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Values in the EU's Neighbourhood Policy: Political Rhetoric or Reflection of a Coherent Policy?*

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Abstract

The European Neighbourhood Policy (ENP) is often justified by references to its unprecedented emphasis on the “commitment to shared values” in future EU relations with its vicinity. Few attempts have been made, however, to critically reflect on the “values dimension” of the ENP. This article examines if the ENP can be sufficiently justified on the basis of the political values it embodies: It explores the extent to which the declared commitment to values in the ENP is based on a wider consensus at the EU-level; the changing emphasis on “shared values” in the policy over time; and the degree to which the ENP adds to institutionalising political values in future EU relations with its neighbours.

Keywords: *EU Foreign Policy, European Neighbourhood Policy, European Neighbourhood and Partnership Instrument, European Values*

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1. Introduction

“We are also committed to developing ever deeper ties and bridges of co-operation with our neighbours and to share the future of this community of values with others beyond our shores” (European Council 2003)

In 2002 the EU began to develop a policy towards its neighbouring countries in order to avoid new lines of division on the European continent following the 2004 Eastward enlargement and in order to meet the challenges arising from the newly created borders. Initial proposals for the European Neighbourhood Policy stress the importance of ‘shared European values’ as the basis for future enhanced relations with all neighbouring partner states.

Much of the existing literature examines the role of shared European values inside the EU (Christiansen *et al.* 2001, Merlingen *et al.* 2001, Leconte 2005) or in the context of the emergence of an institutionalised system of EU Foreign Policy, including a common European foreign policy identity based on shared norms and values (Smith M. E. 2004). The development and significance of political values in the ENP has not been addressed. This lack of scholarly attention surprises, not only because of the major importance attributed to ‘shared values’ by policy-makers on the ENP, who frequently refer to the value dimension of the ENP as a major improvement on existing EU policy (Ferrero-Waldner 2006). Very few studies have placed the ENP in the context of existing EU policy and examined the extent to which the ENP does in fact significantly increase the importance of political values in relations with neighbouring states. The following article therefore aims to analyse the values dimension of the ENP in more detail: Does it reflect political rhetoric only or is it an expression of a clear and improved ‘values-based’ policy towards neighbouring states?

As there is no standard definition of ‘shared European values’, the enquiry here looks at those values commonly associated with the Copenhagen political criteria developed by the EU in the context of the 2004 Eastward enlargement. They include: stable political institutions, guarantees for democracy, the rule of law, respect for human rights and fundamental freedoms and minority rights (European Council 1993). An EU interpretation of its own values was

chosen because it is highly likely that EU policy-makers draw on a similar understanding of values also in the ENP. At the same time, the emphasis here is placed on *political* values rather than *economic* values related to ‘market economy’, which have been discussed sufficiently elsewhere (Milcher *et al.* 2006, Denysyuk 2005).

In order to judge the extent to which the ENP ‘improves’ existing policies towards neighbouring states, the article will draw on approaches developed to better understand the Unions political identity based on values (Weiler 1997, Lucarelli 2006, Beetham, Lord 1998: 33-58). These approaches place an emphasis on the political and civic values upon which the EU is based, and have developed criteria through which to judge the ability of the Union to justify its policies on the basis of these values. These criteria are highly relevant for analysing the ENP, which is above all a policy based on (and justified by) ‘shared values’. The criteria include (i) the coherence and consistency of the policy discourse on the significance and substance of ‘shared values’, (ii) a wider consensus on the content of values, rather than select member state interests or technocratic EU institutional interests and (iii) the existence of appropriate measures to institutionalise the relevance and enforceability of values.

In the first part, the article analyses the significance of shared political values in existing EU external relations with now ENP partner states. The second part then takes a closer look at the formulation process of the ENP in order to identify if, over time, the discourse on and role of political values in the ENP has been consistent, and if the substance of ‘shared values’ in the policy reflects a broader consensus on the EU level or not. The third part focuses on ENP instruments and the extent to which they allow for the practical implementation and institutionalisation of ‘shared values’ through the policy.

2. Political values in EU relations with neighbouring states prior to the ENP

In order to analyse if and how the ENP improves the value dimension of EU relations with its neighbourhood, it is important to ex-

amine the role of political values in existing EU policies. These policies followed a predominantly regional approach: relations with the Western Newly Independent States (NIS), the Mediterranean (EuroMed Partnership) and the South Caucasus.

2.1 EU relations with the Western NIS

Following the end of the Cold War, the EU's relations with neighbouring states in the East went through several stages, from the Partnership and Cooperation Agreements (PCA) concluded with Moldova, Ukraine and Belarus between 1994 and 1995 and the 2003 European Neighbourhood Policy.¹

The PCAs mainly focus on trade matters and contain few references to European values (Missiroli 2004). Values are not usually included as part of agreement provisions but rather highlighted in the preambles or introductory articles. Most provisions of the PCAs, however, do not explicitly refer to 'shared values' and instead focus on trade relations.

During the early post-cold war period, few distinctions were made between the quality of democracy, the rule of law and human rights between the Western NIS. If there were disagreements among the member states on EU policy towards these countries, they were predominantly based on geography and differences regarding the allocation of EU resources to the 'north', 'south' or 'east' (Emerson *et al.* 2005).

However, Vladimir Putin's domestic policy making increasingly worried some of the member states, and the 2004 Orange Revolution in Ukraine led to calls for prioritising the country over and above Russia in EU policy towards the East and to renew the emphasis on shared values. In autumn 2004 the Nordic member states, Austria and seven new member states from CEE called for a greater

¹ For the PCAs with Ukraine and Moldova, see Commission Website: http://ec.europa.eu/comm/external_relations/ceeca/pca/index.htm. The PCA with Belarus was negotiated in 1995 but never came into force because of the deteriorating political situation and President Lukashenko's moves towards authoritarian rule.

engagement with Ukraine and less support for enhanced cooperation with Russia (Emerson *et al.* 2005: 17).

Several of the old member states, however, remained highly critical of this new approach and did not shy away from open disagreement with their counterparts in the Union. Italian ex-prime minister Silvio Berlusconi, for example, misused his position as president of the European Council in 2003 to declare his willingness to volunteer as Putin's advocate over Chechnia and support to Putin over the Yukos affair. For France, Russia is a key building block in the creation of a global multi-polar order and it is crucial as a supplier of oil and natural gas. Germany under Chancellor Schroeder shared with France the priority placed on Russia in terms of geo-economic interests (Emerson *et al.* 2005: 18-19).

At the same time, the UK (together with Sweden) was at the forefront in supporting the development of enhanced relations with Ukraine, Moldova and Belarus and the inclusion of the commitment to shared values as the basis of these relations. This approach was supported by the Commission and, to an even greater extent by the European Parliament which has been very consistent in its calls for a greater role of democracy and the rule of law in EU external relations (European Parliament 2006).

In other words and to summarise, political values have not always ranked high on the political agenda of EU relations with its neighbours in the East. The question thus arises, of whether or not the ENP can improve the standing of and agreement on the role of 'shared values' in relations with its 'new' neighbours in the East, or if indeed the ENP falls within or deepens current divisions among the member states and EU institutions.

2.2 EU relations with the South Caucasus

PCAs with Georgia, Armenia and Azerbaijan were all concluded in 1999 and references to values and democratic principles are the same in all three agreements. The preambles emphasise the links between the Community, its member states and the respective part-

ner state and “the common values they share”.² They all foresee cooperation on the observance of principles of democracy and the respect for and promotion of human rights as part of political dialogue. Most surprisingly, however, all agreements contain a title VIII on “Cooperation on matters relating to democracy and human rights”, including the establishment of democratic institutions, the strengthening of the rule of law and the protection of human rights and fundamental freedoms (PCA Georgia, PCA Azerbaijan, PCA Armenia).

The inclusion of the human rights clauses into the PCAs with the South Caucasus does, however, not reflect an agreement on the EU level on the content and importance of shared values in relations with the respective states. Title VIII can be traced back to pressure from the EP which threatened to block or at least hold up the conclusion of the PCAs. Rather than ‘agreeing’ with the EP, the Council at the time decided to strategically appease the institution by including Title VIII (European Parliament 2005).

In general, the South Caucasus has not received much attention from the member states amongst whom only Sweden has pushed for a more coherent EU strategy towards the region. The European Parliament on the other hand has gone through great efforts to lobby for the inclusion of Georgia, Armenia and Azerbaijan into the ENP, mainly on the grounds of supporting political and economic reforms in the countries and for greater EU involvement in conflict resolution and post-conflict reconstruction (Crisis Group Europe 2006). The ENP is usually seen as a major stepping stone in EU engagement with the region: But is this new enhanced relationship based on commitments to democracy, the rule of law, human rights and fundamental freedoms?

2.3 EU relations with the Mediterranean

The Union concluded several Association Agreements (AA) with partner states in the Mediterranean within the Euro-Mediterranean Partnership between 1997 and 2004. References to shared values in the Association Agreements with Tunisia (1998), Israel (2000), Mo-

² For the PCAs with Georgia, Azerbaijan and Armenia, see Commission Website: http://ec.europa.eu/comm/external_relations/ceeca/pca/index.htm

rocco (2000), Jordan (2002), Egypt (2004), Lebanon (2002) and the Palestinian Authority (1997 on an interim basis) are few and all follow the same template.³ The preambles state the consideration by all parties of the ‘proximity and interdependence which historic links and values have established’ between the Community, its Member states and the Mediterranean partner state in question.⁴ Article 2 in almost all AAs refers to the respect for democratic principles and fundamental human rights which “shall inspire the domestic and international policies of the parties”. The emphasis of the Euro-Mediterranean Association Agreements is on trade, regional cooperation and cooperation in the field of Justice and Home Affairs, rather than political values.

The 1995 Barcelona Declaration itself enshrines the formal commitment to the promotion of human rights and democratic values. However, the discourse on “shared values” in the Barcelona Declaration and the Association Agreements does not reflect a broad consensus at the EU level on the importance and content of “shared values”. Southern member states in particular made clear their emphasis on “stability” in the region, and reluctance to push for greater political reforms. References to “shared norms” in the context of the Barcelona Process emerged out of complex bargaining at the EU level and a tactical trade-off between the Southern and Northern member states. Still, as part as a response to the 9/11 attacks, the EU begun to develop new guidelines to enhance its support for de-

³ Association Agreements with Tunisia, Israel, Morocco, Jordan, Egypt, Lebanon and the Palestinian Authority, see Commission Website: http://ec.europa.eu/comm/external_relations/euromed/doc.htm; Negotiations of the AA with Syria were finalised in 2004 but the signature of the AA by the Council is pending Syria’s co-operation with regard to regional stability in the light of Syrian responses to the independent UN Investigation Commission and associated UNSC Resolutions, the AA with Algeria is still in the process of ratification and negotiations with Libya on the AA have not started because the country has yet to accept the Barcelona *acquis*. These ENP partner states are therefore not subject to the discussion here. EU relations with Israel and the Palestinian Authority and the role of values have been discussed elsewhere and cannot be analysed in detail within the limited framework of the article here due to the complexity of the relationship.

⁴ Association Agreements with Tunisia, Israel, Morocco, Jordan, Egypt, Lebanon; see Commission Website: http://ec.europa.eu/comm/external_relations/euromed/doc.htm.

mocracy, human rights and the rule of law in the Southern Mediterranean. This development is generally seen as a step towards a shared understanding on human rights and democratic reforms as well as the notion of “positive conditionality” (Emerson *et al.* 2005: 21).

But significant differences remain over the critical tone in official EU values discourse to human rights abuses in the respective partner states, gradual versus conditional political reform and divergent funding priorities among southern and northern member states. Apart from the differences between southern and northern EU member states, EU institutions have not addressed the commitment to shared values in a coherent manner, in terms of official discourse as well as policy implementation. DG Trade has been reluctant to embrace conditionality in EU policies towards the Maghreb. Geographical desk officers try not to jeopardise sensitive diplomatic relations through democracy and human rights initiatives. Commission officials dealing with the Middle East peace process in particular feared that the emphasis on human rights in the EMP undermined the primacy of peace process initiatives and negotiations.⁵

The disagreement between member states and within EU institutions on the nature and purpose of ‘shared values’ has also prohibited the enforcement of provisions on democracy and human rights contained in the Association Agreements. Article 2, which provides the legal base for appropriate measures in the event of a serious breach of international human rights standards, has hardly been used to date (Emerson, Noutcheva 2005: 6). The implementation of the Mediterranean AAs is supported by the MEDA financial instrument. Similar to provisions in the TACIS instrument, however, MEDA does contain few references to shared democratic values, human rights or fundamental freedoms. In addition no mechanisms exist in MEDA to effectively monitor the human rights performance in Mediterranean partner states (Emerson, Noutcheva 2005: 6).

The discourse on ‘shared values’ in existing EU policy towards neighbouring states in the Mediterranean does therefore not reflect a broad agreement on the EU level. The few references to democratic

⁵ Interview, Commission Official, 1 August 2006, Brussels.

principles, human rights and fundamental freedoms that do exist are mainly the outcome of strategic intergovernmental bargaining, remain insufficiently institutionalised in the respective financial instruments and are rarely enforced in practice.

2.4 Sanctions towards ENP partner states

Another means for the Union to institutionalise “shared values” in its relations with neighbouring states is the use of sanctions. In practice, these can range from embargoes on EU products, a ban on the import of products from the targeted country, the restriction of diplomatic contacts and restrictions on the admission of individuals in EU territory (Council of the EU 2003, 2004). The EU has applied sanctions on a number of third states that are now part of the ENP. Libya and Syria had to face arms embargos as part of a Union-wide effort to fight terrorism. Azerbaijan and Armenia continue to be subject to arms embargoes imposed by the Union and following OSCE efforts to resolve the Nagorno Karabach conflict. Belarus has been targeted by the EU for its treatment of EU staff and international observers and has seen various restrictions on the movement of government officials over the years. Restrictions of admission continue to be imposed on Moldova, in support of the peace process in Transdniestria (Kreutz 2005). Still, the EU has invoked no sanctions explicitly to protect democracy and human rights in its immediate neighbourhood. On the one hand, this is surprising, not least because around 56% of EU sanctions worldwide are linked to democracy and human rights (Kreutz 2005: 20). Yet on the other hand, it is a clear indication of the lack of agreement or operational coherence at the EU level in respect to invoking sanctions vis-à-vis neighbouring states.

One of the reasons behind the focus on terrorism and intrastate conflict of EU sanctions towards its immediate neighbourhood is linked to direct security-based considerations and fears of consequences on EU territory (Kreutz 2005: 20). EU sanctions policy towards the rest of the world is more ‘values-based’, as it is geared towards the protection of democracy and human rights. In other words, the Union has so far not institutionalised the promotion of “shared values” in its neighbourhood: The lack of democracy or human rights

abuses have not led EU decision makers to impose sanctions on ENP partner states.

The role and significance of political values in existing relations between the Union and its neighbours has by no means been coherent. Community financial instruments have not sufficiently institutionalised the commitment to democratic reforms and sanction mechanisms have rarely been used to reinforce human rights or fundamental freedoms in neighbouring states. In other words, “shared values” are not elaborated in a coherent discourse at the EU level, member state interests have largely precluded the development of a general consensus on the content and importance of “shared values” in EU relations with its neighbours and the commitment to those values has not been enforced. The following chapter therefore examines to what extent and in what ways the European Neighbourhood Policy changes the discourse and practical implementation of political values in EU relations with its neighbourhood.

3. Values vs. interests: Changing emphases on values in the ENP

Early drafts of the ENP map out a very ambitious agenda in respect to the values upon which the enhanced relations with its neighbours should be based. In its Communication on the ENP Strategy Paper, the Commission enumerates the following aspects of European values, this time under the explicit heading of the ‘Commitment to Shared Values’:

- strengthening of democracy and rule of law, reform of the judiciary and fight against corruption and organized crime
- respect of human rights and fundamental freedoms, including freedom of media and expression, rights of minorities and children, gender equality, trade union rights and other core labour standards, fight against the practice of torture and prevention of ill-treatment
- support for the development of civil society
- cooperation with the ICC

- commitments required to essential aspects of EU external action, such as fight against terrorism and proliferation of weapons of mass destruction, as well as abidance by international law and efforts to achieve conflict resolution (Commission 2004a).

3.1 ENP Country Reports

The ENP Strategy Paper was accompanied by the first set of Country Reports (Commission 2004a). The Country Reports outline and summarise the current state of relations between the Union and the respective ENP partner state. All reports take the form of internal unilateral Commission working documents. DG External Relations was in charge of drafting the general sections of the Country Reports, which were then forwarded to the respective Country desks which would further elaborate and add specific details under each heading.⁶ The major emphasis in the Country Reports is on the state of legislative reform and liberalisation in ENP partner states, predominantly in the economic sector and criminal justice system. However, the Country Reports do also contain two fairly extensive sections on democracy and the rule of law as well as human rights and fundamental freedoms.

In its ENP Country Report on Moldova, for example, the European Commission broadly examines the current state of these commitments in application to the Republic. Interestingly, the report starts with a reinterpretation of the significance of “values” within the former PCA, and then underlines the importance of development of political institutions based on these values – democracy, the rule of law and human rights (Commission 2004b).

The Commission Report also highlights various deficiencies in the commitment to shared values by Moldova. “Democracy and the rule of law” require improvements, specifically with a view on democratic elections, laws on political parties and socio-political organizations, powers of local government, an independent judicial system and criminal procedure codes to fight corruption (Commission 2004b: 6-8). The human rights situation in Transdniestria is high-

⁶ Interview, Commission Official, 21 June 2006, Brussels.

lighted and heavily criticized by the Commission (Commission 2004b: 10-11).

The Country Reports are almost all critical of the democratic conduct of elections, inefficient or partial judicial systems, corruption, limits to the freedom of the media, the freedoms of expression and association, the protection of women's rights, children's rights and minority rights, alongside shortcomings in detention conditions, ill-treatment and torture.⁷ The evaluation of the state of democracy and human rights in the two Eastern neighbour states, Moldova and Ukraine, as well as the South Caucasus, appear fairly direct and concrete, whereas the Country Reports for Jordan and Morocco seem more diplomatic in the choice of language used to express shortcomings of the respective governments. The Country Report on Jordan emphasises that the Jordanian government has 'recognised the need' for further measures to guarantee the independence and efficiency of the judiciary; rather than pointing to the partiality of the judicial system directly. Egypt and Tunisia, on the other hand, are harshly criticised for their lack of respect of human rights and fundamental freedoms.⁸

The ENP therefore establishes an extensive framework on the nature and the content of "shared values" largely defined as political values, such as fundamental rights and freedoms as well as democracy and the rule of law. This particular interpretation of values, however, does primarily reflect an agreement within the European Commission and the Wider Europe Task Force, rather than the EU level as a whole.⁹

On concluding the PCAs, the EU had only just begun to discuss the meaning of Europe and its common values. With the EU's decision to offer membership to some Central and East European countries (CEECs) in 1993, the European Commission and its DG Enlargement in particular, developed a set of membership criteria which would condition eventual accession. The Copenhagen criteria

⁷ ENP Country Reports, see Commission Website: http://ec.europa.eu/world/enp/documents_en.htm#5

⁸ *Ibid.*

⁹ Interview, Commission Official, 21 June 2006, Brussels.

clearly defined political criteria or “values” such as stable institutions, guarantee for democracy, the rule of law, respect for human rights and minority rights as prerequisites for EU membership (European Council 1993).

Commission personnel was directly transferred from DG Enlargement to the newly established Wider Europe Task Force, as were the policy frameworks of transition and the methodology from the process of enlargement.¹⁰

The emphasis on “shared values” in the Country Reports is therefore not necessarily a sign or outcome of an inclusive and values-based policy-making process, but rather a Commission-centric and heavily path-dependent mode of policy formulation (see also: Kelley 2006).

3.2 ENP Action Plans

This impression is reinforced by the closer analysis of the significance and content of values in the ENP Action Plans (AP) which followed the Strategy Paper and Country Reports. All Action Plans concluded to date do commence by stating that the ENP is based on a commitment to shared values by all parties and make further progress in the relationship dependent on the partner state’s achievements in meeting these commitments.¹¹ But most Action Plans miss the rigour and detail in which values gaps were identified in the initial Country Reports.

The APs with Ukraine and Moldova do contain a relatively lengthy section on democracy, the rule of law, human rights and fundamental freedoms but the actions to be taken under that heading remain vague or subordinate in respect to other headings. The Action Plan on Moldova, for example, shifts the emphasis from the ‘commitment to shared values’ and values gaps to cooperation on Justice

¹⁰ Interview, Commission Official, 21 June 2006, Brussels.

¹¹ ENP Action Plans have been agreed with Moldova, Ukraine, Morocco, Jordan and Tunisia. APs also exist for Israel and the Palestinian Authority although but will not be discussed here. All Action Plans are available online, Commission Website: http://ec.europa.eu/world/enp/documents_en.htm.

and Home Affairs, such as border management or the combat of terrorism (ENP AP Moldova 2004). With regards to the Transdnistria conflict, the human rights situation is not mentioned except for a brief elaboration on 'efforts towards a settlement (...) guaranteeing respect for democracy, the rule of law and human rights.' (Action Plan Moldova 2004) The provisions in the ENP Action Plan with Ukraine probably offer the most detailed list of actions to be taken under the "democracy" heading (ENP AP Ukraine 2004). At the same time, they now appear highly insufficient following the 2004 Orange revolution and subsequent change in regime – developments that occurred after the negotiations of the Action Plan with Ukraine.

The sections on democracy, the rule of law and fundamental freedoms are kept even shorter and vague in the Action Plans with partner states in the Mediterranean. The AP with Jordan, for example, offers no precise definition of the steps to be taken towards political reform, specifically in respect to the freedom of expression, the independence of the media, development of civil society and implementation of international law (ENP AP Jordan). Neither ill-treatment and torture, nor the treatment of NGOs, are mentioned in the AP, despite the pronounced criticism earlier in the Country Reports on the treatment of political detainees and limits to political activities by NGOs. The AP with Morocco appears slightly longer, but again, it fails to address some of the key criticisms raised in the Country report, such as the freedom of the press, women's rights and the protection of minorities (ENP AP Morocco). The Country Report on Tunisia was probably the least diplomatic and most critical of all ENP Country Reports to date, yet the sections on human rights and fundamental freedoms in the Action Plan are shorter than in any other. Respect for the freedom of association, expression and media pluralism are all grouped together and to be addressed through "liberalising the information industry" or "exchanges and cooperation between Tunisian and EU voluntary sectors" (ENP AP Tunisia, Art. 4). Neither the strict press code, nor the control over private means of communication, nor the practice of torture is mentioned in the Action Plan.

In other words, the importance of 'shared values' in the ENP varies not only from neighbouring state to neighbouring state but also from initial Commission proposals and Country Reports to the final

ENP Action Plans. Thus the discourse on values, their contents and significance is not coherent. And neither does it reflect an EU-level wide agreement on ‘shared values’.

Due to the intergovernmental character of the negotiations, the Southern member states quickly reemphasised their traditional security interests in the region: Regime stability, migration control as well as the fight against terrorism.¹² This led to the inclusion of measures in the Action Plans which potentially harm “shared values”, and basic human rights in particular. The provisions in the Action Plans on combating terrorism, for example, make meagre reference to ensuring the respect for human rights, and the sections on illegal migration or the fight against organised crime make no reference to human rights at all.¹³

The Mediterranean ENP partner states themselves never appeared to view the policy as aiming at political reform but rather a means to receive more financial assistance from the Union.¹⁴ Almost all Mediterranean ENP partners do not have the ambition to join the EU and therefore the opportunities for the Union to enforce political reforms were limited from the start. According to one Commission official involved in the drafting of the ENP Action Plans with Mediterranean partners, the negotiations of the APs in fact constituted “proper” negotiations, rather than mere consultations that the Commission had conducted with Accession candidates.¹⁵ In other words, also the Commission recognised its limits of enforcing political values.

In addition, the intergovernmental nature of the negotiations of the Action Plans also implies the absence of input into the APs on part of wider civil society and NGOs. The exclusion of non-governmental actors from the negotiations was criticised heavily inside and outside the Union. Many governments in Mediterranean ENP partner states are accused of lacking commitment to democ-

¹² Interview, Commission Official, 5 July 2006, Brussels.

¹³ With exception of EU-Jordan AP, Article 47 on development of adequate prison conditions, including enhancement of detention facilities, having regard to the protection of fundamental human rights.

¹⁴ Interview, Mission to the EU of Morocco, 19 June 2006, Brussels.

¹⁵ Interview, Commission Official, 21 June 2006, Brussels.

ratic values, precisely because they restrict the activities of civil society, NGOs and the freedom of expression in general. The inter-governmentalism of the negotiations of the APs therefore potentially reinforces the lack of democratic values in the Mediterranean by providing yet another space for the respective governments to exclude non-governmental actors from decision-making or their general scrutiny function.

The situation was slightly different in respect to the negotiation of Action Plans of Ukraine and Moldova. Although the documents also lack clear and extensive measures to implement the commitments to 'shared' democratic values, the Commission was able to include a greater number of references to values and human rights in particular. The Eastern Europe country desk inside DG External Relations had lobbied the coordination unit of the DG to be able to insert references to political values (human rights) into sections other than those linked to democracy and fundamental freedoms.¹⁶ The AP for Moldova, for example, is one of the few to contain references to human rights in the section on Justice and Home Affairs and the fight against organised crime. Despite the concerted efforts of the Eastern Europe country desk in DG RELEX to reinforce political values in the Action Plans, the extent to which the then Ukrainian and Moldovan governments actually committed to these values also remains questionable. Very often, the respective political elites rhetorically committed to "shared values" in negotiations with Commission officials but reversed the commitment in domestic politics (Bogutscaia *et al.* 2006).

In other words, degree of coherence in the ENP on the significance and content of political values towards Ukraine and Moldova, at least at the level of official discourse in Country Reports and Actions Plans. Still, the content of these values does reflect the interest of some sections within DG RELEX, rather than a wider agreement on the EU level.

Negotiations of the Action Plans with the three states in the South Caucasus have just been concluded. The respective APs are more focused in respect to the 'new partnership perspectives', but the

¹⁶ Interview, Commission Official, 6 July 2006, Brussels.

emphasis on political values does not significantly differ from the other Action Plans.¹⁷ Member states agreed on the inclusion of the region into the ENP following the development of the European Security Strategy and its emphasis on “building security in our neighbourhood” (European Security Strategy 2003) The short term interests in energy security, crisis management and the fight against international crime and corruption therefore dominates EU engagement with the region. Political values such as democracy and the rule of law rank secondary in the ENP towards all three states. The draft Action Plan with Egypt has also been criticised for its weakness in respect to provisions concerning human rights and fundamental freedoms. At the same time as the Egyptian government “committed” itself to eradicating the practice of torture as part of the ENP Action Plan, for example, it effectively increased the use of torture domestically (Daunay, Al-Asmar 2006: 18).

The examination of the role of “shared values” in the development of the ENP, its first drafts, Country Reports and Action Plans has clearly demonstrated that the EU has not been consistent in its discourse on political values. The interests behind the Action Plans in particular, appear to give priority to either traditional security interests of Southern member states or general short term interests of the member states in the fight against immigration and terrorism.

Only some sections within the Commission appear to have actively lobbied for the inclusion of detailed measures on political values in the ENP Action Plans, such as officials from DG enlargement in the early Wider Europe Task Force or the Eastern Europe Country Desks in DG RELEX. Civil society or other non-governmental interests were largely excluded from the negotiations of the APs. Moreover, many ENP partner state governments only committed to “shared values” on the level of rhetoric, if such a commitment was expressed at all. In other words, there was no agreement on the content and importance of “shared values” among actors at the EU level, among the member states or among and within ENP partner states.

¹⁷ ENP Action Plans with Armenia, Azerbaijan and Georgia, see Commission website: http://ec.europa.eu/world/enp/documents_en.htm#3

Finally, intergovernmental negotiations dominated decision-making on the Action Plans and traditional member state interests came to define the priorities of the ENP: Regime stability in the South and the fight against international crime and terrorism instead of long term commitments to democracy, the rule of law, human rights and fundamental freedoms.

3.3 ENP Instruments and Implementation

From 2007 the European Neighbourhood and Partnership Instrument (ENPI) will replace the existing EU financial assistance to all neighbouring states participating in the ENP, including Russia. The new instrument will thus succeed TACIS for both Russia and Eastern ENP partner states as well as the MEDA instrument for the Mediterranean. According to current proposals by the Commission, the objectives of the ENPI will be based on existing agreements, Commission Communications and Council Conclusions setting out the overall strategy of the Union vis-à-vis neighbouring countries, including the ENP action plans, where they apply (Commission 2004c: 3-4). In the case of Russia, priorities will be defined in the light of roadmaps on the four common spaces (Commission 2004c: 4).

Overall, the ENPI aims to support the partner countries' commitment to common values and principles (Commission 2004c: 12). More specifically, the Commission proposes a wide range of objectives covering most aspects of the ENP: The promotion of social development and gender equality, employment and social protection, core labour standards; the protection of human rights and fundamental freedoms and support for democratization; and fostering the development of civil society (Commission 2004c: 15). The ENPI thus places a fairly equal emphasis on the 'shared values' dimension of the ENP, in addition to, for example, measures connected to the promotion of a market economy or secure border management. Still, the exact allocation of funds for the ENPI is still being decided, and

it is not certain how much money will be earmarked for the implementation of democracy and human rights related measures.¹⁸

Apart from ENPI financial assistance, could the “shared values” dimension of the ENP be better institutionalised through the use of sanctions? This is unlikely. First and foremost, the ENP does not create a new legal base for relations between the Union and neighbouring partner countries. Therefore the provisions of the Association or Partnership and Cooperation Agreements continue to apply. This means that enhanced relations with partner states cannot be suspended on the basis of a breach of the commitment to shared values as set out in the ENP Action Plans. Relations can only be withdrawn on the basis of a breach of equivalent commitments enshrined in existing agreements, which contain (as mentioned earlier) even less concrete provisions on “shared values”. The member states have made clear on numerous occasions in the past that Article 2 (on the commitment to shared values) of the Association Agreements concluded within the framework of the Mediterranean, for example, cannot be considered applicable (Daunay, Al-Asmar 2006: 18).

Moreover, the ENP is designed as a “positive policy”, based on incentives, rather than sanctions of various kinds (Emerson, Noutcheva 2005: 15). This approach can almost certainly be considered as a desirable alternative to the use of military force to impose democratic values, but it still remains unclear if the Union can effectively institutionalise or embed the values dimension of the ENP in practice. Even on a very basic level, the ENP still lacks concrete timetables for the implementation of “shared values”, the Action Plans do not identify financial and human resources needed to implement respective measures and, most importantly, the Union lacks adequate monitoring mechanisms to follow-up on commitments to democratic reforms (Daunay, Al-Asmar 2006: 16). Once again, the main reason behind the lack of ‘benchmarking’ and monitoring in the ENP lies with the Southern member states, who refused to take a firm stance on pushing for political reform (as they

¹⁸ The Commission had envisaged an amount close to €15,000 million, but the final budget allocations for the financial period 2007-2013 commit only €12,000 million to the ENP.

have done in the past and within the framework of the EMP) (Emerson et al.: 23). Sanctions in particular require unanimity among the foreign ministers of the member states, which demonstrates that the institutionalisation of political values through the ENP is not only severely limited by deep seated member state interests, but also the institutional set-up of the Union.

Political values such as the rule of law, human rights and fundamental freedoms therefore remain fairly loosely institutionalised, even under the ENP which originally set out to place “shared values” at the heart of EU relations with neighbouring states. The ENPI places greater emphasis on the commitment to common values and principles than either MEDA or TACIS in the past. Yet the question remains of which kind of measures and how many will be supported once the ENPI is actually running. Other means of enforcing the political values dimension of EU relations with its neighbours, such as effective benchmarking, monitoring or even sanctions, are neither supplemented nor enhanced by the ENP. The ENP does not create new instruments to institutionalise ‘shared values’ and without a new legal base, the policy is unlikely to change the enforceability of political values.

4. Conclusion

The analysis of the role and importance of shared European values in the EU's policies towards neighbouring states in the East, the South Caucasus and the Mediterranean has led to the following conclusions. Relations between the Union and its neighbours in the past did not prioritise the role of political values such as democracy, the rule of law, human rights and fundamental freedoms. The few provisions that exist in Partnership or Association Agreements are vague and remain loosely institutionalized in the respective financial instruments. Very often, the geopolitical or economic interests of member states prevail in EU relations, for example in respect to the Southern member states which favour regime stability in the Mediterranean, over a clearer emphasis on political reforms. Sanctions have rarely been applied to ENP partner states to enforce the commitment to shared values. If a values dimension was included into existing policies towards neighbouring states, it was because of

strategic bargaining and trade-offs between the member states or between member states and EU institutions, rather than a wider EU-level agreement on a set of shared political values.

The article then analysed the extent to which and in what ways the ENP changes the role of values in EU relations with its neighbours. The first focus was on the relevance and coherence of the values discourse in the policy. Early ENP policy drafts and Country Reports suggest a greater emphasis on ‘shared values’ as well as signs of the development of a clearer and more consistent definition of these values along the lines of the Copenhagen political criteria. But could that move be interpreted as a step towards an improved values-based policy towards neighbouring states? The examination of the ENP Action Plans suggests otherwise. Most APs lack the rigour and precision with which political values were defined in the Country Reports.

Secondly, the question was whether or not the (few) provisions in the ENP on “shared values” derived from a wider consensus on the role and content of values at the EU-level. The answer was again fairly disappointing. The negotiations of the ENP Action Plans were conducted in an intergovernmental setting and short term interests of the member states in stability (fight against corruption, organised crime and terrorism) clearly dominated concerns over long term political reforms. Besides, civil society in neighbouring states was rarely involved in the negotiations of the APs and ENP partner state governments do not seem to endorse or agree on the importance and significance of ‘shared values’ either.

The third and final question related to the degree of institutionalisation of political values in the ENP. Here the new financial instrument, the ENPI, seems to at least suggest a fairly equal emphasis placed on support for measures related to democratic reform and human rights if compared to measures on cooperation in Justice and Home affairs. Clear benchmarks and monitoring mechanisms, however, do not exist in respect to political reforms and the use of sanctions remains tied to provisions in the Partnership and Cooperation or Association Agreements (which were never enforced).

The lack of a coherent and consistent discourse on political values, the lack of a wider EU-level agreement on the contents and significance of these values as well as the limited degree of institutionalisation of values in the ENP all suggest that the new policy does not significantly improve existing EU policies towards neighbouring states. The policy appears to continue to apply different sets of values to different neighbouring states and often member states' short term interests dominate the Union's agenda vis-à-vis its neighbours. Furthermore, the gap between political rhetoric on "shared values" and the capability to enforce these values is widened rather than reduced through the ENP – at least in its current legal set-up.¹⁹ Finally, progress in ENP implementation to date has been achieved predominantly in respect to short term economic reform and liberalisation as well as cooperation on visa-facilitation and readmission.²⁰ The implementation of the commitment to shared political values and long term political reform remains the key challenge for the ENP.

“The EU should refrain from supporting totalitarian regimes (...). This used to take place for such regimes to protect the European gates against terrorism and immigration with methods that do not serve peoples' interests and nourish terrorism” (Cairo Institute for Human Rights Studies 2006).

¹⁹ The legal base of the AAs or PCAs upon which the ENP currently draws may change with the negotiation of 'enhanced agreements'. These are currently envisaged for both Ukraine and Russia. The new agreements will be comprehensive agreements covering all areas of EU relations with both states, including provisions on common values. See for example: Commission (2006) or Emerson, Tassinari, Vahl (2006).

²⁰ On the current state of the implementation of the Action Plan with Ukraine, see for example Commission Website: http://ec.europa.eu/comm/external_relations/ukraine/intro/index.htm .

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