levels of government. The political control has changed its locus, namely to the supranational institutions, and the individual state sovereignty has diluted. The supranational institutions possess independent influence in policy making which does not derive from the role of these institutions as agents of state executives.[45] In this sense, the Parliament has proven its influence on the negotiation processes. It has been involved in the process of making the EU budget from an early stage presenting its own position before the Commission presented its proposal. More position papers were prepared and its representatives met the Trio presidency ahead of the General Affairs Council – the council constellation for the debate of the European budget. Moreover, the details of the budget, such as cohesion policy, agriculture reform, own-resources reform a.o. have been dealt with intensively within the specialized committees of the Parliament.[46]

The multi-level governance approach is considered to be a metaphor which combines "a reading of the EU in policy process with an acknowledgement of its peculiarities"[47]. Moreover, this understanding of the EU tries to avoid falling into European traps: "state centrism and the treatment of the EU as only operating at the European level in the institutional arena of Brussels and Strasbourg"[48]. Therefore, multi-level governance deals with several details and observes processes on all the levels within the European Union.

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[44] *Ibidem*, p. 287.

[45] Kermit Blank, Liesbet Hooghe, Gary Marks, *op. cit.*, pp. 358-9.

[46] Mario Kölling, Cristina Serrano Real, *op. cit.*, pp. 6-7.

[47] Ben Rosamond, *op. cit.*, p. 110.

[48] *Ibidem*.

The delayed progress on agreement among the Council and the Parliament would have effects as well on regions, since regional authorities need to consider the novelties of the cohesion policy regulations – the ex-ante macroconditionalities – and adapt their administrative capacity, to the re-organisation and decrease of funds.[49] Therefore, even the negotiations on the budget of the EU – which have a high intergovernmental dimension – do have a multi-level output to consider.

Conclusion

The case of the negotiations of the multi-annual financial framework would illustrate two main developments of the governance processes of the EU. Firstly, the European Parliament is taking its increasing responsibilities scope serious and makes use of its veto player power: "expresses its firm opposition to a financial framework that might lead the EU budget into a structural deficit"[50]. Secondly, the debate among member states divided into the 'friends of cohesion' and the 'friends of better spending' illustrates a possible constellation on contrasting interests of regions versus member states. The implications of such high negotiations around numbers leave open an uncertainty remedy, whether the main parts of the budget, the cohesion and the agriculture policy would indeed achieve their goals, especially the ones of the Europe 2020 strategy. On the other side, constraints from the subnational actors would increase the need of having a flexible negotiation bases behind the closed doors.

The assumption according to which member-states play an important role in the diffused authority within the EU gives a nudge of reality which cannot be ignored. The multi-level governance covers flaws, but cannot prevent the states to make use of their sovereignty claims and to proceed on their own in some situations.

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[49] Eurotopics, 2013.

[50] European Parliament resolution of 13 March 2013 on the European Council Conclusions of 7/8 February concerning the Multiannual Financial Framework (2012/2803 (RSP)), [http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2013-0078+0+DOC+XML+V0//EN], 24 September 2013.

There have already been doubts expressed regarding to the appropriateness of the state-centric view to the currently modern state: "The critique of state-centrism is premised on the assumption that modernity was a territorial order in which states contained 'their' societies."[51] Given that the domestic process of preference building involves more and more actors, which have also access to European actors, the actual part of negotiations takes place after long processes of consultations, gathering of information, policy-formulations and policy proposals.

While the structure of the MFF has not changed significantly, main sensible disputes over cuts have been taking place in the Council; meanwhile the main blocks of the budget, the cohesion policy and the common agriculture policy, have been further reformed.[52] Therefore, the negotiation framework within the EU is a permanent bargaining arena, in which different institutional constellations at different levels are trying to reach compromises on reforms of the European policies, meanwhile negotiating on the financial means for the functionality of these policies. Moreover, the goal of achieving the targets of the Europe 2020 Strategy cannot be guaranteed solely be the establishment of the financial framework for 2014-2020, but it depends on the overall development and activities within the member states and their regions and the use of financial means for the sustainability of the smart growth targeted by the European Commission.

At the same time, overcoming the European democratic deficit through increased participation of the European Parliament, negotiations on the European budget for 2014-2020 have prolonged the complexity and tensions of deciding on the European budget, the source of support for European policies and means for achieving the goals of the Europe 2020 strategy.

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[51] Hannes Larcher, "Putting the state in its place: the critique of state-centrism and its limits", in *Review of International Studies*, 29, 2003, p. 521.
[52] Mario Kölling, Christina Serrano Real, *op. cit.*, p. 5.

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NEGOTIATION IN THE CONTEXT OF UN SECURITY COUNCIL REFORM

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Abstract:

The main objective behind the subject of negotiation in the context of a UN Security Council reform is to explore the potential of interactive learning methods and its uses in understanding international relations and European studies: students take on the role of state representatives and negotiate as part of the UN Security Council. The paper has two main focus points: the theoretical dimension and the practical dimension. As far as theory goes we have highlighted the application of interactive methods in learning using the background provided by the international context surrounding the UN reform, in particular aspects related to the Security Council. The concept of negotiation has also been an important focus: defining the concept, typologies associated with different models of negotiations and characteristics that define the ideal negotiator. The practical dimension has to do with a study case on a debate session organized earlier this year with the participation of students from International Relations and European Studies in Oradea, application that provided important data on aspects such as decision-making, international politics and negotiation.

Keywords: negotiation, UN, Security Council, interactive learning method, model UN, reform

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1. UN structures, procedures and reform

Within the UN every state, irrespective of their size, economic power, social system and even political system have a strong word and a valid opinion expressed through equal vote.

The main components of the UN are the General Asembly, the Security Council, the Economic and Social Council, the Trusteeship Council, the International Court of Justice and the UN Secretariate[12]. As part of the UN Security Council there are 5 permanent members (Russia, China, United States, United Kingdom, France) and 10 nonpermanent members (as of 1963, in accordance with GA Resolution 1991/1963) elected by the General Asembly on a 2,5 year cicle, with half of these memberships being renewed each year to help serve a better representation[3]. In the case of the United Nations, the „Big Five", the United States, the Soviet Union, the United Kingdom, France and China, assigned themselves a special role in 1945 as the „world policemen", under the new UN Charter[4].

The UN Charter is defined by clear principles: equality among states, in accordance with international law, sovereignty in matters of internal affaires, complete territorial integrity and independence and fulfilling state obligations[5].

As one of the most well-known and important intergovernmental organizations, the UN is defined as a symbol of world order, a forum where states can promote their ideas, a mechanism towards solving conflicts, while also possessing substantial programs aimed at promoting, coordinating, planing and informing[6].

As part of UN Security Council procedure, debates about resolving conflicts and differences on a global scale take the shape of resolutions. Since its existance the UN Security Council has aproved over 1500 resolutions Goldstein, Pevehouse, 2008: 348), which do come with a set of obligations

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[1] Iordan Gheorghe Bărbulescu, Răpan Daniela, *Dicționar explicativ trilingv al Uniunii Europene*, Iași: Editura Polirom, 2009, p. 474.

[2] Iordan Gheorghe Bărbulescu, Răpan Daniela, *op. cit.*, p. 474.

[3] Maurice Vaisse, *Dicționar de Relații Internaționale Secolul XX*,Iași: Editura Polirom, 2008, p. 257.

[4] Frederic S. Pearson, Martin J.Rochester, *The Global Condition in the Late Twentieth Century*, New York: McGraw-Hill, 1998, p. 330.

[5] Joshua S. Goldstein, Jon C. Pevehouse, *Relații Internaționale*,Iași: Editura Polirom, 2008, p. 342.

[6] *Ibidem*.

for the states involved[7]. For a resolution to get a passing vote, there have to be 9 positive votes from the 15 members (including all 5 votes of the permanent members), with the possibility to refrain from voting, a practice that doesn't affect the outcome[8]. The permanent members have the right of veto when it comes to voting procedure, with the real possibility of a blockage of procedures as was the case, many times, during the Cold War era[9].

The issue of UN Security Council reform has very strong roots in this inefficiency displayed during the Cold War era, a decline that has affected the organization in terms of relevance and legitimacy in the area of resolving conflict. It is also worth mentioning that the status quo maintained, to a certain degree, after the end of World War II has not been overseen by the Charter. Article 109 of the UN Charter clearly stated that changes should occur within the organization and discussions should be encouraged on a regular basis: (1) a General Conference of the Members of the United Nations for the purpose of reviewing the present Charter may be held at a date and place to be fixed... (3) if such a conference has not been held before the tenth annual session of the General Assembly following the coming into force of the present Charter, the proposal to call such a conference shall be placed on the agenda of that session of the General Assembly. The only real change occurred in 1963 where a slight increase in membership was put forth towards creating a more balanced representation for states.

This is not to say that there have not been attempts to correct this situation, mostly through positions taken by states or individuals that proposed changes to the UN Security Council. In some ways, this may be considered a process of continuous negotiation that hasn't lead to anything yet. This situation has been noticed by academia and has been defined as a transition from traditional negotiations, where representatives argued for an agreement or solution to a problem, to a more modern approach, where representatives start negotiations without intending to reach an agreement, the process is used as a context to work towards aims not included in an agreement[10].

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[7] Maurice Vaisse, *op. cit.*, p. 7.

[8] Joshua S. Goldstein, Jon C. Pevehouse, *op. cit.*, p. 348.

[9] Maurice Vaisse, *op. cit.*, p. 257.

[10] Vasile Pușcaș, *International/Transnational Relations*, Gorizia/Trieste: UIES, 2009, p. 91.

As part of state efforts to come up with an agreeable solution, we will highlight the more recent evolutions on the subject matter. The year 1993 brought on the discussion on equitable representation and increase in membership of the Security Council through resolution 47/62 (GA Resolution 47/62), the end result being the creation of a Working Group. The Working Group started meeting in 1994 and although some aspects of reform were agreed upon, discord among the participants made progress very difficult. Heavy discussions have taken place at the time of Malaysia's chairmanship in 1997 States (GA Press release 9228, 20 march 1997). It is also worth mentioning that during his term as Secretary General, Kofi Annan had ambitions for a more general UN reform.

States presented their opinions on reform, with the general view that something should be done. Out of all state proposed plans for reform, the most recent ones were discussed at the 2005 General Assembly: support for an early reform of the Security Council was proposed in order to make it more broadly representative, efficient and transparent and to further enhance its effectiveness and the legitimacy and implementation of its decisions (Office of the Presidency of the GA Press Release, 19 December 2005). The most important aspect of the 2005 talks was the fact that a number of states made their point clear on reform and, by doing so, put the talks in a whole new perspective:

- the G4 proposal;
- the Uniting for Consensus proposal;
- the African Union proposal.

2. Debating the UN reform

The educational nature of this debate was one of its strongest points. Taking some ideas discussed in academia about the importance of unstructured dialogue in building confidence and speaking patterns, the debate featured a flexible structure built on only two elements: a timeframe and context. As pointed out by R. Keith Sawyer creative teaching is a form of disciplined improvisation, it always occurs within broad structures and frameworks. Research has noted that the most effective student interaction

balances structure and script with flexibility and improvisation[11]. The concept of creative teaching has much to do with displaying cultural curiosity, continuous self motivated learning, valuing personal and creative dimensions[12]. Using such pedagogic methods implies that students become active members of the overall conversation and bring constructive ideas to it. This is directly linked to what contemporary pedagogical approaches emphasize on: the importance of the active participation of students—including inquiry-based learning, constructivism, project-based learning, and collaborative learning[13].

Further expanding on the pedagogic methods used in this debate, other aspects pointed out by R. Keith Sawyer also came up. Within a constructivist framework effective teaching must be improvisational, for students to construct their own knowledge. Discussion needs to be open-ended, to not be structured in advance and to reliably create interaction among students, where any participant can contribute equally to the flow of the interaction[14]. Creative teachers tend to place the learners above the curriculum and that the combination of a positive disposition towards creativity and person-centered teaching actively promotes students who learn and think for themselves[15]. The scope of this method is to go beyond what traditional teaching methods can achieve, with predetermined structures and lower levels of interaction, and develop an environment where open discussion and collaborative thinking can help create new ideas.

The benefits of such methods are very appealing. Creative teaching results in deeper understanding among learners, a form of learning that is more difficult to quantitatively assess; yet, close empirical studies of the discourse processes of collaboration have the potential to document these

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[11] R. Keith Sawyer, "Creative Teaching: Collaborative Discussion as Disciplined Improvisation", in *Educational Researcher*, v. 33(2), [http://legacy.aera.net/uploadedFiles/Journals_and_Publications/Journals/Educational_Researcher/Volume_33_No_2/2026-03_Sawyer.pdf], 2004, p. 13, 10 November 2013.

[12] Teresa Grainger; Jonathon Barnes, Stephen Scoffham, "A creative cocktail: creative teaching in initial teacher education", in Gilroy, Peter (ed.), *Journal of Education for Teaching: International Research and Pedagogy*, v.30(3) [http://oro.open.ac.uk/12525/1/12525.pdf], 2004, p. 246, 10 November 2013.

[13] R. Keith Sawyer, *op. cit.*, p. 13.

[14] *Ibidem*, p. 14.

[15] Teresa Grainger; Jonathon Barnes, Stephen Scoffham, *op. cit.*, p. 246.

benefits. It has the potential to result in brighter, more motivated, and more effective teachers, and to result in students with deeper understanding and improved creative and social skills[16].

In application of these principles we decided on a debate somewhat based on the model UN scheme. Model UN[17] is an academic simulation of the UN where students play the role of delegates from different countries and attempt to solve real world issues using the policies and perspectives of their assigned country. Normally each student is part of a team of delegates that work together to negotiate. In our case, each student represented a country as sole delegate. Given the number of small participants and the structure of the UN Security Council, our debate only featured one student representing one country. As with most conferences, we provided a background guide that introduced the topics; in this case we presented the students with our research and resources on UN Security Council reform.

The debate was to be constructed on 6 hour time schedule. The rules and restrictions of the state representatives only dealt with interventions in the overall discussion as to respect the time restraints. All participants were to queue up for 2 minute intervals, with priority given to those with fewer interventions. Participants were to maintain the discussion on topic, with respect to all the representatives; they were advised to maintain a formal address, as state representatives. From beginning to end, the debate focused on a number of key stages: presenting each countries' position papers, reform proposals, debate on reform proposals, amendments to reform proposals, vote on reform drafting a resolution, final vote on the resolution, closing the UN Security Council Session.

Also as part of their preparation for the debate, the students were familiarized with the workings and procedures of the UN Security Council. They were also advised to follow the basic principles of negotiation: accepting the need for an agreement and constructing their behavior around their objectives, understanding elements of time management (given that we had a short timeframe), searching for the best strategy to succeed through using the context given to them as well as their own personal reflections on the subject (Pușcaș, 2009, 92)[18]. As it was a practical theory application, they were advised to work with a few key notions that they could easily get a grip on.

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[16] R. Keith Sawyer, *op. cit.*, p. 18.

[17] An example of the Model UN concept available at: [http://bestdelegate.com/].

[18] Vasile Pușcaș, *op. cit.*, p. 92.

3. Negotiation

As part of our efforts to explain the role of negotiation in simulating international debates, a discussion on the concept of negotiation is mandatory. As such we have divided this chapter in two parts: the process of negotiation and the characteristics of the negotiator. This is an effort to help frame the issue in a way that clearly explains the moving parts of the system before going on to explain the system itself. Before tacking the study case, we propose a look into the context of current decision making processes in international relations.

3.1. The concept of negotiation

The act of negotiating is defined as an interactive process between at least two entities (people, groups, institutions, communities, organizations, states) with differing interests that engage in the exchange of information in a context defined by explicit and implicit rules with the intent to reach an agreement, to exchange goods or to adopt a solution accepted by both parties to a common problem[19].

From an etymological point of view the word has roots in Latin: the term "negotiare" meant to trade or to do business, "negare" meant to bargain, to refuse and the term "otium" meaning relaxation, ease (Botezat, Dobrescu, Tomescu, 2007: 99)[20]. Its origins in trade agreements and commerce do not limit current standings, negotiations today work to build durable relations (personal, professional, commercial, diplomatic) while also having a role in avoiding risk, conflict and retaliation[21]. The negotiation comprises of a contextual frame defines on three levels: a social level (behavior, communication, motivation, emotion, power play), a methodic level (strategies and tactics) and a procedural level, with the latter being the most visible of the three[22].

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[19] Elena Aurelia Botezat, Emilian M. Dobrescu, Mirela Tomescu, *Dictionar de comunicare, negociere si mediere,*București: Editura C.H. Beck, 2007, p. 99.

[20] *Ibidem.*

[21] Ştefan Prutianu,*Tratat de comunicare si negociere in afaceri,*Iaşi: Editura Polirom, 2008, p. 614.

[22] Elena Aurelia Botezat, Emilian M. Dobrescu, Mirela Tomescu, *op. cit.,* p. 99.

The process itself is quite a complicated one and can take a lot of time, with participating parties engaging in a routine of discussions, meetings, correspondence, persuasion, manipulation and confrontation[23].The process of negotiation is composed out of five stages: preparing the negotiation, developing the strategy, beginning negotiations and expressing the initial position, the negotiation itself, compromise and final agreement. By following these stages the negotiator works within a simple and practical framework that aids the organization and administration of the whole process[24].

As far as reaching an agreement, there are some issues that need addressing. Negotiation is a process that aims to fulfill objectives; these objectives can be convergent or divergent and this plays a strong role in how the process works. Negotiation can only occur as long as positions taken by the parties maintain a certain degree of flexibility. If these remain rigid throughout the process, there is no negotiation[25].

Negotiation can be defined as a process in which explicit proposals are put forward for the purpose of reaching an agreement, an exchange or the realization of a common interest, where different interests are present. There are two elements that need to be present in order for a negotiation to happen: common interest and conflict over that interest. If one of the two is absent, there is nothing to negotiate for, or about. Common interest can be of two types: substantive common interest and complementary interest. The former indicates that the parties will share the same object, or want to benefit from the same arrangement. Complementary interest means that the parties want different things, and the only way to obtain them is through each other; they need each other's collaboration and agreement[26].

Negotiations can also be classified in a similar fashion based on whether or not they are distributive or integrative. Game theory details these as a zero-sum game and a variable-sum game, respectively[27].

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[23] Ștefan Prutianu, *Manual de comunicare si negociere in afaceri,*Iași: Editura Polirom, vol II, 2000, p. 163.

[24] *Ibidem.*

[25] Ștefan Prutianu, *Tratat de comunicare si negociere in afaceri,* Iași: Polirom, 2008, pp. 616-617.

[26] Alexandra Garcia Iragorri, "Negotiation in international relations", in: Schwerter, José Luis Diez (ed.), *Revista de Derecho*, v.19, Concepción: Uninorte Ediciones, [http://ciruelo.uninorte.edu.co/pdf/derecho/19/5_negotiation%20in%20international%20 relations.pdf], 2003, p.93, 10 November 2013.

[27] Vasile Pușcaș, *op. cit*., p. 93.

Distributive negotiations focus on competition and conflict, where one side can only win if the other one loses; it is a zero-sum negotiation that takes the shapes as a display of force towards achieving an advantageous result, irrespective of what the other parties want. Techniques used in this sort of negotiation are: frequently conflicting positions, intimidation, creating a tense atmosphere, personal attacks, concealing the truth[28].

Integrative negotiations are constructed around respecting the interests and aspirations of the parties with the idea that a win-win situation is the best outcome. The parties cooperate and respect each other, usually favor maintaining and improving relations and keep a good balance towards quality, efficiency and harmony. Tactics for negotiating in this situation imply: searching for common goals, balancing concessions, separating the problems from the individual and avoiding the tendency to always combat the other parties[29].

Fig. 1: Types of negotiations: distributive and integrative

Distributive	Integrative
Aggressive: Obtains something without giving anything	Dominated: Gives something without getting anything in return
Demagogue: Manipulates to obtain something	Cooperative: Gives something in exchange for something else

Source: Şoproni Luminiţa, *Comunciare şi negociere în afaceri*, Editura Universităţii din Oradea, Oradea, 2002, p. 120

It is at this point imperative to define the broad objectives of a negotiation, yet another criteria for classification. Specialist literature views negotiations as being about the overall results they achieve. As such we can define negotiations that are: win-lose, lose-win, compromise, win-win and lose-lose[30]. The first of these can be perceived as categorical situations, where one party wins and another party loses, while compromise and win-win situations prefer the more integrative approach; out of all these, the lose-lose scenario is the most negative outcome.

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[28] Elena Aurelia Botezat, Emilian M. Dobrescu, Mirela Tomescu, *op. cit.,* p. 100.

[29] Elena Aurelia Botezat, Emilian M. Dobrescu, Mirela Tomescu, *op. cit.,* p. 100.

[30] Ştefan Prutianu, *op. cit.,* pp. 640-641.

3.2. The profile of the negotiator

Consulting specialist literature in the field of negotiations also brings up different typologies, selected by authors to define negotiators, each with its own classification criteria.

At the root of negotiations there are three simple dimensions that can offer the negotiator the key to success:

- negotiation is communication,
- during negotiations the act of convincing and manipulating other parties is very important,
- negotiation leads to success.

At the same time, the negotiator needs to adhere to a few key principles[31]:

- having the winning mentality, with the goal of a win-win situation,
- looking at the needs of other parties,
- flexibility and concession can be the key to success,
- being cooperative,
- needs to understand the balance between giving and receiving.

If we take into account the behavior characteristics of the negotiator we can also define four directions that lead to four types of negotiators[32]:

- cooperative negotiator, using cooperation and conciliatory tactics,
- aggressive negotiator, using conflict and aggression,
- emotional negotiator, using the balance between rational and emotional behavior,
- demagogue negotiator, using manipulation to convince the other parties.

Other authors view these categories slightly differently, but with the same overall characteristics. Prutianu defines five different styles that

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[31] Luminița Șoproni, *Tehnici de comunicare și negociere*, Oradea: Editura Universității din Oradea, 2007, p. 61.

[32] Hassan Souni, *Manipularea în negocieri*, Oradea: Editura Antet-Imprimeria de Vest Oradea 1998, p. 37.

negotiators use: competitive, concessive, compromise, cooperative, avoidant)[33]. While these variations provide additional explanation of the behavior of the negotiator, we will use the four basic typologies outlined above as our reference point.

These four types of negotiators are not to be considered mutual exclusive models; none of the four types will ever exist on their own, without influence from the others: in the real world you will never find a negotiator that is solely a cooperative negotiator or one that is solely an aggressive negotiator, there will always be a blend between the four types. This has also to do with the evolution of the negotiation process, from simple one on one negotiation on subjects of trade to complex multiparty negotiations among organizations and states on all manner of subjects. The negotiator himself has evolved to gain new knowledge, experience, and abilities that help him cope with these changes. Out of the four types, the cooperative negotiator has become the most successful, due to the appeal of win-win negotiations.

Some authors define this mix of characteristics as the personal style of the negotiator, a term that synthesizes the character and personality of the negotiator, his beliefs and attitudes, opinions and habits that he adopts in a spontaneous manner when he comes into contact with a conflicting situation and searches to negotiate the best solution[34].

Fig. 2: Definitive characteristics for the types of negotiator: cooperative, aggressive, emotional and demagogue

Cooperative negotiator	Aggressive negotiator	Emotional negotiator	Demagogue negotiator
Good will; Respect for the partners; Respecting objectives; Maintains strong relations on short, medium or long	Pays more attention to using force rather than diplomacy; Uses constraints, aggressive tone and manipulation;	Relies on using emotions as tools; Acts with strong emotion; Makes emotional connections with the negotiation	Not prone to use theoretical models; Uses techniques that require lies, manipulation,

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[33] Ștefan Prutianu, *op. cit.,* p. 641.

[34] *Ibidem,* p. 641.

term; Trustworthy; Cares for relations based on cooperation; Reliable partner; Mutual convergent interests.	Uses force rather than dialogue.	partners; Acts on impulse; Prone to act on emotional binomes such as: love-hate, friend-adversary, closeness-rejection.	duplicity and simulation

Source: based on the work by Souni Hassan, 1998, 38-41.

Based on the aforementioned typology, combinations can be arranged so as to result in 22 different styles of negotiators. Going further with this, a combination between the 22 styles can result in 484 different types of negotiations (22x22).

The characteristics of each style restrict the opportunity for anyone of them to become dominant. This is a result of several elements closely connected to the biological, social and cultural construction of the individual along with his values and convictions. Understanding the cultural differences among participants can avoid problems such as: misunderstanding gestures, delays, greetings, personal distance, subjects of conversation and other similar issues[35]. We mustn't forget that the key to any negotiation is communication, between at least two parties, with dialogue being the bridge that holds negotiations together. Besides the characteristics of each negotiator, the interaction with other negotiating parties determines changes in approach and ultimately changes along the lines of negotiation objectives as well.

The best suited style to any negotiator needs to allow for a high grade or flexibility, so that the individual can adapt to the ever-changing climate of negotiations.

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[35] Luminiţa Şoproni, *Tehnici de expresie şi comunicare internaţională*, Oradea: Editura Universităţii din Oradea, 2007, pp. 12-13.

It is equally important that the negotiator develops a strong strategy before going in any situation. The first task is determining a negotiating position that helps frame all the objectives planed[36]:

- initial position: the first tactical option available to the negotiator, used to scout the overall feel;
- the breaking point: represents the limit imposed to the negotiator that defines what is and what isn't negotiable;
- the objective position: the realistic outcome of the process, tailored to obtaining an acceptable advantage.

3.3. Negotiations in international relations

As individual entities or as part of an international organization, states strive towards common objectives. They work towards these objectives through the use of foreign politics, of which the primary objectives are state security, state independence and prosperity[37].

The international arena has become a complex arrangement of moving parts. Classical theories on the matter have pointed to factors that govern foreign policies: national interest or the interests of particular members of society within the state. Since the 1950s, as a result of World War II and the creation of the United Nations, there have been numerous theories that point to an extended list of factors that influence foreign politics. Such factors can be linked to different research fields: psychology, economy, sociology, comparative politics and administration studies. Factors that derive from these fields bring more complex variables to the table; some value the characteristics of the leaders of foreign policy, some the institutional interactions between states, while others look to economy[38]. As part of the evolution of negotiations in international relations, these influences from different fields have shaped the way negotiations are today.

As part of the process of achieving foreign policy objectives, states make use of negotiation. There is no doubt that negotiation is the key towards

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[36] Luminiţa Şoproni, *Comunicare şi negociere în afaceri,* Oradea: Editura Universităţii din Oradea, 2002, pp. 125-127.

[37] Ioan Horga, *Teoria relaţiilor internaţionale*, Oradea: Editura Universităţii din Oradea 2006, p. 199.

[38] Ioan Horga, *op. cit.* p. 203.

winning any debate on matters of international politics. Traditionally, negotiation is included as a parallel process that takes place during war, but it is seldom granted more than a mention. In international relations when we think of negotiation what comes to mind is diplomacy and treaty negotiation, however, on detailed examination there is clear evidence that negotiation between actors is always present. Even during war, at certain points, while violent confrontation is taking place, officials will attempt to find a negotiated solution to the confrontation[39].

The negotiation process leads to a particular term of an agreement where the parties involved have three basic choices[40]:

a) to accept agreement the terms we may expect the opponent may settle for - available terms,
b) to discontinue negotiations without agreement, and with no intention of resuming them, and
c) to try to improve the available terms through further bargaining.

Complexity increases as we move from bilateral to multilateral negotiation. As noted by Howard Raiffa, there is a big difference between two-party and many party negotiations[41]. The overarching characteristic of multilateral negotiation is its complexity along all conceivable dimensions, as noted by William Zartman[42]. Multilateral negotiations of today are not only multi-party, but also multi-issue and multi-level. Negotiations deal with multiple issues and build systems of bargaining over a broad range of related dossiers; they often consist of multiple negotiation forums at multiple levels of organization. Richard Walton and Robert McKersie point out that there are some limitations to this as the parties would want to avoid having an overwhelming number, so that the negotiators are not overloaded and do not need to devote too much time sorting through items to the detriment of genuine exploitation of particular items. Conflicts over the format of the agenda and the priority of the items can force states to

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[39] Alexandra Garcia Iragorri, *op. cit.*, p. 92.

[40] *Ibidem*, p. 94.

[41] Howard Raiffa, *The Art and Science of Negotiation*, Cambridge: Harvard University Press, 1982, p. 251.

[42] William Zartman, "Two's Company and More's a Crowd: The Complexities of Multilateral Negotiation", in William Zartman (ed*.)*, *International Multilateral Negotiations: Approaches to the Management of Complexity*, San Francisco: Jossey-Bass Publishers, 1994, p. 3.

devote scarce time and resources to pre-negotiation talks and preparations whose sole purpose is to arrive at a negotiable agenda[43].

In multilateral bargaining, states have tactical reasons to withhold information about their true preferences. Rationalist bargaining theory suggests that negotiations can break down for two reasons: either because the parties, once they have exchanged information about each others' preferences, discover that negotiations cannot yield a better outcome than existing alternatives; or because parties with joint interests in an agreement conceal information about their actual preferences, to the effect that existing alternatives appear more attractive than a negotiated outcome[44].

In the conventional view of multilateral negotiation, the process of interstate negotiations is seen as self-contained: states engage in negotiations with each other in search of an agreement that permits them to reconcile their differences and reach a win-win situation. In many actual cases of cooperation in world politics, multilateral bargaining in one area or body is nested within broader processes of negotiation and may even be dependent upon agreements with external actors[45].

International organizations rarely encompass all potential members and negotiating parties. The membership of regional associations is limited, and not even global regimes and institutions incorporate all states. Restricted membership creates a demand for procedures to handle relations with non-members. Furthermore, membership of international regimes and institutions is seldom constant, but tends to grow over time, as additional states sign on. In many cases, membership expansion requires negotiations between existing and prospective members over the terms of accession and the implementation of the regime's rules[46]. In part, the issue of membership has been a prominent case for negotiation in the debate on UN Security Council Reform and has proven to be a very good opportunity for negotiation.

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[43] Richard E. Walton, Robert B. McKersie, *A Behavioral Theory of Labor Negotiations*, New York: McGraw-Hill, 1965, p. 146.

[44] Jonas Tallberg, **"**Formal Leadership in Multilateral Negotiations: A Rational Institutionalist Theory**"**, in: Bourantonis, Dimitris (ed.), *The Hague Journal of Diplomacy* v.1(2), The Hague: Martinus Nijhoff Publications, 2006, p. 125, [http://www.eustudies.gr/wp-content/uploads/2012/03/Tallberg-HJD-2006.pdf], 10 November 2013.

[45] *Ibidem*, p. 127.

[46] Jonas Tallberg, *op.cit.*, p. 128.

4. Study case: the debate on UN reform

The current climate of international relations decision-making process is very difficult to judge; problems have become a lot more complex requiring knowledge from any number of fields. At the same time, this generates changes in negotiation format as multilateral negotiations adapted to this context. To some extent, the inclusion of multiple issues can facilitate agreement in multilateral negotiation, by allowing for cross-cutting compromises and the construction of package deals that leave everyone better off.

As modern multilateral negotiations grow increasingly complex, this has brought about a shift in the challenges facing international negotiators. The principal problem for most contemporary negotiators is not to outsmart their adversaries, but rather to create a structure out of a large mass of information. The classical diplomat's technique of the management of people through cunning has given way to the management of people through the creation of system and structure[47].

It is therefore important to take a look at the negotiators and understand they thought process. The decision itself has two parts to it: a set of alternatives or options available to the decision maker and a context for that decision, covering fields such as military, economy, social matters and others[48]. Apart from these considerations on context, the decision-making environment tends to generate another level of complexity, with decision having to be made in a very short timeframe and often without full knowledge of the situation[49].

The debate on UN reform was created in a micro-environment with similar characteristics. Representatives of each state were given a context for a multilateral negotiation, constructed on modern levels of complexity, with time constraints and limited knowledge regarding state strategies and behavior during negotiations. While our previous work tackled the more methodic aspects of this debate, here we will take a more detailed look on how students performed as state representatives and main negotiators.

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[47] *Ibidem*, p. 123.

[48] Melania–Gabriela Ciot, *Modelul negociatorului (Idiosincrazii în procesul decizional al politicii externe)*, Cluj-Napoca: Editura Eikon, 2012, p. 100.

[49] Melania–Gabriela Ciot, *op. cit*., p. 100.

Students prepared two products to prepare for the conference: the position paper and opening speech, they had the option to include aspects of their position paper during their opening speech. The position paper is a document that is essentially a summary knowledge on the topic and the position the country plans to take. The opening speech lasted up to a maximum of 5 minutes and students were encouraged to take the opportunity to explain the country policy and the key sub-issues the student would like the debate to focus on. Opening speeches were useful determining future associations and, in many cases mirroring realistic political choices.

Students were assigned member countries of the UN Security Council: Russia, Morocco, South Africa, Azerbaijan, China, Colombia, France, Germany, Guatemala, India, Pakistan, Portugal, Togo, the United Kingdom, the United States of America.

During the initial stages of negotiations there were a number of aspects that held great interest as the debate moved on:

- Out of the 15 representatives, only 8 of them had strong opinions on reform and how it should be done;
- All representatives acknowledged the need for reform and expressed their willingness to reach an agreement;
- Out of the 5 permanent member representatives, the United Kingdom did not present a plan for reform, or constraints of any sort while China appeared to be the most open towards reform;
- The two African states, members in the SC, both had strong interests for Africa to get a permanent seat;
- Out of the nonpermanent member states, Columbia was the most active in getting their point across.

As far as the main 4 types of negotiators defined by us, there were changes in students' behavior as time went one. In the initial stages of the process students preferred more aggressive styles of negotiation as such:

**Fig. 3: Type of negotiating style exhibited by students
in the first of the negotiation**

	COOPERATIVE NEGOTIATOR		
DEMAGOGUE NEGOTIATOR	UK France USA	Guatemala Germany Russia, Portugal Togo Pakistan	EMOTIONAL NEGOTIATOR
	Morocco	Colombia South Africa India China	
	AGGRESSIVE NEGOTIATOR		

Source: *Own research based on data recorded during the UN debate*

Representatives situated in the top part of the table were more akin to a cooperative negotiation style, while those in the bottom part were more aggressive. At the same time, representatives on the left side were more manipulative, using deception more frequently, while the ones on the right were closer to characteristics of the emotional negotiator. This schematic will be reviewed later in the article as changes occurred during the negotiation process.

The other main aspect regarding students' negotiation performance has to do with their choice of strategic approach. This aspect was more clearly defined after the initial opening statements, when clear options for reform were starting to gain a following and states started to partner up. As far as strategy goes, we have weighed their option for reform alongside the means they employed to reach the objectives. As far as the best strategy goes, states that revealed their options without holding back usually began a defensive struggle. This strongly favored states that were more flexible in their approach and the game of aggression started to weaken by the middle part of negotiations.

Another interesting aspect that is worth noting here is that permanent members had a very difficult time finding a balance between aggressive and defensive play. Representatives of the „big five" were more likely to not hold back at the beginning of negotiations and struggled to find a rhythm once the process slowed down. The exception to this is the case of

the United Kingdom: the representative used the early stages of debate to get a feel for the options of other states and did not reveal much about his strategy.

At the same time, nonpermanent members were quite receptive to the lack of aggression by the permanent states and used that to their advantage. The representative of Colombia especially, used every opportunity to rally other states around a single plan for reform. In the end it proved to be the winning tactic.

Fig. 4: Strategic options that favored by state representatives

Country	Position	Strong points	Weak points
Russia	Seat for India and Brazil. 21 UN SC members max	Defined position on reform and allies	Not aggressive enough
USA	21 UN SC members max No change to the veto	Very determined during negotiation	Lack of flexibility
Colombia	25 UN SC members Abandon the present veto New veto	Flexible and creative ideas	Lack of individual gain
India	Up to 25-27 members	Flexibility in ideas	
France	Membership for Japan and Germany	Flexibility in ideas	Negotiation style too passive
Morocco	Representation for North Africa Increased interest in economical development.	Strong position in relation to internal needs	Negotiation style too aggressive
South Africa	Increased interest in maintaining security and economic growth.	Very balanced negotiating style	Changed position during negotiations
China	Representation for developing countries, African countries. No veto for new members.	Very determined position	Lack of creative ideas

Source: *Own research based on data recorded during the UN debate*

Risk and uncertainty associated with decision-making determine an increase in stress levels that is quite profound. If an actor believes that avoiding damage will be difficult due to time constraints, stress could lead

to panic. If all the alternatives are equally risky and the choice is difficult, the actor will revert to a defensive state, an evasion tactic[50].

Models of decision-making are linked to nations acting as rational actors; their behavior can be explained by connecting it to the system structure[51]. In the case of our debate, an explanation for the behavior of permanent state representatives can be linked to their desire to maintain the status quo within the UN Security Council (one of the more realistic scenarios that occurred during the debate). While the decision in itself couldn't contain all the implications of real world politics, this, in turn, can explain the outcome of the debate as a whole: the fact that an agreement was reached and a reform was pushed.

The final part of the debate was conducted along the lines of amendments proposed and voted on by members. The process took longer on the part of Security Council enlargement, due to a multitude of proposals and a strong opposition from the permanent member states. It is interesting to note that the nonpermanent states group, lead by Colombia, managed to secure the promise of enlargement with some margin of compromise: from 6 permanent members to 3 permanent and 3 nonpermanent members, as the winning motion stood. Another fact worth mentioning is that the representative for the UK became leader for the permanent states group, sometimes at odds with the USA. The defensive style showcased by the USA representative did not prove to be the most successful approach.

Fig. 5: Amendments proposed by UN SC members on matters of membership and voting

UN SC new members		Veto and voting procedure	
Amendments	Observations	**Amendments**	Observations
Increase in mandate for nonpermanent members from 2 to 4 years.	Proposed by USA as a means to avoid the discussion on veto PASSED	Vote within the permanent members to need 4/8 for a pass	Counter proposal to the UK 6/8 vote

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[50] Melania–Gabriela Ciot, *op. cit.*, p. 105.

[51] *Ibidem*, p. 107.

UN SC new members		Veto and voting procedure	
Amendments	Observations	**Amendments**	Observations
Give permanent member status to G4 states	The initial proposal from the permanent states for enlargement	Restrict the use of veto in certain situations	Proposed by India, backed by the Colombia group
Give permanent member status to India, Brazil and South Africa and nonpermanent status to 3 other countries.	The revised proposal of the permanent states group, after prolonged debate PASSED	Vote within the permanent members to need 6/8 for a pass	The main proposal from the permanent states group, except USA. Proposed by the UK PASSED
Give permanent member status to 6 new states.	Proposed by Colombia, backed by 6 other nonpermanent states	Vote within the permanent members to need 5/8 for a pass	Alternative proposal by Russia for the veto change

Source: *Own compilation based on data recorded during the UN debate*

Expanding further on the style of negotiation used by representatives, we reconstruct the previous table with the necessary modifications:

- due to subsequent failures in obtaining a comfortable reform, the USA representative adopted a more defensive style, while also using aggression and manipulation as needed;
- the UK representative adopted a much more active role in the debate, his style being a mix of aggressive, emotional and cooperative tendencies;
- the representatives of Colombia and Guatemala rallied other nonpermanent members to change the veto system, the most important objective of the negotiation; with this in mind, they accepted a compromise solution on enlargement;
- out of the states that became less involved in the debate we mention: South Africa, Russia and Germany, with France and China also becoming less involved.

**Fig. 6: Type of negotiating style exhibited by students
in the second part of the negotiation**

DEMAGOGUE NEGOTIATOR	COOPERATIVE NEGOTIATOR		EMOTIONAL NEGOTIATOR
	France China	Germany Russia, Portugal South Africa Togo Pakistan	
	Morocco USA	Colombia India Guatemala UK	
	AGGRESSIVE NEGOTIATOR		

Source: *Own research based on data recorded during the UN debate*

5. Conclusions

The debate proved to be a success in some respects while failing in others. The most important positive aspects were related to the impact it had as an interactive learning tool for students, able to simulate to a lesser degree the process of international politics decision-making. As a negotiation exercise, it provided participating students with a context for interactive debate and for constructing their own negotiator persona.

Where the debate falls short is in relation to actual world politics scenarios. The reform of the UN Security Council is still an event waiting to happen, as states failed in their attempts to reach consensus, while our debate reached that result. The positive side to this is the fact that unlike real world scenarios, students had a greater degree of flexibility in their negotiating style and strategy, giving them the opportunity to provide creative ideas and solutions. The best example is the case of the representative from Columbia that managed to rally the nonpermanent states around common interests and, in the process, blocking the actions of the permanent states. In the same registry, the rise of the representative from the UK as a constructive leader of the permanent member states overshadowed stronger actual leaders such as Russia and the USA.

On a final note, the model for debate that we put into practice was a success. Through giving students the opportunity to face real world politics scenarios, they applied knowledge about decision-making and negotiation, interpersonal communication skills and diplomacy in a practical context.

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THE ROLE OF CULTURAL DIPLOMACY IN CONTEMPORARY CRISES AND CONFLICT RECONCILIATION

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Abstract:

Beginning with the ancient rulers and up to present day, culture has been used as a way for leaders and countries to show who they are, assert their power, build lasting relationships or start wars.

Nowadays culture is an important prerogative of diplomacy, foreign policy and of national collective and international security. This is the starting point of the present study which intends to approach systematically the role of cultural diplomacy in ethnic, religious and political conflicts. It also underlines the importance of mutual respectful relationships between groups, nations, respect for cultural traits and the omportance of different cultural activities in promoting peace.

Key words: culture, conflict, cultural diplomacy, political discourse, security

At the end of the 20th century and the beginning of the 21st the world's problems have become more complex and the solutions given to different political currents and programmes are less and less capable of offering explanations for the risks, dangers and threatens humankind has to confront with[1]. When facing the new challenges, an increased attention is given to security seen in its three dimensions: individual, national and international. The European States, as well as the the world states, are highly concerned when seeing the incapacity of the state institutions to

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[1] Teodor Frunzeti, *Conflict și negociere în relațiile internaționale. Curs,* Editura Universității Naționale de Apărare „Carol I", 2007, p. 12.

effectivelly ensure national security. Consequently, „a great conversation of mankind" [2], is required in order to develop a larger flux of ideas and knowledge all over the world so that a common vision upon security could be drawn. This can be done only if we were aware of the fact that many current challenges are infact the result of vulnerabilites and common threatens that need solutions of the same nature. Such concepts as collective security, common security or security through cooperation have all a dominant military dimension, and current reality has demonstrated that hard power cannot offer the solution required by mankind, thus imposing the obligation to find a soft solution, with a preventive character in order to become the key to future diplomacy.

The researchers in different interdisciplinary fields applicable to security problems have come to the unanimous conclusion according to which not knowing the Other's motivations determined, along history, a lot of wrong foreign policy decisions which triggered many conflicts followed by sad repercussions upon world society. "Repeated crises have shown that, unfortunately, punctual preventive interventions are not sufficient and should be inserted in complex, long-term actions, which are to take into consideration the assembly of the problems capable of destabilizing them, from the economic difficulties, to the stereotypes rooted in divergent mentalities, from the precariousness of communication channels to the unconventional security risks" [3], underlines Professor Emil Constantinescu, the former president of Romanaia.

In our understanding, the most viable solution in preventing conflicts and providing a real chance of world peace in a globalizing world in the long term, is cultural diplomacy. Imagined as a laboratory where political culture of global security is created by means of mutual trust, negotiation, and cooperation, cultural diplomacy can identify the major risks, can elaborate and implement programs to strengthen mutual trust, both within countries with a high degree of risk and in areas with conflict potential[4]. Its absence as well as the lack of a dialogue and of an efficient diplomacy has generated, in North Africa and Middle East, popular uprisings

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[2] Emil Constantinescu, "Diplomația culturală", in *Cadran Politic*, 26 June 2013, p. 2, [http://www.cadranpolitic.ro/?p=4765], 12 November 2013.

[3] Emil Constantinescu, *Diplomația …*, p.2.

[4] *Ibidem*, p.3.

which drew the attention of the whole world upon the Mediterranean, thus rediscovering this old cradle of universal civilization. In spite of the fact that Robert Sherry, UN special envoy on peace process in the Middle East, has recently indicated that the events that engulfed Syria are felt regionally but could become a global crisis, the regime in Damascus "keeps using military force against civilians and meanwhile the continuation of armed conflict attracts more and more fighters from all over the world" increasing the possibility of an armed conflict both in Syria and in the Middle East, writes Belfast Telegraph[5].

Expanding the democratic space through cultural diplomacy will generate a different type of relations between states and nations, based on dialogue and the understanding of the Other. Cultural diplomacy and intercultural dialogue will replace the old type of relationship based solely on military force and economic pressure[6], creating democratic mechanisms for dialogue and strengthening cooperation between the political and civil society, thus increasing the citizens' confidence in the authorities and constructively reducing the conflict causes on the basis of expanding democratic societies with a high degree of stability.

There are three essential elements that can influence conflict settlement and outbreak: language, ethnicity and religion, all of them cultural elements. A clear example of the involvement of cultural diplomacy in peace negotiation is both the knowledge of the Other's language and promoting your own language. It is the situation of the English language used by the Foreign Commonwealth Office and by the British Council or the Portuguese language

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[5] *ONU: Conflictul din Siria risca sa se transforme intr-o criza globala,*
[http://www.ziare.com/international/siria/onu-conflictul-din-siria-risca-sa-se-transforme-intr-o-criza-globala-1247799], 27 November 2013.

[6] "Levantul, leagănul diplomației culturale. Redescoperind Mediterana", *in "Observator cultural", nr.701, 22. 11.2013, international conference organizaed by the Academy of Cultural Diplomacy in Berlin and patronized by the Government of Romania, Romanian Parliament and Bucharest City Hall, 23-25 May 2013,* 20.11.2013, [http://www.observatorcultural.ro/Forumul-Levantul-leaganul-diplomatiei-culturale.-Redescoperind-Mediterana*articleID_28724-articles_details.html]; Emil Constantinescu, *Diplomația cultural,* in "Cadran Politic", [http://www.cadranpolitic.ro/?p=4765], 12 December 2013; *Mesajele emoționante ale refugiaților din Siria,*[http://www.ziare.com/articole/conflict+siria+refugiati], 12 December 2013 *Turcia: Problema refugiaților sirieni scapă de sub control,*
[http://www.ziare.com/articole/conflict+siria+refugiati], 12 December 2013.

and Lusophone policy which is higly promoted by Portuguese foreign policy, both languages facilitating their states dialogue with other countries and becoming essential pillars of European Union's foreig policy.

A valuable work, *Cultural Diplomacy*, emphasizes the increasing role of culture in international relations as it helps us better understand the Other, value different aspects of life, points of commonality, understand motivations that lie at the basis of differences and we can discover all these by means of cultural contacts. This is the reason why culture has lately become „a critical forum for negotiation" and helps find solutions for conflicts and crises[7].

The same work emphasizes the role of cultural diplomacy in creating a favourable environment for government policies by building long-term relations; a good example in this respect is the British Council.

The role of culture in triggering regional conflicts

Even if lately the number of inter states and between states conflicts has considerable decreased, regional conflicts are still active and they are mainly of ethnic-religious nature. They result mostly from "the clash of the religious-political aspects of the conflict communities" [8]. The perception of religion as a conflict factor was a complete shock when the Iranian Islam revolution burst. The ethnic and religious factors, as part of the cultural dimension of security, have gained a major importance in security analyses as the extent of cultural security manifests itself at the same level as the interrelation between individual security and national security, thus, ethnic or religious groups can become a problem of national security when their behaviuor generates terrorist, separatist or revolutionary acts[9].

In totalitarian societies religion has the mission to permanently remind the historical past of the respective community thus determining cohesion. Religion is regarded as a manner of living (attitude, clothing), as an identity (the attention is drawn upon the relation a group develops with

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[7] Kirsten Bound, Rachel Briggs, John Holden, Samuel Jones, *Cultural Diplomacy*, London, Demos, 2007, p. 11.

[8] Mihai Ştefan Dinu, *Dimensiunea etnico-religioasă a securităţii*, Bucureşti, Editura Universităţii Naţionale de Apărare „Carol I"*, 2007, p. 9.

[9] *Ibidem.*

other groups), both language and customs bringing about their own contribution to the solidarity group. A deep knowledge of these elements through the use of the instruments of cultural diplomacy can lead to conflict prevention.

Currently we can identify three types of conflicts as shown on the map below: violent tendency ongoing conflicts, isolated and low intensity ongoing conflicts, and high intensity, armed ongoing conflicts.
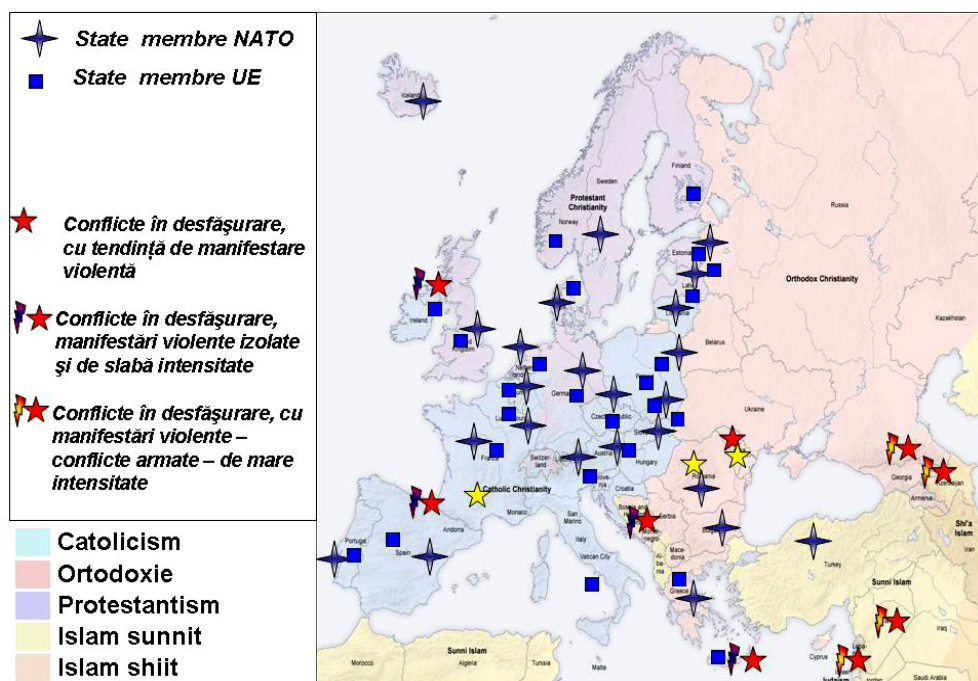
Types of conflict areas

Source: Mihai Ștefan Dinu, *Dimensiunea etnico-religioasă a securității,* București,
Editura Universității Naționale de Apărare „Carol I", p.17

A close look at the areas involved clearly explains the most revealing causes of conflicts: ethnic or religious problems, lack of intercultural dialogue, violation of human rights.

Culture and conflict in academic and political discourse

As UNESCO report of April, 2013 mentions, the problem of peace is the most important one nowadays and it "implies the necessity of finding a way of living together better in this world of growing complexity and uncertainty that all too often is now witnessing the outbreak of new forms of violence" [10]. In this globalized world characterized by economic crises, poverty, growing complexity, bursts of terrorism, the attitude towards the Other is not approached by means of peace but rather by conflict and violence. In order to face these challenges, to recover the world from conflicts, to maintain and even build new values in this highly diversified world, the role of culture is more and more emphasized by different organizations, important personalities, academics, journalists.

Usually the Other is the foreigner, thus different from us and his image in another culture, in the collective mentality of a certain people's culture creates a stereotype which has deep repercussions when there is a clash of the respective two cultures. When we try to understand the history of an ethnic group or a nation, we in fact analyze the incomplete, simplified and deformed image of a past from an ever changing present perspective.[11] One of the consequences of this approach is that a whole nation is labeled according to the image, thus determining the framework against which the fundamental relationship between different identities evolve, and leading to violence, conflict and even war. Against this background creating and sustaining peace has become a major goal for many organizations in present day society.

As the Report to the UN System Task Team on the Post-2015 UN Development Agenda, *Realizing the Future We Want for All* clearly mentions, peace is "critical for the development and a major component of it" and at the same time peace and security, development and human rights are "interlinked

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[10] Ann-Belinda Preis, Cristina Stanca Mustea *The Role of Culture in Peace Reconciliation* UNESCO – April 2013, p. 1,
[http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/images/PeaceReconcilia-tionENG.pdf], 1 December 2013.
[11] Lucian Boia, *Istorie si mit in constiinta romaneasca*, Bucuresti: Editura Humanitas, 2011, p. 53.

and mutually reinforcing"[12] in all societies. The report also emphasizes the importance of "strengthening cultures of peace and tolerance" as being "essential in all countries and particularly pressing in so-called fragile states"[13]. This is the context against which the mission of culture manifests itself as a powerful factor in achieving sustainable development and reconciliation. Therefore it is very important to understand the cultural environment of the parties involved in conflicts as "culture is embedded in every conflict and conflicts arise in human relationship"[14]. Michelle LeBaron, distinguished professor at University of British Columbia, sustains that when dealing with conflict it is useful to learn about the cultural dimension of people involved in conflict, about their stories, metaphors, rituals because when cultural identities are not properly understood, stereotyping emerges giving way to negative perceptions and finally to conflict[15]. As a consequence it becomes more and more evident and important to involve culture in peace processes and programmes, to use education for peace as a conflict prevention strategy, to promote cultural diversity and intercultural dialogue.

Preserving cultural heritage especially in violent conflict areas is an important means in keeping the identities of the parties involved in the conflict and later on reaching a peace agreement sooner and easier. Destroying temples, churches, mosques, bridges, old parts of cities and other architectural traces means in fact destroying the identity of a community, its symbols of existence, its past. That's why rebuilding destroyed heritage such as the Old Mostar Bridge or the Old Town of Warsaw and inscribing them in World Heritage List is supposed to help reconciliation and bring about peace[16].

In order to build peace there are organized many different activities, conferences, international summits, seminars, even sports events that bring

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[12] UN System Task Team on the Post-2015 Un Development Agenda, *Realizing the Future We Want for All*, Report to the Secretary-General, p. 31, [www.un.org/en/development/desa/policy/untaskteam_undf/untt_report.pdf,], 1 December 2013.

[13] *Ibidem*.

[14] Michelle LeBaron, *Culture and Conflict*, July, 2003,

[www.beyondintractability.org/essay/culture-conflict], 8 December 2013.

[15] *Ibidem*.

[16] Ann-Belinda, Preis, Stanca Mustea, Cristina, *The Role of Culture in Peace Reconciliation* UNESCO – April 2013, p. 4, [http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/images/PeaceReconciliationENG.pdf], 1 December 2013.

together people from different races, political interests representing the cultural diversity from all over the world. An important event was the Edinburgh First International Summit of Culture Ministers which took place in August 2012, where ministers and other important personalities tried to explain "why culture matters". The foreword was delivered by Lord Wilson of Tillyorn who admitted that culture had an important "role in bringing people together, even those with very different world views"[17]. He asserted the importance of the Summit in creating the opportunity to look at the role of culture in government and to create a new platform to consider new issues regarding the encouragement of the right environment to help culture develop and grow and suggested that culture should be placed "centre stage" in the governing process as it can enable dialogue because it creates "the space where individuals can express, explore and re-imagine difficult issues" thus bringing together people from intellectually or culturally opposed groups and make them build together dialogue in a way nothing else can because they ignore such issues as gender, ethnicity, religion [18]. Lord Wilson of Tillyorn also exemplified the way culture helped post-conflict reconstruction by mentioning the Edinburgh International Festival which was established in 1947 and helped a great deal in the recovery of the city after the Second World War; the development of the Iraqi National Youth Orchestra and a South Sudanese theatre company that performed a play by Shakespeare at Shakespeare's Globe in London.

The impact of culture on diplomacy raises many concerns because if a party does not have an extensive knowledge of and is not familiar with the other party's cultural traits, one cannot expect success of the talks. If we were to refer to the Middle East Palestinian-Israeli conflict, and especially to its cultural dimensions, we could say that cultural conflicts are characterized by exclusivity, depth, duration, and global nature[19]. In the case of the Middle East conflict there is the refusal to accept the Other which is more important than the problem of territory seen from the point of view of strategy and economic resources.

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[17] Lord Wilson of Tillyorn, *The Power of Culture to Change Lives*, Foreword British Council, [www.eics2012.com/why-culture-matters/power-culture-change-lives-british-council], 29 November 2013.

[18] *Ibidem*.

[19] Dov Shinar, "The Peace Process in Cultural Conflict: The Role of the Media", in *Conflict & Communication online*, Vol 2, No. 1, 2003, p. 1, [www.cco.regener-online.de], 30 November 2013.

In this respect while addressing to a conference in Istanbul, Ambassador Alan Baker who took part in peace negotiations with Egypt, Jordan, Lebanon, Syria, and the Palestinians, said as a conclusion of his experience: "All the Middle East peace negotiations have, from the start, always aimed at neighborly, mutually respectful, "people-to-people" relationships, and each agreement includes appropriate provisions on mutual respect of religious beliefs that can serve as guidance to others. Our agreements include provisions for free access and respect for holy sites, respect for and upkeep of graves and memorials for fallen soldiers, and respect for religious beliefs and practices"[20].

Cultural activities are very important in building relationships between countries that have previously been involved in conflicts as through communication culture becomes an effective tool in regaining trust in each other. One of these activities was the seventh International Conference of Museums for Peace held from 4-7 May 2011 in Barcelona, Spain under the title: *The role of museums in the transformation of culture of war and violence to a culture of peace and nonviolence.* The discussions and the works presented reflected the concerns of peace educators, museums experts, NGO's directors, city mayors, all working to obtain peace through culture.[21] Even football is given a cultural perspective in Football for Peace International, an activity based upon community relations and reconciliation. The aim of the organization is to bring together different ethnic groups, communities through sports in order to provide social contact across community boundaries, to promote mutual understanding, commitment to peaceful coexistence and to enhance sporting skills[22]

The British Council is established as the UK's international organization for educational opportunities and cultural relations and its staff can be found in 100 countries all over the world and through its presence it tries to build relationships between UK and the respective countries.

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[20] Address by Alan Baker to a conference in Istanbul on "Conflict Mediation through Cultural Diplomacy in Current Areas of Conflict",[http://jcpa.org/article/conflict-resolution-through-cultural-diplomacy-in-the-middle-east/], 1 December 2013.

[21] The International Network of Museums for Peace, [www.museumforpeace.org, inmp.net/index.php/events/inmp-conferences/2011-barcelona-spain], 28 November 2013.

[22] Football 4 Peace International, [www.football4peace.eu/index.html], 8 December 2013.

The British Council report on the Power of Culture admits that culture can transform people in a good way, thus succeeding where governments have failed. Referring to the Arab spring, a study examining the relationship between culture and social changes in Egypt, Libya, Morocco and Tunisia points out the role of culture as a catalyst for the protest and also as a means of communication across cities and countries.[23]

Conclusions

If we want cultural diplomacy to succeed we should keep in mind the words addressed by Ambassador Alan Baker: "In order for cultural diplomacy to succeed, practically, it needs to include, first and foremost, an acknowledgment by political and religious leaders that peace, justice, and mutual respect are basic values in all religions, as well as central assumptions in international law and diplomacy"[24].

Each culture brings about its impact upon the whole world and if we want the world to be a space of peace we should share Michelle LeBaron's view: every culture is like the member of an orchestra; an individual player, but together they make great music, so culture could make a great world.

This paper is to be considered as the beginning of a research of the importance of culture and of cultural diplomacy against the background of the changes in the international relations sphere and the long-lasting problems in the conflict areas.

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[23] British Council, *Voices of the People. Culture, Conflict and Change in North Africa*, [www.britishcouncil.org], 29 November 2013.

[24] Address by Alan Baker to a conference in Istanbul on "Conflict Mediation through Cultural Diplomacy in Current Areas of Conflict", [http://jcpa.org/article/conflict-resolution-through-cultural-diplomacy-in-the-middle-east/], 1 December 2013.

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THE WAR AGAINST POOR (ROMA) IN POPULIST DISCOURSES AND PRACTICES IN ROMANIA [1]

Enikő Vincze[*]

Abstract

This paper offers an insight into the war against poor (Roma) in populist discourses and practices in Romania, while demonstrating how populism, in this case, is intersected with racism. In a first step, the paper outlines the general poverty-related context of Romania through some statistical data, and afterwards it sketches three cases that illustrate extreme ways in which racist populism targets poor Roma and discursively racialize poverty. Next, in two chapters, the article elaborates on some interpretations about (a) how poor Roma are dispossessed of their homes, citizenship and humanity, and (b) how the poor are blamed and racialized. As a conclusion, the paper drafts on some of the theoretical directions that might be useful for the analysis of the war against the poor (Roma) under the conditions of post-socialist neoliberalism.
Key words: populist discourse, poor Roma, dispossession, Romania

Poverty and blaming the poor – general context

According to EUROSTAT,[2] among the EU member states Romania knows the highest rates in terms of the population under the risk of poverty (40.3%), including in-work-poverty (17.3%; a percentage that is even higher, of 50.7%, in the case of those working part-time), and it knows

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[2] EUROSTAT Yearbook, 2011. [http://epp.eurostat.ec.europa.eu/statistics_explained/ index.php/Europe_in_figures_-_Eurostat_yearbook], 13.10.2013.

the one of the highest rates of inequality between the incomes of the most rich .and the incomes of the poorest (6.2%). Romania is among the states of whose population knows to a large extent severe housing deprivations (26.9%), while 54.9% of the population lives in overcrowded homes (a percentage that is even higher in the case of those under the risk of poverty, 65%). Romania is among the states that allocates the less percentage of its GDP to social protection: 17.58% compared to the EU27 of 29.36%.

During times of crises, Romania used one of the most severe set of austerity measures, while, mostly since 2010, its political leaders were preaching on the death of the social state, and on the guiltiness of the poor for being poor. The term "socially assisted" quickly became associated with derogatory and pejorative meanings, and reinforced the already appealing anti-communist attitudes sustaining meritocracy and the naturalness of inequalities. Claiming that the poor and the "socially assisted" threaten the economic security of the country, or blaming the victims, the governors arrived to the conclusion that solutions for economic crises should consists of cutting the benefits of these "parasitic" elements, which supposedly put a burden on the "weak state" and on the whole population ("the good Romanians") who want to work and manage to be competitive on the labor market.

As argued elsewhere[3] nor spatiality, or poverty are the ultimate explanatory factors of the formation of advanced urban marginality[4] or of instances when people dispossessed of their homes, citizenship and humanity are forced to experience the cumulated deprivations of an excluded life. Ultimately, in nowadays Romania one may witness how does the intersection of processes of neoliberalization and racialization, under post-socialist condition, create economically, culturally and politically the spatialized and racialized forms of social exclusion whose (poor Roma) inhabitants are subjected to multiple and disempowering forms of injustices.

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[3] Enikő Vincze, "Socio-Spatial Marginality of Roma as Form of Intersectional Injustice", in *Studia UBB Sociologia*, Volume 58. 2013, Issue 2, pp. 217-243.

[4] Loïc Wacquant, *Urban Outcasts: A Comparative Sociology of Advanced Marginality*. Cambridge: Polity Press. 2008.

Local authorities' actions and discourses – steps towards a racist populism

Having in my mind the context from above, in this paper I am using the term "populist" in order to name the publicly expressed convictions and practices that promise to defend "people" (the "civilized Romanians") against "dangerous others" (poor Roma) who are supposedly threatening the former. Through these speeches and actions, politicians and governors who are framing and performing them, constitute themselves as defenders of "The people", while constructing the latter as subject of their worthy intervention. In particular, I am referring here to three cases of forced evictions in Romania (happened in the cities of Cluj-Napoca, Baia Mare, and Eforie Sud in the past four years), respectively to the declarations and actions of the mayors of these cities by which they administered the eviction of poor Roma communities from their settlements and justified their interventions.

If one listens to the statements of the respective mayors, he/she may observe how they constructed the "people" whom they served by differentiating between two, hierarchically arranged categories, one from within and the other from the outside of "The people":

In December 2010, the mayor of Cluj Napoca (Sorin Apostu) who orchestrated the eviction of 76 families (their vast majority Roma) from a centrally placed urban space (Coastei street) affirmed: "*the eviction from Coastei street was made due to the fact that the way of life generated a lot of controversies for the inhabitants of the area and for the companies from the area and for everything that the city meant – later they were moved in a zone from Pata Rât.*"[5] Despite of prior petitions against evictions and residential segregation, all the families living on Coastei Street were evicted, their homes were instantly demolished, and they were relocated nearby the city's toxic landfill, into improper homes sharply isolated from the city, by this increasing the number of the inhabitants of that area to 1500.

In the spring of 2012, the mayor of Baia Mare (Cătălin Cherecheș), who put on his electoral agenda the demolition of Craica (a neighborhood of poor housing inhabited mostly by Roma) and won the local elections

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[5] Cited here: [http://www.gas.org.ro/2011/protest-23-mai-2011-str-coastei-in-spatele-bibliotecii-judetene-ora-12/]

with more than 80%, argued for his actions by stating: "*the poverty pockets of the city, where since 20 years there were only improper constructions, and where there was no water, sewerage, or electricity, had to be eradicated because they created discomfort to those who lived in the housing districts of the municipality*."[6] About half of the houses were demolished, and 60 families were relocated into the buildings of a former chemical company. After the municipality was criticized by human rights organizations, the mayor started talking about his plans for integrating Roma, and for looking for alternative territories where the remaining families of Craica, and other poor families from other areas of Baia Mare might be relocated.

In October 2013, the mayor of Eforie (Ovidiu Brăiloiu) demolished the homes of circa 100 ethnic Roma persons leaving them homeless, by affirming: "*by winter they will go to the landfill. I am not sending them anywhere, but they will go on their own. We do what we need to do: we drain the zone, we clean, and we remove the garbage from there. You know how it is: when the butchery closes, the dog stays there for a few more days, but eventually it has to go away*."[7] After a couple of days, when the mayor was criticized by human rights organizations, he allowed some of the children left homeless to move into a disposed building without any utilities.

Dispossessed of homes, citizenship and humanity

These three cases, which are completed by several other instances of socio-spatial exclusion in Romania,[8] respectively the related public discourses might be placed on a scale of classifications that evolved from defining the relocated ones as people who generated "controversies" and created "discomfort", to comparing them to street dogs. We could see: supposedly their lifestyle, the fact that their neighborhood lacked elements of a civilized housing, and the increased amount of garbage around, but most importantly

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[6] See here: [http://maramures.transilvania-tv.ro/chereches-intoxicarea-de-la-cuprom-incident-fabricat-de-auto-proclamatii-lideri-ai-comunitatii-rome/]

[7] Published here: [http://stirileprotv.ro/stiri/actualitate/explicatia-plina-de-cinism-a-primarului-din-eforie-despre-cei-50-de-copii-care-au-ajuns-in-strada.html]

[8] Enikő Vincze, Cristina Raț (guest editors): "Guest Editors' Foreword for the Special Issue on "Spatialization and Racialization of Social Exclusion. The Social and Cultural Formation of 'Gypsy Ghettos' in Romania in a European Context", in *Studia UBB Sociologia*, Volume 58. 2013, Issue 2, pp. 5-23.

the assumption that all these factors disturbed the others, "the normal people and companies", justified their eviction, demolition and relocation administered by local authorities. In this way, without any proper interventions against poverty, the latter ended up championing a war against the poor by which they also supported both real estate interests, winners of gentrification processes and their own political and economic capital.

These are cases in which authorities justified their actions by referring to the need of "slum clearance", or "urban generation", or "urban development programs". But their attempt to rationalize went even further: they, as elected representatives of the cities, put one against the other "The people" who deserved being served by the local governance and those who were not worthy of this. Even more, they sanctioned the distinction between those who merited belonging to the city, and those who did not. In addition, while legitimizing the housing and territorial exclusion of the latter, they even excluded them from humanity by associating them with trash, by relocating them to polluted areas that endangered their health and life, and by comparing them to animals. In none of these cases, "urban regeneration" meant the improvement of housing conditions of the dwellers of these areas in a way that they could support them living a proper human life while remaining there and become integrated into the desired urban landscape. But in each of these cases, the way in which and where they were relocated or left homeless increased their material deprivations, territorial separation and cultural stigmatizations, strongly damaging their human dignity and social relations. This is a strong evidence of the fact that these poor people are not imagined by decision-makers (and by the mainstream population) as being part of the urban space that needs to be regenerated and developed, but they are at the most tolerated on the margins, or on territories that are tried to be made invisible or non-existent and, as such, do not require or deserve administrative attention or socio-economic development. Simply put: by these measures, public authorities construct a physical and symbolic bond between people regarded as non-humans and spaces regarded as non-territories (such as landfill, chemical deposits, water treatment plants or other toxic environments).

The arguments of local authorities for performing evictions, demolitions and relocations, were also referring to the illegality of the respective human settlements. In some cases this meant that people were let to stay informally

there since ages and now this consensus was disrupted unilaterally by authorities. And in other cases it meant that people renting their homes on those areas, were evicted together with the informally settled and/or those who did not posses legal documents of any kinds, being pushed together, as "the group that deserve such treatment", out of their status of citizenship. In each of these cases, relocation meant that people's access to resources of a life defined by our society as normal for a citizen belonging to a member state of the European Union, or their access to the means of living accepted as legal in the same world, became even more restricted. Consequently, their effective access to citizenship rights or to fundamental human rights including the right to life was dramatically hampered.

Dispossessed of their houses, of their citizenship rights and even of their humanity, evicted people continued living in their home countries and cities as undocumented immigrants do live in a foreign country or as refugees live during times of war. Or they tried going abroad, in the economically more promising member states of the European Union, where they continued to experience the fact that they were unwanted, they were non-citizens, they were non-humans, and on this base they continued being subjected to evictions and deportations across countries.

Blaming and racializing the poor

The briefly discussed cases are not atypical – one may find many similar instances across borders and continents in which the urban gentrification process is undergoing by the means of excluding the poor from inner city areas or from areas whose real estate value increases. In the case of the mentioned Romanian cities, all this is happening in the larger context of post-socialist changes and of the current neoliberal practices supported, among others, by the state. Racism (as "cultural justification") underlies these administrative actions, trying to explain, why are poor Roma deserving inhuman treatment (why can they be evicted during winter time, why people might be left homeless, why do they deserve to be relocated near the landfill).

Pushing out from the city those people whose presence in the town is considered as disturbing or embarrassing, equals with trying to deny or make invisible the fact that the last decades of socio-economic changes

produced conditions and situations that failed being handled by public authorities, and/or by public policies. The latter proved to be unsuccessful in implementing remedies for the inequalities produced by market economy, and by a public administration totally neglecting the visions and practices of a cohesive and inclusive development that could have avoided the formation of poverty pockets or the creation of a social class of precariousness dispossessed not only of material resources, but also of human dignity. In front of these institutional inabilities, authorities try justifying their actions by an urban imaginary which is in tone with the desires of the mainstream population: this is about nurturing the ideal of a civilized, European city inhabited by highly skilled professionals where nobody is "socially assisted". But how can be this imaginary sustained by the working poor or by people benefiting of social allowances and services? This is the point where this logic requires the appeal towards an inferior class of people, or more properly said, of an inferior class of non-humans, who threaten the formation of a desired territory of "our own" inhabited by the desired community (by "us") composed of people who deserve belonging to it.

In addressing the situation of the communities subjected to such actions of local authorities, there are always confusing associations made between "Roma" and "people living in poverty", while the appeal to ethnicity is for the most of the times ambiguous on any sides. Asked about their ethnicity, majority of people living in the targeted disadvantaged residential areas assume Roma identity, while – in their effort to make themselves acceptable and "integrable" – they are trying to hide this, proving that they want to be "like Romanians" (which does not only mean claiming citizenship rights, but it is also about the self-denial of their own language, music or different forms of traditions that might recall in one's eyes or ears their marginalized status). On the one hand, the public imaginary of the city predominantly defines the areas where they are relocated as "Gypsyhoods" (*țigănie*), while the mainstream society and/or the authorities try denying that inhabitants of these zones became inhabitants because they were excluded by different means from other spaces due to the way in which their ethnic background was perceived.

People undergoing such experiences, are displaced from other locative spaces by several factors and mechanisms among them socio-economic (lost of jobs and homes), urban regeneration-related consequences and administrative

measures. At the same time they witness that this displacement and their dispossession of basic human rights is justified by cultural "arguments" about "Gypsyness" and its "natural" belonging to the landfills or other toxic and segregated environments. The stigma attached to the place is associated to people inhabiting it, and cynically both of them are considered "deserving" their precarious condition, and up to all this, people are inferiorized and essentialized both as poor and as Roma, while their juxtaposition is also naturalized. In this context, racism is instrumental about justifying, and in this sense producing today's inequalities: Roma are not conceived as dignified "ethnic other", but as "inferior race" acting by the means of "culture of poverty". Unfortunately, the promised post-1990 Romanian democratization did not bring to Roma the opportunity to participate as equals or as dignified ethno-cultural minorities on societal life, including governance, whereas marketization and privatization affected negatively their socio-economic status, and – in the name of inclusion – they were subjected by different political forces as maneuverable masses of voters. This is why my conviction is that politics and policies addressing Roma at different levels should combine the perspective of just redistribution with that of cultural recognition and political representation/participation.

Conclusions – theoretical frames for interpreting the war against poor (Roma)

Looking for explanations about the war against poor (Roma) in a post-socialist context,[9] in a first step one should not forget that poverty is

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[9] The process designated as the „war against the poor" had different evolutions in the American context than in the post-socialist Romania, however, one could identify similarities across countries in the logic of this „war waged with a variety of weapons", which „sometimes it is also a killing war", but more often, it is a war that "kills poor people's spirit and morale" (Herbert J. Gans, *The War Against the Poor. The Underclass and Antipoverty Policy*, New York: Basic Books, 1995, p. 1). The American paradigm of constructing the „undeserving poor" (Katz, Michael B. Katz, *The Undeserving Poor. America's Enduring Confrontation with Poverty*, Oxford University Press, Second edition, 2013) seems to be more closer to the minds of Romanian policy-makers after the breakdown of socialism than the promises of the European social agenda, not to speak about the North-European models of the welfare regime. By emphasizing the failures of socialist state in terms of assuring the pledged wellbeing for the many (also in order to justify their positions and gains in the new system), Romanian decision-makers still resist of recognizing the malfunctions of the market in what regards the social

not only an economic, but also a social phenomenon that should be understood by analyzing the contextual factors, which explain why some people experience these conditions and vulnerabilities while others do not (and prove that poverty is not a personal, but a systemic characteristic). Eventually, poverty should not be used as the ultimate explanation of the occurrence and maintenance of deprived conditions, because it is generated at its turn by the larger socio-economic and political system. That is why, the endeavor of "eradicating poverty pockets", or urban regeneration programs that clean slums in the inner city areas and relocate them to the margins cannot "lift out" people from poverty, because they do not generate transformative processes, on the contrary, they contribute to the reification of the system that produced them.

Moreover, looking on the war against poor, one should observe how poverty is also a cultural process, by which poor are blamed and stigmatized for being poor and are constructed as individually being responsible for their poor condition. Plus, he/she should note that the way in which poverty is culturally framed prevents proper anti-poverty measures to be implemented. On the other hand, life lived under poor and humiliating conditions for a long period of time, and most importantly within segregated areas, generates everyday practices that inter-generationally create a cultural order that constrains the individuals to "choose" some patterns of accommodation to the given conditions and disables them from opting for others.

The briefly presented cases of forced evictions and residential segregation, are illustrating instances in which poverty and social exclusion are acting both as causes and as consequences of territorial and housing exclusion, while exclusion leads to poverty and vice versa. Most importantly, one needs to make a difference between being poor and being excluded, since the latter are not only poor (whom might be considered by the system as being worthy of social benefits and services supporting them to overcome their condition), but they are excluded from the realm of citizens and even that of humans (so they do not even count or exist).

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outcomes of potential "economic growth". At local level, the post-socialist developments of Romanian cities are associated with the "profit-driven urbanization, and its relentless commodification and re-commodification of urban spaces" (a phenomenon described as inherent of capitalist cities by Brenner, Neil, Peter Marcuse and Margit Mayer (eds.), *Cities for People, Not for Profit. Critical Urban Theory and the Right to the City,* London and New York: Routledge, 2012, p. 2).

Following Fraser's three dimensional approach towards forms of subordination, injustices and social movements,[10] one may more easily understand how, in the case of poor Roma, three factors are acting simultaneously in the process of their exclusion: class inequalities that are excluding them from resources distributed across the society; status hierarchies that lead to their cultural misrecognition and racial inferiorization; and political exclusion, which makes that they do not count as members of the political body and they do not participate on the negotiations regarding who should benefit of just redistribution and of reciprocal recognition. Roma living in extreme poverty are not only marginalized, but are also excluded, because, paraphrasing Fraser, they are not even in the game, or are not even on the public agenda. By racist/populist means of political discourses and administrative actions they are not only discredited as citizens and as humans, but are also transformed into the dangerous racial other that threatens the "normal mainstream". And in a way, these populist ideas are reflecting a true critical potential: the creation of such a precariat[11] or excluded class might have a transformative power that endangers something: although it is not "the people" that they "endanger" but the system, which creates such forms of injustices. Nevertheless, this will happen only if they will manage to occupy a strong position on the stage of political representation and participation.

For the beginning, in Romania, in different local settings, poor Roma might become actors for and of a right to the city movement.[12] Because they are one among the many other losers of the post-socialist privatization and marketization process conducted in a neoliberal style and creating a new societal order. This order is inclusive for people, places, and societal areas that might be more or less easily included into the political economy of capitalism (as labor force, as geographical zones that are worth for investment, as domains which deserve development – all of these as sources of profit),

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[10] Nancy Fraser, "Identity, Exclusion, and Critique. A Response to Four Critics", in *European Journal of Political Theory*, 2007/6, pp. 305-338.

[11] Guy Standing, *The Precariat. The New Dangerous Class*, London-New Delhi-New York-Sidney: Bloomsbury, 2011.

[12] Henry Lefebvre, *Writings on Cities,* translated and edited by Eleonore Kofman and Elisabeth Lebas, Cambridge, Mass.: Blackwell, 1996 [1968]; Manuel Castells, *The Urban Question: A Marxist Approach,* London: Edward Arnold, 1972; David Harvey, *Social Justice and the City,* Cambridge, Mass.: Blackwell, 1976.

but it is exclusive towards those who became surplus and needless from the point of view of the capital or who became so vulnerable that their labor might be exploited due to their socio-spatial position pushed behind the borders of legality and human dignity.[13]

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Le Kriss : Peut-On Parler De Pluralisme Normatif En Roumanie Dans Le Cas De La Minorite Rom?

The *Kriss:* Can We speak about Normative Pluralism in Romania? The Case of the Roma Minority

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Abstract:

This article deals with the issue of normative pluralism by trying to identify its conditions of possibility in the case of the Roma communities in Romania. It proposes a theoretical investigation of the concept of normative pluralism, a brief socio-historical analysis of the evolution of the internal normative system of the Roma communities in Romania, a discussion over the possibility and the opportunity of implementing an official pluralist normative framework for the Roma communities and a case study of the particular way in which the informal mechanisms of normative pluralism work in the case of the Roma community of Craciunesti (Mures county).

Key-words: Roma communities, normative pluralism, minority, self-organization, legal framework

Étant régi par des principes rigoureux et recelant de nombreux mythes et superstitions, le kriss est un des traits universels de la culture Rom[1], peut-être représentant-il la coutume la plus importante et la mieux préservée d'un peuple dont *la « patrie » est à la fois partout et nulle part*[2].

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[1] Nicolae Bobu, *Book about Rroms: common law – a legal peace process*, Târgu-Jiu: Gorjeanul, 2011, p. 23.

[2] Will Kymlicka, "Western Political Theory and Ethnic Relations in Eastern Europe", dans Will Kymlicka; Magda Opalski (eds.), *Can Liberal Pluralism be Exported? Western Political Theory and Ethnic Relations in Eastern Europe*, Oxford: Oxford University Press, 2001, p. 95.

Cette coutume bien spécifique constitue, avant tout, le legs de milliers d'années de nomadisme et d'oppression. Elle représente, en même temps, la preuve indéniable de l'existence d'un système parallèle qui reflète non seulement la volonté d'une communauté fermée de demeurer isolée d'un extérieur profane, hostile et profondément différent, mais aussi la méconnaissance et les préjugés de la société d'accueil.

Vu que la reconnaissance du kriss par le mainstream est de plus en plus souhaitée par les Roms roumains[3], nous nous sommes proposé de mesurer le poids que l'acceptation de cette coutume et, plus généralement, l'adoption d'une approche ethnoculturelle auraient dans le processus d'intégration de cette minorité et dans le renforcement de la société civile de notre pays.

Pour ce faire, nous allons traiter tout d'abord d'identifier les éléments qui ont contribué à la préservation du kriss à travers les millénaires. Ensuite, nous dresserons une description détaillée de cette coutume, afin de mettre en exergue les traits qui la rapprochent du système judiciaire de l'État et ceux qui la rendent différente: la dichotomie pure-impure et la dualité morale qui l'articulent, les mythes et les superstitions sur lesquels elle repose, ainsi que les principes peu orthodoxes qui la régissent n'en sont que quelques-uns.

Nous utiliserons le cas particulier des Roms de la commune de Crăciuneşti pour prouver que, bien que le Stabor soit plutôt une particularité des communautés rom du Sud et de l'Est de la Roumanie, le concept de kriss est présent, sous une forme plus ou moins rudimentaire, partout où cette minorité vit. En outre, l'étude de cas nous permettra de démontrer que les superstitions et les croyances ancestrales continuent d'être prises en compte même par les Roms les plus aisés des communautés traditionnelles, malgré le fait qu'ils aient un contact plus actif avec la modernité que leurs semblables plus démunis.

Le parallèle entre le système judiciaire de la majorité et le kriss nous permettra de radiographier les positionnements endogène et exogène par rapport à ce sujet, dans le but de montrer la manière de laquelle les deux parties construisent leurs identités. Ce qui est intéressant, c'est qu'en dépit du fait qu'elles obéissent à la logique de la différence d'Ernesto Laclau[4], pas

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[3] Voir, par exemple, [*http://stirileprotv.ro/stiri/actualitate/judecata-tiganeasca-recunoscuta-oficial-o-traditie-veche-de-sute-de-ani-poate-deveni-legala.html],* 22 décembre 2013.

[4] Voir, par exemple, Ernesto Laclau et Chantal Mouffe, *Hégémonie et stratégie socialiste*, Paris: Solitaires intempestifs, 2009.

toutes les différences invoquées ne sont insurmontables, la pratique de la médiation étant une terre commune qui pourrait rendre possible la cohabitation des deux systèmes.

Enfin, en nous appuyant sur les conclusions d'auteurs tels que Will Kymlicka, Charles Taylor ou David Miller[5], nous essayerons d'exposer les raisons pour lesquelles une approche ethnoculturelle serait préférable à l'approche en place actuellement – centrée sur l'allocation de droits civils mais ne prenant pas vraiment en compte l'identité fort différente des Roms – tout en expliquant de quelle façon la reconnaissance et l'acceptation du kriss pourraient constituer un pas en avant important dans l'intégration de cette minorité visible.

I. Le kriss – legs du passé et miroir du présent

Originaires de l'Inde, les tsiganes[6] semblent avoir commencé leur migration vers l'Europe vers la moitié du premier millénaire, pour des raisons qui ne font toujours pas l'unanimité des spécialistes. Cependant, la plupart s'accordent à dire que c'est suite aux pressions exercées par d'autres peuples ou à des conditions trop assujettissantes ou avilissantes dans le pays d'origine que la migration vers l'ouest aurait eu lieu[7].

Schwicker associait les tsiganes à la tribu des Djatt – paria de la société indienne[8] – ce qui signifie que, depuis le début, le destin des tsiganes a été marqué par la marginalité, le paupérisme et la soumission. Ces circonstances, ainsi que leur goût de la liberté et leurs pratiques peu orthodoxes ont contribué à leur isolement et à la création d'un monde parallèle, régi par des règles particulières. C'est depuis cette période-là que le kriss existe, cette coutume ayant joué le rôle de liant dans les tribus patriarcales, contribuant par cela à leur survie[9].

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[5] Voir, par exemple, Will Kymlicka; Magda Opalski (eds.), *Can Liberal Pluralism be Exported? Western Political Theory and Ethnic Relations in Eastern Europe*, Oxford: Oxford University Press, 2001.

[6] Nous utiliserons le terme de «tsiganes» pour désigner le groupe plus général, avant la Seconde Guerre mondiale et le terme de «Roms» pour les tsiganes de notre pays, dans la période récente.

[7] Lucian Cherata, *Filosofie, istorie şi tradiţii inedite în cultura rromilor*, Craiova: Editura AIUS PrintED, 2010, p. 138.

[8] *Ibidem*, p.133.

[9] Nicolae Bobu, *op. cit.*, p. 24.

Afin d'illustrer leur fermeture au monde extérieur, Nicolae Bobu comparait la migration des troupes de tsiganes vers l'Europe à des noix de coco portées par les flots de l'océan des peuples indo-européens[10]. En effet, vu leur déplacement continu et leur incompatibilité avec les sociétés d'accueil, les tsiganes n'ont pas vraiment cherché à connaître les règles qui gouvernaient ces sociétés. Leur intérêt était d'éviter les conflits majeurs avec les populations autochtones[11] et, si leur trajet vers l'Europe reste gravé dans leur culture grâce aux nombreux éléments éclectiques qu'ils en ont adoptés, les tsiganes ont néanmoins continué de se conduire selon leurs propres principes et donc de résoudre les différends qui surgissaient entre les membres des troupes en appliquant leur propre loi.

Les tsiganes sont arrivés en Europe à l'époque des dernières invasions mongoles et, comme ils n'avaient jamais réussi à atteindre une forme d'organisation tribale militaire[12], une grande partie d'entre eux avaient le statut d'esclaves.

Selon Nicolae Iorga, leur arrivée en Valachie et en Moldavie peut être retracée à la moitié du XIIIe siècle : étant initialement des hommes libres ou les esclaves des tatares[13], une grande partie d'entre eux sont vite devenus serfs des seigneurs roumains, si bien que, du moins en Valachie, le terme de *tsigane* et celui de *serf* sont devenus synonymes[14].

Si ce statut était préférable à celui d'esclave, les tsiganes n'étaient rien d'autre qu'un « outil parlant »[15] pour les seigneurs, qui pouvaient les frapper, en faire des dons à des monastères ou les vendre. Leur condition inférieure et le déséquilibre marqué qui existait entre leurs droits et leurs devoirs étaient témoignés uniquement par les *parchemins* (actes des princes servant de titres de propriété), aucune loi spéciale ne réglementant leur statut[16].

Dépourvus de personnalité juridique, subissant l'hostilité de la société d'accueil même après leur mort[17] et étant, pour la plupart[18] dans un

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[10] *Ibidem*, p. 33.

[11] Lucian Cherata, *Istoria țiganilor: origine, specific, limbă,* Editura Z, 1993, p. 59.

[12] Nicolae Bobu, *op. cit*., p. 30.

[13] Lucian Cherata, *Filosofie ...*, p. 143.

[14] *Ibidem*, p. 147.

[15] Nicolae Bobu, *op. cit*., p.37

[16] Lucian Cherata, *Filosofie … ,* p. 146.

[17] Au XIXe siècle, il était toujours interdit d'enterrer les serfs et les roumains dans les mêmes cimetières! (Cherata Lucian, *Filosofie … ,* p. 152)

va-et-vient continu, les tsiganes ont évité la désintégration de leurs communautés précisément en préservant le kriss. Les *bulibaşa* [chefs des communautés tsiganes], qui jouissaient de la « bénédiction » du prince, étaient ceux qui tranchaient les conflits et qui décidaient, dans les affaires plus complexes, de l'opportunité du kriss. L'exclusion des membres ayant commis des infractions graves était une solution courante, permettant d'éviter que l'ensemble de la communauté subisse des représailles[19]. Vu qu'elles les considéraient comme des sous-hommes, les autorités roumaines de l'époque préféraient donc laisser les Roms gérer seuls tous les aspects de leur vie sociale et leurs différends.

À partir du XVIIᵉ siècle, un nouvel élément est venu s'ajouter à ceux qui expliquaient déjà la fermeture de ce peuple, à savoir les tentatives répétées de sédentarisation et d'intégration sociale qui, vu leur caractère répressif et aliénant, n'ont pas été très efficaces[20]. Si ces mesures ont laissé des traces profondes dans l'identité de certains groupes de tsiganes[21], elles ont, en même temps, renforcé la méfiance de ceux, plus nombreux, qui ont réussi à leur résister.

Légiféré à la moitié du XIXᵉ siècle[22], l'affranchissement des serfs aurait dû mettre fin à la longue période durant laquelle les tsiganes ont été persécutés et marginalisés. Cependant, leur refus de se sédentariser, auquel s'est ajouté l'appauvrissement causé par l'industrialisation du pays, ont annulé les effets bénéfiques que cette décision aurait pu avoir.

La liberté nouvellement acquise les a déterminés de fuir en masse vers des pays comme l'Allemagne, la Belgique ou la France, déplacement que Reyniers a appelé la deuxième migration tsigane[23]. Ils espéraient y

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[18] Les serfs privés n'étaient pas tenus à être présents en permanence sur le domaine du seigneur, vu qu'ils n'étaient pas des laboureurs de la terre, mais plutôt des forgerons ou des ferblantiers (*Ibidem*, p. 193). V. aussi: Viorel Achim, *Tiganii in istoria Romaniei*, Bucureşti: Ed. Enciclopedica, 1998.

[19] Lucian Cherata, *Filosofie …* , p. 152.

[20] En Transylvanie, les autorités austro-hongroises ont tenté d'éradiquer la mendicité, le nomadisme en implémentant des mesures correctives et ont essayé de sédentariser les Tsiganes.

[21] Nombre de Roms ont été magyarisés ou, plus rarement, germanisés. V. Achim, *op. cit.*, p. 97.

[22] Le prince Ghica a décidé l'affranchissement des serfs en Moldavie en 1855. En Valachie, Bibescu a légiféré leur affranchissement en 1847, celui-ci devenant effectif en 1856, sous Barbu Ştirbei.

[23] Alain Reyniers, *Tsigane, heureux si tu es libre!*, Paris : Les Éditions UNESCO, 1998, pp. 25-27.

mener une vie meilleure. Cependant, ils se sont heurtés à la réticence des peuples autochtones, qui ne voyaient en eux qu'une altérité menaçante, dont les différences, trop visibles, devaient être effacées.

De plus, le XXe siècle a sans doute été l'époque la plus sombre de l'histoire de ce peuple, si l'on pense aux atrocités commises dans l'entre-deux-guerres et pendant la Seconde Guerre mondiale – desquelles les tsiganes roumains n'ont pas été épargnés[24] – et à l'oppression de la période communiste qui, par les efforts renouvelés de sédentarisation et la confiscation de l'or thésaurisé a prouvé encore une fois l'inefficacité d'une stratégie d'intégration qui ignore la diversité d'un groupe et ses particularités identitaires. Si le régime communiste a commis de nombreuses fautes, il a pourtant eu le mérite d'avoir intégré les Roms sur le marché du travail. L'appui de l'État leur a pourtant été retiré par la suite, en raison de la place accordée à la liberté individuelle par les nouvelles orientations idéologiques connues par la société roumaine qui sont d'extraction néolibérale. A la rhétorique hypocritement inclusive et égalitariste du régime communiste, suivit le discours individuel-atomiste, où les Roms devinrent les bénéficiaires « frauduleux » d'un assistanat social vétuste qui devrait être supprimé.

Les Roms ont finalement été reconnus comme minorité nationale après la chute du régime communiste, ce qui n'a mis fin ni aux préjugés des Roumains à leur égard, ni à la méfiance et au complexe d'infériorité des Roms par rapport aux Roumains. En effet, l'exclusion prolongée de cette minorité a engendré *le développement d'une substructure séparatiste et oppositionnelle dans laquelle l'intégration [était] envisagée avec suspicion*[25] entretenant, ainsi, la discrimination sous de nombreuses formes : au travail, à l'école, dans le système sanitaire etc.

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[24] Si le génocide des Juifs est bien connu et documenté, on ne pourrait pas dire la même chose du poraimos, le génocide des tsiganes. En Roumanie, sous le régime Antonescu, par exemple, près de 25 000 tsiganes ont été déportés en Transnistrie, sous le motif qu'ils n'auraient pas respecté le régime du camouflage, constituant par cela une menace à la sécurité nationale. Plus d'un tiers n'en sont pas revenus, à cause des conditions inhumaines dans lesquelles ils ont été forcés de vivre. À ceux-ci s'ajoutent les tsiganes déportés par les hongrois de la Transylvanie du Nord à Auschwitz, Treblinka, Maidanek ou Birkenau. Voir Lucian Cherata, *Filosofie* … p. 162 ; V. aussi Radu Ioanid, *Holocaustul în România. Distrugerea evreilor şi romilor sub regimul Antonescu 1940-1944*, Bucureşti: Humanistas, 2006, pp. 138-166 et pp. 263-330.

[25] Will Kymlicka, *op. cit.*, p. 47.

Si l'on tient compte des aspects exposés ci-dessus, la marginalisation des Roms a été non seulement *subie*, mais aussi *choisie*. En effet, étant vivement convaincus du besoin de préserver leur unicité, les Roms ont volontairement occulté leur culture et leur loi à la société dominante[26] en menant une vie à l'écart, en refusant l'ingérence des gadjés dans leurs affaires et en préservant l'oralité du kriss et son déroulement en romani[27] – le rendant ainsi difficilement accessible aux tiers.

En outre, il y a des raisons « pratiques » qui ont contribué à la conservation de cette coutume : vu leurs activités économiques souvent illégales et certains aspects sociaux - comme ceux liés au mariage qui, bien que reflétant leur origine indienne, sont complètement incompatibles avec les usances de la société d'accueil – les Roms ne pouvaient pas dépendre du système de l'État : renoncer à leur invisibilité aurait entraîné l'effacement de leur identité. Le kriss, institution informelle bien taillée à leurs besoins, leur a permis d'assurer l'ordre à l'intérieur des communautés et de garantir leur survie[28].

Le kriss – Principes. Application.
Le cas particulier de la communauté de Crăciuneşti

Les raisons historiques et pratiques exposées dans la section antérieure expliquent non seulement la survie du kriss à travers les siècles, mais aussi la dualité morale qui le caractérise.

Vu l'oppression et les préjugés dont ils n'ont pas cessé d'être la cible, il n'est pas du tout étonnant que les Roms ne considèrent pas les délits commis contre les gadjés comme tels. Ainsi, tromper un gadjé, lui fournir des informations mensongères, voler son argent ou sa propriété sont des faits perçus comme de véritables exploits, desquels le kriss n'est saisi que si le conflit risque d'entraîner des complications pour l'ensemble de la communauté[29]. À contrario, un délit commis par un Rom ou un conflit

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[26] Alison Barnes, critique du livre *Gypsy Law: Romani Legal Traditions and Culture, Walter O. Weyrauch, Berkeley: University of California Press, 2001,* parue dans Marquette Law Review, volume 86, issue 4, spring 2003, article 6, p. 833.

[27] *Ibidem*, p. 834.

[28] Peter T. Leeson, "Gypsy Law" dans *Public Choice,* issue 155, autumn 2013, p. 279.

[29] Lucian Cherata, *Filosofie … ,* p. 205.

survenu entre deux membres de la communauté sapent la pureté spirituelle des individus impliqués et la solidarité de la communauté et doivent, par conséquent, être résolus le plus rapidement possible. Dans les affaires complexes, l'ensemble des hommes de la communauté sont convoqués et participent à la prise de la décision[30].

Si le fait de tromper les gadjés est une forme de mépris évidente envers ceux-ci, il y en a d'autres qui le sont moins, car expliquées par des raisons plus profondes, que les gadjés ne peuvent pas saisir en raison de leur ignorance.

Ainsi, un Rom doit *scrupuleusement éviter tout contact inutile avec les gadjés*[31], qui sont inférieurs car irrémédiablement pollués, en raison d'une relation négligente entre la partie inférieure et la partie supérieure de leurs corps. Ainsi, les Roms vont, par exemple, éviter d'utiliser leur vaisselle à table ou de les inviter chez eux[32], de peur qu'ils ne soient pas contaminés.

Ce choix est intimement lié à la dichotomie pur/impure, un des éléments les plus importants repris de la philosophie indienne, qui représente le fondement de Romaniya [la loi rom] et qui vise également d'autres niveaux : celui du propre corps et celui des relations entre les gendres.

L'existence des Roms est marquée par une relation « tendue » entre la partie inférieure du corps, considérée comme polluée (*marime*) et polluante et celle supérieure, vue comme pure (*vuyo*). Les mains assurent la communication entre les deux parties du corps[33] et c'est pour cela que les Roms doivent observer des règles strictes d'hygiène pour toutes les activités qui impliquent leur utilisation. Dans le but d'éviter la pollution de la partie supérieure, qui pourrait engendrer des malheurs pour eux-mêmes et pour tous ceux avec lesquels ils viennent en contact, les Roms utilisent, par exemple, des cuvettes séparées pour laver les chemises et les pantalons, des éviers différents pour se laver les mains et faire la vaisselle et ils évitent également de dire aux autres qu'ils vont à la toilette, vu la nature polluante des substances que ce besoin du corps implique[34].

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[30] Les femmes ne peuvent participer au kriss qu'en tant que partie ou témoin. Alison Barnes, *critique citée*, p. 836.

[31] Peter T. Leeson, *article cité*, p. 278.

[32] *Ibidem*.

[33] Alison Barnes, *critique citée*, p. 829.

[34] Peter T. Leeson, *article cité*, p. 277.

Comme la partie inférieure du corps des femmes a une capacité polluante plus importante que celle des hommes (surtout pendant la menstruation, la grossesse ou l'accouchement) elles doivent prendre des précautions spéciales, telles qu'éviter de passer devant un homme assis ou s'asseoir à la même table avec lui, utiliser des salles de bain séparées et se mettre de longs tabliers lorsqu'elles cuisinent, pour éviter de contaminer la nourriture[35]. Paradoxalement, ce plus haut degré d'impureté vient compenser leur manque de droits par rapport aux hommes en leur offrant le pouvoir d'opérer des changements importants dans la société[36].

Ces règles d'hygiène, qui semblent exagérées et irrationnelles aux tiers, ont en fait créé un rituel, une excellente façon de conserver l'unité de la communauté par des pratiques partagées qui, par leur association au pure et donc au sacré, sont incontestables : aux yeux des Roms, la simple tentative d'expliquer ces principes est le début du doute[37].

La notion de pureté ne vise pas que les activités et les interactions quotidiennes et c'est peut-être celui-ci le point le plus important. Ainsi, est considéré comme polluant tout comportement antisocial (vol, fraude etc.) manifesté au sein de la communauté.

Si les deux types de pollution ont le même poids spirituel et sont jugés en appliquant la même procédure et les mêmes standards[38], la loi rom opère pourtant une hiérarchisation des transgressions. Ainsi, en fonction de leur gravité, c'est le divan ou le kriss qui tranchent dans l'affaire.

Cette hiérarchisation n'est qu'un des éléments qui rapprochent le kriss du système judiciaire roumain. Les similarités incluent également : rendre un jugement en vue de la résolution du conflit ; entendre les témoins et administrer des preuves ; le respect du principe du contradictoire et de celui de l'impartialité des juges ; la possibilité qu'ont les parties d'introduire un recours contre les jugements qu'elles considèrent comme injustes.

Les dissemblances entre les deux systèmes sont plus nombreuses. Ainsi, à la différence des procès formels, qui peuvent s'enliser dans la bureaucratie excessive et être ralentis à cause de la complexité du système, le kriss met plus rapidement fin au conflit entre les parties et ne fait aucune

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[35] *Ibidem.*

[36] Voir Alison Barnes, *critique citée*, p. 837.

[37] *Ibidem*, pp. 841-842.

[38] Peter T. Leeson, *article cité*, p. 282.

différence entre les affaires civiles et celles pénales. De même, le kriss repose sur des principes clairs et simples, qui s'inspirent du Décalogue (référence qui n'est pas du tout faite au hasard, si l'on prend en compte la place occupée par la divinité dans la vie des Roms), tandis que les lois appliquées par le système judiciaire de l'État sont laïques et restent souvent incompréhensibles aux non-initiés. L'ensemble des hommes de la communauté où les parties en conflit vivent prennent part au kriss et s'impliquent dans la prise de la décision, à la différence du système roumain qui est plus impersonnel. Afin d'assurer le respect des jugements rendus, le système judiciaire fait appel à des mesures répressives, tandis que, dans le cas des jugements rendus par le kriss, les parties ne sont pas formellement tenues de les respecter.

Comment réussit-on alors à faire respecter ces jugements ? En dépit des principes apparemment simples qui le régissent, le kriss est, comme nous avons pu le voir, un phénomène très complexe, un creuset d'éléments hindous et chrétiens et, surtout, de mythes et de superstitions. La dichotomie pure/impure, que nous avons traitée ci-dessus, semble contribuer le plus à assurer l'ordre social, parce qu'elle réussit, par la peur et le respect qu'elle induit aux membres de la communauté, à pallier l'inefficacité du simple ostracisme et le défi du Gouvernement[39]. Pour les Roms, le fait d'être banni de la communauté et d'être déclaré impure à jamais semble fonctionner mieux que toute autre mesure répressive.

Cependant, il est important de préciser que ceci s'applique plutôt aux communautés traditionnelles, car le communisme, par ses tentatives répétées d'intégration forcée et le mépris des traits spécifiques des Roms, a contribué à l'affaiblissement de leur identité et de leurs lois ancestrales. Il n'est donc pas surprenant qu'après la révolution de 1989, vu la liberté nouvellement acquise, on ait assisté à l'accroissement du taux de criminalité dans les communautés rom[40].

Si le kriss est un des traits universels de la culture rom, il est donc clair qu'il préserve son efficacité surtout dans les communautés traditionnelles. En outre, on peut noter des différences même à ce niveau-ci. Ainsi, toutes les communautés n'ont pas leur propre STABOR, forme « institutionnalisée » du kriss, rencontrée surtout dans le sud et l'est de la Roumanie (chez les Roms *Laïet*, *Rudars ou Baies*). Cependant, cette forme de jugement très semblable à

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[39] *Ibidem*, p. 273.
[40] Lucian Cherata, *Filosofie … ,* p. 201.

la médiation existe, sous une forme plus ou moins élaborée, partout où des communautés rom traditionnelles existent[41].

Afin de démontrer la véridicité de cette affirmation, mais aussi pour vérifier la préservation des superstitions et des pratiques traditionnelles sur lesquelles cette coutume s'appuie, nous avons choisi de présenter le cas particulier de la communauté de Crăciuneşti. À cet effet, en nous rendant sur place le 23 janvier 2014, dans la maison de I.V., l'un des Roms les plus riches de la commune, nous avons réalisé un entretien auquel ont également participé G.B., représentant des Roms auprès la Marie de Crăciuneşti et fils de l'ancien bulibaşa, et D.K., l'un des leaders informels de la communauté.

La communauté rom de Crăciuneşti (dép. de Mures, centre-nord de la Roumanie) représente environ 30% du total de la population de la commune, voire quelques 500 familles. Du fait de leur nombre (environ 700 Roms habitent le village même de Crăciuneşti et plus de 800 les sept autres villages qui forment la commune) et de l'histoire très ancienne de leur implantation dans la région (les sources concernant l'existence des Roms dans la région remontent au XVIIe siècle), Crăciuneşti est considérée comme étant le « centre mondial » des *Gabors*, cette frange particulière des Roms sédentarisés plus tôt que les autres, magyarisés au niveau linguistique (bilinguisme rom-hongrois dans l'usage courant de la langue) et dont la plupart des adultes travaillent traditionnellement comme ferblantiers et, plus récemment, comme commerçants ambulants à l'étranger.

Si on prend le cas de la communauté rom de Crăciuneşti, force est de constater, dès le début, que la relation entre la tradition et la modernité est, à bien des égards, paradoxale. D'un côté, les Roms de Crăciuneşti sont, du point de vue matériel, bien au-dessus de la moyenne nationale, ceci étant dû au succès des activités liées à la ferblanterie et à l'orfèvrerie qui remonte à l'entre-deux-guerres et qui a permis à quelques dizaines de familles de la région de s'affranchir et d'accumuler d'importantes réserves d'or. A la différence de certaines autres régions de la Roumanie, où la polarisation entre les Roms riches et les Roms pauvres est extrême, à Crăciuneşti, il y a une dispersion plus homogène sur l'échelon socio-économique. Certes, il y a quelques grandes familles riches qui dominent la communauté, mais on peut facilement identifier aussi une « classe moyenne », constituée de propriétaires et d'auto-entrepreneurs, alors que

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[41] *Ibidem.*

seulement moins d'un quart de la communauté rom est vitalement dépendante des services d'assistance sociale administrés par la mairie. Les Roms de Crăciuneşti sont donc les propriétaires des demeures où ils habitent en toute légalité, tandis que les leaders de la communauté ont de grandes maisons où ils bénéficient de conditions de vie technologiquement très modernes.

De l'autre côté, du point de vue de la relation aux mœurs et aux coutumes de leur ethnie, les Roms de Crăciuneşti sont plutôt traditionalistes. D'abord, parce qu'ils observent de près le principe de la séparation des sexes, qui concerne non pas uniquement l'octroi d'un rôle éminemment casanier à la femme et socioprofessionnel à l'homme, mais aussi le maintien des traditions communautaires les plus anciennes, tel l'usage des baignoires, des éviers ou des couverts différents pour les hommes et pour les femmes ou bien l'organisation des repas séparés et même des messes séparées. Qui plus est, comme dans le cas des communautés rom isolées, les filles « sont mariées » très tôt, en moyenne dès l'âge de 13 ans, et l'endogamie communautaire est quasi-prépondérante (la plupart des jeunes qui se marient sont des cousins plus ou moins lointains).

L'élément supplémentaire qui, d'un côté, renforce et, de l'autre, altère l'identité traditionnelle de la communauté est la religion. Depuis au moins trois générations, les Roms de Crăciuneşti se sont convertis à la religion adventiste. La pratique de cette religion néo-protestante se manifeste par un enchevêtrement entre le respect des principes bibliques (des dix commandements, en tout premier) et des normes traditionnelles de la communauté rom. Ce qui résulte, c'est un système normatif syncrétique mais quasiment éclaté : à la différence des autres groupes roms, mais tout comme chez les autres communautés néo-protestantes, c'est d'abord la famille et non pas le groupe communautaire qui « règle » les disputes et les contingents de tout ordre. D'une certaine façon, il s'agit de l'application du principe de subsidiarité qui impose la résolution des contingents au niveau le plus proche de l'individu. Par exemple, le rappel à l'ordre d'un fils errant revient naturellement au père de la famille respective. Si conflit il y a entre le fils et un membre d'une autre famille, c'est aux deux pères de famille de décider de concert sur les mesures à prendre afin de mettre fin au différent. Enfin, au cas où l'enjeu dépasse les limites des deux familles, on convoque une réunion informelle des leaders des clans représentatifs de la communauté.

C'est une version moins « institutionnalisée » du *Stabor*. Les participants à la réunion prennent des décisions d'une manière consensuelle (sans vote) ; ces décisions sont par la suite officieusement communiquées à l'ensemble de la communauté par le biais des réunions de famille et, notamment, par l'intermédiaire de l'église.

Quelle est la base des quasi-décisions qui sont prises par cette institution non-institutionnalisée ? D'un côté, la « loi chrétienne » et notamment le Décalogue, auquel s'ajoute la « morale biblique » (voire les enseignements moraux tirés des différents épisodes présentés dans la Bible). C'est notamment cette loi qui a permis aux Gabors de « s'affranchir des étiquettes » usuellement collées aux Rom : voleurs, vagabonds, mendiants ou bien criminels. Ce qui fait « naturellement des Gabors la peuplade la plus respectée de tous les Roms, parfois plus estimée que les Roumains ou les Hongrois ». De l'autre côté, l'ensemble de l'héritage culturel des Roms nomades et, en tout premier, le maintien de l'étanchéité communautaire (interdiction de s'apparenter non seulement avec des *Gadjo* – non-Roms – mais aussi avec des Roms non-Gabors) et de la séparation rigide entre les deux sexes.

Il s'ensuit donc que les jugements rendus par ce type de tribunal ad-hoc reposent sur la présentation d'arguments contradictoires par les parties impliquées, sur l'identification d'un coupable et d'une victime et sur la prise d'une décision précise et sans équivoque que les parties doivent observer et appliquer. Au contraire, vu l'impératif traditionnel-religieux du consensus, les instances informelles des Gabors s'efforcent de trouver des « solutions optimales », conformément à la « parole de Dieu » et aux principes traditionnels rom. Ce qui se traduit dans la plupart des cas par une « sentence » mi-chemin, qui oblige les parties à se réconcilier tout en faisant mutuellement des concessions susceptibles de clore le différent, quelque sensible qu'il pût être au début. Ce type d'approche permet d'éviter « l'exportation » du cas au-delà des frontières communautaires ; les institutions habilitées de l'État roumain ne seront donc appelées qu'en dernière instance, au cas où le jugement intra-communautaire n'est pas respecté et la communauté est elle-même potentiellement déstabilisée par la continuation du conflit.

Il faut quand même noter qu'en dépit des apparences, l'effectivité des décisions prises de cette manière est loin d'être nulle. L'ostracisme, qui est la pratique la plus répandue dans les communautés rom traditionnelles,

reste le châtiment le plus fréquemment utilisé par les Gabors à l'encontre des membres du groupe qui sont considérés coupables d'avoir violé la « loi des Tsiganes et la loi de Dieu ». L'ostracisme et le statut d'impure suivent le « condamné » de son vivant, mais aussi l'ensemble de ses parents proches et, notamment, les héritiers directs, qui n'ont plus le « droit de s'apparenter avec les autres membres de la communauté ». Même si les cas de bannissement « ne sont pas nombreux », ils sont particulièrement significatifs à travers leur notoriété et agissent comme des véritables « épouvantails » pour les autres membres de la communauté.

Le pluralisme normatif – un pas en avant dans le processus d'intégration ?

Dans cette section, nous esquissons une analyse de la relation d'interdépendance entre l'éventuelle reconnaissance des règles et pratiques juridiques des Roms par l'État et le progrès général du processus d'intégration de cette communauté, en incluant quelques remarques extraites de l'exemple de la communauté de Crăciuneşti, dont il était également question ci-dessus.

Pour ce faire, il s'impose de formuler une observation importante sur la question de la relation identité-altérité. Celle-ci relève d'un paradoxe fondamental : d'un côté, la constitution de l'identité s'opère à travers l'exclusion de l'*Autre*, voire de ceux qui ne sont pas inclus dans *notre* identité ; de l'autre côté, celle-ci ne prend pas forme sans l'existence de l'*Autre*, dans lequel nous nous miroitons précisément pour identifier et délimiter nos propres caractéristiques identitaires[42]. D'ici découlent deux visions opposées tant du point de vue scientifique que du point de vue idéologique. Certains vénèrent la diversité la plus absolue et réifient tout projet qui consiste à encourager la manifestation d'une telle diversité. D'autres sont préoccupés par la multiplication « factionnaliste » des groupes identitaires qui mettent en danger la stabilité et l'unité de nos sociétés. Si Alain Badiou ou Jacques Rancière[43] déplorent à l'unisson (bien que pour des raisons différentes) l'éclatement social qui mène à la mise à mal de toute action collective de masse, d'autres chercheurs, comme Giovanni Sartori, critiquent la spirale

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[42] Sergiu Miscoiu, *Naissance de la nation en Europe. Théories classiques et théorisations constructivistes*, Paris: L'Harmattan, 2010, pp. 78-80.

[43] Jacques Rancière, *Et tant pis pour les gens fatigués. Interviews*, Paris: A. Collin, 2008, pp. 29-33.

communautariste : nos sociétés risquent de devenir des sociétés fragmentées, dépourvues de tout fondement nécessaire à la cohabitation intercommunautaire[44]. Autrement dit, l'exaltation identitaire sans un contrat rationnel interindividuel et notamment intercommunautaire est susceptible de mener à la division et même à la rupture sociale.

Comme nous avons essayé de préciser ci-dessus, le cas des Roms de Roumanie correspond plutôt à cette deuxième approche. Historiquement, les Roms ont été non pas seulement marginalisés mais aussi durement exploités, tout en étant traités de sous-hommes. Or, dans ces conditions, l'identification négative « *Nous* contre *Eux* » a été pour les Roms une garantie de leur survie. Le postcommunisme n'a guère facilité l'intégration, tout en permettant à des factions élitaires roms dites représentatives de simuler la démocratie intracommunautaire et le dialogue intercommunautaire.[45] Bref, le simple octroi des droits civils et la simulation de la mise en place des mécanismes de représentation n'équivalent pas à une politique cohérente et efficace basée sur les principes pragmatiques du pluralisme juridico-politique. Si les marqueurs du rejet des règles et des principes imposés par la majorité sont très nets, c'est que le pluralisme n'est pas vraiment effectif et, par conséquent, c'est qu'il devrait se substantialiser à travers la reconnaissance officielle de toute une série de normes et pratiques qui sont ancrées dans l'identité du groupe minoritaire.

Parmi ces systèmes d'autogestion juridique, le kriss est intuitivement susceptible de se faire plus facilement accepté par la société « mainstream » et ceci pour deux raisons. D'abord, parce que le kriss a comme finalité, aux yeux de la majorité aussi bien qu'aux yeux de la minorité, le maintien des affaires roms dans le cercle fermé de la communauté. Comme par le passé, on éviterait ainsi la propagation des problèmes roms dans l'ensemble de la société, en les traitant d'une manière « discrète ». Et puis, parce que la pratique alternative de la médiation, qui est le pendant « majoritaire » du kriss, est de plus en plus prisée par une opinion publique qui se méfie d'un système juridique classique qu'elle juge trop corrompu et onéreux.

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[44] Giovanni Sartori, *Ce ne facem cu străinii? Pluralism vs Multiculturalism*, Bucureşti: Humanitas, 2007.

[45] Sergiu Mişcoiu, "Vers un modèle de la précarité politique: structurations et représentations politiques des Roms en Roumanie", dans *Studia Universitatis Babeş-Bolyai, Cluj-Napoca: Studia Europaea*, nr. 1, 2007, pp. 5-32.

Les spécialistes rom s'accordent en partie sur le fait que, malgré les inconvénients de toute sorte, la reconnaissance officielle du kriss aurait de nombreux avantages. Parmi ceux-ci, la diminution pressentie du nombre d'infractions paraît de loin l'avancée la plus importante[46]. Le mécanisme causal analysé notamment par Nicolae Bobu, serait celui-ci : une fois le spectre d'un jugement discrétionnaire rendu par les tribunaux d'un État hostile écarté, les Roms seront motivés à respecter davantage les coutumes et les règles de leur vie traditionnelle, de même que la loi étatique, dans les conditions où les instances directrices des communautés, légitimées et officialisées, seraient elles-mêmes beaucoup plus susceptibles d'imposer et de soutenir l'application des lois nationales. Il s'agit donc d'arriver à une autonomisation juridique partielle mais explicite des communautés rom, qui repose sur la reconnaissance officielle et non plus sur la tolérance implicite de l'État.

Inversement, les arguments contre les conditions de possibilité d'un tel arrangement font légion. D'abord, comme nous l'avons déjà précisé, il n'y a pas de système juridique rom proprement dit, mais une série de règles et de principes, pour la plupart historiquement dépassées, auxquels des différentes structures plus ou moins institutionnalisées au sein des communautés font appel lorsqu'elles débattent et, plus rarement, décident sur un certain « cas » qui leur est présenté. Bien qu'elles soient perçues par les Roms comme étant strictes et parfois sacrosaintes, du fait de leur oralité et de leur dépendance par rapport aux interprétations variables, ces règles sont difficilement constituables dans un paquet cohérent qui pourrait faire l'objet d'une intégration dans le corpus juridique officiel.

Puis, comme nous avons déjà précisé, la perception généralisée est qu'entre le mode de vie et les valeurs des Roms et des majoritaires – certes, parfois les deux mutuellement stéréotypés – il y a des différences et des incompatibilités qui génèrent globalement le rejet réciproque. Les Roms traitent les *gadjés* d'impurs, alors que les Roumains considèrent en bonne partie que les Roms sont « un peuple inférieur ». Par exemple, des pratiques comme le mariage des filles dès l'âge de douze ans, suite à une promesse de mariage parfois dès la naissance, qui est à la base de la tradition rom dans nombre de communautés, pose un problème structural et constitutionnel pour un Etat européen qui protège légalement les droits des enfants.

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[46] Nicolae Bobu, *op. cit.,* p. 25.

Et, finalement, il faudrait prendre en considération la diversité extrême des situations où les communautés rom se trouvent. Nous avons déjà expliqué le fait qu'entre les différentes branches des Roms il y a soit une reconnaissance partielle, soit, et encore plus fréquemment, une exclusion réciproque. Il serait donc très difficile – et, à la fois, arbitraire – de trancher en choisissant un set de valeurs et de pratiques à officialiser au détriment de toutes les autres.

Mais la meilleure manière de souligner les obstacles pratiques majeurs devant l'officialisation de la pluralité normative est de donner la parole aux représentants des Roms eux-mêmes. Les leaders de la communauté rom que nous avons interviewés nous ramènent aux réalités vécues qui nous enseignent comment les Roms gèrent leurs contentieux. Quels seraient à leurs yeux les obstacles devant l'officialisation d'un système juridique rom ?

Les leaders de la communauté de Crăciuneşti s'accordent sur deux aspects centraux. *Primo*, ils pensent que les bases du système juridique parallèle des Roms ne diffèrent pas essentiellement des bases de « tout autre système moral ou de droit » ; la tradition rom complétée par les principes chrétiens néo-protestants se rapproche du « bon sens » sur lequel s'étaye l'ensemble des systèmes législatifs : il n'y aurait donc pas de contradiction flagrante entre les deux et, par conséquent, il n'y aurait pas d'intérêt particulier à institutionnaliser la différence. Et, secundo, en bons rousseauistes, les leaders des Gabors considèrent que les procédures consensualistes spécifiques à leur communauté sont adaptées uniquement aux communautés de dimensions limitées, « où tout le monde connaît tout le monde ou presque » et où il est effectivement possible d'impliquer l'ensemble de la communauté (à entendre, les têtes de toutes les familles élargies) dans le débat et dans la prise des décisions. Or, « ailleurs, les gens sont globalisées » et n'ont plus de « culture commune ». Il serait donc inefficace de créer des systèmes juridiques unitaires et parallèles pour des minorités ayant « abandonné leurs coutumes et traditions ». Finalement, il faudrait aussi admettre que, d'une certaine façon, à travers la tolérance et le dialogue interculturel, il y a de toute façon une certaine autonomie décisionnelle en matière juridique, au sens où l'Etat permet aux Roms de « prendre soin de leurs problèmes » avant d'intervenir pour appliquer la loi officielle.

Conclusions

Notre succincte étude a eu une question de départ : est-il nécessaire et/ou opportun de l'institutionnaliser le pluralisme normatif dans le cas de la minorité rom de Roumanie ? Une réponse rapide qui se dessine est que, malgré sa nécessité évidente (que nous avons soulignée tout au long de cet article), les conditions d'opportunité (et même de possibilité) pour une telle officialisation ne sont pas réunies. Outre les caractéristiques socioculturelles (une forte hétérogénéité interne) et géographiques (l'éparpillement territorial sur l'ensemble du pays) qui limitent l'organisation et la représentation collectives, il y a une série d'incompatibilités perçues comme étant objectives qui relèvent des pratiques sociales basiques (naissance, habitation, scolarisation, mariage, vie sociale, religion, rôle des deux sexes, hygiène, statut des infractions, etc.) qui mettent en question tout tentative de dialogue potentiel ou d'entente intercommunautaire.

Il serait donc bien hasardé d'imaginer pour le cas des communautés rom de Roumanie un dispositif reposant sur le pluralisme normatif, tel qu'il existe dans des régions comme le Québec, le Groenland ou bien la Nouvelle Zélande. Mais force est de constater qu'il y a dans le « monde réel » une quasi-reconnaissance des pratiques juridiques alternatives du type du *Stabor* – non-avouée par les autorités étatiques et fortement revendiquée par les leaders rom. Si cette pratique est moins présente qu'avant dans les communautés traditionnelles, elle commence à s'étendre au niveau des réseaux plus larges et de prendre des allures de plus en plus modernes et institutionnelles[47], tout en s'éloignant de ses principes historiques de fonctionnement du tribunal de paix rom. Pour l'instant, la légitimité de ces nouvelles formes « institutionnelles » est loin d'être acquise au sein même des communautés rom. Mais, à long terme, et avec la coopération de certaines institutions nationales (par exemple, du Défenseur des Droits), on pourrait peut-être y deviner les contours d'un système juridique alternatif rom plus compréhensible et donc plus acceptable par les composants du système juridique officiel.

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[47] [http://www.dorincioaba.ro/index.php/juridic/92-tribunalul-romilor-stabor-2]

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- [http://www.dorincioaba.ro/index.php/juridic/92-tribunalul-romilor-stabor-2]
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HUMAN DISPLACEMENT AND INSECURITY IN AFRICA: THE GENOCIDE IN RWANDA, THE GREAT LAKE CRISIS AND THE WARS IN D.R. CONGO

Laura M. Herța[*]

Abstract

The article focuses on refugee flows and insecurity within refugee camps which amount to huge humanitarian tragedies. Historically, the center of attention falls upon the Great Lakes crisis, hence the genocide in Rwanda and the wars in Zaire/Congo are briefly overviewed. Analitically, the article discusses elements of discursive approaches on security, starting from the Copenhagen School's speech act framework. The pivotal argument presented here is that the media coverage and the discursive construction of threat, insecurity, and need for indiscriminate aid for refugee camps during the African Great Lakes Crisis distorted facts and misled international understanding of the crisis.

Key-words: human displacement, Great Lakes crisis, militarized refugee camps, insecurity, Copenhagen School, securitization

Introduction and structure of the article

In the mid-1990s, international media attention was focused on the African Great Lakes refugee crisis, hundreds of international humanitarian non-governmental organizations and United Nations agencies were mobilized to provide relief, and the tragic event had destabilizing effects on Zaire/DR Congo by producing three subsequent violent armed conflicts. "In the brief span of time between 1994 and 1997, [the Great Lakes region] has rapidly replaced Southern Africa and the Horn of Africa as the most violence-prone of the continent's major regions."[1]

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[1] Michael Chege, "The Great Lakes Crises", in *African Studies Quarterly*, Vol. 1, Issue 3, 1997, p. 2.

The refugee crisis was closely linked to the genocide in Rwanda and to the international misunderstanding of the nature and dynamic of the crisis. In this article, we shall present the historical background of the humanitarian crisis and then we shall analyze the media discursive construction of insecurity in the camps by showing that non-discrimation between military residents of refugee camps and the innocent civilians led to several levels of insecurity for the non-combatant displaced individuals. The argument will be built on the analytic framework of the Copenhagen School and on *securitization* and will highlight the relevance of previous works such as Philippe Bourbeau, *The Securitization of Migration. A study of movement and order*, and Jef Huysmans, *The Politics of Insecurity. Fear, Migration and Asylum in the EU.*

The Great Lake Crisis: brief historical survey

The Great Lake Crisis represented one of the most dramatic humanitarian emergencies in the post-Cold War African history and ignited international concern and scholarly debate. The Great Lakes region (or the African Great Lakes) comprises the lakes Albert, Edward, Kivu, Tanganyka, Victoria, and includes the following countries: Burundi, Rwanda, Uganda, the north-eastern part of the Democratic Republic of the Congo (DRC)[2], and the north-western areas of Kenya and Tanzania.

According to the United Nations Development Programme, "[t]he Great Lakes Region [...] has witnessed some of the direst conflicts on the African continent, rooted in longstanding tensions over ethnicity and citizenship, grievances over access to resources, including land and minerals. A total of 56 million people live below the national poverty line in the region, of which 47 million, or 71 per cent, are in the DRC."[3] Arthur Helton analyzed the decade of humanitarian intervention (the 1990s) and, referring to what he called "the last decade's refugee story", the author wrote that "perhaps the greatest single humanitarian challenge of the decade was posed

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[2] DRC or Congo (the Republic of) was formerly known as Congo-Kinshasa (up to the moment the regime of Mobutu Sese Seko seized power). It was renamed Zaire by Mobutu and, after his removal in 1997, the country was renamed the Democratic Republic of the Congo.

[3] The United Nations Development Programme, [http://www.africa.undp.org/], consulted in January 2014.

by the refugee crisis in the Great Lakes region of Africa after the Rwandan genocide in 1994. The daunting nature of the challenge was occasioned both by the magnitude of displacement and by a poisonous context of insecurity and injustice."[4]

The Genocide in Rwanda

The Great Lakes Crisis caused enormous suffering on the civilian population and was triggered by several events. One central event of the crisis which tragically spilled over the enire region was the genocide in Rwanda, in April-June 1994, which "was one of the most gruesome massacres of civilians since the Holocaust during the Second World War [and] the mass exodus of civilians during that three-month period was arguably the largest forced movement of civilians in recent history."[5]

Prior to 1994, the Hutu-ruled government of Rwanda and the Tutsi-led *Rwandan Patriotic Front* (RPF) had been involved in an armed conflict which was perceived internationally as a civil war. This perception/designation was legitimate, but it also had a huge impact on the non-intervention of the international community during the genocide and was used as pretext for inaction, producing what Nicholas Wheeler has called a "global bystander to genocide."[6] Several events played a key role in triggering the slaughter. First of all, the Hutu extremists comprising president Juvenal Habyarima's governing party (and his family) fearfully resisted power sharing arrangements with the Tutsis. When Habyarimana signed the Arusha peace agreement with the RPF in 1993, he responded positively to international pressure for democratization and to the African states' compellance, but he also dissatisfied the non-compromising and "virulently anti-Tutsi *Coalition pour la Défense de la République* (CDR)" which had been set up in 1992, and hence "the organizational machinery of genocide was being created."[7] Secondly, in

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[4] Arthur C. Helton, *The Price of Indifference. Refugees and Humanitarian Action in the New Century*, Oxford: Oxford University Press, 2002, p. 21.

[5] *Cf.* Alhaji M. S. Bah, "The Making of the Rwandan Genocide and the Future Protection of Civilians in Africa", in John Laband (ed.), *Daily Lives of Civilians in Wartime Africa: from slavery days to Rwandan genocide*, Westport, Connecticut, London: Greenwood Press, 2007, p. 253.

[6] Nicholas Wheeler, "Global Bystander to Genocide: International Society and the Rwandan Genocide of 1994", in Nicholas Wheeler, *Saving Strangers. Humanitarian Intervention in International Society*, Oxford: Oxford University Press, 2000, pp. 208-241.

[7] *Ibidem*, p. 212.

1993, Burundi's Hutu and first democratically elected president, Melchior Ndadaye, was assasinated by the Tutsi army in a *coup*, resulting in an exodus of approximately 200,000 Hutu refugees[8] streaming "into the south and central regions [of Rwanda] who were ripe for political mobilization."[9] Thirdly, in April 1994, a plane carrying President Habyarimana of Rwanda and President Cyprian Ntaryamira of Burundi was shot down and the leaders' death unleashed almost immediately the genocide against moderate Hutus and Tutsis.

Those responsible for the "speed and technical organisation of the genocide"[10] were the *Armed Forces of Rwanda/Forces Armées Rwandaises* (FAR), the *interahamwe* militia (or "those who work together"[11]) and the *impuzamugambi*, which were the youth wings of CDR and of the governing party *Mouvement National pour la Révolution et le Développement* (MNRD), but also Habyarimana's family, advisers and members of the presidential guard.[12] As already mentioned, the mass killing of Tutsis and Hutu moderates was deliberate, planned, and carried on brutally during what is now known as the "100-day genocide". The organized violence was coordinated via 'radio hate', namely *Radio Mille Collines* in Kigali, "which was broadcasting allegorically coded messages such as 'cut the tall trees' to *Interahamwe* militias that were waiting for the call to duty."[13] According to Roméo Dallaire,

> "The news media – both domestic and international – played a crucial role in the 1994 Rwanda genocide. From my vantage point as commander of the United Nations Assistance Mission for Rwanda (UNAMIR), I was able to watch the strange dichotomy of local media, on one side, fuelling the killing while international media, on the other side, virtually ignored or misunderstood what was happening.

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[8] xxx (2007), "Great Lakes Chronology", in *Refugees Magazine*, Issue 110 (Crisis in the Great Lakes), December 1997, [http://www.unhcr.org/3b69278116.html], consulted in February 2014.

[9] Wheeler, *op. cit.*, p. 212.

[10] Victoria Passant, "The Great Lakes Refugee Crisis and the Dilemma of Contemporary Humanitarianism", in *POLIS Journal*, Vol. 2, Winter 2009, University of Leeds, p. 6.

[11] Howard Adelman, "The Use and Abuse of Refugees in Zaire", in Stephen John Stedman; Fred Tanner (eds.), *Refugee Manipulation. War, Politics, and the Abuse of Human Suffering*, Brookings Institution Press, 2003, p. 95.

[12] Wheeler, *op. cit.*, p. 212; Gérard Prunier, *The Rwanda Crisis: History of a Genocide*, London: Hurst & Co., 1995, pp. 128-129, 224; Gerald Caplan, "Rwanda: Walking the Road to Genocide", in Allan Thompson (ed.), *The Media and the Rwanda Genocide*, London: Pluto Press, 2007, pp. 20-37.

[13] Nir Kalron, "The Great Lakes of Confusion", in *African Security Review*, Issue 19:2, 2010, p. 28. See also Allan Thompson (ed.), *The Media and the Rwanda Genocide*, London: Pluto Press, 2007.

The local media, particularly the extremist radio station Radio-Télévision Libre des Milles Collines (RTLM), were literally part of the genocide. The *genocidaires* used the media like a weapon. The haunting image of killers with a machete in one hand and a radio in the other never leaves you."[14]

The massacre produced 800,000-1,000.000 deaths and huge human displacement with tragic consequences for the entire Great Lakes region. The UN troops present in Rwanda (UNAMIR I) had a peace-keeping mandate (since they had been deployed to monitor the implementation of the Arusha Agreement). Therefore, the UN forces, faced with the deterioarating situation and urged by the United Nations Security Council (UNSC), started withdrawing from Rwanda, despite Major General Roméo Dallaire's constant warnings regarding the imminent threat posed to thousands of innocent civilians and requests for a stronger mandate.[15] The idea of turning the UN mission from a peace-keeping one into a Chapter VII peace enforcement one, in the form of forcible humanitarian intervention, was never discussed within the UNSC and the reluctance of European states to deploy troops was centred on the idea of never crossing again the "Mogadishu-line"[16], because the recent memory of American soldiers killed in Somalia was still vivid. In June 1994, it was France who offered to lead a humanitarian mission and thus UNSC Resolution 929 authorized a temporary French mission "for humanitarian purposes in Rwanda until UNAMIR is brought up to the necessary strength."[17] By this time, however, "much of the genocide had been accomplished. The mass killing was planned, and most of it occurred in April and early May. The *Rwandan Patriotic Front* (RPF) had invaded from bases in southern Uganda, and the government that had

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[14] Roméo Dallaire, "The Media Dichotomy", in Thompson (ed.), *op. cit.*, p. 12. An overview of the development of hate media in Rwanda and the international community's failure to respond to genocide is provided by Alison Des Forges, senior advisor to Human Rights Watch's Africa Division; see Alison Des Forges, *Leave None to Tell the Story: Genocide in Rwanda*, Human Rights Watch, 1999 and Alison Des Forges, "Call to Genocide: Radio in Rwanda, 1994", in Thompson (ed.), *op. cit.*, pp. 41-54.

[15] For details regarding the efforts of Roméo Dallaire, see Caplan, *op. cit.*, p. 25; Wheeler, *op. cit.*, pp. 215-217; Des Forges, *Leave None to Tell the Story: Genocide in Rwanda*, pp. 20-21.

[16] Wheeler, *op. cit.*, pp. 217-218.

[17] Tatiana Carayannis; Herbert F. Weiss, "The Democratic Republic of the Congo, 1996–2002", in Jane Boulden (ed.), *Dealing with Conflict in Africa: The United Nations and Regional Organizations*, Palgrave Macmillan, 2003, p. 256.

organized and presided over the mass killings of Tutsis and their supporters had fled from Kigali."[18]

The 2,500 heavily armed French troops deployed during *Opération Turquoise* represented an exclusively French intervention, even though the "Security Council authorized a multinational force under French command"[19], and raised controversy over the legitimacy of the mission. Since France had been supporting the Hutu-dominated government of Rwanda and since during the three-month genocide "France remained openly hostile to the [Tutsi-led] RPF"[20], the criticism was centred on the fact that "the real purspose of the 'humanitarian' mission was to save its client government that was losing the war with the RPF."[21] According the the authoritative account of Gérard Prunier, French high-ranked military talked about the need to "break the back of the RPF", so there was an interest in preventing a *Rwandan Patriotic Front*' victory.[22] According to other voices, like the commander of *Operation Turquoise*, the imperative task was "'putting the Arusha Accords back into operation', meaning implementing an agreement which required the RPF to share power with other parties."[23] According to Arthur Helton,

> "While the French forces did not engage the RPF in 1994, it seems clear that the deployment had the effect of slowing the advance of the rebels, who then swept to victory after the French withdrawal. Whether this was the primary motivation of the intervention will remain the subject of historical debate. It seems clear, however, that decision makers were animated by an array of political and strategic factors in addition to the humanitarian consideration. The absence of a genuine multilateral character to the intervention—only Senegal contributed a modest contingent of troops—heightened the possibility and perception of the pursuit of political and strategic objectives in the guise of a humanitarian mission. Even the cover provided by UN Security Council Resolution 929 could not mask the reality of an essentially unilateral intervention."[24]

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[18] Helton, *op. cit.*, p. 146.

[19] Carayannis; Weiss, *op. cit.*, p. 256.

[20] Caplan, *op. cit.*, p. 28.

[21] Wheeler, *op. cit.*, pp. 231-232.

[22] Prunier, *op. cit.*, p. 285.

[23] Des Forges, *Leave None to Tell the Story: Genocide in Rwanda*, p. 510.

[24] Helton, *op. cit.*, p. 148.

In Prunier's analysis, President Mitterand was determined to initiate *Opération Turquoise* under the perceived prospect of South Africa/another "Anglo-Saxon" country's intervention in Rwanda, coupled with criticism from humanitarian and human rights organizations during the genocide.[25] The controversy over France's decisions was even more acute, since in 1993 "French forces were used to halt an incursion by fighters of the RPF [and] some of the French troops deployed in Operation Turquoise had served previously in Rwanda and trained the government's soldiers."[26]

The French mission, however, created a safe zone in the southwest part of Rwanda, wherein many Hutu leaders, Rwandan military and civilians retreated[27] and, according to most estimations, saved the lives of 15,000 to 17,000 Tutsi. The downsizing impact, though, was that it "jeopardized other Tutsi by giving them a false sense of security"[28] and also endangered the retreating UNAMIR I troops, since according to Dallaire, "the arrival of French troops led the RPF to retaliate against the UN."[29] In her detailed account, Alison Des Forges emphasized that during the first weeks of the massacre the international community tolerated the genocide and by the time the tragedy was coming to an end "[s]ome 2,500 well-equipped elite French forces saved 15,000 to 17,000 lives [while] the barely 500 UN peacekeepers, poorly equipped and minimally supplied, protected about twice that number during the course of the genocide."[30]

The French troops provided relief operations in the Safe Humanitarian Zone, but the limited pre-established two-month timetable of the mission induced panic within the Hutu displaced community and thousands of them fled, crossing the border into Zaire, since they "chose to take their chances in the [refugee] camps rather than stay and face the RPF."[31] The result was the creation of safe corridors for the fleeing Hutus, amongst whom the *Interahamwe* members and the *génocidaires*, and by the time French troops retreated in August 1994 "not a single *génocidaire* had been arrested

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[25] Prunier, *op. cit.*, p. 281. See also, Des Forges, *Leave None to Tell the Story: Genocide in Rwanda*, p. 511; Chege, *op. cit.*, p. 2.

[26] Helton, *op. cit.*, p. 147.

[27] Carayannis; Weiss, *op. cit.*, p. 257.

[28] *Cf.* Caplan, *op. cit.*, p. 28.

[29] Carayannis; Weiss, *op. cit.*, p. 257.

[30] Des Forges, *Leave None to Tell the Story: Genocide in Rwanda*, p. 24.

[31] Wheeler, *op. cit.*, p. 237.

in their safe zone."[32] The escape of those responsible for the massacre had a huge and frustrating impact on the new Rwandan élite, later pushing the government in Kigali on the verge of inter-state war with DR Congo[33] and leading to dramatic repercussions for the entire region. Sinthesizing French actions, Tatiana Carayannis and Herbert F. Weiss claimed that:

> "*Opération Turquoise* had two principal effects that were contrary to its mandate of protection and neutrality: first, it failed to stop the bulk of the massacres of civilians that were still occurring; and second, the operation did not disarm the Hutu militias, known as the Interahamwe, nor the defeated *Forces Armées Rwandaises* (FAR) units. Instead, it allowed them and their political leaders, along with masses of Rwandan Hutu civilians, to escape across the border into the Congo. These effects resulted in the profound destabilization of eastern Congo."[34]

Nicholas Wheeler argued that the French intervention "worsened the escalating refugee crisis" and that the organizers of the genocide, "militia leaders and government soldiers found themselves without food or medicines living side by side with their Tutsi victims"[35] in the refugee camps.

In terms of human displacement and human suffering, the aftermath of the Rwandan genocide displayed approximately one million Hutu refugees who were streaming in the camps around Goma (with the *génocidaires* mingled with the civilians), thousands of people killed due to a cholera epidemic in the camps, the destabilization and the breaking out of inter-ethnic violence in eastern Congo (in the Kivu provinces).

The wars in DR Congo

The violent conflict in former Zaire/Democratic Republic of the Congo was one of the most protracted in the post Second World War history. It produced human displacement, refugee crises and was one of the most tragic humanitarian disasters. It actually comprised three different civil

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[32] Caplan, *op. cit.*, pp. 28-29.
[33] For details, see Phoebe N. Okowa, "Congo's War: the Legal Dimension of a Protracted Conflict", *British Yearbook of International Law*, vol. 77, 2007, pp. 203-255.
[34] Carayannis; Weiss, *op. cit.*, p. 257.
[35] Wheeler, *op. cit.*, p. 237.

wars from 1994 to 2005 (which we dealt with elswhere[36]), but in what follows we will focus on the period 1994-1997. The huge refugee crises (known as the Great Lakes crisis) inflicted suffering on large number of individuals, who were not only living in every-day-life fear and terror, but were also decimated by widespread disease. According to the *EU Security and Defence core documents*, the violence in DR Congo "reached nearly continental dimensions" and "millions of people died, the whole Great Lakes region was set aflame, decades of development were destroyed and unaccounted suffering, misery and turmoil was brought upon entire populations."[37]

Zaire had been ruled by Mobutu Sese Seko ever since 1965. From 1965 to 1997, the regime of Mobutu introduced a one-party system, by concentrating state power in Mobutu's MPR (*Mouvement Populaire de la Révolution/Popular Movement of the Revolution*), and was characterized by gross human rights abuses and state "kleptocracy" scandals which turned "Zaire into a byword for corruption."[38] Mobutu managed to maintain control over the entire population, by weakening any attempt of separatism and by employing a divide and rule strategy, which implied *inter alia* the transformation of military organizations into his own "private armies".[39] He was in good relations with the Hutu-dominated regime from Rwanda and insurrections movements have operated for years out of the Congolese territory against the Museveni-led Uganda.[40] When the Tutsi-led RPF defeated the Hutu government in July 1994, a huge refugee flow comprising approximately one million Hutu streamed into eastern Zaire (especially into the two Kivu provinces). As mentioned, amongst the refugee camps were also the *génocidaires*, members of FAR (*Forces Armées Rwandaises/Rwandan Armed Forces*) and *Interahamwe* (Hutu extremists). The United Nations High Commissioner for Refugees (UNHCR) set up refugee camps in eastern Zaire, but could not prevent or dissuade "the reestablishment [...] of the

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[36] See Laura M. Herța, "Intra-State Violence in DR Congo and Human Security – Perspectives from International Relations", in *Human Security Perspectives*, Volume 10 (2014), Issue 1, University of Graz, pp. 186-218.

[37] EU Security and Defence. Core documents, vol. VII (compiled by Catherine Glière), Institute for Security Studies, European Union, Paris, 2006, 115.

[38] Guy Arnold, *Historical Dictionary of Civil Wars in Africa*, The Scarecrow Press, 2008, p. 236.

[39] William Reno, *Warlord Politics and African States*, Boulder, London, Lynne Rienner Publishers, 1998, pp. 160-161.

[40] Carayannis; Weiss, *op. cit.*, p. 259.

political and military structures and leadership that were responsible for the genocide in Rwanda", leading to a situation wherein

> "The camps soon replicated the highly organized, hierarchical, and disciplined Rwandan Hutu political and military systems under the *génocidaires*, so that camp residents were led by the same communal authorities they had lived under when in Rwanda. These camps were subsequently used as staging grounds from which these Interahamwe/ex-FAR regrouped and launched offensives against the new Tutsi-dominated government in Rwanda."[41]

The huge exodus was soon followed by a cholera epidemic which received ample media coverage and produced major human losses (between 20,000 and 50,000) among the camp residents.[42] The events immediately led to the destabilization of eastern Zaire and the outburst of the so-called First Congo War. Zaire accused Rwanda of backing up the rebels in the Kivus, while Rwanda accused Mobutu of sheltering the Hutu extremists. Local authorities in north Kivu have been resorting to a "quasi-ethnic cleansing campaign"[43] ever since 1993 and in 1996 the Banyamulenge/Congolese Tutsis were told they had to leave Zaire or be "exterminated and expelled."[44] This led to another exodus of people, but one armed group among them (trained and armed by the RPF) started to fight the FAZ (*Forces Armées Zairoises*/*Zairean Armed Forces*) and the Hutu militias.

As emphasized elsewhere[45], both parties to the conflict invoked security reasons. On the one hand, Zaire accused its neighbours, Rwanda, Uganda and Burundi, of destabilizing its eastern territory (over which it actually had no control) and received military help from the Interahamwe/ex-FAR operating out of the refugee camps. On the other hand, Rwanda and Uganda accused Zaire of protecting the *génocidaires* and of backing up insurrection movements operating against their governments from eastern Zaire. It never turned into an inter-state war, though it was on the verge to become one. Mobutu accused its neighbours of foreign invasion, while his opposing party tried to show that it was a Congolese action against its

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[41] *Ibidem*, p. 257.

[42] *Ibidem.*

[43] *Ibidem*, p. 258.

[44] Arnold, *op. cit.*, p. 414.

[45] Herța, *op. cit.*, p. 193.

government (even though there were many outside troops operating). An indicator to the growing antipathy towards Mobutu was the international reaction, since the United Nations (UN) and the Organization of African Unity (OAU) did not "condemn the invading forces" and "Western press [...] from the start of the war referred to it as a civil war or rebellion."[46]

The mounting anti-Zairean government rebellion gradually gained control and and the result was that the locally ignited rebellion turned into an extended anti-Mobutu revolution. Laurent-Désiré Kabila, a long-time opponent of Mobutu, emerged as the leader of the rebels and four dissident groups galvanized into the AFDL (*Alliance des Forces Démocratiques pour la Libération du Congo/Alliance of Democratic Forces for the Liberation of Congo-Zaire*). The rebels took control over Shaba (the mineral-rich province in south-eastern DRC) and later moved closer and closer to the capital Kinshasa. The last phase occurred in May 1997 when Mobutu's regime collapsed.[47]

The First Congo War displayed enormous human suffering, rampage, massacre, and retaliation against the opponent's civilians. Atrocities were committed by local militias, be it the Hutu extremists (ex-FAR/Interahamwe) against the Congolese Tutsi, or the rebels against Hutu and other "alleged" opponents, military or civilian.

The cumulative effect of the Great Lakes crises on subsequent Congolese history was dramatic and the impoverished Congolese society was plunged into another civil war. Kabila's takeover of power was in fact due to the Banyamulenge/Congolese Tutsis' support and to the assistance of Rwandan and Ugandan armies.[48] It also benefited from tacit approval of the international community, since it was the anti-Mobutu struggle that prevailed in international perception, and not Laurent-Désiré Kabila legitimacy *per se.* Very soon, though, he managed to antagonize all. Kabila's relations with the UN soon became strenuous. At the same time, he faced domestic dissatisfaction, as well as former supporters' (foreign and internal) discontent. Since his rebellion was dependent on the Banyamulenge and the armies of Rwanda and Uganda, "there was a reaction against these allies in Kinshasa and, in particular, resentment at the Tutsi"[49] and consequently things escalated.

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[46] Carayannis; Weiss, p. 261.

[47] *Ibidem*, pp. 260-261.

[48] Arnold, *op. cit.*, p. 98.

[49] *Ibidem*, p. 98.

Kabila removed Tutsis "from top positions in the military" and the Banyamulenge started to retreat to south Kivu.[50] Rwanda understood the misachievements of Kabila, perceiving his fostering of anti-Tutsi feelings and his inability to end "the problem of border insecurity by neutralizing the insurgency groups threatening Uganda, Rwanda, and Angola from the Congo."[51] The Second Congo War was characterized by a fragmentation of military troops, emergence of other groups, and shifts in alliances. By 2000 the Rwandan and Ugandan forces were fighting among themselves and Kabila's government had no control over Congolese territory (with the exception of the western part).[52]

Framing (in)security and human displacement during the Great Lake crisis

According to Edward Newman, "refugee flows are demonstrably a source of international – mainly regional – conflict through causing instability in neighbouring countries, triggering intervention, and sometimes providing a basis for warrior refugee communities within camps that can form the source of insurgency, resistance, and terrorist movements."[53] Also, he argues that refugees are both a cause and a consequence of conflict. The crisis of the African Great Lakes is illustrative in both respects: the refugee camps in eastern Congo are associated with militarization and refugee manipulation and they represented the effect of the genocide in Rwanda and the triggering point of the wars in Congo.

The destabilization of eastern Congo not only plunged thousands of innocent civilians into acute insecurity, but also worsened inter-state relations in the region, because "[t]he camps in the DRC were a dangerous amalgam of fighters and civilians."[54] It has already been explained that when refugees

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[50] *Ibidem.*

[51] Carayannis; Weiss, *op. cit.*, p. 270.

[52] Arnold, *op. cit.*, p. 100.

[53] Edward Newman, "Refugees, international security, and human vulnerability: Introduction and survey", in Edward Newman; Joanne van Selm (eds.), *Refugees and forced displacement: International security, human vulnerability, and the state*, Tokyo, New York, Paris: The United Nations University Press, 2003, p. 5.

[54] Helton, *op. cit.*, p. 22.

"arrive with armed contingents that continue to fight on the host territory ("refugee warriors"), they invite retaliation and thus export the conflict from where they came."[55] The crisis had two major dimensions. On the one hand, it indicated how refugees become "resources of war" and how the Rwandan "genocide organizers and killers blended into the refugee camps" and exploited the crisis in order to attract humanitarian aid.[56] Also, it showed how in this case the refugee crisis was intertwined with refugee manipulation and "refugee militarization". According to the UNHCR reports, this episode was illustrative for "the changing nature of conflict, with internal and regional wars generating cross-border movements of mixed groups, including military elements" and for how militarized camps raised a huge threat to refugee insecurity.[57] On the other hand, the crisis had negative repercussions on the human insecurity of ethnic-Tutsis (Banyamulenge) living in eastern Zaire/Congo. The Banyamulenge had been living in the eastern part of Congo for a long time, but they had become dissatisfied with Mobutu's decision in 1981 to deprive them of Zairean citizenship.[58] The result was their rebellion in 1996. Since the post-genocide Rwandan leaders perceived the refugee camps as major threat, there was soon a coalescence of interests between them and the Banyamulenge.

The huge refugee flows during the Great Lakes crisis and the eruption of the cholera epidemic received ample media coverage and produced the flocking of hundreds of NGOs to the various refugee camps.[59] The international perception of the tragic event was centred on the association of refugees to genocide survivors, but, as Howard Adelman has shown, "ignorance of the conflict's history and the nature of its media coverage" led to compassionate Western publics who "overlooked the fact that this exodus included not

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[55] See Astri Suhrke, "Human security and the protection of refugees", in Edward Newman; Joanne van Selm (eds.), *Refugees and forced displacement: International security, human vulnerability, and the state*, Tokyo, New York, Paris: The United Nations University Press, 2003, p. 97.

[56] Stephen John Stedman; Fred Tanner, "Refugees as Resources in War", in Stephen John Stedman; Fred Tanner (eds.), *Refugee Manipulation. War, Politics, and the Abuse of Human Suffering*, Brookings Institution Press, 2003, pp. 2-3.

[57] UNHCR, *The Security, Civilian and Humanitarian Character of Refugee Camps and Settlements: Operationalizing the "Ladder of Options"*, Doc. EC/50/SC/INF.4, 27 June 2000, available at [http://www.refworld.org/docid/4a54bc040.html].

[58] Arnold, *op. cit.*, p. 414.

[59] See Passant, *op. cit.*, p. 7.

only innocent refugees but also genocidal killers."[60] Adelman argued that inaccurate counts distorted the facts on the ground, created confusion about their causes and he concluded that "150,000 to 225,000 of the 900,000 total camp inhabitants were genocidal killers or their families."[61] Other authoritative reports also indicated that of the more than 1,5 milion Hutu Rwandese who had crossed the boundary from Rwanda 10 to 15 percent "were alleged to have participated directly in [the] mass killing."[62] The *Interhamwe*, ex-FAR and former Rwandan government leaders gained control over the camps, replicated their political and military structure, started arming and forcefully recruiting innocent camp residents with the purpose of launching an armed attack against the new authorities in Kigali. Very soon their "control was absolute", they managed to establish a "quasi state in the refugee camps in Zaire" [...] "killed those who disobeyed" and "created an atmosphere of permanent insecurity."[63] Terrorizing and inducing insecurity were the main elements of the *Interhamwe*/ ex-FAR's *modus operandi* and the intimidation of refugees who wanted repatriation to Rwanda prevailed. Through force, fear and "and resource control, the militia managed to ensure that only limited numbers returned."[64] Certain analysts concluded that

> "Donor governments and related UN agencies hesitated at becoming involved in Rwanda during the 1994 genocide, with horrifying consequences. When they finally stepped in with relief for refugees and murderers fleeing the scene, donors and UN organizations were paralyzed by the realization that their support caused as much harm as good in the absence of an effective sorting process to weed out perpetrators of the genocide from genuine refugees in the camps. Meanwhile, the perpetrators planned their next move from (then) Zaire with the material and tacit political aid of UN agencies."[65]

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[60] Howard Adelman, "The Use and Abuse of Refugees in Zaire", in Stephen John Stedman; Fred Tanner (eds.), *Refugee Manipulation. War, Politics, and the Abuse of Human Suffering*, Brookings Institution Press, 2003, p. 96.

[61] *Ibidem*, p. 99.

[62] See Des Forges, *op. cit.*

[63] Adelman, *op. cit.*, pp. 102-103.

[64] Passant, *op. cit.*, p. 8.

[65] Jennifer Hyndman, *Managing Displacement. Refugees and the Politics of Humanitarianism*, Minneapolis, London: University of Minnesota Press, 2000, p. xxvi.

Other voices were critically indicating that the "international community was also complicit in facilitating the arming of the Hutu extremists: despite the ample evidence of the génocidaires' regrouping, UN arms embargoes were never enforced on them."[66] No concrete action came from the international community to stop the control and manipulation of humanitarian aid or to demilitarize the camps.

Meanwhile, life in the camps was torture, many refugees dispersed within the eastern Congolese forests attempting to stay alive and to find a way to get back to Rwanda.[67] Throughout the crisis "aid agencies faced appalling dilemmas such as whether to continue feeding women and children knowing they were also feeding killers; whether to tell the world what they knew about the [...] atrocities in the rain forests at the risk of jeopardizing ongoing operations to save still living refugees."[68]

The Great Lake crisis revealed how refugees could turn into "resources of war" and how military groups abused the status of non-combatants[69] benefiting from their media portrayal of refugees. Adelman pinpointed that "central issues in this crisis were the need to separate the refugee warriors from the genuine refugees, to end impunity for the génocidaires, and to prevent them from using bases in Zaire to attack Rwanda."[70]

At this point we shall discuss elements of discursive approaches on security, starting from the Copenhagen School's speech act framework. The central argument presented here is that the media coverage and the discursive construction of threat, insecurity, and need for indiscriminate aid for refugee camps during the African Great Lakes crisis distorted facts and misled international understanding of the crisis.

The Copenhagen School scholars coined the concept of *securitization* and analyzed security as a speech act. *Securitization* is the process of making an issue a 'security' issue. The securitization process transfers issues from 'normal' (accountable/democratic) politics to 'emergency' politics. Therefore, securitization refers to the following core feature of security: "the way in

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[66] Adelman, *op. cit.*, p. 104.

[67] See testimonies of former refugees in Beatriz Gonzalez, "A decade on the run: Rwandan refugees' life mirrors the tumult of Africa's Great Lakes", in *News Stories*, 26 October 2006, UNHCR, [http://www.unhcr.org/4540c03e4.html], rconsulted in February 2014

[68] Ray Wilkinson, "Cover Story: Heart of Darkness", in *Refugees Magazine*, Issue 110 (Crisis in the Great Lakes), December 1997, [http://www.unhcr.org/3b6925384.html], consulted in February 2014.

[69] *Cf.* Stedman; Tanner, *op. cit.*, pp. 4-5.

[70] Adelman, *op. cit.*, p. 127. See also Hyndman, *op. cit.*, p. xxvi; Helton, *op. cit.*, p. 22.

which threats are discursively tackled and presented."[71] The concept entails the construction of threats following a "grammar of security" (in Barry Buzan's terms) which indicates "an existential threat, a point of no return, and a possible way out."[72] The essence of the securitization idea is that no issue is a threat *per se*, but that "anything could be constructed as one."[73] The twin concept *desecuritization* focuses on "moving out of security" [74] or "the shifting of issues out of emergency mode and into the normal bargaining process of the political sphere"; Barry Buzan argues that this is the "optimal long-range solution."[75] As Huysmans observed, "the speech act of security draws upon a historically constituted and socially institutionalized set of meanings."[76]

According to the Copenhagen School, securitization studies "aim to gain an increasingly precise understanding of who securitizes, on what issues (threats), for whom (referent objects), why, with what results, and, not least, under what conditions (that is, what explains when securitization is successful).[77] According to such an approach, *securitising the issue of refugees* does not lead to positive outcomes for the human rights of such people. Jef Huysmans stresses that "the securitization of immigration or refugees depends on instituting credible claims that they are an important factor endangering the survival of political units."[78]

The ample media coverage of the humanitarian crisis in the African Great Lakes was based on the reports of international NGOs in the region and was doubled by Western political speeches. In his *Securitization as Migration*, Philippe Bourbeau explores the role of two securitizing agents, political and media, and "understands the relationship between agents and contextual factors as mutually constituted, durable but not static, generative,

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[71] Jonathan Bright, "Securitization, terror, and control: towards a theory of the breaking point", in *Review of International Studies*, October 2012, 38: 4, p. 863.

[72] Barry Buzan; Ole Waever; Jaap de Wilde, *Security: A New Framework for Analysis*, Boulder: Lynne Rienner, 1998, p. 33.

[73] Bright, *op. cit.*, p. 866.

[74] Lene Hansen, "Reconstructing desecuritization: the normative-political in the Copenhagen School and directions for how to apply it", in *Review of International Studies*, July 2012, 38:3, p. 526.

[75] Buzan; Waever; de Wilde, *op. cit.*, pp. 4, 29.

[76] Jef Huysmans, *The Politics of Insecurity. Fear, Migration and Asylum in the EU*, London and New York: Routledge, 2006, 25.

[77] Buzan; Waever; de Wilde, *op. cit.*, p. 32.

[78] Huysmans, *op. cit.*, p. 47.

and structured", building on a constructivist perspective that shows how "linguistic utterances are always produced in particular contexts and that the social properties of these contexts endow speech acts with a differential value system."[79] By showing that "insecurity is a politically and socially constructed phenomenon", Jef Huysmans demonstrates that "before an event can mobilize security policies and rhetoric, it needs to be conceived of as a question of insecurity and this conception needs to be sustained by discursively reiterating its threatening qualities."[80]

International media coverage of the African Great Lakes refugee crisis was centred on all encompassing massive group of displaced individuals, without mentioning the presence of the bulk of former *génocidaires* and without having presented an extensive account on the causes, dynamic, and immediate aftermath of the genocide in Rwanda. In this way, the media portrayal of refugees did not distinguish between the genuine victims and the "refugee warriors", but instead constructed a monolithic image of displaced people trying to escape the genocide and facing death in the camps due to the epidemics. Western media operated as a securitizing agent and the discursive construction which led to misunderstanding of the variations of human suffering was "tacitly encouraged" by reports of many relief organizations.[81] In fact, the particular context in which the insecurity of innocent displaced prevailed included not only widespread disease in the camps, but also people being used as human shields by the former *génocidaires* and fleeing into the Congolese dense woods to escape retaliation from combatant refugees. The whole speech act centred on this refugee crisis (produced by both Western political discourses and media reports) underscored threats and insecurities that were selective and partially accurate. Howard Adelman argued that in the absence of UNSC forceful intervention "to separate the warriors from refugees, UNHCR indulged in a bit of bureaucratic delusion: it redefined the problem in the camps as one of generalized insecurity for refugees and aid workers, a problem that could be addressed with far fewer resources than the real problem of warrior control of the camps."[82] An accurate understanding of insecurity in

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[79] Philippe Bourbeau, *The Securitization of Migration. A study of movement and order*, London, New York: Routledge, 2011, pp. 2-3.

[80] Huysmans, *op. cit.*, pp. 2, 7.

[81] Stedman; Tanner, *op. cit.*, p. 1.

[82] Adelman, *op. cit.*, p. 102.

refugee camps based in eastern Zaire/Congo should have been framed and supported by discursively reiterating the various threatening qualities of the specific context. The various threatening qualities included intimidation, killing, military recruitment, gendered violence and conditioning of humanitarian aid for the genuine refugees.

In order to mobilize relief aid and to legitimize limited action to address the multiple threats the innocent refugees faced, the UN securitized the issue of refugees, but overlooked the distinction between the provider of insecurity and the referents of securitization. According to Huysmans, "language has both the capacity to integrate events in a wider network of meanings and to mobilize certain expectations and reactions to an event. This constitutive power of language does not depend on influencing perceptions but rather follows from the fact that certain words and discourses carry particular connotations and historical meanings that they invest in social reality."[83] In the case of the African Great Lakes refugee crisis, the linguistic utterances pinpointed to an array of meanings reportedly associated with "the fate of all refugees" who faced a large humanitarian catastrophe, but the events were integrated in a an erroneous network of meanings, because, as Adelman argued, the "reports did not indicate that many of the refugees were being killed because they were used as shields for the militants or for refusing to accompany the genocidaires."[84] The "worst humanitarian catastrophe" discourse was loaded with particular historical correlations and linked to specific expectations, but, according to Howard Adelman, the "media misleading information" produced a "humanitarian hysteria."[85]

Conclusion

Our main conclusion is that refugee camps are not a single-shaped story and do not display a unitary, self-replicating humanitarian tragedy. Also, the main argument is that the refugee crisis in the African Great Lakes showed that accurate knowledge on the background of the humanitarian emergency, strong will of the UN to properly address the matter, and non-selective and in-depth media coverage are needed.

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[83] Huysmans, *op. cit.*, p. 8.
[84] Adelman, *op. cit.*, p. 121.
[85] *Ibidem*, pp. 120-122, 127.

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Les Mouvements De Migration Des Etudiants Et Jeunes Diplomes En Europe: Phenomene Economique Ou Reflet D'une Profonde Mutation Culturelle?

Migration Movements of Students and young Bachelors in Europe: Economic Phenomenon or Reflection of a profound cultural Transformation?

Carine Guemar[*]

Résumé

La problématique de la migration des étudiants et jeunes diplômés en Europe amène à se questionner sur les motivations d'une telle mobilité. Si dans sa partie émergée, l'iceberg laisse percevoir des aspects économiques et juridiques permettant notamment d'expliquer ou de justifier de telles migrations, l'explorateur pourra apercevoir de manière plus profonde et immergée un sentiment sous-jacent lié à la question de l'identité européenne et de sa mutation culturelle entrainée par ces mobilités intra-européennes. Cette analyse proposera donc d'analyser d'une part les raisons et les causes des migrations chez cette catégorie de personnes en Europe, et d'autre part, en étudier les effets et les conséquences sur la conscience collective européenne, guidée par le fil invisible d'une culture européenne.

Mots clés : mobilité, migration, populisme identitaire, diversité, culture et identité européenne.

Abstract

The question of the students and young diploma people's migration in Europe is the main theme of this presentation wich led to ask about the reasons of such phenomenon. If the emerged part of the iceberg let see some economics aspects which are the basis of the european construction and followed by the legal framework which allowed such of migrations, the explorator could see more deeply

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in the water, a hiden feeling linked with the question of european identity which could be considered as the consequences of a such mobility and guided by a blinded link: european culture.

Key words: mobility, migration, populism movements, diversity, culture and European identity.

« Europe. Au Moyen Âge, l'unité européenne reposait sur la religion commune. À l'époque des Temps modernes, elle céda la place à la culture (art, littérature, philosophie) qui devint la réalisation des valeurs suprêmes par lesquelles les Européens se reconnaissaient, se définissaient, s'identifiaient. Or, aujourd'hui, la culture cède à son tour la place. Mais à quoi et à qui ? Quel est le domaine où se réaliseront des valeurs suprêmes susceptibles d'unir l'Europe ? Les exploits techniques ? Le marché ? La politique avec l'idéal de démocratie, avec le principe de tolérance ? Mais cette tolérance, si elle ne protège plus aucune création riche ni aucune pensée forte, ne devient-elle pas vide et inutile ? Ou bien peut-on comprendre la démission de la culture comme une sorte de délivrance à laquelle il faut s'abandonner avec euphorie ? Je n'en sais rien. Je crois seulement savoir que la culture a déjà cédé la place. Ainsi, l'image de l'identité européenne s'éloigne dans le passé. Européen : celui qui a la nostalgie de l'Europe » Milan Kundera[1].

Aborder le thème de la mobilité et de la migration en Europe est un débat qui actuellement amène à faire un bilan et une introspection autour de la construction européenne et à se demander quel est l'avenir de l'Europe de demain pour les générations actuelles et futures. N'est-il pas nécessaire de revenir quelque peu, non pas sur les sempiternels discours des pères fondateurs de l'Europe, tels qu'ils sont appelés maintes et maintes fois dans les amphithéâtres d'Universités et sur les bancs des écoles que nous avons usés parfois avec passion ou simple attention, parfois avec ennui, à écouter parler du fonctionnement des institutions européennes, de l'histoire de l'Union européenne, de l'économie européenne entre autre, mais sur le fond littéraire dont l'Europe en a presque oublié les écrits. La réalité d'aujourd'hui est que cet apprentissage - que nous pensions restreint à des manuels scolaires ou à apprendre pour valider un semestre ou une année – est une manière

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[1] Milan Kundera, *L'art du roman*, "Sixième partie -Soixante neuf mots", Édition Gallimard, Coll. Folio, 1986, p. 150.

de comprendre le monde qui nous entoure et à analyser notre environnement avec un œil éclairé et parfois même averti. Donc quel avenir pour les jeunes diplômés d'aujourd'hui, lorsque partout (et essentiellement les journaux de masse, inondant les européens d'informations diverses et variées) nous entendons parler de chômage chez les jeunes, de crise économique et démocratique en Europe ? Et pourtant malgré l'environnement quelque peu angoissant[2] dans lequel nous vivons actuellement, les étudiants, les jeunes diplômés continuent à avancer, continuent à migrer, à découvrir une autre culture. L'avenir est incertain, certes mais que faire ? Rester lire des articles de doctrines dans un bureau enfermé, rendant presque toute personne claustrophobe de cet enfermement psychologique ou se lever et simplement aller regarder si le soleil brille ailleurs ?

Le thème abordé par cette présentation autour de la *mobilité* va tenter d'analyser notamment les mouvements de migrations des étudiants et jeunes diplômés en Europe et plus particulièrement, les raisons et les causes de cette migration. Est-elle le fruit d'un phénomène économique, tel que le prévoyait la construction même de l'Europe (c'est à dire partir de l'économique pour aller, progressivement, de pas à pas vers une Union politique[3]) ou ces mobilités sont finalement le reflet d'une profonde mutation culturelle de l'Europe, presque inconsciente mais qui représente les prémisses de l'Europe que nous voulons et non pas une Europe que nous subissons. Cette étude s'inscrit donc dans un cadre de *diversité*, fil conducteur de l'analyse. C'est bien ici que se trouve le cœur de la présentation puisque nous allons nous questionner sur les raisons des mouvements de migrations des étudiants et des jeunes diplômés et nous demander si cela correspond au dessein originel de l'aventure européenne, c'est à dire unir les bases économiques des Etats européens dans un dessein pacifiste. Lors de cette première partie, nous ferons un bref rappel des fondements économiques de l'intégration européenne en exposant notamment le cadre juridique en vigueur concernant la libre circulation des personnes. Un troisième mot clé, après les deux thématiques

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[2] Alternatives internationales a consacré en janvier 2014, un numéro autour de la question du Monde en 2014. Dans son éditorial, Christian Lequesne, directeur de recherche à Sciences Po Paris rappelle que « plus que jamais les responsables politiques doivent être capables de surmonter la peur du déclassement et d'expliquer que le monde n'est ni dangereux ni apocalyptique».

[3] La méthode communautaire, proposée par Jean Monnet, de la politique des petits pas et connue sous le vocable d'intégration fonctionnaliste.

annoncées avec la migration et la diversité, abordera *le populisme identitaire*. Nous pouvons d'ores et déjà mettre en garde la communauté scientifique des dangers actuels qui guettent l'Europe concernant les mouvements populistes ou plus précisément nationalistes ou ultra-nationalistes, mouvements émergeants dans de nombreux pays européens. On assiste à une vague de fond extrémiste en Europe : peur de l'immigration, crise identitaire, récession : jamais le terrain n'a été aussi propice à l'idéologie ultranationaliste et antieuropéenne. Les exemples en Norvège avec Siv Jensen, Nigel Farage, leader du parti pour l'indépendance du Royaume Uni ou encore en France avec le parti du Front national[4] démontrent ces angoisses collectives poussant les populations à chercher ailleurs des réponses. L'hypothèse pour la France de l'échec du Front républicain pour répondre aux différentes crises sociétales que traversent actuellement cet Etat fondateur de l'aventure européenne, amène à se questionner sur le rôle des politiques dans la société actuelle et son impact dans la montée des intentions de vote pour des politiques en marge des partis traditionnels français. Dans la continuité de ces questionnements identitaires en Europe, le deuxième axe de la présentation abordera la notion de l'identité culturelle européenne où il sera alors nécessaire de se demander si cela relève de la pure fiction intellectuelle ou si c'est bien réel, une réalité que les étudiants et jeunes diplômés auront à former pour l'avenir de l'Europe.

Les raisons de la migration des étudiants et jeunes diplômés : un phénomène économique ?

Nous allons analyser la *migration* d'une catégorie de personnes : les étudiants et jeunes diplômés, sur une partie géographiquement déterminée : l'Europe et plus précisément l'espace de l'Union européenne. Les raisons de la construction européenne passaient par la volonté, au lendemain de la deuxième guerre mondiale de faire la paix[5]. Comment y parvenir ? En

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[4] Selon le sondage IFOP pour le «Nouvel observateur», l'intention de vote pour les élections européennes de 2014, fait apparaître une montée de 24% sur la liste du Front national, soutenue par Marine Le Pen.
Source: François Bazin, ''Le sondage qui fait peur'', *Le Nouvel Observateur,* n°2553, Octobre 2013, p. 22.

[5] Rappelons le célèbre discours de Victor Hugo, prononcé le 1er mars 1871 devant l'Assemblée nationale française, qui avancera l'idée d'un Etat paneuropéen pour garantir la paix entre les nations européennes, sur le modèle des Etats Unis d'Europe. Extrait: ««Et on entendra la

s'associant sur des bases économiques et notamment en unissant les deux matériaux représentatifs de la guerre : le charbon et l'acier. Ainsi avec le Traité instituant la communauté européenne du Charbon et de l'Acier[6] en 1951, a été instauré le marché commun du Charbon et de l'Acier. Le marché commun[7] était donc ce qui allait permettre de créer de nouvelles conditions économiques pour garantir la paix en Europe. Mettre en commun des bases économiques au sein de l'espace européen, a amené progressivement à faire circuler dans cet espace commun, selon la méthode fonctionnaliste, en premier lieu les marchandises[8], puis les capitaux, les services et les personnes. C'est cette dernière liberté de circulation qui nous intéresse, concernant le thème de la migration qui est l'un des sujets les plus complexes mais également stimulants puisqu'il soulève notamment de sérieuses questions politiques qui touchent aux politiques nationales des Etats membres dans leur contrôle de l'immigration. La récente actualité a, à nouveau, mise en exergue les faiblesses institutionnelles et fonctionnelles de l'Union européenne et son manque de volonté à agir de concert pour traiter des questions de l'immigration. Le tragique exemple de l'île de Lampedusa a alerté la communauté européenne sur la nécessité de réglementer les frontières de manière raisonnable et raisonnée. Le débat autour « d'une Europe forteresse » est plus que jamais remis à l'ordre du jour lorsque l'Union européenne se barricade face à ses pays voisins[9]. Au regard du droit européen, la libre

France crier: C'est mon tour! Allemagne, me voilà! Suis-je ton ennemie? Non! Je suis ta sœur. Je t'ai tout repris, et je te rends tout, à une condition: c'est que nous ne ferons plus qu'un seul peuple, qu'une seule famille, qu'une seule république. Je vais démolir mes forteresses, tu vas démolir les tiennes. Ma vengeance, c'est la fraternité! Plus de frontières! Le Rhin à tous. Soyons la même République, soyons les États-Unis d'Europe, soyons la fédération continentale, soyons la liberté européenne, soyons la paix universelle!».

[6] Le Traité CECA, signé à Paris le 18 avril 1951 qui rassemblait la France, l'Allemagne, l'Italie et les pays du Benelux et avait pour but d'organiser la libre circulation du Charbon et de l'Acier ainsi que le libre accès aux sources de production.

[7] Précision sémantique: le «marché commun» que l'on appellera «marché intérieur» sera achevé avec l'entrée en vigueur du Traité de Maastricht en 1992.

[8] Nous n'aborderons pas la question de la constitution du marché européen, cela nécessitant une étude plus approfondie du thème des fondements économiques de l'intégration européenne. Voir en ce sens, l'ouvrage de Marie-Annick Barthe, *Économie européenne, Chapitre 2 Marché unique et politiques d'accompagnement*, 4ème Édition Economica, 2011, p. 81.

[9] Ne peut-on pas ici rappeler les écrits de Stefan Zweig, fervent défenseur de l'unité spirituelle de l'Europe, qui dans son *Monde d'hier* au Chapitre intitulé *Agonie de la paix*, se rappelle avec nostalgie son Europe d'avant la guerre: « Et de fait, rien peut-être ne rend plus sensible le formidable recul qu'a subi le monde depuis la Première Guerre mondiale que les

circulation des ressortissants de l'Union européenne concernant les travailleurs est un principe fondamental établi par l'article 45 du Traité sur le fonctionnement de l'Union européenne et développé par le droit dérivé et la jurisprudence de la Cour de Justice de l'Union européenne[10]. Ainsi les citoyens européens ont le droit de : chercher un emploi dans un autre pays de l'Union européenne ; d'y travailler dans avoir besoin d'un permis de travail ; d'y vivre dans ce but ; d'y rester même après avoir occuper cet emploi ; de bénéficier du même traitement que les citoyens de ce pays en ce qui concerne l'accès à l'emploi, les conditions de travail et tout autre avantage social ou fiscal. C'est ce cadre juridique établi depuis ces dernières décennies par l'Union européenne, qui permet d'affirmer que le processus d'ouverture économique et juridique, est l'une des raisons principales de la migration des jeunes diplômés, cherchant un emploi[11] dans l'un des Etats membres de l'Union européenne, permis notamment par la réglementation européenne développée et considérée comme une des libertés fondamentales de l'Union européenne. En regardant plus spécifiquement la migration des étudiants, qui traditionnellement était une migration géographique d'Europe Centrale vers la poursuite des études en Europe Occidentale, est aujourd'hui inversée. En effet, en s'appuyant sur une étude publiée par le « International Herald Tribune »[12], cet article prenait l'exemple des étudiants en médecine,

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restrictions apportées à la liberté de mouvement des hommes et, de façon générale à leurs droits. Avant 1914, la terre avait appartenu à tous les hommes. Chacun allait où il voulait et y demeurait aussi longtemps qu'il lui plaisait. Il n'y avait point de permissions, point d'autorisations, et je m'amuse toujours de l'étonnement des jeunes, quand je leur raconte qu'avant 1914, je voyageais en Inde et en Amérique sans posséder de passeport, sans même en avoir jamais vu. On montait dans le train, on en descendait sans rien demander, sans qu'on vous demandât rien, on n'avait pas à remplir une seule de ces mille formules et déclarations qui sont aujourd'hui exigées. Il n'y avait pas de permis, pas de visas, pas de mesures tracassières, ces mêmes frontières qui, avec leurs douaniers, leur police, leurs postes de gendarmerie, sont transformées en un système d'obstacles ne représentaient rien que des lignes symboliques qu'on traversait avec autant d'insouciance que le méridien de Greenwich», pp. 476-477.

[10] En ce sens, voir l'arrêt de principe rendu par la Cour de Justice de l'Union européenne le 28 octobre 1975 dans l'affaire Rutili, où la juridiction réaffirme le caractère fondamental de la libre circulation des travailleurs.

[11] Ou concernant la catégorie d'étudiants, le succès du programme Erasmus.

[12] Christophe F. Schuetze, *L'Est attire les étudiants en médecine*, International New York Times Paris, [http://www.presseurop.eu/fr/content/article/4069211-l-est-attire-les-etudiants-en-medecine], 20 aout 2013.

attirés par les pays de l'Est et d'Europe Centrale. C'est le cas à propos de l'Université de Semmelweis, crée en 1769 à Budapest. Pour prendre l'exemple de la Hongrie, le nombre d'étudiants étrangers dans le supérieur a augmenté de 21% entre 2005 et 2011, pour passer de 13 601 à 16 465 selon l'Institut de statistique de l'UNESCO. L'étude présente notamment les cas de la Pologne, de la République Tchèque ou encore de la Slovaquie. Nous pouvons énumérer les principaux facteurs relatifs à cette « fluidité des frontières » et à cette transition, par le développement des enseignements en anglais que proposent les Universités d'Europe Centrale, par la réputation des diplômes qui s'améliore constamment et par des raisons éminemment financières pour les étudiants pour lesquels les frais de scolarité sont moins élevés que dans les grandes écoles d'Europe de l'Ouest et où il est plus difficile d'y entrer. Une certaine équité sociale s'établit actuellement en Europe, rendant l'enseignement supérieur accessible pour tout étudiant et cela permis par le cadre juridique en vigueur permettant la facilitation de la mobilité intra-européenne et avec les pays voisins de l'Union européenne[13].

Les conséquences de la migration des étudiants et jeunes diplômés. Reflet d'une mutation culturelle : mobilités et identité(s) européenne(s) ?

Peut-on donc restreindre les explications des mouvements de migration des jeunes diplômés en Europe à un simple fait économique? Si nous analysons de plus près ces phénomènes, nous pouvons en tirer des premières conséquences en terme de mutation culturelle européenne. Pour emprunter la pensée de l'un des pères fondateurs substantiels de l'idée européenne, Jean Monnet prétendait que s'il avait eu à recommencer cette même aventure,

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[13] Il faut souligner ici les différents accords bilatéraux entre les pays de l'Union européenne et les pays d'Europe des Balkans, facilitant l'accès des étudiants à l'enseignement supérieur européen. En ce sens, voir l'étude publiée par Eurobaromètre Spécial 285 / Vague 67.3 Opinion et Social, *Les relations de l'Union européenne et ses voisins, un sondage sur les attitudes en Union européenne*, Septembre 2007, [http://ec.europa.eu/public_opinion/archives/ebs/ebs_285_fr.pdf].
Autre exemple: les convention de partenariats universitaires: l'Université de Szeged et l'Institut d'études politiques de Lille ont formé un co-diplôme en études européennes, permettant aux étudiants d'Europe centrale et des Balkans de suivre un cursus complet en la matière et obtenir un double diplôme dans l'enseignement supérieur et facilitant par là même la mobilité intra et extra européenne des étudiants et jeunes diplômés. Pour plus d'informations, se référer au site internet suivant: [http://www.masteretudeeuropeenne.eu].

il aurait débuté par la culture et non pas l'économie. Nous allons à présent, pour compléter le deuxième axe de cette présentation, aborder la question de l'identité européenne et notamment savoir si cela relève de la pure fiction conceptuelle ou si cela est bien une réalité que justement les étudiants et jeunes diplômés d'aujourd'hui auront à réaliser pour une Europe de demain ? En se basant sur le travail de Sophie Duchesne, éminente spécialiste de la question de l'identité européenne, celle-ci pose la problématique de l'identité européenne en ces termes : « L'identité européenne : entre science politique et science fiction »[14]. Nous allons donc nous questionner à présent, sur la notion même d'identité européenne qui peut prendre deux sens. L'un historique et philosophique qui constituerait alors les valeurs et modes de vie commune à l'Europe. On retrouve notamment cette définition à l'article 2 du Traité sur l'Union européenne[15], disposant des valeurs communes des Etats membres de l'Union européenne telles que la dignité[16], les droits de l'homme, la démocratie et la liberté. Valeurs qui ont été constitutionnalisées avec la Charte des droits fondamentaux et pour rappel, ayant valeur juridique depuis son insertion dans le Traité de Lisbonne en 2007. La deuxième définition de l'identité européenne peut être perçue comme un processus « psychosociologique » ou « socio-politique » d'attachement des citoyens européens à l'espace européen[17] ou à la Communauté politique dessinée par l'intégration. Cette acception prend tout son sens, notamment au regard de l'échéance des prochaines élections européenne où notamment

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[14] Duchesne Sophie, "L'identité européenne, entre science politique et science fiction. Introduction", *Politique européenne*, 2010/1 n° 30, pp. 7–16.

[15] Article 2 du TUE : « L'Union est fondée sur les valeurs de respect de la dignité humaine, de liberté, de démocratie, d'égalité, de l'État de droit, ainsi que de respect des droits de l'homme, y compris des droits des personnes appartenant à des minorités. Ces valeurs sont communes aux États membres dans une société caractérisée par le pluralisme, la non-discrimination, la tolérance, la justice, la solidarité et l'égalité entre les femmes et les hommes».

[16]Alternatives internationales a consacré en janvier 2014, un numéro autour de la question du Monde en 2014. Dans son éditorial, Christian Lequesne, directeur de recherche à Sciences Po Paris rappelle «que prendre acte du changement du monde, c'est aussi rappeler sur la vie en société requiert des normes, qu'il s'agisse de la dignité des travailleurs ou de la salubrité de la planète».

[17] Ou du manque d'espace public européen. En cela il serait possible, en s'appuyant sur la thèse du patriotisme constitutionnel habermasien, d'inverser cette idéologie, pour se demander si la *chose* «Europe» existerait sans le *mot* «Union européenne»?

les campagnes électorales européennes se recentrent sur le sentiment d'appartenance à l'espace européen avec sa ligne de communication : agir, réagir, accomplir[18]. L'identité suppose donc de manière générale l'existence d'une forme d'histoire négociée par des groupes (l'histoire de la construction européenne), relayées par des institutions (le Conseil de l'Union européenne, le Parlement et la Commission européenne[19]), de sorte que les individus qui y sont exposés, s'y reconnaissent. L'Europe est-elle aujourd'hui porteuse d'une telle histoire ? Peut-on considérer aujourd'hui qu'il existe un véritable « imaginaire européen »[20] qui puissent influencer les européens, sur la manière dont ils interagissent, négocient, agissent les uns par rapport aux autres, et par rapport au reste du monde ? La conclusion de cet exposé pourrait être laissée à Adrian Favell[21], qui en 2008 a étudié la question suivante : sur les citoyens européens qui ont choisi de s'installer dans un autre pays de l'Union et qui en tant que tels, font de manière logique, pleinement usage des nouvelles possibilités offertes par l'intégration (économique, sociale ou culturelle), mais qui sont loin de manifester plus d'intérêt et d'attachement à la construction d'une Communauté politique à l'échelle européenne, que les autres européens. Cependant A. Favell suggère qu'il faudrait cesser d'attendre du développement d'une identité européenne, la légitimation du projet européen, mais c'est bien par leurs comportements, par la façon dont les européens s'emparent ou s'empareront des droits et des capacités que confère l'intégration, qu'ils consolident l'Union. Et nous pouvons donc

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[18] Voir en ce sens, l'actualité de la campagne des élections européennes par les Institutions européennes telles que le Parlement européen sur son site internet consacré aux élections européennes de 2014, Article - Institutions, *Agir, réagir, accomplir,* Octobre 2013, [http://www.europarl.europa.eu/news/fr/news-room/content/20130905STO18724/ html/AGIR.-REAGIR.-ACCOMPLIR].

[19] Les trois institutions européennes citées sont les institutions intervenant dans le processus législatif. En outre, nous retrouvons le Conseil européen donne à l'Union européenne, sa politique globale mais n'a pas de pouvoir législatif. Les deux autres institutions sont la Cour de Justice de l'Union européenne, qui veille au respect du droit européen ; en ce sens nous pouvons reconnaître son rôle dans l'élaboration du droit européen considéré comme un « droit prétorien ». La dernière institution constituée par la Cour des comptes européennes, contrôle le financement des activités de l'Union européenne. Outre les institutions spécialisées dont la principale qui est remise à l'ordre du jour avec l'évolution de son rôle : la Banque centrale européenne.

[20] Ou comme E. Kant appelait «un cosmopolitisme européen»?

[21] A. Favell, *Eurostars and eurocities: Free Movement and Mobility in an Integrating Europe*, Oxford, Balckwell, 2008.

nous demander si les mouvements de migration des étudiants et jeunes diplômés en Europe ne constituent-ils pas une parfaite illustration de cette idée conclusive ?

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THE GEZI PARK PROTESTS AS A SOCIAL MOVEMENT IN TURKEY: FROM EMERGENCE TO COALESCENCE WITHOUT BUREAUCRATIZATION

Müge Aknur[*]

Abstract

What began as a protest against the destruction of Istanbul's Gezi Park for a shopping mall and reconstruction of an Ottoman-era military barracks IN May 2013 in a short time turned into country-wide anti-government protests, particularly as a result of excessive use of teargas and water cannons by the police, coupled with the aggressive and offensive rhetoric of the Prime Minister Recep Tayyip Erdoğan towards the protestors. The article first analyzes Gezi protests as a social movement by focusing on its characteristics, particularly the confrontation of ordinary citizens with elites through the contentious means, the political opportunities and constraints that shaped the movement, and factors stimulating and supporting it, including dense social networks and vibrant, action-oriented symbols. It then attempts to answer the question of why the Gezi Park movement was unable, despite accomplishing the first two stages of social movement development, namely 'emergence' and 'coalescence', to complete the third stage of 'bureaucratization' by concentrating on the heterogeneous structure of the protestors and their ideological differences.

Key words: Gezi Protests, social movement, AKP government, stages of social movements

Introduction

Turkey's Taksim Square or Gezi Park protests started in late May 2013 in Istanbul as an environmentalist reaction to the proposed transformation of a park into a shopping center located in a replica of an Ottoman-era military barracks building. The excessive use of teargas and water cannons by the police, coupled with the aggressive and offensive rhetoric of the

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Prime Minister Recep Tayyip Erdoğan towards the protestors, turned the environmental protests into a mass anti-government mobilization spreading to Ankara and İzmir and many other cities. The movement had drawn people from all strata of the society who joined mass demonstrations, neighborhood walks or protests from their balconies expressing their frustration with the government and the prime minister and calling for the government's resignation. The shopping center was not actually what the protests were really about. There was a much deeper unease against the policies followed by the Justice and Development Party (*Adalet ve Kalkınma Partisi* –AKP) government. In a short time, these protests turned into a country-wide reaction against the capitalist policies pursued by AKP government towards the commercialization of the public space and the interference of Prime Minister in the individual choices and lifestyles.

The ruling elite perceived these protests as a pre-planned uprising targeting Prime Minister Erdoğan that was part of a global conspiracy planned to overthrow his government. The prime minister's approach to the protests was not conciliatory but rather confrontational, aggressive and menacing. Erdoğan did not accept the protests as an expression of dissatisfaction at the policies he was following. Instead, he characterized the protestors as illegitimate looters, hooligans and marginals who were trying to topple his democratically elected regime. As a result, rather than calming the people, he polarized the nation by appealing to divisive and Islamist themes to mobilize his supporters, even to the extent of threatening the protestors by unleashing AKP supporters, who represent about 50 percent of the population, on to the streets to fight with them. His uncompromising attitude led the number of the protests to increase and continue for weeks. During these protests, 6 people died, including a policeman, while hundreds were injured. In addition, hundreds of people were detained, with many experiencing abusive treatment by the police.

As a result of the government's heavy-handed reaction to the protestors, Turkish politics became even more fragmented. The polarization that has always existed between religiously conservative and secular liberal sections of society has increased dramatically, while the government's oppressive reaction has intensified fears about its increasing authoritarian tendencies bringing the discussion regarding majoritarian versus pluralist democracy.

This article analyzes the Gezi protests as a social movement by examining its characteristics, particularly the confrontation of ordinary citizens with elites through the contentious means, the political opportunities and constraints that shaped the movement, and factors stimulating and supporting it, including dense social networks and vibrant, action-oriented symbols. This analysis also examines the government's policies of market capitalism and its conservative-leaning social position. The article attempts to answer the question of why the Gezi Park movement was unable, despite accomplishing the first two stages of social movement development, namely 'emergence' and 'coalescence', to complete the third stage of 'bureaucratization'.

Analysis of the Gezi Park Protests as a Social Movement

The history of social movements goes back to the late 1700s when democratic representation in the United States and England spread. The rise of social movements is, in general, explained with reference to rapid industrialization, urbanization and modernization that usually generate frustration, dissatisfaction, deprivation and a sense of loss. Some social movements try to reform the entire existing political system, as can be seen in the example of the protests and rebellions that led to the French Revolution of 1789. Others try to force changes to specific government policies, such as demanding abandonment of racist policies in the USA. While some aspire for political change, such as demanding full civil rights the others aim for cultural and individual changes, such as condemnation of pornography. While some social movements want to achieve change through revolutions, such as the Bolshevik Revolutionary Movement in Russia, others aim for slower, more moderate change, such as the women's suffrage movement that emerged in 18th-century Europe.[1]

The social movements that have developed recently in Slovenia, Greece, Romania, Bosnia Herzegovina, Bulgaria, Ukraine and Brazil all aim for political change, particularly to get changes in government policies. These movements have protested against austerity measures taken by their governments as a result of economic deterioration and widespread corruption.

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[1] Jonathan Christiansen, "Narrative & Social Movements", in Editors of the Salem Press (ed), *Theories of Social Movements,* California and NJ.: Salem Press, 2011, p. 4.

Among recent examples, millions of people erupted onto the streets in Brazil in June 2013 to protest against increases in bus-fares, lack of government spending on infrastructure and the corrupt political class. In Ukraine, thousands of people poured into the capital in November and December 2013 to protest the government's decision not to sign the EU association agreement but follow pro-Russian policies instead. While the majority of these social movements adopt moderate methods, if they cannot achieve what they want through protests, they may resort to more revolutionary means.

In Turkey, throughout the 1960s and 1970s, various leftist and rightist social movements including anti-capitalist student movements, workers' movements, Marxist movements and nationalist movements emerged. Conflict between these groups eventually turned into uncontrollable anarchy that led to the 1980 military intervention. Since the mid-1980s, the most extensive social movements have been concerned with Kurdish ethnic nationalism, Islamism, Kemalism, Alevi cultural movements, human rights activism, feminism and environmentalism.[2]

Social movements are usually formed of an informal set of individuals and/or groups who are involved in conflicting relations with particular opponents. These movements share a distinct collective identity and are usually linked by dense informal networks.[3] The Gezi Park protests, as already stated, were established by individuals and groups in a conflict with the government concerning the replacement of an Istanbul park by a shopping mall. Although the protestors had different backgrounds and ideologies, during the protests they established a collective identity from a shared reaction to the government's policies. They were also supported by dense informal networks such as neighborhood platforms, cultural centers and support groups. As the movement grew and emerged all over the country due to the police's excessive use of force, formal groups such as associations, unions, confederations and political parties also started to participate. Protestors initiate social movements to make their voice heard since they lack regular access to the political process. However, this is not

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[2] Sefa Şimşek, "New Social Movements in Turkey since 1980", in *Turkish Studies,* no. 5-2, 2004, p. 112.

[3] Christiansen, "Narrative & Social Movements", p. 5; Donatella della Porta and Mario Diani, *Social Movements: An Introduction*, Malden, MA: Blackwell Publishing, 2006, p. 20.

to suggest that they are a disorganized mass that acts without goals. Rather, they organize themselves to achieve specific goals as informal entities, whether aiming at specific and narrow policy reform or broad change.[4]

Confrontation of Ordinary Citizens with Elites through Contentious Means and Political Opportunities and Constraints

Social movements worldwide, whether in the Balkans and Latin America, or the Gezi Park protests in Istanbul, have common characteristics. In all cases, including Gezi, ordinary people take to the streets in order, as Sidney Tarrow puts it, to "exert power by contentious means against national states or opponents."[5] Tarrow argues that contentious politics take place when ordinary people (sometimes with the help of more influential citizens) join forces in confrontations with elites, authorities and opponents.[6] Charles Tilly identifies the first characteristic of a social movement, which he calls a 'campaign', as "sustained, organized public effort making collective claims on target authorities."[7]

The Gezi Park movement started when a group activists and the Taksim Solidarity (*Taksim Dayanışması*) group initiated protests on May 27, 2013 to save trees in Gezi Park and stop Istanbul Municipality's project to build a replica of the historic Ottoman barracks. This group, relying on the help of young people, mainly university students, confronted the policies followed by Greater Istanbul Metropolitan Municipality. From time to time, opposition members of parliament such as Sırrı Süreyya Önder, a member of the pro-Kurdish Peace and Democracy Party (*Barış ve Demokrasi Partisi* – BDP), as well as prominent journalists, authors, professors, actors and singers, joined the movement and supported the protestors. The protests rapidly turned into a continuous organized public struggle making collective demands from the target authorities. Specifically, they demanded that the target authority, the AKP government, abandon both its capitalist policies,

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[4] Christiansen, "Four Stages of Social Movements," in *Theories of Social Movements*, p. 15.

[5] Sidney Tarrow, *Power in Movement, Social Movement and Politics*, Cambridge: Cambridge University Press, 1998, p. 2.

[6] Tarrow, *Power in Movement*, p. 2.

[7] Charles Tilly, *Social Movements, 1768-2004*, Boulder and London: Paradigm Publishers, 2004, p. 3.

implemented under the disguise of urban transformation, and its religiously conservative policies that are felt to be intruding into people's private life. The confrontation grew larger on May 30, when the authorities tried to evacuate the park by resorting to police violence through water cannons and tear gas bombs. Such disproportionate state violence, coupled by the mainstream Turkish media's failure to report events, led to a social outburst and wide use of social media.

Charles Tilly's second element of social movements is the 'social movement repertoire', by which he means combinations of different forms of political action, such as the "creation of special-purpose associations and coalitions, public meetings, solemn processions, vigils, rallies, demonstrations, petition drives, statements to and in public media, and pamphleteering."[8] Regarding the Gezi Park movement, within an hour of the first police pre-dawn attack on May 30, thousands of people from other neighborhoods of Istanbul rallied to Taksim Square despite the police's decision to close down public transportation. In many cities throughout Turkey large-scale demonstrations took place. These protests included people from all walks of life: young, old, socialists, liberals, anti-capitalist Muslims, Turkish and Kurdish nationalists, gay and lesbian rights supporters as well as the usually antagonistic supporters of Istanbul's three major football teams. Every evening at nine p.m. while some people joined the protest walks in their neighborhoods with the children and the elder, others participated in the protests from their balconies by banging pots and pans. By mid-June solidarity rallies supporting the protests had spread internationally, particularly in European countries with large Turkish populations. The social movement repertoire of these protests included demonstrations, rallies, public meetings, and statements through facebook and twitter.

Tarrow argues that "contentious politics is triggered when changing political opportunities and constraints create incentives for social actors who lack resources of their own."[9] The first change in political opportunities in this case was the appropriation of green areas under urban transformation schemes and the establishment of hyper-development projects that are run by pro-government businessmen. The second change in political opportunities was the interference of the prime minister in people's private lives as part

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[8] Tilly, *Social Movements*, p. 3.
[9] Tarrow, *Power in Movement*, p. 2,

of his Islamist social construction project. Together, these two developments changed the political opportunities for young liberal people particularly in that they felt constrained in their public and private life by these mega-projects and the prime minister's invasive speeches (that in the case of new regulations limiting alcohol sales eventually turned into implemented policies). Protestors criticized these new restrictions being imposed on their lives, their freedom to live the way they want, and the confiscation of their green spaces to for money-making development projects. The protestors actually rather than receiving instructions on how to pursue moral life sought for respect from the government and the prime minister for the life they wish to live. These young people lacked the resources to gain regular access to the political process as they had neither a political party nor strong civil society organization to represent their interests. Instead, they protested by occupying the park and transforming it into a communal place.

Support and Stimulation: Dense Social networks and Vibrant, Action-Oriented Symbols

Tarrow argues that when protestors are backed by dense social networks and stimulated by culturally vibrant, action-oriented symbols, contentious politics leads to constant interaction with opponents, which in the end creates a social movement.[10] The Gezi Park protests were supported by many disparate groups, including socialist and liberal groups, feminist groups, anti-capitalist Muslim groups, Kurdish and Alawite groups. Moreover, various chambers (city planners, architects, engineers and doctors), urban associations, solidarity groups, confederations, unions and political parties also supported the protests to express their dissatisfaction with government policies.[11]

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[10] Tarrow, *Power in Movement*, 2.

[11] These social networks included: Istanbul Dentists Association, Istanbul Pharmacists Association, Istanbul Medical (Doctors) Association, Federation of Engineers and Architects Associations of Turkey (TMMOB), Environmental Engineers Association, Electrical Engineers Association, Mapping and Cadastral Surveyors Association, Civil Engineers Association, Mechanical Engineers Association, Architects Association, Landscape Architects Association, Istanbul Branch of Town Planners Association, Profession of Stage Actors Association, Confederation of Revolutionary Workers Unions (DISK), Confederation of Public Sector Workers Unions (KESK), Universities branch (6) of Education Union, Culture & Arts Union, Joint Unions

The whole movement was so vibrant that the protests continued in an atmosphere of carnival, with protestors living in tents in the park and initiating a new creative event each day. Some of these diverse activities included reading sessions, concerts, group dancing, gatherings, forums, pilates and yoga sessions. A shop where people could get free food and drinks was opened. There was a free public library, restocked daily by protestors and publishers.[12] There was "a radio station, an internet TV, a journal, a dispensary, kitchens, an organic vegetable garden, sun panels, garbage separation and disposal units, a vet, and even a museum of protest."[13]

The protestors created their own humorous political cartoons, graffiti, novels, poems and music. The cartoons mainly concentrated on criticism of

Power Platform, Beyoğlu Neighborhood Clubs Platform, Bosphorus Neighborhood Clubs Platform, The Elderly Pensioners Movement, Filmmor Women Cooperative, Association of Istanbul Women's Organizations, Istanbul Peoples House, Istanbul Culture Forum, Istanbul SOS Initiative, Women's Solidarity Foundation (KADAV), Public Art Laboratory, Black Sea Protestors Platform, Haydarpaşa Solidarity for Town and Environment, Lambda Istanbul, Nazım Hikmet Cultural Center, Autonomous Art Council Artists Imitative, Sulukule Platform, Taksim Platform, Collectivist Council of Engineers, Architects and Town Planners, Platform for Life instead of 3rd Bridge, Anatolian Culture and Research Platform, Association of Archaeologists – Istanbul branch, Asmalimescit Association, Atakoy Residents Support and Environmental Protection Association, Ayazpasa Association, Bedrettin Derneği, Beyoğlu Entertainment Places Association, Cihangir Improvement Association, ÇYDD – Modern Life Support Association, Balance Ecologic Living Association, Galata Association, Gazhane Environment Volunteers, Gülsuyu Gülensu Life and Support Centre Association, Istanbul METU Alumni Group, Women's Human Rights – New Solutions Association, Black Sea Environment and Culture Association, Kızıldere Association, LGBTT (Lesbian Gay Bisexual Transexual Transgender) Association, Civil Servants Association – Istanbul branch, Streets are Ours Association, Social Rights Association, Taksim Gezi Park Protection and Improvement Association, Tarlabaşı, Landlords and Tenants Development and Social Support Association, Tokat'lılar Association, Tozkoparan Association, Society to Improve Consumer Consciousness, Consumer Protection Association, Association for Restoration and Conservation, Istanbul Branch of University Lecturers' Association, People with Disabilities Association, Validebağ Volunteers Association, Peace and Democracy Party, Republican Peoples Party, Labor Party, Voice of the People Party, Freedom and Solidarity Party, Turkish Communist Party, Greens and Left Future Party. "Taksim Dayanışması", [http://taksimdayanisma.org/bilesenler?lang=en] 8 December 2013.

[12] Gezi Library was supported by Turkish Librarians Association (Türkiye Kütüphaneciler Derneği), See Ali Fuat Kartal, "Başkanın Mesajı: Gezi Parkı Kütüphanesi", *Türk Kütüphaneciliği* no. 27-1, 2013, pp. 251-252

[13] Bob Catterall, "Towards the Great Transformation (7) Locating Gezi Park", in *City: analysis of urban trends, culture, theory, policy, action*, no. 17-3, 2013, p. 421.

the media, the authoritarian rule of the prime minister and the excessive use of violence by the police. Among the humorous cartoons, the most well-known was the cartoon of penguins criticizing a TV channel for showing a documentary about penguins instead of news about the protests. There was no central authority or hierarchical structure to restrict the generation of different ideas.[14] Slogans such as "Eveywhere is Taksim – everywhere is Resistance," "Taksim is Ours, Gezi Park is Ours", "Shoulder to Shoulder against Fascism" became quite common. These political messages were accompanied by more humorous ones against police violence such as "Enough! I am calling the police," "Dear Police, You're literally bringing tears to our eyes," "Pepper gas makes the skin healthy," "Interclass Istanbul Gas Festival" and "Everyday I am Chapulling" in reaction to the prime minister's description of the protestors as looters (çapulcular).[15] One music group called Kardeş Türküler, composed and sang a song called "Tencere Tava Havası" (Sound of Pots and Pans) that referred to banging pots and pans in the balconies during the protests. The Jazz Choir of Bosphorus University composed a song called "Çapulcu musun vay vay?" (Are you a looter?). The group Duman's song, "Eyvallah" (all right), composed prior to the protests, became famous as it alluded to the prime minister's reaction to police violence.[16] The art community also played a significant role in the protests by "using the events surrounding Gezi as a source of creative output".[17] Protestors fed up with the violent police crackdown adopted new strategies, such as standing silently rather than rallying. For example, on June 17, 2013, Turkish performance artist Erdem Gündüz stood silently for eight hours in Taksim Square facing the portrait of Atatürk. In a short

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[14] Ömer Şener, "The Gezi protests, Polyphony and 'Carnivalesque Chaos'", Gökay Bülent and Ilia Xypolia (ed) in *Reflections on Taksim- Gezi Park Protests in Turkey*, Keele: Keele University Research Center, A Journal of Faultlines Publication, p. 41.

[15] "25 Examples of the Best Street Humour from Istanbul, Gezi Park (#occupygezi) Protests," Community onBuzzfeed, 6 June 2013, [http://www.buzzfeed.com/lemoustache/25-examples-of-the-best-street-humour-from -istanbu-b7x9], 11 December 2013.

[16] "Çapulcu musun Vay Vay,?" *Milliyet*, 7 June 2013 [http://gundem.milliyet.com.tr/-capulcu-musun-vay-vay-/gundem/detay/1719737/default.htm] 11 December 2013; "Kardeş Türkülerden 'Tencere Tava Havası' 6 June 2013, [http://video.cnnturk.com/video/kultur-sanat/muzik/2013/06/06/kardes.Turkulerden.tencere   .tava.havasi/59833.699449/index.html]   11   December   2013; "Duman Eyvallah'ı Gezi'den Aylar once Besteledik", *Radikal*, 22 September 2013. [http://www.radikal.com.tr/hayat/duman_eyvallahi_geziden_aylar_once_besteledik-1151988], 11 December 2013.

[17] "Istanbul's Art Scene Standing Firm," *Art AsiaPacific*, September 2013.

time, this "standing man" protest spread to many large cities, with hundreds of people standing for hours to protest against the government.

Having started in Istanbul and then spread to other major cities, including Ankara and İzmir, the protests led to continued interaction with opponents, primarily the mayor and governor of Istanbul, AKP's political elite and especially Prime Minister Erdoğan. All these developments were the signs of how the Gezi Park protests were rapidly transformed into a social movement. What is not clear so far, however, is whether this movement will be able to reach the stage of formalization or bureaucratization, which would need higher levels of organization and coalition-based strategies.

Four Stages of Social Movements and the Gezi Park protests

Inspired by Herbert Blumer's classification of four stages of social movement lifecycles, namely "social ferment, popular excitement, formalization, and institutionalization", Christiansen redefines and renames these stages as "emergence", "coalescence", "bureaucratization" and "decline".[18] In the first stage, called "social ferment" by Blumer and "emergence" by Christiansen, social movements emerge without organization. In Blumer's second stage of "popular excitement" and Christiansen's "coalescence", reasons for discontent and objectives of actions become more clearly defined. In the third phase of "formalization" or "bureaucratization", organized participation and coordination develops in order to create a formal organization. In the final stage, "institutionalization" or "decline", the movement either declines due to repression or failure, or declines as a result of its success, cooption, and establishment within mainstream society whereby it develops into a professional structure.[19]

Stage 1: Emergence of the Movement

Blumer characterizes this stage as "unorganized, unfocused agitation during which great attention is paid to the propaganda of 'agitators.'"[20] This is a preliminary stage of widespread discontent with almost no organization.

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[18] Christiansen, "Four Stages of Social Movements," pp. 15-16.

[19] Christiansen, "Four Stages of Social Movements," pp. 16-19; Della Porta and Diani, *Social Movements*, p. 150.

[20] Della Porta and Diani, *Social Movements*, p. 150.

The protestors are unhappy with some policy or social condition but have not yet taken any coherent action. Or, even if they have taken any action, it is individual not collective.[21]

In September 2011, the Greater Istanbul Municipality decided to reconstruct an Ottoman barracks under its Urban Development Project.[22] While individuals, several associations, and the Number 2 Natural Heritage Protection Regional Board showed some reaction, there was not much action until the evening of 27th of May 2013, when Istanbul municipality workers tore down a few trees and demolished some walls in Gezi Park. That same night, a small group of activists and members of the Taksim Solidarity Platform, which was already campaigning to preserve the green space in Taksim district against the project, gathered in the park and occupied it by putting up tents. Through social media, news quickly spread and in a short time thousands of protestors had gathered in the park. When the police raided the park at 5 a.m. on the 30th of May and burned down the activists' tents, tens of thousands of people flocked to Taksim Square from different parts of Istanbul. Similarly, tens of thousands showed their support for the protests in Taksim and their criticisms of the excessive use of force by the police by rallying in Kuğulu Park in Ankara and Gündoğdu Square in İzmir. In a couple of days, there were full-fledged demonstrations throughout the country, with protests that had started as an environmental movement now turning into a wider reaction against the government's capitalist policies and its interference in the public and private space. These were all signs of widespread discontent with the government's policies. It appeared that, although many people had long been irritated by AKP's increasingly authoritarian policies, the government's reaction to the Gezi Park protests was the last straw.

The global waves all over the world, including United States, Latin America, Balkans, Eastern Europe and the Middle East had a significant impact on the protests in Turkey. Gezi Protests took over the stylistic

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[21] Christiansen, "Four Stages of Social Movements," p. 16.

[22] Despite the decision of the Number 2 Natural Heritage Protection Regional Board disapproving of the construction of the barracks in Taksim's Gezi Park in January 2013, the High Cultural and Natural Heritage Protection Board in February 2013 refused to accept this decision, instead approving the construction project. Emre Kongar & Aykut Küçükkaya, *Gezi Direnişi*, Istanbul: Cumhuriyet Kitapları, 2013, pp. 96-97

commonality from the global movements by occupying a park that can be identified as a town square. All these protests were a result of as stated by Cihan Tuğal "commodification of money, nature and labor".[23] While in the protests in the US, the 'commodification of money' was the main issue, in Brazil, southern European counties, Egypt and Tunisia it was 'labor' and in Turkey it was 'nature and shared space'. Consequently, this preliminary stage of widespread discontent prior to the protests was influenced by the global anti-capitalist waves all over the world.[24]

The Prime Minister's Interference in the Private Sphere

Under the leadership of Prime Minister Erdoğan, three successive AKP governments have ruled Turkey since November 2002, giving the party and its ruling elite increasing confidence to pursue policies favored only by their constituency but not the whole society. On coming to power in 2002, AKP managed to convince many liberal-minded people that it would respect the principles of liberal democracy, thereby gaining their support. However, once the party consolidated its power by increasing its parliamentary majority in both the 2007 and 2011 elections with 47 and 49 percent of the votes, its liberal policies were replaced by conservative, repressive ones. While it is the case that AKP took important steps towards democratization by making military coups much less likely, several major trials in which military staff were accused of plotting coups to overthrow the government were not held fairly.[25]

Having an absolute parliamentary majority and faced with weak political opposition, the prime minister and his ruling cadre have attempted to initiate a social engineering project through both top-down and bottom-up methods. As part of this project, the prime minister started to express his ideas on issues that actually invaded the private space of Turkish citizens. Among these were statements on religious morality, abortion, the number of children Turkish women should have, regulation of alcohol

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[23] Cihan Tuğal, ""Resistance Everywhere": The Gezi Revolt in Global Perspective," in *New Perspectives on Turkey*, no. 49, 2013, p. 158.

[24] *Ibidem*.

[25] Tayfun Atay, "The Clash of 'Nations' in Turkey: Reflections on the Gezi Park Incident," *Insight Turkey*, no. 15, 3, 2013, p.40.

consumption, and public displays of affection. Although the majority of his comments took the form of suggestions without implying that society would be forced to adopt his recommendations, he implemented policies bringing advantages to those following certain suggestions. For example, following his suggestions of the number of children a woman should have, he started planning new policies to benefit families that have three children, such as early retirement for women, social support and reduced taxes.[26]

Parliament also passed new regulations on the sale of alcohol banning companies producing alcoholic drinks from sponsoring events, prohibiting alcohol sales anywhere close to mosques or educational centers, and stopping the sale of alcohol in shops between 10 p.m. and 6 a.m.[27] An Ankara metro official's issuing of a warning to a young couple kissing on a train to "act in accordance with moral rules," triggered a great deal of anger and criticism among young liberal people.[28] In one TV program, Erdoğan commented on young couples kissing and hugging in public areas by saying that he could not imagine any mother who would have liked to see her daughter sitting on the lap of a man.[29] Such statements and policies

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[26] "3 Çocuğu olana Vergi Müjdesi", *Internethaber*, 14 June 2013, [http://www.internethaber.com/3-cocugu-olana-vergi-mujdesi547296h.htm?interstitial=true], 30 November 2013; "Üç Çocuk Yapan Kadına 6 Yıl Erken Emeklilik", *Radikal*, (Turkish Daily) 11 Nov. 2013,
[http://www.radikal.com.tr/ekonomi/3_cocuk_yapan_kadina_6_yil_erken_emeklilik-1160140], 30 November 2013; "3 Çocuk Yapana Sosyal Yardım Yapıyor," *sosyalyardimlar.net*, 25 Jan. 2013, [http://www.sosyalyardimlar.net/3-cocuk-yapana-sosyal-yardim-geliyor/], 30 November 2013.

[27] "Turkish Premier Defends Measure on Alcohol Consumption," *Anadolu Agency*, 24 May 2013, [http://www.aa.com.tr/en/news/185493--h] 30 November 2013) In reality, as stated by Andrew Finkel, the alcohol consumption is scarcely a pressing issue in Turkey where fewer than one in five of the population drinks. Harvey Morris, "Alcohol, Islam and Turkey's Founding Fathers", *International New York Times*, 6 June 2013,
[http://rendezvous.blogs.nytimes.com/2013/06/06/alcohol-islam-and-turkeys-founding-fathers/?_r=0], 1 December 2013.

[28] As a reaction to this warning dozens of couples on the 25th of May Saturday gathered in a metro station in Ankara and showed public displays of kissing and waving signs with phrases like "free kisses". Courtney Subramanian, "Demonstrators Lock Lips in Turkey to Protest Public-Kissing Ban," *Time NewsFeed* 27 May 2013,
[http://newsfeed.time.com/2013/05/27/demonstrators-lock-lips-in-turkey-to-protest-public-kissing-ban/], 1 December 2013.

[29] "Erdoğan: Bir anne, baba kızının birinin kucağında oturmasını ister mi?" *TV24 Bağımsız Internet Gazetesi*, 2 June 2013, [http://t24.com.tr/haber/basbakan-fatih-altaylinin-sorularini-yanitliyor/231158] 1 December 2013.

that seem to aim at introducing Islamic values into people's secular private lives antagonized secular and liberal circles and exacerbated the new culture war between conservative religious groups and liberals. These policies increasingly serve as fault lines that deeply divide the society.

AKP's Interference into Public Sphere through Capitalist Policies

Like their counterparts in Eastern Europe, the Balkans and Latin America, the Gezi Park protestors stood against the injustices caused by the neoliberal policies of the ruling governments. However, the Gezi Park movement was also dissimilar in that, although the theme of corruption was raised from time to time, Turkey's protestors did not focus on austerity since Turkey seemed to be going through an economic boom with the living standards of the emerging urban middle class apparently improving.

In reality, however, the benefits of this growth and economic success have been unevenly shared, with economic expansion often happening as a form of indirect patronage. For example, AKP's selling of publicly-owned assets to private businesses under the disguise of privatization has helped the religiously-conservative business groups and the government with capital flow. As part of its capitalist policies, the party has promoted neoliberal urbanism accelerated by gentrification and real estate development. Rather than an economic growth, the influx of short term capital flows has expanded. Due to its low savings rates, the Turkish economy has been dependent on foreign capital, which has made Turkish investors vulnerable to fluctuations in international markets and sensitive to global economic events.[30]

Support from the government has stimulated the rise of a new conservative bourgeoisie and middle class, which has left other highly-educated and more liberal young groups feeling marginalized in economic and social life. Consequently, they have demanded more space to contribute politically, particularly by participating in the planning of their urban space in order to act as a check on government planning. For example, legislation passed by the government in 2012 enables it to demolish and rebuild any building vulnerable to earthquake damage. This policy actually gave the government a chance to render the whole country under the disguise of

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[30] Gökay and Shain, "Making sense of the protests in Turkey", pp. 59-60; Emre Tarım, "The Invisible Hand in Gezi protests," in *Reflections on Taksim*, p. 50.

reparation and gentrification.[31] Youth groups have been resisting the government's huge neoliberal urban transformation projects that include hyper-development projects such as the construction of giant shopping malls, huge stadiums and airports, skyscrapers, and other impressive infrastructure projects. The majority of these projects have been approved by the government without sufficiently consulting the people. The planned shopping mall for Gezi Park, if constructed, would be Istanbul's 94th mall. Environmentalists and Taksim's residents have therefore argued that it was unnecessary to construct another shopping mall, particularly one that would occupy a previous green space, the only breathing space in the neighborhood.[32]

Stage 2: Coalescence of the Movement

In the second stage, reasons for discontent and objectives for action become more clearly defined. According to Christiansen, at this stage there is no longer a general sense of unease, but rather a sense of what the unease is about and who or what is responsible for the discomfort.[33] Rex D. Hopper argues that, at this stage, "unrest is no longer covert, endemic, and esoteric; it becomes overt, epidemic, and exoteric."[34] That is, discontent is now more focused and collective, so the uncoordinated and individual stage is over. Moreover, individuals are becoming more aware of each other, knowing that they are not alone in feeling distress about the particular issue and how to deal with it.[35]

The immediate reasons for the discontent sparking the Gezi protests were clearly defined. As already stated, the protests first started against a city development project, although this discontent was actually part of a wider discontent concerning the government's capitalist policies. In addition to

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[31] Mehmet Barış Kuymulu, "Reclaiming the right to the city: Reflections in the urban uprisings in Turkey," in *City: analysis of urban trends, culture, theory, policy, action*, no. 17-3, 2013, p. 275.

[32] Ethemcan Turhan, "What is in a park?", *Centre for Policy and Research on Turkey (Research Turkey)*, II-4, 2013, pp. 6-10. [http://researchturkey.org/?p=3337], 10 December 2013; Ilia Vypolia, "Turmoils and Economic Miracles: Turkey '13 and Mexico '68" in *Reflections on Taksim*, p. 39; Gökay and Shain, "Making sense of the protests in Turkey," 64-67; Göle, "*Gezi*," p. 9.

[33] Christiansen, "Four Stages of Social Movements," p. 17.

[34] Rex D. Hopper, "The revolutionary process: A frame of reference for the study of revolutionary movements," in *Social Forces* no. 28-3, 1950, pp. 270-280.

[35] Hopper, "The revolutionary Process," p. 273.

this restlessness, the prime minister's insulting attitude towards the protestors brought out their displeasure with his interference in the private sphere that has been taking place in recent years through speeches and sometimes policies. Now, the protestors knew what they were rebelling against. It was no longer just a simple environmentalist protest because they were not only trying to save a park, but also expressing their discontent with the policies followed by the government and the prime minister. They knew who was responsible for this: it was not simply the municipality of Istanbul, but the government itself and the prime minister himself. Although people were already unhappy about these urban transformation projects and the prime minister's interference in their private life, until the Gezi Park events, they were not courageous enough to join the resistance. In fact the sight of journalists and authors being imprisoned for criticizing the government discouraged them to pursue such an action. As stated by Barış Kuyumlu, "The invisible wall of fear that has kept people at home for so long is now superseded by the sheer creative energy released by massive numbers of bodies on the streets."[36] Now, the people's covert protest, which they kept to themselves or shared only with their close friends, had become overt. Their individual discontent was now being shared with a large segment of society, and they were open for the first time to sharing their discontent with the rest of the country and even the world. They knew that there were others feeling and thinking the same way as themselves.

Theoretically, a leadership is supposed to emerge at this stage with strategies for success being worked out. However, this has not been the case in the Gezi Park protests as no leadership emerged. Although many groups continued holding their own meetings in the aftermath of the protests, they were not sufficiently organized to develop strategies for the whole movement. There was a loose coordination among the protesters. Christiansen also points out that mass demonstrations at this stage, serve to display the social movement's power and to make clear demands,[37] as was the case with the Gezi Park protests where mass demonstrations developed and demonstrated throughout the country. Within a short time, various groups asking for many other liberties became involved in the protests. However, their demands were not that clear, although they all had one common aim of criticizing the government's policies.

[36] Kuymulu, "Reclaiming the right to the city", p. 277.
[37] Christiansen, "Four Stages of Social Movements", pp. 17-18.

Stage 3: Bureaucratization of the Movement

The third stage is characterized by higher levels of organization and coalition-based strategies. Until this stage, social movements are usually successful by raising public awareness to a certain degree. However, after the coalescence stage, social movements need to devise a coordinated strategy to achieve their goals so they must become more organized, for example by employing full-time trained staff with specialized knowledge who can run day-to-day operations and carry out the functions of organizations to achieve the movement's goals. An organization is necessary at this stage since social movements cannot any more rely on mass rallies to achieve their aims and bring together their constituencies. By building up such an organization, the movement will gain more regular access to political elites.[38]

Currently, the Gezi Park movement seems to have been unable to move into this stage. After the mass protests that lasted for almost two months and other small scale protests that continued throughout the summer and fall, various forms of organization emerged, such as regular meetings, workshops and conferences. However, no single high-level organization has evolved to create coalition-based strategies. Consequently, although the movement managed to raise awareness concerning the government's capitalist policies, it has not been able to establish a coordinated strategy, or organize itself by relying on trained staff specialized in running such operations. By failing to establish such an organization, the movement has for now lost the chance to gain more regular access to the political elite. This is not to say that there are no organizational activities taking place concerning the movement. For example, various organized activities have taken place, including the establishment of a political party called the Gezi Party in October 2013, led by a Turkish neo-classical metal musician Reşit Cem Köksal, which aims at influencing the constitution-making process to achieve key goals, which the party has identified as freedom, democracy, human rights, independence and justice. At the moment, the party consists of a mixture of young and old, left-wing and conservative, blue-collar worker and university students. However, Gezi Party is not organized in a coordinated manner, but scattered with different aims. Some of the movement's supporters even think that it should remain as a loose movement and not be shaped

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[38] *Ibidem*, p. 18.

into a party. Others think that the party's leaders are too unknown to succeed politically, as it is not easy to become a viable alternative to the traditional parties in Turkey.[39]

Christiansen points out that many social movements fail to bureaucratize and end up fading away. Unfortunately, it is not easy to sustain the original emotional excitement and continuous mobilization to keep such movements in action, and ordinary people cannot spend all their time protesting. After a certain period of time, they have to go back to their normal lives, to their work or studies. Therefore, formalization of the movement with paid staff or at least highly enthusiastic volunteers could help such organizations to continue.[40] More importantly, the establishment of a strong civil society organization, or better a political party, helps a movement to gain regular access to the political process. So far, however, this has not been the case for the Gezi Park movement. As outlined above, although the Gezi Party was established, it is not a party that represents the whole movement and is not yet in a position to help the protestors to channel their dissatisfaction into political power. The next section analyzes the factors hindering the bureaucratization of the movement in Turkey.[41]

Factors Hindering the Bureaucratization of the Gezi Park Movement

Tarrow, inspired by Tilly, describes the basic properties of social movements as collective challenge, common purpose, solidarity and collective identity and sustaining contentious politics.[42] The Gezi Park movement had the characteristic of collective challenge by interrupting, obstructing or

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[39] "Official Gezi Party founded after Summer Protests," *Hürriyet Daily News*, 24 October 2013, [http://www.hurriyetdailynews.com/official-gezi-party-founded-after-summer-protests.aspx?PageID=238&NID=56754&NewsCatID=338], 15 December 2013.
Hasnain Kazım, "Turkish Discontent: Gezi Protests Spawn New Party", Spiegel Online International, Oct. 2013. [http://www.spiegel.de/international/europe/new-party-born-of-gezi-park-protest-faces-hurdles-to-power-in-turkey-a-933887.html], 15 Dec. 2013.
[40] Christiansen, "Four Stages of Social Movements", p. 18.
[41] Decline, the last stage of social movement development, which can end in repression, cooptation, success or failure, will not be examined in this study since it still is too early to analyze the eventual fate of the Gezi Park movement.
[42] Tarrow, *Power in Movement*, pp. 4-7; Charles Tilly, *Contentious French*, Cambridge, Mass.: Harvard University Press, 1986, p. 4.

rendering the activities of the others, the government's building projects. Common purpose was also clear in the way various movements united to protest against government policies. However, the solidarity and collective identity property did not last long because it was weakened once the movement lost its initial momentum. Collective identity was also not evident due to the heterogeneous structure of the protestors. Similarly, it was impossible to sustain contentious politics once the protests lost their initial excitement.

It is acknowledged that social movements may pass through each of the stages identified by Blumer and Christiansen or that sometimes they may skip some. Christiansen argues that the majority of social movements reach the stage of coalescence, in which they can be identified as a social movement. However, quite a number do not grow beyond this stage to reach bureaucratization,[43] as is the case with the Gezi Park movement, at least so far.

The first reason why the Gezi Park protest movement failed to bureaucratize, thereby losing its chance to gain more regular access to the political elite and develop a high level of organization, is the heterogeneous structure of the protestors described earlier. During the protests it was possible to observe rival football fans helping each other in the face of police violence, Kurdish and Turkish nationalists singing together, and women with headscarves and women dressed in modern fashion marching together. Protestors from proletarian districts were demonstrating side by side with the ones from established elite zones. The square and the park were full of variety of flags and posters, including flags of Turkish Republic, the environmentalist movement, football teams, trade unions, and even the PKK, and posters of Atatürk, Öcalan and Che Guevara. What united all these ideologically diverse groups was their opposition to the policies of the governing AKP. Despite their political differences, protestors supported each other against police violence. In June proletarian protests organized by Confederation of Revolutionary Trade Unions of Turkey (*Türkiye Devrimci İş Sendikaları Konfederasyonu*–DİSK) and Confederation of Public Workers' Union (*Kamu Emekçileri Sendikaları Konfederasyonu*–KESK) continued. However, because of the range of voices in the protests, the protestors' demands became blurred. More significantly, the protests became vulnerable to the provocations

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[43] Christiansen, "Four Stages of Social Movements", p. 23.

of dissident groups, with radical leftist, anti-statist and separatist groups all trying to monopolize the protests in order to reach their own goals. Such radical groups damaged the image of the peaceful protestors.[44]

The heterogeneous make-up of the protestors also hindered the conversion of their opposition into concrete political demands, obtain regular access to political elites and get better organized. These oppositional groups managed to remain united during the carnival-like atmosphere of the original protests, in a spirit of freely expressing their demands, rebelling against the AKP's capitalist and social engineering policies and demanding freedoms. For example, in order to enable anti-capitalist Muslims to hold Friday prayers in the park, atheists, socialists and communists formed a circle around them to protect them from any potential police attack. However, once the protests slowed down, each group went back to its own way of life. While rival football fan groups returned to fighting each other, Kurdish and Turkish nationalists went back to their decades-old fighting, particularly in relation to the government's new democratization package. In short, the Gezi Park protests ran out of steam.

Second reason, connected to the first, for why the protest movement failed to bureaucratize is the lack of organization for political action and infrastructure. Ideologically diverse protestors banded together at first in reaction to the police violence against the original environmentalist protestors, and then their number increased tremendously due to the prime minister's aggressive speeches. Finally, new people joined the protests to criticize the policies of the government. In the aftermath of the protests, however, it was not easy for people with different or even directly opposing ideologies to get organized together. Since the protestors had not gathered under a clear political position and because of dramatic ideological differences, it was difficult for them to organize themselves under any single civil society organization or a political party. The plans for a renewed and rejuvenated resistance in fall had taken place at a very low level.

Tilly introduces the acronym 'WUNC' to describe the third element of social movements, in reference to the participants' concerted public representations of worthiness, unity, numbers and commitment on the part of themselves and/or their constituencies.[45] While the Gezi Park protests

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[44] Şener, "The Gezi protests," pp. 41-42; Tuğal, "Resistance Everywhere", p. 166.

[45] Tilly, *Social Movements*, p. 4.

achieved worthiness and numbers, they failed to maintain unity and commitment. The large degree of commitment and unity at the peak of the protests disappeared once they lost momentum, with protesters simply dispersing to go back to their everyday business.

Concluding Remarks

What began as a protest against the destruction of Istanbul's Gezi Park for a shopping mall and reconstruction of an Ottoman-era military barracks in a short time turned into country-wide anti-government protests, particularly as a result of the prime minister's insulting response and the police's excessive use of force. These protests possessed most of the characteristics of a social movement defined by Tarrow with the confrontation of ordinary citizens from all walks of life with the political elites, particularly the governing AKP and Prime Minister Erdoğan, through contentious means of occupying a park and holding demonstrations in Istanbul and other major cities, such as Ankara and İzmir. Finding themselves fearing the loss of political opportunities and feeling restricted by government policies, both capitalist economic policies and interference in their private lives, the demonstrators established dense networks through platforms, associations, unions and other groups. Whether in Gezi Park in İstanbul, Kuğulu Park in Ankara, Gündoğdu Square in İzmir, or many other public spaces in other cities, these protestors created a lively protest atmosphere through song, dance, yoga classes, libraries, cartoons and slogans.

The Gezi Park protests, while following the first two stages of a social movement as described by Blumer and revised by Christiansen, emergence and coalescence, failed to accomplish the third stage of bureaucratization. The first stage is a preliminary step without any organization, but widespread discontent, which was clearly seen in the Gezi Park protests. There was no prior organization. They just erupted as a result of widespread discontent that had built up for a long time. In the second stage, Gezi Park protestors defined their reasons for this uneasiness, what the problem was and who was responsible for this crisis. Different people collaborated at this stage so they did not feel isolated. Regarding the failure to achieve the third stage of bureaucratization, it was not easy for the movement, which consisted of heterogonous protestors, to organize once the initial spirit of the protest

movement was gone and the protestors all went their own way once the protests were over. The movement was unable to establish an infrastructure as a civil society organization or political party that would provide regular access to the political elites and the policy-making process.

The last stage of social movements is described by Christiansen as a decline that can lead a movement to five different outcomes, namely repression, cooptation, success, organizational failure, and establishment within mainstream society. Regarding the Gezi Park movement, it looks as if, under current conditions, the movement has experienced organizational failure,[46] being unable to handle the rapid expansion that occurred because of its success and suffering organizational strain. Gezi movement seemed to have changed track and currently concentrated on organizing popular assemblies that are called forums where thousands of people are attending.

Despite its success to hinder the destruction of the park at the moment and all these forums that are meeting regularly, the movement does not appear to have succeeded in the sense of establishing an influential political power. The government continues with its capitalist policies and the prime minister goes on interfering in people's private lives as can be observed in his recent speeches on the 'danger' of male and female university students living in the same houses. Certainly, the Gezi Park movement has not experienced cooptation or establishment within mainstream society. Although there has been a certain degree of repression in the form of police violence, arrest of protestors and long detention under arrest, the government has not yet gone so far as to pass laws outlawing specific movement activities or organizations, and has even tolerated the establishment of the Gezi Party.

In sum, the Gezi Park protests are one of the most astonishing, rapidly organized and heterogeneous protests in Turkish political history, attracting global attention, and leading Turkey towards a more participatory and deliberative democracy. The government lost the opportunity of consolidating Turkey's democracy by moving the country away from majoritarianism towards a pluralist understanding of democracy. Currently, as a result of a lack of organization, this movement has so far fallen short of its anticipated outcome, and seems not to have much influence on the political process, which has returned to its usual rhythm. That is, the disorganized structure of the protests prevented the protestors from converting their wishes

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[46] Christiansen, "Four Stages of Social Movements", pp. 19-22.

into concrete political demands. Nevertheless, the protestors also argue that the purpose of the movement was not to formalize, bureaucratize and organize but to create a spirit of rebellion against injustice and they have been successful achieving this purpose. They actually succeeded to pull down the wall of fear in the society to rebel against the policies they find unjust.

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CITOYENNETE ET VULNERABILITE: LE CAS DU CITOYEN HANDICAPE ET DES POLITIQUES D'AMENAGEMENT DE L'ESPACE PUBLIC IMMOBILIER AU CAMEROUN

CITIZENSHIP AND VULNERABILITY: THE CASE OF THE DISABLED CITIZEN AND URBANISM POLICIES OF THE REAL ESTATE PUBLIC SPACE IN CAMEROON

Abanda Fernande[*] et Biligha Paul-Ivan[**]

Resume

Cette étude se propose d'apprécier la relation entre citoyenneté et vulnérabilité par l'entremise de l'étude du cas du citoyen handicapé moteur et des politiques d'aménagement de l'espace public immobilier dans la ville de Yaoundé au Cameroun. L'étude du cadre légal et réglementaire ainsi que, l'analyse des pratiques indiquent à suffisance le paradoxe qui subsiste : sur le plan formel, l'accessibilité et la mobilité du citoyen handicapé sont garantis par la loi qui consacre l'exercice des droits civiques et l'égalité de tous les citoyens. Tandis que, sur le plan matériel, des obstacles importants limitent le droit d'aller et venir, et partant celui de participation à la vie publique de cette catégorie de citoyens vulnérables. Le déséquilibre entre les aspirations égalitaires et humanitaires de la société, et la réalité multiforme de la marginalisation voire de l'exclusion sur le terrain, légitime alors le constat de la fragmentation de la citoyenneté au détriment du plus faible.

Mots clefs : vulnérabilité, citoyenneté, handicap, accessibilité, aménagement urbain, fragmentation, discrimination

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Abstract
This study is to assess the relationship between citizenship and vulnerability through the examination of the case of engine disabled citizen and real estate public space urbanism policies in the city of Yaoundé in Cameroon. The study of the legal and regulatory framework as well as the analysis of practices indicates sufficiently the paradox that remains: on the formal level, the accessibility and mobility of the disabled citizen are guaranteed by law that regulates the exercise of civil rights and the equality of all citizens. Meanwhile at the hardware level, significant barriers limit the right to come and go, and therefore that of participation in the public life of this category of vulnerable citizens. The imbalance between egalitarian and humanitarian aspirations of society and the multifaceted reality of the marginalization or even the exclusion on the field. Legitimate then the finding of the fragmentation of citizenship at the expense of the lower.
Key words: vulnerability, citizenship, disability, accessibility, urban development, fragmentation, discrimination.

La question de la reconnaissance d'une dignité humaine aux personnes vulnérables s'est construite au travers des luttes pour l'égalité. En s'attachant à la promotion et à la protection des droits de l'homme, elle s'est moulée à la logique démocratique de chaque Etat. Au Cameroun, la résorption de la vulnérabilité sous le prisme de l'égalisation des chances, fait partie des exigences de solidarité nationale[1]. La vulnérabilité étant simultanément cause et conséquence d'une incapacité à protéger ses intérêts propres, elle nécessite la protection de l'intégrité personnelle de l'être humain dans toutes ses dimensions, comme composante de sa dignité, elle nécessite également les soins des autres et leur solidarité[2]. Longtemps appréhendée sous le prisme des droits et devoirs attachés aux citoyens, la citoyenneté se conçoit désormais comme la participation effective à la vie publique. Ce qui impose à la puissance publique l'adoption de mesures appropriées à cette fin. De ce sillage, d'une conception de la prise en charge de l'invalidité fondée sur la charité, on est passé à une approche fondée sur

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[1] Cf. Article 5(1) de la loi n°2010 / 002 du 13 avril 2010 portant protection et promotion des personnes handicapées au Cameroun.
[2] [http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/SHS/pdf/guessous_vulnerability.pdf].

les droits des personnes handicapées. En substance, envisager l'invalidité dans l'optique des droits de l'homme revient à considérer les personnes handicapées comme des sujets, non plus comme des objets, et, partant, à ne plus voir en eux des "problèmes", mais des titulaires de droits. Ce passage à une perspective fondée sur les droits de l'homme a été entériné à l'échelle internationale par les instances de l'ONU, notamment au cours des deux dernières décennies. La meilleure illustration en est l'adoption des Règles pour l'égalisation des chances des handicapés, adoptées par l'Assemblée générale dans la résolution 48/96 du 20 décembre 1993 que l'Etat du Cameroun s'est fait le devoir de réceptionner dans son ordre juridique et dont le point focal est assurément la loi de 2010 sur la promotion et la protection des personnes handicapées. Dans la catégorie de personnes vulnérables rentre toute personne qui est dans l'incapacité d'assurer par elle-même tout ou partie des nécessités d'une vie individuelle ou sociale normale, du fait d'une déficience physique ou mentale, congénitale ou non[3]. Si l'on considère que le citoyen est un membre d'un Etat ayant des devoirs et des droits civils et politiques, l'accès limité aux infrastructures urbaines, et une mobilité réduite rendent la personne handicapée vulnérable, et limitent l'expression de sa citoyenneté. D'où la question de savoir si les promesses de consolidation de l'individu créancier des droits, s'arrête aux portes de la vulnérabilité. En d'autres termes, la vulnérabilité exclut-elle de fait ou de droit la citoyenneté ? Agencer ainsi les questions de vulnérabilité, de citoyenneté et d'aménagement urbain, soulève le problème de la fragmentation de la citoyenneté comme mode de gouvernance de l'Etat néolibéral. L'étude de la place du citoyen handicapé moteur dans les politiques d'aménagement de l'espace public immobilier dans la ville de Yaoundé au Cameroun, permet d'apprécier ces questionnements, qui restent d'acuité dans un contexte où le développement se veut désormais durable. En effet, il est encore question d'effectivité et d'applicabilité du droit consacré. Par conséquent la combinaison des méthodes juridiques et sociologiques s'avère capitale pour cette étude. Pour ce faire, l'étude minutieuse de la réglementation en vigueur à travers la casuistique et l'exégèse permet de poser de façon inductive le cadre conceptuel de la recherche. Celui-ci a été meublé par les données recueillies au cours d'observation directe et lors des entretiens semi directif effectués dans la

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[3] Cf. Article 2 de la loi n°2010 / 002 du 13 avril 2010 portant protection et promotion des personnes handicapées au Cameroun définie ainsi la personne handicapée.

ville de Yaoundé au Cameroun aux acteurs intervenant dans l'accessibilité des personnes handicapées. Aussi, à partir de l'analyse systémique des données primaires et secondaires collectées, l'on constate que le droit en vigueur accorde une place de choix au citoyen handicapé, à qui il garantie l'accessibilité et la mobilité dans les édifices publics (I), toutefois l'effectivité et l'applicabilité de ses mesures légales buttent en faux (II).

I.   Une complémentarité consacrée : la place de choix formellement accordée à la personne handicapée dans l'aménagement de l'espace public immobilier

Le contrat qui lie l'Etat au citoyen se cristallise dans la garantie formelle et effective de l'expression des droits et devoirs de chacune des parties. Ainsi, l'Etat doit s'assurer de l'effectivité de ce lien contractuel, quelque soit la particularité du sujet. Au Cameroun, le processus visant à garantir aux personnes handicapées la jouissance de leurs droits fondamentaux à été mis en mouvement dès l'adhésion de l'Etat au principe de non discrimination et d'égalité des chances contenues dans les instruments internationaux relatifs au respect de la dignité humaine. Affirmée dans la constitution de 1996, l'égalité entre tout citoyen impose la jouissance des droits de l'Homme à tout citoyen quelque soit sa spécificité et sa situation physique. Le droit Camerounais dissout ainsi la vulnérabilité dans la citoyenneté, et consacre une complémentarité, en offrant une place de choix au citoyen handicapé dans la politique d'aménagement de l'espace public immobilier. Reconnaître la dignité humaine comme valeur à la personne handicapée, implique nécessairement que la société a envers les personnes handicapées, des devoirs et des obligations qu'elle doit honorer, indépendamment de toute considération d'utilité sociale ou économique. Conçue comme valeur, la dignité a joué un grand rôle dans le passage à une conception de l'invalidité fondée sur les droits de l'homme. Dans le passé, en raison de leur relative invisibilité, les personnes handicapées étaient souvent considérées comme des objets à protéger ou à prendre en pitié. Un changement crucial s'est opéré lorsqu'elles se sont elles-mêmes perçues (et ont été perçues par autrui) comme sujets, et non plus comme objets.

A. La citoyenneté au service de la vulnérabilité : l'affirmation du principe d'égalité dans les politiques d'aménagement de l'espace public immobilier

L'affirmation de l'égalité de droits civiques entre citoyen est le socle de tout Etat qui se veut démocratique et respectueux des droits de l'homme. Le Cameroun, adhère à cette évidence qui veut que tous « les hommes naissent et demeurent libres et égaux en droits (…) et ont droit sans distinction à une égale protection de la loi et à une protection égale contre toute discrimination »[4]. Constitutionnellement consacrée, l'égalité impose à la puissance publique d'accorder à tout citoyen les protections et privilèges de libertés individuelles sans discrimination. Dans le domaine de l'aménagement du territoire, l'égalité suppose la prise en compte de toutes les particularités sociales, et donc de toutes les vulnérabilités, sans discrimination. En droit positif camerounais, des mesures légales de prise en compte de la vulnérabilité dans l'exercice de la citoyenneté sont proclamées, et promeuvent l'accessibilité des personnes handicapés dans l'espace public immobilier.

L'égalité entre citoyen handicapé et les autres citoyens à pris forme à travers l'exigence de non discrimination véhiculée dés la reconnaissance internationale de droits fondamentaux aux personnes handicapées. En 1975, des normes pour l'égalité de traitement de ces personnes et leur accès au service public, ont été définies par l'Assemblée des Nations Unies. Celles-ci proposent un ensemble d'orientations visant à promouvoir l'égalité et les droits des personnes handicapées et leur entière participation à la vie sociale. En 1994, l'Assemblée a adopté une résolution portant sur les règles pour l'égalisation des chances des handicapés, puis une stratégie à long terme pour poursuivre la mise en œuvre du Programme d'action mondial, laquelle est axée sur l'édification d'une société pour tous. En 1997, elle a proposé un certain nombre de grandes orientations : accessibilité, emploi, services sociaux et protection sociale. En 2006, la Convention relative aux droits des personnes handicapées et son protocole facultatif ont été adoptés. Entrée en vigueur en 2008, elle s'appuie sur un certain nombre de principes fondateurs. La convention a pour objet de promouvoir, protéger et assurer la pleine et

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[4] Article 1 et 7 de la Convention Internationale des droits de l'Homme et du citoyen ; article 26 du pacte international relatif aux droits civils et politiques.

égale jouissance de tous les droits de l'homme et de toutes les libertés fondamentales par les personnes handicapées et de promouvoir le respect de leur dignité intrinsèque.

Au Cameroun, « *les bâtiments et institutions publics et privés ouverts au public doivent être conçus de façon à faciliter l'accès et l'usage aux personnes handicapées. Au moment de leur rénovation ou lors des transformations importantes, les bâtiments et installations existants, publics ou privés, ouverts au publics doivent être aménagés de façon à faciliter l'accès et l'usage aux personnes handicapées ; L'autorisation de construire ou d'exploiter est subordonnée au respect des dispositions de la loi sur la promotion de la personne handicapée ; La construction des voies de communication doit prendre en compte les aménagements réservés aux personnes handicapées* »[5]. Il s'agit d'une mesure socio-économique visant à garantir la pleine participation des personnes handicapées à la vie en société. L'accessibilité représente le point d'ancrage de l'expression citoyenne[6]. En effet, la possibilité de se mouvoir et de se déplacer, aussi bien à l'intérieur du cadre bâti que dans les espaces publics et les transports, conditionne l'insertion sociale de chacun des citoyens (Levy G, 2003). Un espace accessible est un espace qui donne la possibilité à chacun de s'acheminer en toute autonomie. Concevoir des espaces publics et des voiries accessibles au citoyen handicapé en plus d'être un objectif est une obligation réglementaire dont le non respect est sujet à sanctions. Les mesures urbaines accessibles aux personnes handicapées moteurs concernent, le revêtement du sol, l'accès aux bâtiments étages par les pentes et les ascenseurs, l'existence de rampes d'escaliers, et la prise en compte d'une hauteur minimale dans les édifices publics[7]. (Délégation ministérielle française à l'accessibilité, 2012). La construction des bâtiments publics est assujettie au respect des normes de sécurité et de qualité définie par la réglementation. Celle-ci impose l'aménagement de couloirs et espaces pour faciliter la mobilité des handicapés moteurs dans les bâtiments recevant du public[8].

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[5] Article 33 de la loi portant protection et promotion de la personne handicapée.

[6] Article 9 de la convention internationale sur la personne handicapée.

[7] Voir à cet effet Claire-Lise Campion [http://www.ladocumentationfrancaise.fr/var/storage/rapports-publics/134000147/0000.pdf], 07 mai 2013.

[8] Article 10 du décret du 23 avril 2008 fixant les règles de sécurité, d'hygiène et d'assainissement en matière de construction.

L'accès au service public veut que chacun soit à même de bénéficier des prestations du service public sans se trouver en position d'infériorité en raison de son handicap. Les collectivités territoriales décentralisées, l'Etat et la société civile sont des garants de l'effectivité de la mise en œuvre des mesures préférentielles d'accès des personnes handicapées aux espaces publics immobiliers[9]. Au Cameroun, le ministère des affaires sociales, ayant compétence dans la promotion et la protection des personnes handicapées ; et le ministère des travaux publics, sont les principales voix du gouvernement en ce qui concerne l'accès des personnes handicapées dans l'espace public immobilier. Ces compétences sont assurées au niveau décentralisées par les collectivités territoriales décentralisées, qui connaissent par le truchement de la décentralisation, les compétences dans le domaine de l'aménagement urbain, et de l'action sociale[10]. La solidarité nationale au service du citoyen à mobilité réduite permet alors d'égaliser les chances tout en réduisant la fracture sociale.

Le législateur Camerounais a ainsi prévu des mesures légales pour assurer une égalité de chances en favorisant l'expression des droits des citoyens handicapés et en leur garantissant une équité de traitement, et des moyens de sanctions en cas de non respect des exigences légales. Ces mesures donnent également au citoyen handicapé le droit d'agir dans les politiques publiques d'aménagement de l'espace public immobilier, ainsi par l'ouverture de la participation, la vulnérabilité reste au service de la citoyenneté.

B. La vulnérabilité au service de la citoyenneté : l'expression du principe de participation

La participation à la gestion des affaires de la cité est l'expression par excellence de la citoyenneté. Dans le domaine de la gestion de l'environnement (construit, et non construit) le citoyen participe à la vie de la société en donnant son avis sur la gestion et l'utilisation des biens publics. Il s'agit à la fois d'un droit et d'un devoir citoyen. La participation des groupes vulnérables à la gestion de l'environnement est devenue une exigence fondamentale de

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[9] Article 34 de la loi portant promotion de la personne handicapée.
[10] Article 17 et 19 loi n°2004-18 du 22 juillet 2004 fixant les règles applicables aux communes au Cameroun.

validité de tout projet de société. Cette fondamentalité s'est moulée aux revendications internationales qui ont donné corps à des recommandations communes.

L'exigence de considérer l'avis de tout citoyen à l'aménagement de l'environnement est évoquée pour la première fois dans le Plan d'action issu de la conférence de Stockholm[11], l'énoncé de la participation se fera plus concrète dans la charte de la nature en 1982 qui affirme que « *toute personne aura la possibilité de participer individuellement ou avec d'autres personnes à l'élaboration des décisions qui concernent directement son environnement*[12] ». La participation deviendra un précepte véritable avec la conférence de Rio, dont le point 10 de la déclaration consacre formellement le principe de participation. Ces revendications concernant la participation sont réitérées dans la convention d'Aarhus qui demande à toutes les parties de prendre des dispositions pour assurer l'implication du public.

La promotion de l'accès des personnes handicapées à l'espace public immobilier implique la promotion d'un environnement dans lequel elles peuvent effectivement et pleinement participer à la conduite des affaires publiques, sans discrimination, sur la base de l'égalité avec les autres, et à encourager leur participation aux affaires publiques[13]. Le droit Camerounais reconnait aux personnes handicapées une égalité absolue en matière d'information, de participation et de défense des droits civiques. Pour cela, le code de l'urbanisme prévoit l'implication des populations, des groupes organisés et de la société civile à la mise en œuvre des règles générales d'urbanisme, d'aménagement urbain et de construction. A travers le libre accès aux documents d'urbanisme ; et les mécanismes de consultation permettant de recueillir leur opinion et leur apport ; leur représentation au sein des organes de consultation ; la production de l'information relative à l'aménagement et à l'urbanisme ; la sensibilisation, la formation, la recherche et l'éducation en matière d'aménagement et d'urbanisme[14]. L'adoption de technique de planification globale à l'instar des schémas d'aménagement du territoire est soumise à l'approbation citoyenne. La participation s'impose donc comme une méthode de recherche d'une acceptabilité des décisions

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[11] Recommandations 97 du Plan d'Action 109 sur la personne handicapée de l'Unesco.

[12] Charte Mondiale de la nature du 28 octobre 1982.

[13] Article 29 de la convention internationale sur les droits des personnes handicapées.

[14] Article 49 de la Loi n°2004/003 du 21 avril 2004 régissant l'urbanisme au Cameroun.

prises en une matière qui touche le plus souvent à la vie et aux modes d'existence des populations[15]. Aussi l'implication des citoyens handicapés manifesterait la reconnaissance de leur vulnérabilité et de leurs intérêts à la gestion urbaine. L'information constitue la cheville ouvrière de la participation. Pour cela, chaque citoyen a le droit d'avoir dument accès aux informations relatives à la gestion de l'espace public, ce qui induit l'obligation pour l'Etat, et les collectivités territoriales décentralisées de mettre ces informations à la disposition des citoyens, afin de permettre une participation effective. Ainsi, l'avis des citoyens est recommandé lors de l'élaboration et de la révision des documents d'urbanisme. Le décret fixant les modalités d'élaboration et de révision des documents de planification urbaine au Cameroun prévoit l'implication des populations organisées en associations aux travaux d'élaboration de ces documents et lors de la réalisation d'investissement dans le secteur urbain[16] ; une enquête publique est d'ailleurs exigée pour valider tout projet dans le domaine. Le non respect des mesures légalement consacrées est susceptible de faire l'objet de sanction administrative et juridictionnelle. En principe, les constructeurs d'un bâtiment public ne respectant pas les normes prescrites par la réglementation encourent des sanctions civiles et pénales.

Le souci de l'égalisation des chances et la prise en compte des particularités dans l'aménagement de l'espace public immobilier restent appréciables dans la législation, mais dans la réalité, la vulnérabilité de certains citoyens conduits à leur marginalisation, limitant l'exercice de leurs droits et devoirs civiques. Ceci pose le problème de l'effectivité et de l'applicabilité du droit d'accès des personnes handicapées aux édifices publics.

II. L'incompatibilité constatée : L'accessibilité du citoyen handicapée aux édifices publics, une exigence à géométrie variable dans la ville de Yaoundé

Selon la dernière enquête sur les ménages réalisée en 2007 au Cameroun[17], 10% de la population souffre d'un handicap. Environ 5% des

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[15] M. Kamto, *Le droit de l'environnement en Afrique*, Vanves, 1999, Edicef, p. 78.

[16] Articles 3, 9, 13 et 14 du Décret n°2008/0736/PM du 23 avril 2008 fixant les modalités d'élaboration et de révision des documents de planification urbaine.

[17] [http://www.statistics-cameroon.org/downloads/Rapport_TBS3.pdf, 17 février 2014].

enfants handicapés vont à l'école et moins de 2% de ces enfants terminent leur cycle secondaire. Près de 90% des personnes handicapées ne savent ni lire ni écrire, soit plus de 1.500.000 individus sur les 1.787.321 personnes vivant avec un handicap. 80% de handicapés âgés entre 15 et 64 ans sont sans emploi, majoritairement à cause de leur déficit d'éducation, et les difficultés qu'ils rencontrent pour se déplacer avec les équipements destinés à cet effet, pour ceux qui en disposent. Les difficultés d'accessibilité obstruent l'expression des citoyens handicapés lors de scrutant, auxquels ils ont pourtant voix. Qu'est ce qui explique l'insuffisance d'application des sanctions prévues par la réglementation en cas de discriminations et d'atteintes de droits aux personnes handicapées au Cameroun ?

A. *La fragmentation de la citoyenneté*

Les difficultés d'accès aux services publics de base sont des obstacles importants à l'épanouissement socio-économique du citoyen sujet d'un handicap moteur. L'accessibilité conditionne l'éducation, la santé, le travail, donc l'épanouissement des personnes de l'être humain. Au Cameroun comme dans la plupart des pays en développement, les handicapés moteurs n'accèdent pas facilement aux bâtiments ouverts au public, pire encore, le parcours quotidien d'une personne handicapée moteur de sa résidence pour l'espace public est semé d'embuches et obstacles susceptibles de démotiver celui dont la mobilité est réduite. Des insuffisances expliquent que le droit en vigueur reste lettre morte.

Les problèmes d'accessibilité à l'espace public sont intimement liés à la logique architecturale et urbaine d'un territoire. Les villes Camerounaises, comme la plupart des villes des pays en développement, se caractérisent par une urbanisation subie, qui n'est pas toujours pensée avec le citoyen à défaut d'être pensée par lui. C'est que la ville en Afrique sub-saharienne s'adapte plus aux aléas économiques, qu'aux aspects socio-anthropologiques ; la rentabilité en termes de faiblesse du coût de construction de l'édifice notamment, étant prioritaire sur son utilité. A Yaoundé, plus de la moitié des édifices publics sont inaccessibles aux personnes handicapées en raison de l'absence d'accès spécialisés et sécurisés[18]. Et ce malgré quelques exceptions telles les formations hospitalières. Ceci dit, même au Ministère des affaires

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[18] La ville de Yaoundé fait face à une urbanisation anarchique et spontanée.

sociales chargé de la promotion de la personne handicapée, seul le rez-de-chaussée est munie d'une rampe accessible aux personnes à mobilité réduite. Cette situation questionne la connaissance des techniques spécifiques à l'accessibilité et à la mobilité des personnes handicapées par les acteurs de l'aménagement et de la construction. Ce constat soulève des questions relatives au contrôle de l'exécution des marchés publics de construction des bâtiments devant accueillir le public, et l'auto-considération de la personne handicapée au Cameroun.

Malgré l'existence d'une réglementation qui impose le respect de l'accès des citoyens handicapés moteurs aux espaces publics immobilier ; plusieurs projets récemment validés dans la ville de Yaoundé sont loin de considérer cette spécificité. C'est particulièrement le cas de la construction des logements sociaux, et la rénovation de certains bâtiments abritant des services ministériels, où l'employé handicapé moteur et l'usager à mobilité ne peut aisément accéder, le contexte sociopolitique caractérisé par la prééminence de la corruption veut que les critères de viabilité et d'efficacité des travaux de marché publique soient négligés. La marginalisation et la stigmatisation qu'à longtemps subi le handicap engendre des difficultés d'auto-considération de la personne handicapée, qui se sent parfois moins citoyen que les autres, limitant ainsi psychologiquement, le droit de revendiquer l'équité sociale. Cette situation limite grandement l'expression des droits civiques, et ouvre le débat sur la fragmentation de la citoyenneté sous le prisme de la vulnérabilité. La fragmentation de la citoyenneté concerne la répartition des droits civiques en fonction de l'identité socio-économique ou encore, en fonction des individualités. La possibilité du déploiement d'une citoyenneté d'appartenance de différence, de présence[19].

En effet, si l'on considère que la dynamique de la citoyenneté vise l'égalité du statut, des droits et des devoirs autant du point de vue de la participation à la chose politique que de l'accès aux bénéfices communs, la fragmentation de la citoyenneté tout comme son incorporation se caractérise par l'incorporation de la citoyenneté se caractérise par « un triple déplacement dans la définition du citoyen : du sujet singulier au sujet particulier, du sujet individuel au sujet collectif, du sujet politique au sujet moral[20] ».

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[19] J. Theriault, « La citoyenneté : entre normativité et factualité », in *Sociologie et sociétés*, vol. 31, n° 2, 1, automne 1999, pp. 5-13.

[20] G. Bourque et J. Duchastel, *L'identité fragmentée, Nation et citoyenneté dans les débats constitutionnels Canadiens*, 1941-1992. Montréal, 1999, p. 4.

B.   *Les voies de la prise en compte de la vulnérabilité*
dans l'exercice de la citoyenneté

La mise en œuvre de mesures favorables à l'exercice de la citoyenneté par les personnes vulnérables passe par la mise en place de mesures garantissant l'effectivité de l'égalité de droits constitutionnellement affirmés. S'agissant particulièrement de l'accessibilité et de la mobilité des personnes handicapées moteur, la confrontation du droit au fait, permet d'apprécier les voies de la prise en compte de l'handicap dans l'aménagement de l'espace public immobilier. Il reste primordial de réfléchir sur les conditions de la dissolution de la vulnérabilité dans la citoyenneté, dans un contexte où l'adaptabilité socio-économique des services publics est enjeu de participation effective à la gestion des affaires publiques.

La redéfinition d'un modèle de gestion concertée de l'espace public est une condition d'une gouvernance participative. En effet, la gouvernance constitue une stratégie d'aménagement, qui n'émerge que d'une coopération entre tous les niveaux de prise de décision où chacun exerce pleinement ses responsabilités et ses compétences. A cet effet, il importe de garantir la participation des citoyens handicapés aux processus de prise de décision. La prise en compte du genre[21] dans l'aménagement urbain tendra ainsi à la prise en compte des avis et recommandations de toutes les disparités sociales. Le renforcement des capacités organisationnelles et structurelles de la société civile, pourrait impulser le plaidoyer et le contrôle en faveur d'un accès du citoyen handicapé à l'espace public immobilier. Mais au-delà, la sensibilisation des populations, et leur éducation sur la reconnaissance de droits aux personnes sujets d'une vulnérabilité est la clef de voute de la participation citoyenne. Les mentalités restées sous le joug coutumier, continuent à considérer le handicap comme une sanction divine contre la méchanceté d'un individu. Les enfants handicapés moteurs continuent d'être cachés dans les maisons, par des parents parfois ignorants de leur humanité, la stigmatisation pouvant ainsi évoluer vers l'indifférence des familles. Ce qui explique entre autres, l'absence de statistiques fiables sur les personnes à mobilité réduite. En outre, au niveau institutionnel, la mise en place d'un organe chargé d'apprécier le respect de l'accès des personnes handicapées

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[21] Ici le terme fait référence à une particularité qui en plus d'être sexuelle peut être physique à l'exemple du handicap.

aux bâtiments publics, lors des opérations d'aménagement et de rénovation des espaces publics immobiliers s'impose pour garantir le respect des normes s'y référant dans les marchés publics de constructions des édifices publics. Pour ce faire, la commune, jouant son rôle d'organe proche du citoyen, détient un rôle plus qu'important dans l'aménagement d'un espace public viable assurant les droits de mobilité au citoyen handicapé.

Conclusion

L'étude de la vulnérabilité et de la citoyenneté par un détour sur la question de la place du citoyen handicapé moteur dans l'aménagement de l'espace public immobilier au Cameroun révèle clairement que la prise en compte de ces deux variables participe entre autres des dynamiques sociales contemporaines qui s'efforcent à résorber les disparités sociales. Aussi, s'il est incontestable que des mauvaises pratiques subsistent dans la conciliation entre vulnérabilité et citoyenneté, celles-ci ne constituent pas une fatalité et des mesures de correction en vue de rétablir les bonnes pratiques que préconisent la loi en matière de protection et de promotion des personnes handicapées au Cameroun, existent et ne demandent qu'à être appliquées. Au bonheur de tous les citoyens : valides et invalides, qui sont et demeurent libres et égaux en droits et devoirs, et afin que nul n'en ignore.

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MYTHS, CLICHÉS AND POPULISM IN THE ROMANIAN CONSTITUTION'S REVISION PROCESS. A COMPARISON WITH THE HUNGARIAN CASE

Valentin Naumescu[*]

Abstract

Ten years after the previous revision in 2003, the Parliament of Romania launches a new process of amending the post-communist Constitution of 1991. The envisaged revision should basically update the Romanian political system according to the first seven years of experience that Romania has as an EU member state. Beyond all political and juridical aspects of the constitutional revision, a number of pressures deriving from economic, social, cultural, religious or ethnic local patterns should also be considered. From myths and clichés to populism(s), specific interests and even European reflections, the equation involves a whole range of formal and informal forces which traditionally shape politics and society. The article looks over the main populist expressions, beliefs and attitudes regarding the revision of the Constitution and explores their possible consequences on the final outcome. At the time of working for this article, in the early spring of 2013 the parliamentary procedures are in progress. The central question around which I build up the entire demarche is whether the populist approaches have a decisive role in the constitutional revision or not. The "unacceptable comparison" (in Romanian Prime Minister's words) with Hungary's recent experience and its controversial amended Constitution is meant only to emphasize the context of changing the fundamental law during severely unbalanced parliaments while the direction and substance of amendments are indeed considerably different.

Keywords: Romania, Hungary, Constitution, revision, Parliament, populism, referendum

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Conceptual introduction:
From grand "founding" visions to "flash-mob" populisms

The myths and clichés are inevitable parts of all national political cultures. What we know or think we know about our own national identity as well as other's identity is partly filtered through the lentils of some "prefabricated images". To some extent, the political mythology and popular beliefs on political life represent the hard core of the political system and help to articulate the whole polity. They also strengthen the sense of national unity, giving benchmarks, directions and sometimes restrictions for political action. Whether we admit that any electoral body has a bigger or smaller inertia, that is a conservative pattern of political behaviour, we can try to predict future responses, developments or outcomes notwithstanding the large variety of individual options. It also means that the system of "collective political thinking" is based on largely spread values, traditions, stereotypes and ideological interpretations of history and facts. According to Christopher G. Flood, a political myth is an "ideologically marked narrative which purports to give a true account of a set of past, present, or predicted political events and which is accepted as valid in its essentials by a social group"[1]. In a pretty similar perspective, we understand that identities and political foundations (a constitution is obviously a political foundation) are the result of a succession of reasonable narrations. Therefore "any identity has a narrative character."[2]. Comparing present times with ancient political discourse, Raoul Girardet believes that "political myths of contemporary societies do not differ at all from the grand sacred myths of traditional societies (…): conspiracy (…), the saviour (…) the golden age (…), unity"[3]. Turning Raoul Girardet's four universal political myths into Romanian political culture, Daniel Şandru sees the following constitutive myths for the present political context: "interwar age as founding myth for the post-communist age, the myth of post-communist de-ideologization,

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[1] Christopher Flood, *Political myth,* New York: Routledge, 2001, p. 44.

[2] Frederic Monneyron and Antigone Mouchtouris (editors), *Des mythes politiques,* Paris: Imago, 2010, p. 18.

[3] Raoul Girardet, *Mituri şi mitologii politice (Myths and political mythologies),* Iaşi: Institutul European, 1997, p. 6.

the myth of original democracy, the myth of political reconstruction/reform and the myth of the providential man"[4].

Clichés are over-used idioms and perceptions which can hide empty meanings under the umbrella of smart language or noble purposes. Political clichés are thus "abused truths" which gradually turned into convenience formulas, working as facile "solutions" for speeches, debates, campaigns or platforms. History is always and everywhere a good source for myths, political clichés and populism. The glorification of national history becomes the most convenient method to inspire new generations, create a positive image about the nation and build self-confidence, virtues that are quite easy to be converted into votes and power. Lucian Boia, the most important Romanian historian specialized in "myths' interpretation", a trendy author on the market but also a controversial voice among the traditionalist historians explains the reflection of past events and heroes in nowadays political debates and disputes: "Speaking about history, people speak in fact about present time, about themselves"[5]. And, we add, who doesn't like to hear positive remarks about his or her own identity? Both government and opposition politicians use to appeal quite frequently to political myths and stereotypes because this simple method of political rhetoric doesn't need the intellectual effort of a supplementary argumentation: it is supposed that no one will dare to contradict them.

With regard to the concept of populism, from the multitude of available definitions, the one which probably covers the best the diversified contents of expressions belongs to Daniele Albertazzi and Duncan McDonnell: "an ideology which pits a virtuous and homogenous people against a set of elites and dangerous 'others' who are together depicted as depriving (or attempting to deprive) the sovereign people of their rights, values, prosperity, identity and voice"[6].

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[4] Daniel Şandru, "Ideologie şi mituri politice în România contemporană" [Ideology and political myths in contemporary Romania] in Sergiu Gherghina, Sergiu Mişcoiu, (editors), *Mituri politice în România contemporană [The Political Myths in Contemporary Romania],* Iaşi: Institutul European, 2012, p. 79

[5] Lucian Boia, *Istorie şi mit în conştiinţa românească (History and Myth in Romanian Conscience),* Bucharest: Humanitas, 2011, p. 14.

[6] Daniele Albertazzi and Duncan McDonnell (editors), *Twenty-First Century Populism: The Spectre of Western European Democracy,* Palgrave Macmillan, 2007, p. 3.

Major contributions in the realm of conceptual clarifications with regard to populism were also provided, though from different perspectives and approaches, by Margaret Canovan, Ernesto Laclau, Guy Hermet or in the consecrated volume edited by Ghita Ionescu and Ernest Gellner. According to Canovan, "in Continental Europe the term often carries echoes of popular irrationality or manipulative leadership, reminiscence of Hitler's racist demagogy […] Populism in this pejorative sense is therefore taken to mean 'right wing extremism' "[7]. Ernesto Laclau believes that "populism itself tends to deny any identification with or classification into the Right/Left dichotomy. […] populism usually includes contrasting components such as a claim of equality of political rights and universal participation for common people, but fused with some sort of authoritarianism often under charismatic leadership"[8]. With regard to its ideological roots, Guy Hermet identifies "American populism as the first expression of the agrarian version of populism, […], Scandinavian social-democracy and even Labour, in their initial phases, when were related to feminism and 'puritanism' – not the theological one – and, from the opposite of the socialist relationship, the xenophobic and separatist movements from the Western Europe"[9].

Being a profound anti-elites ideology oriented to persuading ordinary people to cast their vote one way or another, the contemporary forms of populism (sometimes named "neo-populism" or "advanced populism" in order to separate them from the classic populism of 1950s and 1960s in Latin America) are fully gaining momentum. We see them growing both in Western and East-Central Europe, though having different grounds and expressions as well as in North-America if we consider only the political "Tea Party" or anarchical "Occupy" movements.

Basically, there are two main reasons and triggers for neo-populist political expressions: the crisis and economic slowdown of the past five years, and the spectacular development of social media and online communication. The economic and social growing frustrations within the middle class have nowadays a facile channel of communication, which considerably increases

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[7] Margaret Canovan, *The People,* Cambridge (UK) and Malden (USA): Polity Press, 2005, p. 75.

[8] Ernesto Laclau, *On Populist Reason*, London and New York: Verso, 2005, p. 4

[9] Guy Hermet, "The Founding Populism" in Sergiu Gherghina, Sergiu Mişcoiu, Sorina Soare (editors), *Contemporary Populism: A Controversial Concept and Its Diverse Forms,* Iaşi: The European Institute Publishing House, 2012, p. 181.

the speed of spreading news, information (rumours), messages or calls for action, although the credibility of this gigantic amount of information remains an unsolved issue. Unlike fascism between the world wars, the nowadays "populist propaganda insists on equality (among the people) rather than hierarchy and it is the community rather than the state which is said to be paramount"[10].

Emphasizing the dynamic character of the present forms of populism, Sergiu Mişcoiu defines neo-populism as advanced populism and explains that "advanced populism is less based on a foundation act, […], and rather on ad-hoc identity based gathering of individuals, groups, social classes, ideas and political trends, ethnic minorities or cast interests, passions, tastes and personal moods"[11]. This "flash-mob" approach of today populism(s) helps us to understand the temporary but extremely intense waves of passionate support or powerful rejection regarding certain political leaders or topics.

Domestic and international politics look today like a sequence of tornados which collect the maximum energy of approval or hate within minimum periods of time. The ones who come against the mainstream are smashed and ruined almost instantly. The ones who know to operate the best with these flash popular energies are the great masters of the day. "Sometimes politics is not myth or emotional at all", affirms Murray Edelman in the introduction of his meaningful book *The Symbolic Uses of Politics*, "but a cool and successful effort to get money from others or power over them"[12]. The resilience of this truth is remarkable, I would say, beyond the sequence of decades, regimes and generations of leaders.

The neo-populist discourse in nowadays Romania is certainly less ideological than it was in the pre-war era but it is way more loaded with personal or group (financial?) interests. Without any ideological substance or beliefs, without a solid cultural foundation, the "instrumentalists" of

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[10] Albertazzi and McDonnell, *op. cit.*, p. 3.

[11] Sergiu Mişcoiu, "De la populism la neopopulism? Câteva repere empirice pentru o delimitare conceptuală" (From populism to neo-populism?: Empirical benchmarks for a conceptual classification), in Sergiu Gherghina, Sergiu Mişcoiu, Sorina Soare (editors), *Populismul contemporan: Un concept controversat şi formele sale diverse (The Contemporary Populism: A Controversial Concept and Its Diverse Forms)*, Iaşi: Institutul European, 2012, p. 28

[12] Murray Edelman, *The Symbolic Uses of Politics*, Urbana and Chicago: University of Illinois Press, 1985, p. 1.

neo-populism usually hide a big dose of hypocrisy. In Michael Shafir's words, the "ideology plays second fiddle in neo-populist orchestras, for they are nothing more than 'catch all' bands"[13]. From a pretty similar perspective, the whole family of populisms was seen as a "thin ideology", having no intellectual consistency and being too vague to give a coherent vision of the world or at least of the political process[14].

The project of a constitutional revision in Romania: A new attempt

Under the circumstances of a long political conflict between a parliamentary majority consisting of liberals (PNL[15]) and social-democrats (PSD[16]), on one hand, and President Traian Băsescu and the liberal-democrats (PDL[17]) on the other hand, the revision should basically update the Romanian political system according to the first seven years of experience that Romania has as an EU member state. The debates and adoption of the draft by the Parliament are scheduled within the next six months, while the referendum of approval was initially projected for October 2013 but it will be most probably postponed for 2014. The relative short term of debate until the envisaged referendum, the hyper-politicized approaches on both sides of the "barricade", the lack of consistent and robust academic reflections with respect to the draft (the draft itself is a work in progress), and the fragility of the political context make the whole process vulnerable and open to an unpredictable end, including a possible failure of the revision.

The parliamentary process launched in February 2013 is not the first attempt of a constitutional revision after 2003. In April 2010, the former ruling party PDL established a parliamentary Commission for Constitutional Revision led by MP Daniel Buda. In September 2011 PDL has assumed in fact the draft of revision proposed by President Traian Băsescu, because

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[13] Michael Shafir, "From Historical to 'Dialectical' Populism: The Case of Post-Communist Romania" in *Canadian Slavonic Papers*, 50.3/4, 425-VI, 2008, p. 452.

[14] Ben Stanley, "The thin ideology of populism", *Journal of Political Ideologies*, Volume 13, Issue 1, 2008, p. 95.

[15] The National Liberal Party

[16] The Social-Democratic Party

[17] The Liberal-Democratic Party

only the Parliament is entitled to adopt a constitutional draft and submit it to a national referendum[18].

The special Commission of 2010-2012 could not work because of the boycott of the opposition and the lack of support from the second party of the government coalition that is UDMR[19] and eventually 'died' in the spring of 2012[20]. The project was thus a failure from its nascent stage, it had no real political impact, and it seemed rather an unsuccessful electoral manoeuvre of the President and the former ruling party, amidst a severe crisis of popular support[21].

In fact, starting 2007, the year of EU admission (not to mention the whole period of ten years after the referendum of October 18-19, 2003), Romania faced several political crises, numerous tensions between the branches of government and some talks in media and academic community about the need of a revised fundamental law.[22] A study conducted by the Centre of Political Studies and International Relations (CESPRI) from Babeş-Bolyai University of Cluj-Napoca in 2007 revealed the vague provisions and main malfunctions of the actual Constitution: "the powers of the President and the relationship with the Government; the powers of the two chambers of the Parliament; the role of the Supreme Council of Defence; the mechanism of

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[18] Alina Novăceanu, "PDL a preluat proiectul de revizuire a Constituţiei propus de Băsescu şi l-a depus la Parlament" [PDL assumes the revision draft proposed by Băsescu and tables it in the Parliament], *Mediafax*, http://www.mediafax.ro/politic/pdl-a-preluat-proiectul-de-revizuire-a-constitutiei-propus-de-basescu-si-l-a-depus-la-parlament-8709829, 2011, consulted March 2013.

[19] The Democratic Union of Hungarians in Romania

[20] Andreea Nicolae, "Cum au îngropat democrat-liberalii revizuirea Constituţiei cerută de Traian Băsescu. Pe cine mai dă acum vina PDL?" [How did democrat-liberals bury the constitutional revision asked by Traian Băsescu. Who does PDL blame now?], *România Liberă*, http://www.romanialibera.ro/actualitate/politica/cum-au-ingropat-democrat-liberalii-revizuirea-constitutiei-ceruta-de-traian-basescu-pe-cine-mai-da-acum-vina-pdl-256869.html, 2012, consulted March 2013

[21] Polling data from the winter of 2012 reveal very low levels of popularity for then-ruling party PDL (18%) and with regard to President Traian Băsescu (69% of the people wanted him to resign). For details: http://www.ziare.com/basescu/presedinte/demisia-lui-basescu-dorita-de-69-la-suta-dintre-romani-sondaj-ccsb-1151687, 29 September 2013.

[22] As an example, the theme was approached in an online article by Codrin Tăut, "România trebuie să devină republic parlamentară" [Romania has to become a parliamentary republic], Hotnews, December 2007, http://www.hotnews.ro/stiri-politic-2078494-romania-trebuie-devina-republica-parlamentara.htm, 13 February 2013.

calling early general elections; the system of government; the administrative-territorial organization; the role and organization of the Constitutional Court; the government ordinances"[23].

Basically, the post-communist Constitution has already 22 years of "public service": it came into force after approval by the referendum of December 8, 1991. A number of amendments in 2003 made possible the Euro-Atlantic integration (NATO in 2004, EU in 2007) and the precedence of the EU treaties, legislation and regulations "over the opposite provisions of the national laws, in compliance with the provisions of the accession act"[24].

Comparing with the more or less recent political difficulties of other member states to ratify the Constitutional Treaty[25] or the revised EU treaties in national referendums[26], it seems that the easiness and massive popular support in Romania for introducing the "European clause" (89.70% in favour!) in the referendum of 2003 reveals either the omnipotence of the Euro myths and clichés during that period of transition or the lack of consistence, information and real debate with regard to the theme of integration and the significance of a constitutional revision. However the structural weaknesses of the Romanian political system have nothing to do with the Title VI of the Constitution (Euro-Atlantic Integration) but generally speaking with the quality of human resources in politics and sometimes with the separation of powers and unclear relations between the legislative, executive and judiciary branches of government.

Most often, the "fault lines" had involved the President and the Prime Minister, the President and the Parliament, the Parliament or the Government and the Constitutional Court. In addition to personalized conflicts, populist approaches and a self-evident deficit of political culture (in terms of power sharing), these disputes were partly based on confusing roles and relations between the two heads of the executive power. Within

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[23] Centre of Political Studies and International Relations, (CESPRI), *The Revision of the Constitution: Towards a New Institutional Balance*, Babeş-Bolyai University of Cluj-Napoca, 2007.

[24] According to the revised *Constitution of Romania*, Title VI, Article 148 (2).

[25] France and the Netherlands rejected in the summer of 2005 the "Treaty of establishing a Constitution for Europe", also known as the Constitutional Treaty, and the whole project failed.

[26] Ireland firstly turned down the Lisbon Treaty in 2008, then it approved the document in a second referendum in 2009

an ambiguous semi-presidential model, each of them (that is the head of state and the head of government) claims democratic legitimacy and pre-eminence over the major directions and ruling issues of the country.

The history of the conflict began officially in the spring of 2007, with a failed attempt of the Parliament (322 social-democrats and liberals) to impeach the President. The results of the referendum[27] following the vote of the legislature allowed President Traian Băsescu to return triumphantly to Cotroceni Palace but also consecrated in the public discourse the populist idiom "Coalition 322"[28]. That was excessively used before and after the referendum of May 19, 2007, in order to blame the Parliament in Romanians' eyes, while victimizing the President and making him the loved hero fighting against the "bastard system" (his own words) on behalf of the Romanian people[29].

On November 22nd, 2009, Romanians voted in referendum to switch from the present two-chamber parliament to one-chamber parliament and to limit the number of seats in the legislature to 300. The referendum, called in the same day with the presidential election (the first ballot), was seen by the opposition as a (eventually successful) electoral manoeuvre of the incumbent President to maximize his chances for re-election. Since the two proposals of the President were largely perceived by voters as "something against" the most hated political institution in the country, presented as a financial burden for people, manipulated by -and serving the interests of- "moguls" and "oligarchs"[30], the questions were obviously on many people's "taste". Stirring hot comments and further debates regarding the lack of popularity of the Parliament, the referendum actually brought maximum

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[27] According to the Permanent Electoral Authority (www.roaep.ro), 74.48% of the participants in the May 2007 referendum voted "No" to the question of dismissing the President, while the turnout was only 44%, less than the quorum of 50%+1 required for validation

[28] Mişcoiu, 2012, *Op.cit.,* p. 42.

[29] Daniel Şandru, "Ideologie şi mituri politice în România contemporană" [Ideology and political myths in contemporary Romania] in Sergiu Gherghina, Sergiu Mişcoiu, (editors), *Mituri politice în România contemporană [The Political Myths in Contemporary Romania],* Iaşi: Institutul European, 2012, p. 91.

[30] George Jiglău, "Ştim despre ce vorbim? O perspectivă teoretică asupra populismului" [Do we know what are we talking about? A theoretical perspective on populism] in Sergiu Gherghina and Sergiu Mişcoiu (editors), *Partide şi personalităţi populiste în România postcomunistă [Populist parties and public figures in post-communist Romania],* Iaşi: Institutul European, 2010, p. 74.

political benefits for the initiator, but zero constitutional and legislative effects, at least after four years.

Notwithstanding the results of the popular consultation of 2009[31], the former Parliament that ended its term in December 2012 (except the group of PDL, as I have already mentioned before) defied the referendum, on the basis of its limited "consultative role", and had not initiated any procedure of changing the Constitution towards a one-chamber legislature or the Election Law in order to limit the seats to 300. Moreover, a deniable electoral system criticised both by the ruling coalition and the opposition, used at the general election of December 9th, 2012 (due to a controversial decision[32] of the Constitutional Court in June 2012, declaring unconstitutional the Parliament's Election Bill which was meant to establish the classic and competitive "first-past-the-post" British system) generated an oversized new Parliament with 588 (!) seats for a population of 19 million inhabitants and three more million Romanian citizens living abroad. The current Parliament of Romania is therefore bigger than the Congress of the United States (serving a population of over 311 million citizens) and the only legal reason or explanation for this "monstrous" size of the legislative national institution was the need to ensure a proportional representation of all competing political parties situated over the threshold of 5%.

In February 2013, based on a comfortably majority of about 70%, the ruling alliance USL (The Social Liberal Union, mainly based on PSD and PNL) decided to launch a new parliamentary process of constitutional revision. The special Commission has in its composition 23 senators and deputies, from all groups represented in the Parliament: 9 from PSD (social-democrats), 6 from PNL (liberals), 3 from PDL (democrat-liberals, the main party of the opposition), 2 representing PPDD (The Popular Party Dan Diaconescu, populists), one from UDMR (Hungarian minority), one from PC (The Conservative Party, an ally of PNL), and one from the group of national minorities, others than the Hungarian one. The Speaker of the Senate and President of the National Liberal Party, Crin Antonescu (also nominated as

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[31] According the Permanent Electoral Authority (www.roaep.ro), 77.78% voted 'Yes' for one-chamber legislature and 88.84% voted 'Yes' for limiting the number of seats to maximum 300. The turnout was 50.95%

[32] Argumentation and more details in "The Constitutional Court of Romania, Decision no. 682/June 27, 2012", http://www.ccr.ro/files/products/D0682_12.pdf,14 February 2013.

the candidate of the Social-Liberal Union for the next presidential race) has been elected as chairman of the new body.[33]

Despite the overwhelming USL majority, the perspectives of the revision are not necessarily seen as guarantee for a successful political operation. Radu Carp, professor of political science at the University of Bucharest, is rather doubtful and affirms in 2013 that "like in 2003, the problem won't be the draft of the Constitution's revision, but the referendum"[34] suggesting that the issue of the quorum will be again a matter of dispute. The hint is with reference to the tremendous efforts of then social-democratic government to get the turnout[35] over 50% (in order to have a valid constitutional referendum) that made absolutely necessary the adoption, during the Referendum Day (Sunday, October 18, 2003) of the extreme solution of extending the period of voting with one more day, respectively Monday, October 19, 2003.

Key issues of the debate and their populist reflection

Any attempt to amend a Constitution, in Romania as everywhere else in the world, is a political test as well as a cultural one. It is "political" because it basically measures the political will of changing the system, and it is "cultural" because it faces the limits of the cultural pattern in which the majority of citizens see and project their country in terms of values, principles, institutions and regulations. Both dimensions of the process reflect the clash between the agents of change (usually the government, a parliamentary majority, parties, leaders, NGOs, academic and public intellectuals, media) and a set of "conservative" forces (formal or informal, representing political factions, parts of civil society or simply popular beliefs, with or without well-defined interests) which oppose to the proposed amendments. High or low turnout is also interpreted by different actors according to their

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[33] More details about the political composition of the Commission in Crişan Andreescu, "Crin Antonescu, în fruntea Comisiei pentru revizuirea Constituţiei" [Crin Antonescu, leading the Commission for constitutional revision], DCNews, February 13, 2013, http://www.dcnews.ro/2013/02/crin-antonescu-in-fruntea-comisiei-pentru-revizuirea-constitutiei/, 14 February 2013.

[34] Radu Carp, "Revizuirea Constituţiei, istoria unui eşec anunţat?" [The Constitution's revision, a predictable failure story?], *Hotnews,* 2013, http://www.hotnews.ro/stiri-opinii-14187959-revizuirea-constitutiei-istoria-unui-esec-anuntat.htm, April 2013.

[35] After two days of open polls (Sunday-Monday October 18-19, 2003), the turnout was eventually 55.70% and the rate of approval was 89.70%

political interest, though generally speaking the ones who don't cast their vote support indirectly the 'No' option, no matter their real option is. The issue of the required quorum actually became an essential one after the 2012 referendum for President's impeachment initiated by the Parliament[36]. Several commentators predict therefore that the legal threshold will be again a hot political issue on the occasion of the constitutional referendum.

At the end of February 2013, the first important survey on Constitution's revision was announced. Conducted by IRES (The Romanian Institute for Evaluation and Strategy), the poll[37] indicates how Romanians relate to the idea of changing (amending) the fundamental law and how they perceive it through the filter of their political options. Among the most relevant findings: a large majority of people (70%) believe the revision will have an influence on their day-to-day life, at least from the perspective of observing citizens' rights; an overwhelming majority of subjects (85%) think the current Constitution is not fully observed, neither by the state nor by other societal actors; almost half of the respondents (47%) believe equality is more important than freedom, while less than a quarter (23%) placed freedom on top; a reduction of the presidential term from five to four years is supported by a massive majority (78%); practically all subjects (97%!) would like to see the size of the Parliament reduced to maximum 300 seats while many citizens (78%) want a single-chamber legislature, reconfirming therefore the popular resolution of the 2009 referendum; a massive majority (78%) are against the proposal of the UDMR (Hungarian minority party) to change the Article 1 of the Constitution (stating that "Romania is a sovereign, independent, unitary and indivisible National State"[38]) and switch to a "multinational" state.

UDMR has also proposed the Hungarian language to become an official regional language in Transylvania, explicitly recognized by the Constitution. According to UDMR vice-president Laszlo Borbely, "we

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[36] On July 29, 2012 an overwhelming majority of 87.52% voted for impeachment of President Traian Băsescu but the turnout was "only" 46.24%, less than the legal threshold of minimum 50%+1 from the total number of electors. According to a controversial law regulating the referendums in Romania, the Constitutional Court declared that the impeachment referendum was not valid.

[37] See http://www.ires.com.ro/articol/223/ires-primul-sondaj-de-opinie-national--privind-modi-ficarea-constitutiei, 2 March 2013.

[38] This principle is stipulated by *The Constitution of Romania*, Article 1 (1).

would like to see that the Romanian Constitution recognizes the Hungarian community as a constitutive part of the state"[39]. A constitutive and also distinct part of the state, we can add, since no other local or ethnic community wishes to be mentioned distinctly in the fundamental law of the country. Both the "official regional language" and the "multinational state" are preliminary instruments serving the larger project of an "ethnic autonomy" of Hungarians (Szeklers) in the counties of Harghita and Covasna (a region locally named "Szekely Land"), transparently assumed by UDMR. All these amendments are obviously made "for the good of the Hungarian community", although there is no evidence that ethnic autonomy is a solution with certain results in improving people's standard of living. On the contrary, ethnic separation and enclaves are usually premises for poverty, underdevelopment and potential conflicts.

The argument used by the leaders of the Magyar community in Transylvania for claiming territorial autonomy is sometimes related to a "natural right". Raduly Robert, the mayor of Miercurea Ciuc and one of the radical exponents of the autonomist political movement, consider that "the time has come in Romania to get the solution for us, so we can calm down. We want both cultural and territorial autonomy: cultural autonomy for the whole Hungarian community in Transylvania, and territorial autonomy for Szeklers in the 'Szekely Land'" (cited in *Revista 22*, 2013). The counter-argument that is usually mentioned refers to the existing local autonomy (already in the Constitution) which allows every community, regardless of its ethnic affiliation, to elect its own administration, to elaborate local policies, adopt annual budgets and develop according to specific objectives and needs.

Around the above mentioned definition of the Romanian state, based on the unitary and national character of the country, both parties (the Romanian majority and the Hungarian minority) have their own myths, clichés and populist approaches that used to be fuelled by -but also served - specific political interests. Victor Neumann believes that "the problem comes from the fact that the term Nation (or People) is admitted in Eastern and Central European political cultures as a concept which has to precede

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[39] Revista 22, "Borbely vrea ca limba maghiară să fie recunoscută ca o limbă regională prin Constituţie" (Borbely wishes the Hungarian language to be recognized as a regional language in the Constitution), 2013, http://www.revista22.ro/-borbely-vrea-ca-limba-maghiara-sa-fie-recunoscuta-ca-o-limba-regionala-prin-constitutie-23506.html, April 2013.

the existence of a Constitution. […] In the absence of the nation, no legal act is imagined"[40]. Victor Neumann is obviously suggesting here the essential political and cultural differences existing between the Central and Eastern European national founding visions and the American perspective, in which the Constitution actually preceded the formation of the nation.

For Romanians, the unitary nation-state is a historical achievement but also a constitutional, cultural and symbolic guarantee of a definitive affiliation of Transylvania to the indivisible territory of the "mother-country". After the Great Union of 1918, the join of the historic province of Transylvania to the Kingdom of Romania was seen differently by Romanians (act of popular will, fair international decision or self-evident historic truth) and by Hungarians (unfair, frustration, source of revisionist discourse). The symbolic battle for Transylvania continued during several political regimes in History handbooks, schools and home education, media, politics and cultural representations, addressing respectively the Romanian and Hungarian audiences.

The identity discourse has been the cornerstone of the Hungarian minority's political representatives in Transylvania, since the early 1990s. It used to work as a founding concept as well as a legitimacy strategy for UDMR. Monica Andriescu and Sergiu Gherghina analyze the Magyar political message on two levels: "symbolic" and "substantive", drawing the conclusion that "elite discourse has shaped the political role and claims of the Hungarian minority, which influenced the minority nation-building process as well as the content of the diversity accommodation framework in post-communist Romania"[41]. In other words, the idea of ethnic autonomy was from the beginning of the post-communist transition a "top – down" political process, not necessarily a "bottom – up" cultural or civic aspiration.

The Hungarian political elites never admitted the justice of Trianon and the fact that Romania is a state adopting the "civil nation" definition (different from the multi-ethnic concept) having only Romanian citizens and one single nation, the same model as in France and many other Western

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[40] Victor Neumann, *Neam, popor sau națiune? (Blood, People or Nation?)* second edition, Bucharest: Curtea Veche, 2005, p. 123.

[41] Monica Andriescu and Sergiu Gherghina, "Discursul identitar maghiar în România postcomunistă" (The Hungarian Identity Discourse in Post-Communist Romania), *Sfera Politicii*, Volume 20, Issue 5, 2012, p. 93.

countries. Once Romania joined the European Union in 2007, it became clear that Brussels does not encourage any form of ethnic secession. Under the umbrella of preserving Hungarian cultural identity, UDMR constantly fought in the past 22 years for ethnic secession in Transylvanian schools and universities, in public administration and cultural institutions etc. In that old dream of ethnic segregation which the Hungarian leaders nurture there is obviously an interest of having local influence and regional political power, an "ethno-business" that manipulates the national feeling and cultural identity in Transylvania, as the already mentioned authors suggest. The idea of the "territorial autonomy" based on ethnic criteria (the "marotte" of UDMR since 1990) is not a trend or an accepted policy in the European Union, not to mention the United States.

The idea of a multinational state combined with ethnic autonomy is rejected also by Klaus Iohannis, the popular German mayor of Sibiu (elected for four successive terms with an overwhelming majority by the Romanians living in the city of Sibiu/Hermannstadt, once the place of a consistent German minority), giving in fact the signal that a revised Article 1 is only on a specific and isolated Hungarian agenda. To conclude the debate on Article 1, the proposal made by UDMR is actually a reflection of the old Hungarian minority's cliché with regard to the territorial autonomy, serving in fact Hungarian politicians' interests to gain legitimacy for their ethnic political party. Lucian Boia has also a word for the Romanian majority overusing the slogan of "unity": "The Great Union of 1918 corresponded definitely with the fulfilling of the national ideal, but once the mission being accomplished it doesn't mean the entire history should by abusively simplified, by limiting it to a permanent manifestation of the fight for unity"[42].

With respect to the definition of the Romanian state and its fundamental values, the Romanian Orthodox Church proposed to "introduce the name of God in the Constitution"[43] and to mention the principle of

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[42] Boia, *Op. cit*., p. 216.

[43] Raluca Pantazi, "Dezbatere – Argumente pro şi contra introducerii în Constituţie a numelui lui Dumnezeu şi a necesităţii predării religiei în şcoală" (Debate – Pros and Cons regarding mentioning of the name of God and of the necessity of teaching religion in school), *Hotnews*, 2013, http://m.hotnews.ro/stire/14416093, April 2013.

teaching religion in schools. This proposal reopens in fact the old debate on the separation between state and church and about the modern principle of secularity. In the early phases of debate, the Church's proposal got little support from main political parties and within civil society. However it is still interesting to see how the parliamentary debates will be conducted on this sensitive and controversial issue, with reflections, for instance, on the specific question of the mandatory or elective character of religion classes in primary schools, which has been dividing the Romanian society for a number of years. The controversy is obviously older than the constitutional revision process but the Romanian Orthodox Church would like to use the political moment to insert any Christian reference or principle in the revised Constitution, which could be later developed in legislation or public policies. The inclusion of an "Orthodox heritage" in the fundamental law through a possible explicit mentioning of the historic contribution of the Romanian Orthodox Church to the foundation of the Romanian national state would probably offense not only the ethnic minorities and their churches but also the Romanians affiliated to the Greek-Catholic Church in Transylvania. This is the reason why many public intellectuals consider that a liberal, neutral and secular Constitution would keep away future temptations of different churches and ethnic groups to reiterate old and conflicting identities or to ask for specific laws (obviously involving government funds) to preserve those identities.

Radu Carp joined a few years ago the discussion around the teaching of religion and tried to find the middle way between a firm Yes and a strong No, indicating the "decision of the local community" (school, families) as a possible solution, according to certain social, cultural and educational features of each community[44]. Two cultural patterns are confronting on this battlefield: the conservative, rural and traditionalist Romania vs. the liberal, secular and Western oriented civil society based on the mid-aged and educated urban population. In the absence of any polls regarding the proposal of the Romanian Orthodox Church, it is difficult to predict how the discussion will evolve.

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[44] Radu Carp, "Completing a possible debate: religion in schools", *Revista 22*, 2008, http://www.revista22.ro/completari-la-o-posibila-dezbatere-religia-in-scoala-4633.html, consulted April 2013

The system of government is a long disputed issue in Romanian politics. Whether the support for the monarchy's restoration is low, yet no completely absent, the form of the ideal republic is a matter of political and academic controversy. Between the current semi-presidential system and a parliamentary republic, the options have aligned in fact to the general attitudes the main parties have had with regard to the titular(s) of the presidential office: the supporters of the president want to see the leading role of a popularly elected head of state, while the opponents would like to switch to a parliamentary regime, with a ceremonial president and a powerful prime-minister. The supporters of the parliamentary republic are traditionally the Hungarian minority representatives who cannot aspire to the position of president and the liberals who have not yet succeeded to give a president in the post-communist transition and were in opposition with all three successive presidents after 1990. PSD also agrees the idea of a parliamentary republic. Nevertheless the issue of changing the method of president's election is not posed by any of the major parties, though this would be the logical consequence of the concept of a president without executive powers. It is only UDMR who officially proposes the election of the president in the parliament, which is absolutely normal for a pure parliamentary regime.

The lack of courage of the parliamentary republic's supporters to stand firmly and clearly for a "revolutionary" change in the electoral method with respect to the president is based on another cliché of the Romanian democracy. This stereotype refers to the belief that the president should be elected by the people under any circumstances. For a powerful office of president as the ones described by the presidential and semi-presidential regimes, the democratic legitimacy is obviously needed but for a ceremonial president a universal scrutiny is illogical, costly and useless. The only reason to keep the popular vote for a symbolic head of state is the fear that a populist counter-movement could strongly oppose the draft of the revised Constitution and thus it could threat the approval of the referendum. The former Prime-Minister Emil Boc declared that most of the Romanians (70%) want a President elected by popular vote, not by the Parliament, but the rivals from USL have no other solution to win the

presidential race than changing the election system[45]. USL has clearly mentioned from the beginning of the revision process that it does not have any intention to take from the people the right to elect the head of state.

Generally speaking, Romanians have great expectations from their president but do not empower the titular of this high dignity with generous responsibilities within the fundamental law. That's why the office of the president seems rather a prestigious "throne" without specific means of control and decision, which was in fact the "tragedy" of all post-communist presidents. Even when the three presidents tried to involve in domestic politics or in the government's strategy (usually by exercising an influence over the ruling party, when they used to have the same political colour) the action was strongly contested by the opposition and that was partly justified: there are no explicit responsibilities of the president related to governmental policies (except those with respect to foreign policy and security), though there is no ban for the president to discuss the politic or economic agenda with different members of the cabinet. "Interesting to see how the presidential function, with large areas of political responsibility but limited in the Constitution is reserved in the public imaginary to a Saviour, capable of solving through his will and power the severe problems of the nowadays Romania"[46] explains the Romanian historian the myth of the good national leader, descending from heroic legends with medieval rulers and powerful kings, and even from the recent and bizarre myths speaking about "tutorial" and "human-faced" communist party secretaries.

The Prime-Minister Victor Ponta, leader of the social-democrats and co-chair of the Social Liberal Union, explains the minimalist vision on presidential powers comparing them with the ones of a king: "Changing the Constitution, I would like to give to the president the clear role of a referee, to act as a republican monarch"[47]. In fact, the entire revision is basically

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[45] Dana Pacala and Vasile Măgrădean, "Boc: sigura şansă a USL să aibă preşedinte în 2014 să modifice Constituţia. Preşedintele să fie ales de Parlament" (Boc: the only chance for USL to give the President is to change the Constitution. That is the election of the President by the Parliament), *Mediafax,* 2012, http://www.mediafax.ro/politic/boc-singura-sansa-a-usl-sa-aiba-presedinte-in-2014-este-sa-modifice-constitutia-presedintele-sa-fie-ales-de-parlament-10443631, April 2013.

[46] Boia, *Op. cit.*, p. 384.

[47] Agerpres, "Ponta vrea ca preşedintele să devină un arbitru, un monarh republican" (Ponta wants the president to become a referee, a republican monarch), 2013, http://www.ziare.com/victor-ponta/traian-basescu/ponta-vrea-ca-presedintele-sa-devina-un-arbitru-un-monarh-republican-1214891, April 2013.

perceived as a political process oriented against President Traian Băsescu and his powers, as a political retaliation for the years of conflict and constitutional disputes.

In a debate over the process of the constitutional revision, which took place at the Romanian Academy on March 7, 2013, the President suggested he understands that the large parliamentary majority is a force he cannot oppose with political means or arguments but he concluded that "any change you will propose, any objectives you will set, no majority is above the law and the Constitution. You can have 90% but you have to stay within the legislation"[48]. The statement itself is arguably because it opposes in an artificial way the idea of a legal status-quo to the idea of democracy that is the political will of the majority. Does the current or future legislation represent the will of the majority? What are the laws if not only formal conventions and arrangements emerging from what people wish to be regulated? If the will of people changes over time, can the existing legislation block the process of change or it simply adjusts to the new direction? This set of arguments focusing on democracy actually incorporates the hard-core of the political thinking of President's contestants, while President Băsescu is constantly stressing the idea that the draft should observe the referendum of 2009. In fact, both approaches are based on populism, a little bit of truth and some hypocrisy: while President Băsescu is centring his discourse on a referendum held four years ago during the presidential race, the parliamentary majority pertains to the present will of citizens and the idea that the current Parliament was elected after the referendum of 2009, so it represents a fresher image of political options in Romania.

An important topic of the revision is the administrative reorganization and the establishing of the regions. Since Ceausescu's Constitution of 1965, later confirmed by the post-communist fundamental law of 1991, Romania has three administrative-territorial levels: the state (central level), the county level and the local level (towns or communes). The idea of developing regional

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[48] Adriana Toma and Oana Voncick, "Dezbatere pe revizuirea Constituţiei. Băsescu: Majoritatea nu este deasupra legii" (Debate on Constitutional Revision. Băsescu: The Majority is Not Above the Law), *România Liberă*, 2013,
http://www.romanialibera.ro/actualitate/politica/dezbatere-pe-revizuirea-constitutiei-basescu-majoritatea-nu-este-deasupra-legii-295398.html, April 2013.

structures and policies as a fourth level has emerged at the end of 1990s, once the country started to interact more substantially with the European Union. The regionalization is a major political theme in which the need of having administrative structures working as "European funds absorbers" is confronting with the hard core of centralism and national unity. Additionally, there are a number of secondary issues related to the process of regionalization like: the interest of local elites in the nomination of the regional capital cities, the interest of UDMR to "cut" a region with a Hungarian majority in the centre of the country (while Romanians would like to see the two counties with Hungarian majority incorporated in a larger region together with other three counties having a Romanian majority population) or the sensitive issue of shifting powers both from counties and central administration in order to give consistence to the regions.

Though the draft is not yet finished, several analysts expect the final version adopted by the Parliament to contain a series of provisions which will increase the powers of the legislature and of the Prime Minister while reducing the powers of the President and of the Constitutional Court. Experts and commentators who are known for their rapprochement to the present opposition and President Traian Băsescu begin to doubt the utility of the entire process of constitutional revision, although in the referendum of 2009 and later in 2010-2011, during PDL's government, the initiative came from the presidency and PDL. "Is the Constitution's revision necessary at this moment?"[49]: this is the (more or less) rhetoric question raised by a former presidential adviser. The sudden reluctance coming from the present opposition represented by PDL is a confirmation that in Romania everybody wants to be associated with the authorship of the constitutional revision and, once the roles are switched, the project is not interesting any longer. Agenda-setting is the priority for all major political actors. The political benefits of being initiators seem more important than the revision itself. It was the same situation when USL was in opposition and PDL was trying to take benefits of being in the first line of the political process of revision.

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[49] Radu Carp, "Este necesară revizuirea Constituţiei?" (Is the Constitution's revision necessary?), *Adevărul*, 2013, http://adevarul.ro/news/politica/estenecesara-revizuirea-constitutiei-i-1_5148d 45000f5182b852bfbab/index.html, April 2013.

On the 20th of March 2013 the special constitutional Commission of the Romanian Parliament adopted "The Theses of the Constitution's Revision"[50]. This is actually the first official document issued by the authorities after launching the process, though it is not yet a real draft of an amended Constitution. The Theses include the main directions and principles of revision, according to the proposals made by the parliamentary groups. Among them, the ones with a larger impact on public opinion are: a clear ban of the possibility of the elected members of Parliament to "migrate" to other parties; the strengthening and widening of the parliamentary control to all public authorities; keeping the two-chamber structure of the Parliament (this is actually contrary to the results of the 2009 referendum) but with a real differentiation of responsibilities between them, and with the limitation of the Chamber of Deputies to 300 seats (according to the same referendum); clear powers and unambiguously relations between President, Government and Parliament; establishing regions as a new administrative level of Romania.

"The Unacceptable Comparison" with Hungary

The last post-Communist European country without a new Constitution, Hungary launched in March 2011 an ample revision process, which lasted two years and comprised several major changes and updates. Both the EU and the US had repeatedly announced negative evaluations on the directions of Hungarian constitutional revisions, criticising the concentration of political power in the hands of the government, the weakened mechanisms of checks and balances, the limitation of the authority of the Constitutional Court as well as of Central Bank's decisional autonomy or the restrictions of liberties for media, religious communities and different categories of minorities. Among the latter points, the following provisions were incriminated: the definition of marriage as the conjugal union of a man and a woman, the obligation of public funded churches to collaborate with the state for the public interest, the restriction of political advertising during election campaigns to public media, while free speech cannot be aimed at violating the dignity of the Hungarian nation[51].

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[50] In extensor, the document was presented to the public by the Parliament of Romania, *The Theses of the Constitution's Revision*,
 http://www.romanialibera.ro/usr/imagini/2013/03/25/289725-document.pdf, 26 March 2013.
[51] W.P. - Editorial, "A Hungarian Power Grab", *The Washington Post*, page A.20, 14 March 2013, Washington D.C., April 2013.

On March 14th, 2013, The Washington Post had published a severe editorial comment on the defiant political attitude showed by "Mr. Orban, a right-wing populist", who "has attracted more red flags. […] The State Department said the revisions 'could threaten the principles of institutional independence and checks and balances that are the hallmark of democratic governance'. […] The European Union and NATO should not tolerate a member government that violates fundamental democratic principles; it should be subject to sanctions"[52]. This article was not an isolated reaction, but one of a long series of negative comments coming from western press and institutions regarding the recent direction of the Hungarian politics, under Viktor Orban's leadership.

A few days later, on the 19th of March 2013 the Romanian Prime-Minister Victor Ponta declared that he doesn't accept a comparison with his Hungarian counterpart Victor Orban, given the fact that the situation of the rule of law in Romania is very much different than the one resulted after "repeated changes of Hungary's Constitution". Elaborating on this idea, the head of the Romanian government added: "in Romania no comma was changed yet in the Constitution, while in Hungary they change the Constitution again and again (…), in Romania we guarantee freedom for mass-media (…) and the National Bank is independent (…) so I don't accept Romania to be treated in the same way with Hungary"[53]. Victor Ponta made this statement in the confusing context of the common letter of four Foreign ministers (Germany, the Netherlands, Denmark and Finland) asking President of the European Commission to develop a mechanism of safeguarding democracy and rule of law in the European Union. The delimitation and suggestion that the letter referred only to Hungary stirred prompt reactions in the neighbouring country. The very next day, the Romanian ambassador to Hungary was convened for explanations at the Ministry of Foreign Affairs in Budapest.

It is obviously a coincidence that Romania and Hungary planned constitutional revisions for the same year and also that both countries have current parliaments with overwhelming majorities. Michael Shafir notes

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[52] *Ibidem.*

[53] Mioara Maxim, "Ponta: Nu accept comparaţia cu Viktor Orban" (Ponta: I Don't Accept the Comparison with Viktor Orban), *Informaţia Zilei,* 2013, http://www.informatia-zilei.ro/mm/politic/ponta-nu-accept-comparatia-cu-viktor-orban, March 2013.

one more "coincidence" in the two states' leadership: "Băsescu shares with Orban a few other traits, he has no hesitation to move from one side of political spectrum to the other"[54], suggesting that both of them "migrated" politically from somewhere else (Socialist and Liberal Groups, respectively) to become fellows in the European People's Party.

In fact, Hungary has a longer "experience" of amending the fundamental law under FIDESZ government, consisting in four successive episodes of revision after Orban's return to power in 2010. The previous one from 2011 prompted severe criticism of the European Parliament[55], and so did the recent one from March 2013 when the European Commission stated that "Hungarian government defies Europe over constitutional change"[56]. A tense climate in the European Union starting with the crisis of 2008 and continuing with Eurozone stalemate, political disagreements and the rise of populism in several member states (UK, the Netherlands, Italy, France, Greece etc.) make the European institutions more vigilant in monitoring the rule of law and independence of justice according to EU treaties and *acquis communautaire.*

From the perspective of common legislation and the European economic convergence criteria, George Kopits comes in his article *Goulash Populism* with an interesting point of view regarding populist policies in Hungary, considering that Viktor Orban is in fact continuing the populist tradition inaugurated by his socialist predecessor. "Hungary's goulash populism peaked during the Socialist government of Ferenc Gyurcsany, which indulged in the costliest spending spree [but] Mr. Orban remains trapped in the past. In its first nine months, his government has failed to adopt a single measure to correct Hungary's sizable fiscal deficit"[57].

In Hungary's case, European criticisms were based mainly on severe concerns regarding a limitation of the independence of the Constitutional

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[54] Shafir, *Op. cit.*, p. 452.

[55] See the official statement of the European Parliament, "Revised Hungarian Constitution"-Strasbourg, 5 July 2011, http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP// TEXT+TA+P7-TA-2011-0315+0+DOC+XML+V0//EN, 26 March 2013.

[56] The European Commission, *The Hungarian Government Defies Europe*, 2013, http://european-commission.rsspump.com/?topic=the-hungarian-government-defies-europe-over-constitutional-change&key=20130314173849_d104a44871e4f83f4e5d9 73a10c98dce, April 2013.

[57] George Kopits, "Goulash Populism", *Wall Street Journal Europe*, Brussels, 2011, 25 February: 13.

Court and of the Central Bank, combined with a rise of the government's powers in both areas (EU Business 2013). None of these changes are envisaged so far in the case of the Romanian Constitution.

In her article *Religion, Nationalism, History, and Politics in Hungary's New Constitution*, Laura Ymayo Tartakoff tries to offer a balanced approach of the Hungarian revised fundamental law, explaining pretty much of what the new Constitution brought by appealing the dramatic history, glory, turning points and failures of Hungarians in Central Europe. In a way, the new Constitution seems a political expression of the deep historical frustrations of the Hungarian nation, "collected" by the right-wing Fidesz in the landslide victory from April 2010. As one of the Tartakoff's interviewed guests remarks, "there is, politically speaking, in the new constitution too much taking care of our historical past. This is not in agreement with my values. However, it's legitimate. After all, Orban's big election victory gave him an unusual amount of authority in parliamentary democracy"[58].

Again, western officials and media were more severe in their assessments, pointing out the most vulnerable parts of the new constitution, despite of the invoked legitimacy of the two-thirds majority in Parliament: "Mr. Orban's party, Fidesz, defied warnings from the European Union and the U.S. State Department and pushed through an amendment to a new Fidesz-drafted constitution that, among other things, discards the rulings of the constitutional court made before 2012"[59].

The distinction between "political" and "legal" dimension of the Hungarian constitutional revision is introduced in order to reduce somehow international concerns around the new foundation of the Hungarian state and to legitimize part of the changes as ideological options of a two-thirds majority in Parliament. According to Tartakoff, "the new Constitution enshrines Christian and nationalist values and threatens both democracy and the rule of law. And yet, many thousands have recently marched in support of Fidesz", while her conclusion is relatively soft in comparison with the already cited EU and US criticism: "The Constitution of 2012 is legitimate. Yet, more effective checks and balances and the development of less polarizing political voices are needed"[60].

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[58] Laura Ymayo Tartakoff, (2012), "Religion, Nationalism, History, and Politics in Hungary's New Constitution", *Society*, Volume 49, Issue 4, 2012, p. 362.

[59] Dan Bilefsky, "Hungarian radio resists muzzle: Government tightening grip on media, banking and judiciary, critics say", *International Herald Tribune,* Paris, 21 March 2013, p. 2.

[60] Tartakoff, o*p. cit.*, p. 366.

Conclusion

There is no politics without myths, clichés and populism. All political cultures operate with enclosed stereotypes and a dose of populism, which can be higher or lower and also manifested on different directions. Under the circumstances of a European revival of populist discourse in the past years I considered useful to scrutinize the Romanian constitutional revision process. Needless to say that Hungary's recent controversial revisions (2011-2013) were also a ground for a closer look to the neighbouring country. Though with some political coincidences, Romanian and Hungarian cases with regard to the constitutional revisions are considerably different. While the Hungarian series of amendments to the fundamental law were largely criticized in Europe and in the U.S. mainly for restricting freedom of media and diminishing powers of the Constitutional Court, the Theses of the Constitutional Revision adopted by the Romanian Parliament in March 2013 (as a preliminary step of the revision) have had no major domestic or European objection.

Romania is a former communist country with large segments of rural, poor and assisted population waiting for a political Saviour but also with growing percentage of liberal urban citizens, highly educated and westernized yet rather sceptical and with lower turnout rates. The "two Romanias" used to confront each other to the polls in the past decades. This time the theme is not dividing the country. The envisaged revision of the Constitution is so far a less tense process than many expected after years of tough political disputes. There are several possible explanations for that, from a lack of public interest to the idea that no major change is expected. Probably the public interest and political tensions will grow somewhat once the referendum approaches. It is yet too early to predict how the amended Constitution will look, if the parliamentary procedures will be successful and the referendum of approval in the fall of 2013 (likely postponed to 2014) will fulfil or not the present 50%+1 or a lowered turnout quorum. What we know for sure is the fact that populism is not a key-factor in the process of revision. In my view the only reason for a possible failure could be a malfunction of the present majority in the Parliament or a split of the Social Liberal Union, not a negative vote in the national referendum.

The "theses of revision" adopted in March 2013 do include some populist topics, as they were mentioned before, but it doesn't look like the main parties are necessarily making their priority in focusing on extremely populist issues. It is probably because the most populist political party in Parliament, namely People's Party – Dan Diaconescu is disintegrating (losing MPs) and was not very active on this battlefield. The populists have not considered so far the Constitution as an appropriate arena for gaining ground. Not yet.

With the notable exception of Hungary, Central and Eastern European countries succeeded to renew or amend existing constitutions without European negative echoes. The principles of democracy, pluralism, separation of powers, the rule of law or the affirmation of human rights seem steady acquisitions in the whole region, at least in constitutional provisions if not yet and completely in terms of a good governance. However, believes Andrew Roberts, "the politics of amendment in Eastern Europe differs from that in non-transitional countries. It is less political institutions and constitutional procedures that drive amendments rates than contextual changes that occur with the passage of time"[61]. In the case of the Romanian and Hungarian constitutional revisions this remark is fully confirmed, though the directions and contents of the two processes are considerably different.

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[61] Andrew Roberts, "The politics of constitutional amendment in postcommunist Europe" in *Constitutional Political Economy*, Volume 20, Issue 2, 2009, p. 114

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LES LIMITES DE LA LAICISATION DANS UN ESPACE POSTCOMMUNISTE

THE LIMITS OF SECULARISM IN A POST-COMMUNIST FRAMEWORK

Raluca Abăseacă*

Abstract

Our paper questions the perception of the Romanians about the separation between the State and the Church in the post-communist space. We claim that the impossibility of the Romanian society to think religion in terms of individual and private choice should be placed in the large context of global power relations and should be seen as a defensive mechanism against the atomisation of communities and against global pressures.

Key words: globalisation, religion, cultural resistance, laic state

Le vide idéologique entraîné par la fin du communisme a favorisé un renouveau religieux et nationaliste, une redécouverte des questions identitaires qui ont été longtemps ignorées ou réprimées. Nous considérons que la relation entre la démocratie et la religion est très importante pour l'espace postcommuniste, car les phénomènes religieux en Europe Centrale et dans les Balkans sont des révélateurs des mentalités et des comportements sociologiques et politiques qui ont un grand impact sur le changement social et dans le même temps, que l'image et la conscience de soi d'une certaine société influencent la démocratisation[1]. Dans cette perspective, la tendance de penser la spécificité de la roumainété surtout dans des termes religieux influence la manière des Roumains de panser la politique, l'économie, la question des droits de l'homme, des relations globales de pouvoir.

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[1] Guy Hermet, *Culture et démocratie*, Paris: Albin Michel/UNESCO, 1993, p. 26.

Il faut remarquer que dans la Roumanie communiste la soumission du rôle de la religion à la politique a été perçue comme quelque chose d'imposé, d'intrusif et que cette perception a mis en avant plusieurs ressentiments[2] et revendications identitaires. Dans ce contexte, nous pouvons remarquer un certain rejet de la laïcisation dans l'espace postcommuniste roumain, parfois radicalisé dans le contexte de la globalisation néolibérale, vu que les coutumes locales peuvent devenir des formes de résistance contre « l'intrusion » des idées et des pratiques étrangères et des questions globales[3] et de la pression internationale pour le pluralisme religieux, sexuel, confessionnel. La religion devient souvent une source d'euroscepticisme ou une forme de résistance culturelle face au modèle occidental des rapports entre l'Etat et l'Eglise et implicitement face à « l'occidentalisation ». Notre hypothèse est que le discours de ceux qui critiquent la laïcisation est concentré autour du clivage Est-Ouest. A part les considérations d'ordre plutôt théorique, notre article est tourné justement envers l'expression de ces critiques à partir d'une analyse de contenu des positions des auteurs orthodoxes, mais surtout des positions de divers groupes, individus et organisations roumaines au sujet de la laïcisation. Nous avons pris en compte des articles théoriques, mais aussi des articles de presse et des forums de discutions. Notre étude part de l'analyse de Bertrand Badie de « la logique de l'importation » spécifique à « l'occidentalisation » du monde. Conformément à Badie, le jeu du pouvoir global place en situation d'emprunter à l'extérieur des façons d'agir, de penser, de s'organiser. Dans le même temps, l'importation désigne le transfert, au sein d'une société donnée, d'un modèle de nature politique, économique ou sociale, forgé dans une histoire qui lui est étrangère et qui relève d'un ordre social fondamentalement différent[4]. « En ce sens, l'acuité des dissonances culturelles devient l'élément de cristallisation des dysfonctions qui accompagnent ce processus d'importation »[5]. Souvent, l'exportation suscite des tensions, met en évidence des décalages, des frustrations, des conflits et clivages, des histoires différentes. Donc, il faut remarquer que les modèles politiques

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[2] Vladimir Tismaneanu, *Fantasies of Salvation: Democracy, Nationalism and Myth in Post-Communist Europe*, Princeton: Princeton University Press, 1998, pp. 74-83.

[3] Michael Burawoy, "The Soviet Descent into Capitalism", *American Journal of Sociology* 102 (5), pp. 130-44.

[4] Bertrand Badie, *L'État importé. Essai sur l'occidentalisation de l'ordre politique*, Paris: Fayard, 1992, p. 3.

[5] *Ibidem*, p. 7.

occidentaux n'auraient que peu de chances de s'universaliser s'ils ne trouvaient pas, hors de leur lieu d'invention, une entreprise active de captation.

Tenant compte de tout cela, nous considérons que la laïcisation s'intègre dans cette stratégie d'importation d'un modèle occidental dans un espace qui conçoit le rapport avec le sacré d'une autre manière, non-occidentale. A l'appui de cette idée, nous soulignons que la littérature orthodoxe condamne souvent l'Occident sécularisé où la religion est disparue au profit d'un nouveau matérialisme. Donc, la question de la laïcisation est vue comme une application d'un modèle occidental dans une société qui conçoit les rapports avec le religieux dans d'autres termes. Cette manière de percevoir l'idée de laïcité n'est pas quelque chose d'inédit; tout au contraire, il s'agit de quelque chose d'assez symptomatique pour la culture politique roumaine. La fusion entre l'orthodoxie et la nation roumaine[6], la théorie des « formes sans fond »[7] et la tendance de penser que les idées et les institutions occidentales ne collent pas aux réalités roumaines[8], étant importés sont des tendances assez importantes pour la culture politique roumaine et peuvent engendrer des formes plus ou moins fortes d'euroscepticisme. L'antagonisme entre la forme et le fond, mais aussi la tendance de penser que tout ce qui est perçu comme étant négatif vient de « l'extérieur » tendent à être la voie adoptée par toute forme de changement social, mais aussi par les manières de prendre conscience et d'internaliser le changement social.

En ce qui concerne le rapport entre la démocratie et la laïcité, à titre général, la littérature sur la démocratie et la démocratisation considère la laïcisation une prémisse pour le développement démocratique, même si il y a des auteurs qui voient la religion chrétienne comme une partie fondamentale de la démocratie occidentale, surtout de sa base morale[9]. Même si on peut dire que la laïcisation a un grand impact sur la démocratisation, car elle influe l'acceptation de la pluralité identitaire dans le cadre d'une société, nous considérons que le rapport entre la laïcisation et la démocratisation n'est pas obligatoire et universel. Il est vrai que la sécularisation occidentale a entrainé de nouvelles formes associatives, de nouvelles solidarités horizontales

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[6] Olivier Gillet, *Religion et nationalisme. L'idéologie de l'Eglise orthodoxe roumaine sous le régime communiste*, Bruxelles: Editions de l'ULB, (coll. Spiritualités libres), 1997, p. 39.

[7] Titu Maiorescu, "In contra direcţiei de astăzi în cultura română", 1868 in *Critice*, Bucureşti: Editura Minerva, 1984, pp. 127-136.

[8] Daniel Barbu, *Bizanţ contra Bizanţ*, Bucuresti: Editura Nemira, 2001, p. 19.

[9] Jürgen Habermas, "Pluralisme et morale", *Esprit*, n° 306, juillet 2004, pp. 6-18.

basées sur la tolérance, le pluralisme, en évitant, de cette manière, une forme de monisme politique et d'absolutisme religieux. Néanmoins, la laïcisation n'est pas obligatoirement liée à a démocratisation. Par exemple, le communisme d'Etat a représenté une forme de laïcisation totalitaire. Les régimes communistes ont cherché à instrumentaliser politiquement la religion en la contrôlant étroitement. D'un autre point de vue et dans l'esprit de la conception de Badie sur « la logique d'importation », si la laïcité est perçue comme étant quelque chose d'importé, d'étranger à un certain espace, l'adoption de divers lois laïques va être suivie par de divers formes de résistances.

Laïcité, aspects théoriques (Ouest versus Est)

L'Etat est laïc, selon Guy Haarscher, en ceci qu'il ne vise pas à imposer les vues d'une partie de la société au reste de la population par la contrainte. Il joue d'un rôle d'arbitre sans prendre partie[10]. En France, l'histoire de la laïcité est intimement liée à l'histoire de l'Etat, d'un Etat perçu comme un de principaux facteurs responsables pour le processus de « sortie de la religion »[11]. Dans le même temps, la séparation entre la religion et la politique s'inscrit dans le mouvement libéral caractéristique à la modernité juridique occidentale: la dissociation entre la société civile et l'Etat. Donc, l'idée de la séparation entre l'Etat et l'Eglise n'est pas quelque chose d'atemporel, qui existe en soi. Tout au contraire, il s'agit d'un long processus historique à travers lequel l'idée de religion, dans sa forme institutionnalisée ou vécue s'est transformée collectivement. Il faut mettre en exergue le fait que la thèse du rapport nécessaire et universel entre la modernité et la sécularisation a été combattue, « la sortie de la religion » dont parlait Gauchet étant plutôt une réalité de la modernité occidentale. Il y a même des théories qui parlent de modernités multiples qui coexistent, caractérisées par des manières différentes de se rapporter au sacré[12]. Donc, selon cette perspective, on peut considérer que la « sortie de la religion » est plutôt un phénomène occidental.

Néanmoins, il faut faire la remarque que la laïcisation ne signifie pas que le pouvoir politique abandonne toute dimension religieuse. Carl Schmitt estime même que tous les concepts de la théorie moderne de l'Etat

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[10] Guy Haarscher, *La Laïcité*, Paris: PUF, coll. "Que sais-je?", 1996, p. 2.

[11] Marcel Gauchet, *La religion dans la démocratie: Parcours de la laïcité*, Paris: Gallimard, 1998, p. 38.

[12] Timothy A. Byrnes, Peter J. Katzenstein, *Religion in an Expanding Europe*, Cambridge: Cambridge University Press, 2006. Page?

sont des concepts théologiques sécularisés[13]. Dans le même temps, la laïcisation ne signifie pas une sortie de la croyance religieuse, mais d'un monde ou la croyance est structurante, ou elle impose la forme politique des sociétés et définit les liaisons sociales. Donc, la laïcisation va de paire avec l'individualisation des croyances et la privatisation de l'émotion religieuse[14]. On peut déjà remarquer que cette individualisation de la croyance et ce processus d'évolution et de transformation de l'Etat et de son rapport avec la religion ne se sont jamais produits dans le cas roumain. Si dans l'espace occidental la laïcité est en liaison avec le développement de l'Etat-nation et avec le développement de la société civile, l'histoire entre l'Etat et l'Eglise roumains est bien différente.

De nombreux historiens et politologues ont invoqué le caractère spécifique de l'Eglise orthodoxe et de ses traditions ancestrales pour montrer que dans les pays ou la religion orthodoxe est dominante, le processus de démocratisation se trouve entravé[15]. L'attitude de l'Eglise serait donc conditionnée par une habitude séculaire de soumission à l'Etat, ou de collaboration étroite, étant donnés les liens qui unissent l'Eglise et l'Etat, le patriarche et l'empereur à Byzance. De ce point de vue, l'historien Henry Bogdan souligne la différence de culture politique entre les mondes marqués par le catholicisme et le protestantisme d'une part et l'orthodoxie de l'autre part[16]. Dans ce sens, le césaropopisme serait la fusion forcé du spirituel et du temporel, bref de l'idéologie et de la politique[17]. Donc, l'alliance traditionnelle entre l'Eglise orthodoxe et l'Etat ferait de l'Eglise orthodoxe une institution prédisposée à se soumette à des pouvoirs autoritaires. De ce point de vue, les Eglises orthodoxes favorisent l'autoritarisme. De cette manière, on peut expliquer la résistance des Eglises catholiques, leur rôle dans la dissidence d'une part et la soumission de celles orthodoxes de l'autre part pendant le communisme. En suivant cette grille d'analyse, on peut même considérer que l'association étroite entre L'Eglise et l'Empire byzantin a entravé la formation d'Etats slaves indépendants. Donc, alors que les pays de l'Ouest ont connu une laïcisation lente, un long processus de séparation entre l'Etat et l'Eglise, l'absence de cette évolution dans les pays où l'orthodoxie est dominante serait due à la persistance de la notion de symbiose entre les

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[13] Carl Schmitt, *Théologie politique*, Paris: Gallimard, 1998, pp. 39-47.

[14] Marcel Gauchet, *op.cit.*, p. 71.

[15] Olivier Gillet, *op. cit.*, p. 131.

[16] Henry Bogdan, *Histoire des pays de l'Est, des origines à nos jours*, Paris: Perrin, 1999, p. 49.

[17] Olivier Gillet, *op. cit.*, p. 26.

deux pouvoirs. Dans cette perspective, l'Eglise orthodoxe serait un frein au processus de démocratisation et au pluralisme garanti par un Etat laïque.

A titre général, l'interdépendance entre la nation roumaine et la foi orthodoxe, fait de l'Eglise une institution intrinsèquement liée à l'évolution de l'Etat. « Apparue dans l'histoire en même temps que le peuple roumain, notre Eglise a mêlé ses destinées aux destinées du peuple, contribuant à la sauvegarde et à la consolidation de l'unité ethnique, spirituelle et morale du peuple roumain, à son affirmation comme peuple souverain et indépendant parmi les autres peuples du monde »[18] Selon certains auteurs, mais aussi conformément à l'opinion publique roumaine, si on prend en compte plusieurs forums de discussion, il y a une fusion, voire confusion entre roumaineté, identité et croyance – cette idée est radicalisée par la thèse de l'ancienneté du christianisme en Roumanie, selon laquelle le peuple roumain serait né chrétien - et c'est justement cette fusion entre le niveau confessionnel et celui national qui empêche toute laïcisation véritable de la société.

Laïcisation et droits de l'homme

L'idée que l'orthodoxie est incompatible avec les droits universels de l'homme a été assez souvent mise en avant depuis la chute du communisme. Un des principaux arguments à l'appui de cette idée consiste justement dans l'assomption selon laquelle faute d'un développement intellectuel comparable à celui de l'Ouest, l'Est n'a pas développé un sens des droits individuels de l'individu.[19] Dans la même lignée, Michael Radu prône que les Eglises de l'Est ont été seulement intéressées dans la promotion du nationalisme, sans contribuer à la construction d'une société civile active et plurielle[20]. De ce point de vue, nous pouvons affirmer qu'il existe une incompatibilité entre l'orthodoxie et les droits de l'homme ou la démocratie au sens large. L'incrimination à partir d'une base religieuse de l'homosexualité, de l'avortement, des pratiques contraceptives, du divorce, qui seraient contre

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[18] Nicolae Vornicescu, ''Editorial: Le rôle de l'Eglise orthodoxe roumaine dans la sauvegarde et l'affirmation de la culture du peuple roumain'', dans *Nouvelles de l'Eglise Orthodoxe Roumaine*, XVIII, 1988, 3, p. 4.

[19] Samuel Huntington, *The Clash of Civilizations and the Remaking of World Order*, New York: Simon and Schuster, 1996, Adamantia Pollis, 'Eastern Orthodoxy and Human Rights,' *Human Rights Quarterly* 15, 1993, p. 342.

[20] Michael Radu, 'The Burden of Eastern Orthodoxy,' *Orbis* 42, Spring 1998, pp. 283-300.

les lois naturelles[21] et les pressions faites par l'Eglise sur la sphère publique dans ce sens, sont en contradiction avec les droits universels de l'homme. Dans le même sens, il y a des auteurs qui considèrent que les droits de l'homme sont seulement le produit de la société occidentale en dépit de leur universalisme affiché. Selon cette perspective, « le concept de « droits de l'homme » serait employé pour camoufler les mensonges et les insultes portés envers les valeurs nationales. En plus, des idées qui contredisent les morales traditionnelles orthodoxes sont progressivement intégrées dans le système des droits de l'homme. »[22]

Néanmoins, nous considérons que l'assomption selon laquelle la démocratie et l'orthodoxie s'excluent est beaucoup trop restrictive. Peut-être qu'une possible solution ne réside pas dans une histoire anthropologique de l'Etat de l'Europe d'Est, mais dans une analyse de la relation entre la religiosité orthodoxe et la tolérance, qui est symptomatique pour le respect des droits de l'homme. En fait, au lieu de généraliser, toute discussion sur la liaison entre l'orthodoxie et les droits de l'homme doit partir de la conception orthodoxe sur l'idée d'être humain, qui doit être mise en relation avec la conception libérale, occidentale, telle qu'apparait dans la Déclaration Universelle des Droits de l'Homme. De ce point de vue, selon la tradition orthodoxe, l'homme a été créé selon l'image de Dieu, fait qui lui confère une certaine dignité et certains devoirs morals. A titre général, cette conception semble mettre en avant, non pas exclure les principes symptomatiques pour les droits de l'homme. Donc, nous ne considérons pas que la religion orthodoxe exclue a priori la question des droits de l'homme, mais que c'est la volonté de l'Eglise de faire des pressions sur la vie privée des individus ou sur les manières de vivre alternatives qui exclue les principes des droits de l'homme.

La religion comme forme de résistance

D'un autre point de vue, on peut considérer que l'orthodoxie est devenue une religion défensive : ce point de vue a été défendu par Sabrina

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[21] Voir Petre Semen, " L'attitude de l'église face à l'infanticide, l'abandon des enfants, les drogues et l'homosexualité, justifiée pas les Saintes Ecritures" in *Théologie et vie*, IX, 1999, nr. 7-12, juillet-décembre, pp. 75-96, Arhiepiscopul Hrisostom de Etna, *Eléments de psychologie pastorale orthodoxe*, Galati: Editions Bunavestire, 2003, pp. 26-29.

[22] Kirill Gundyaev, "The Russian Church and the Christian Dimension of Human Rights", *Izvestiya,* April 2006, pp. 131-136.

Ramet[23]. Les Eglises Orthodoxes se trouverait dans une position défensive par rapport au monde occidental et à ses visions sur le pluralisme et la religion. En fait, depuis la chute du mur de Berlin, tant l'Eglise Orthodoxe Roumaine, que les Roumains se sont confrontés aux effets de la globalisation et de l'européanisation comme forme de globalisation régionale, des nouvelles questions venant à l'attention de l'Eglise, comme la séparation entre l'Etat et l'Eglise, l'homosexualité, la bioéthique. A titre d'exemple pour l'idée de résistance culturelle par la religion face à « l'occidentalisation » du monde, on peut prendre le cas des critiques religieuses des passeports biométriques. Dans ce sens, la rhétorique dirigée contre les passeports électroniques partent de la prémisse que les passeports biométriques sont un instrument par l'intermédiaire duquel les forces « démoniques » décrites dans l'apocalypse de la Bible s'emportent sur la l'humanité, le peuple roumain étant la première victime de celles-ci[24]. La mise en mouvement de ce mécanisme de manipulation et de domination est entrainée par la crise des valeurs qui caractériserait la société laïcisée occidentale.

En plus, le problème du rejet de la laïcisation en Roumanie peut être mis en relation avec la question plus large des relations de pouvoir et avec ce qu'on appelle « la géopolitique de la religion », qui concerne les structures idéologiques qui régissent la vie culturelle de chaque société, les croyances, les rites, le fonctionnement spécialisé du religieux et de son rapport au politique. Cet espace social se trouve soumis à l'hégémonie d'une conception du monde qui tend à imposer partout ses normes. De ce point de vue, la laïcisation désignerait alors les processus par lesquels des sociétés s'arrachent à l'hégémonie religieuse au profit d'une nouvelle hégémonie politique et culturelle laïque qui permet la diversité, par la construction d'un Etat de droit[25]. En fait, souvent à travers l'histoire, les flux et les reflux de la laïcité s'avèrent nécessairement géopolitique. Par exemple, le recul de la laïcisation a été entrainé par la décolonisation. De cette manière, en Amérique Latine, l'échec politique du modèle libéral oligarchique et de l'anticléricalisme d'Etat a conduit certains régimes à reconstruire une identité nationale en

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[23] Sabrina Ramet, "The way we were - and should be again? European Orthodox Churches and the 'idyllic past'" in Katzenstein and Byrnes (eds) *Religion in an Expanding Europe*, Cambridge: Cambridge University Press, 2006, pp. 148–75.

[24] Attila Biro. "Dezbaterea paşapoartelor biometrice în BOR: Un nou episod al disputei între Patriarhul Daniel şi Mitropolitul Bartolomeu Anania", *HotNews.ro*, 26 février 2009, accessé le 14 Décembre 2013.

[25] Jean Baubérot, *Les laicités dans le monde*, Paris: PUF (Collection Que sais-je?), 2007, p. 47.

développant un nationalisme catholique. De cette manière, à partir des années 1960, la théologie de la libération réussit à relier la foi chrétienne et la lutte contre des régimes autoritaire et les multinationales capitalistes. Il est important de remarquer que l'aspect inégalitaire de la société prive les secteurs sociaux subalternes de la possibilité d'accès autonome au niveau politique et les incite à rechercher des modalités propres d'organisation et d'expression religieuse. Même si on ne peut pas généraliser et forcer la comparaison entre l'Amérique Latine et l'Europe Centrale et d'Est, nous pouvons constater que la religion orthodoxe est devenue dans l'espace postcommuniste une forme de résistance face à la globalisation et face à ce qu'on perçoive comme étant des formes de néo-impérialisme et de colonisation par l'intermédiaire des corporations étrangères. Comme dans le cas de l'Amérique Latine, vu le caractère inégalitaire de la société roumaine, la grande différence entre l'espace urbain et celui rural et l'incapacité d'une grande partie de Roumains d'avoir accès à des structures de représentativité et implicitement à des structures de pouvoir, la religion prend un rôle important dans la cohésion des communautés, dans la mobilisation et dans l'organisation. Donc, nous devons prendre en considération le rôle militant de la religion orthodoxe, même s'il est souvent marginal ou ignoré. Dans le contexte d'une crise de représentation, d'un émiettement et d'une désintégration des sociétés traditionnelles et d'une manière de vivre dans la société roumaine, vu le processus d'émigration, la religion offre aux individus le sentiment de communauté, de cohésion, une forme de sécurité.

En fait, toute au long de l'histoire roumaine, la religion a souvent été perçue comme étant une forme de résistance face aux diverses puissances, le cas de la résistance contre l'empire ottoman étant le plus célèbre. Ce qui nous semble plus nouveau pour la société roumaine, c'est le rôle joué par quelques prêtres et implicitement par la religion dans la mobilisation et dans les protestes roumains. Vu l'importance de la religion pour la société conservatrice roumaine et l'autorité symbolique des prêtres dans les communautés rurales, la religion peut devenir le centre de la mobilisation des gens, de leur besoin d'appartenir à une communauté et de leur besoin de sécurité, surtout dans un contexte de forte fragmentation et de rompue des attaches communautaires surtout causé par l'émigration. La résistance paysanne de Rosia Montana contre l'exploitation minière au cyanures et la Proclamation de Campeni[26] qui commence avec la messe n'a pas ignoré la

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[26] La Proclamation de Campeni (Octobre 2013) vise le droit des habitants de décider de leur sort, des ressources naturelles de leurs terres, l'interdiction de l'exploitation etc.

dimension religieuse, ce qui est explicable étant donné le recours aux sentiments et aux arguments nationalistes d'une partie de protestataires et dans le même temps, la fusion entre le nationalisme roumain et l'orthodoxie. Les mobilisations roumaines contre le gaz de schiste sont plus récentes. Dans ce cas, la résistance contre une grande corporation américaine, Chevron et les arguments écologiques prennent une forme autochtone. Selon les prêtres actifs dans les protestes, nous avons le devoir de défendre la vie, car chacun de nous est responsable pour les générations futures, donc nous devons nous solidariser pour défendre la vie, car la vie est le plus grand don de Dieu. Le discours du prêtre Laiu est symptomatique pour ce cas. « Je préfère mourir digne qu'agenouillé dans la boue de Chevron (…) Ce sont les masses qui élisent les élites politiques, non pas inversement (…) tout le monde va mourir et alors ne compteront plus ni les intérêts locaux, ni ceux étrangers, ni ceux corporatistes. Pour le moment, la seule solution est de prendre la rue. » [27] Donc, le discours du prêtre Laiu englobe la foi chrétienne, la critique des corporations et le militantisme.

Religion et action collective

Le contexte d'après 1989 est marqué par l'incorporation periphérique de la région post-communste dans le régime global de production, d'accumulation et de division du travail, par la globalisation qui transforme la vie quotidienne des gens et mène souvent à divers formes de résistance locale orientée envers la défense des traditions culturelles contre l'intrusion des idées et des pratiques étrangères. Dans ce contexte, la religion devient importante pour l'action collective, surtout à cause du fait qu'elle privilège une identité distincte.

Dans le même temps, on peut remarquer l'accent mis sur le facteur culturel par la littérature sur l'action collective des dernières années. Les acteurs sociaux agissent dans un contexte de contraintes structurelles, qui n'ont pas à faire seulement avec les ressources matérielles, mais aussi avec les questions culturelles, la culture ayant un rôle important dans le façonnement des répertoires d'action, des habitudes, des idées, des croyances, des pratiques

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[27] Marcel Barbatei, ″Prefer să mor cu fruntea sus decât cu capul în noroiul Chevron-ului″, *Cotidianul*, Février 2013, http://www.cotidianul.ro/prefer-sa-mor-cu-fruntea-sus-decat-cu-capul-in-noroiul-chevron-ului-207804/, 23 Octobre 2013.

informelles à partir desquelles les acteurs construisent les stratégies d'action[28]. Donc, les interprétations faites par acteurs sur les situations structurelles, leurs opinions sur le « système » contraignent leur capacité d'agir et leur action collective. Dans le même temps, par l'action, les agents réussissent parfois à modifier les structures culturelles qui les encadrent, car l'agence sociale est orientée dans le même temps envers la reproduction des structures contraignantes et dans le même tems envers la création de nouvelles structures[29]. Donc, l'action collective est dans le même temps une manipulation créative de nouveaux symboles et une réaffirmation de la tradition. Les références au passé peuvent être dans la même mesure un obstacle (les valeurs ou les manières de penser peuvent réduire les possibilités d'action de l'acteur) et une opportunité pour l'action[30]. Dans ce sens, une identification trop forte avec la tradition ou une très grande distance entre la culture des activistes visant la laïcisation et le reste de la population peuvent réduire l'efficience de « la réélaboration symbolique ». De ce point de vue, l'action collective devient possible quand les messages mobilisateurs sont intégrés dans des components culturelles des populations auxquelles ils s'adressent. Donc, les initiatives visant la laïcisation sont souvent rejetées justement à cause du fait qu'elles ne s'intègrent pas dans la culture politique des Roumains.

Le rôle de la religion, y compris de la reluctance d'accepter le monde tel qu'il est spécifique à tout message religieux, l'attrait que portent les symboles religieux aux groupes sociaux vastes, tant aux groupes sociaux exclus qu'aux acteurs centraux, la capacité de la religion de parler au nom de la majorité de la population et de se rendre légitime est très importante pour la question de la mobilisation et de l'action collective. En tenant compte de tout cela, nous considérons que dans la Roumanie postcommuniste, la liaison entre l'action collective et la religion peut se structurer à partir de deux lignes, l'une négative et l'autre positive. D'une part, il existe le risque que les deux concepts s'excluent, car quel que soit le régime, il peut être considéré comme étant le signe de la volonté de Dieu. Dans ce cadre, toute anarchie, ou toute action collective contestataire à titre général est en contradiction avec l'ordre voulu par Dieu. En suivant cette ligne d'analyse,

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[28] Ann Swidler, "Culture in Action: Symbols and Strategies", *American Sociological Review*, Vol. 51, No. 2, April, 1986, pp. 273-286.

[29] William Sewell, "Theory of Structure: Duality, Agency, and Transformation", *The American Journal of Sociology*, Vol. 98, No. 1, July 1992.

[30] Hank Johnston, Bert Klandermans, *Social Movements and Culture*, Minneapolis: University of Minnesota Press, 1995, p. 125.

on peut dire que les essais et les idées de changement social de quelques organisations, individus et petits groups qui visent la question de la laïcité sont rejetés par une société trop attachée à la tradition. C'est pourquoi plusieurs protestes ou initiatives venant des groupes, des organisations et des personnes de la société civile (l'Association Séculaire-Humaniste, Remus Cernea, la campagne « mettez fin au financement des cultes religieux », « nous voulons des hôpitaux, non pas de cathédrales ») qui militent contre « l'endoctrinement religieux » par l'obligatoriété des heures de religion dans les écoles se heurtent à des résistances. Des arguments employés dans les forums de discussion pour justifier le rejet de laïcisation comme: « les plus grands crimes de l'histoire de l'humanité ont été faits par des athées », « la laïcisation signifie athéisme, satanisme, blasphème, communisme » montrent que la société roumaine reste encore très superstitieuse et incapable de penser la religion en liaison avec l'idée de choix individuel.

D'une autre part, comme on l'a déjà remarqué, on peut prendre en compte plusieurs essais de centrer l'action collective autour de la religion. On peut prendre l'exemple de l'organisation non gouvernementale ProVita et d'autres groupes conservateurs qui, à l'aide du recours au discours religieux milite pour l'interdiction de l'avorte, vu comme un crime et un pêché, mais dans le même temps stigmatise la question de la homosexualité, vue comme quelque chose d'étranger à la « nation roumaine », une adaptation d'une pratique païenne occidentale à une société religieuse[31].

Donc, on peut remarquer une polarisation de la société civile en ce qui concerne la question de la laïcisation : un militantisme laïc, d'une part, venant des milieux plutôt occidentalisés (ou perçus par le reste de la société roumaine comme étant occidentalisés) et une résistance autochtone à ce qu'on considère souvent comme étant des idées et des pratiques « importés ».

Conclusion

Il faut remarquer que dans la société roumaine existe une confusion entre citoyenneté et religion, une indistinction entre la sphère privé et celle publique, une incapacité de penser la religion en termes de choix individuels. Le concept de société civile, hérité de la trajectoire occidentale de développement

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[31] Mihaela Stoica, "Scandal la Muzeul Taranului Roman. Proiecţia unui film premiat cu două Globuri de aur întreruptă de un grup de homofobi ce au intonat imnuri religioase", *Gândul*, février 2013, http://www.gandul.info/stiri/video-10583345, 12 Décembre 2013.

de l'Etat, qui implique la différenciation des espaces sociaux par rapport à l'espace politique, l'individualisation des rapports sociaux, qui confère à l'allégeance citoyenne une valeur prioritaire, l'horizontalité des rapports à l'intérieur de la société, n'existe pas encore dans la société roumaine. La tendance envers la centralisation du pouvoir héritée du régime communiste, mais aussi de l'histoire roumaine antérieure à celui-ci a un grand impact sur la manière dans laquelle les gens perçoivent les relations sociales. Souvent, la religion est vue comme une forme de résistance à « l'occidentalisation du monde », tout essai de laïcisation étant regardé comme quelque chose d'imposé. Malgré les cas de quelques prêtres, le traditionalisme et la forte hiérarchie de l'Eglise Orthodoxe Roumaine nient la question de la religion civile, qui pourrait unir la communauté des fidèles, les minorités religieuses, les intellectuels ayant de visions laïques, l'union ayant pour but la mobilisation antisystème.

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Hirsch, E. D.; Katt, Joseph F.; Trefil, James (2002), *The New Dictionary of Cultural Literacy* [http://www.bartleby.com/59/17/postindustri.html], 20 January 2005

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