CONTINUITY AND CHANGE IN EUROPEAN NEIGHBOURHOOD POLICY. THE BURDEN OF EXCESSIVE BUREAUCRATIZATION

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Abstract:

The present article looks at the European Neighbourhood Policy (ENP) through the lenses of policy analysis in order to assess the processes through which its stated goal to 'support and foster stability, security and prosperity in the countries closest to its borders' are transposed into practice and produce an impact on its neighbours. It proceeds from the assumption that due to the embeddedness of this policy in the enlargement policy it overstrains the institutional framework set up for this policy and leads to mixed results in its evaluation. If the focus of the entire neighbourhood policy has been recalibrated several times from its inception, its modus operandi suffered only limited alterations. This paved the way to an excessive bureaucratization of the entire policy, which impacted directly on EU's capacity to attain its core objectives.

Keywords: European Neighbourhood Policy, external governance, democratization, bureaucratization

The European Neighbourhood Policy was conceived in the context of the 2004 enlargement when the qualms about the 'absorption capacity' of the European Union started to fuel fears with regard to the proper functioning of the entire project and generated a sense of 'enlargement fatigue.' At the same time, through enlargement the contour of EU borders changed entirely and as such the configuration of its neighbourhood.

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Confronted with the need to 'deepen' the entire project after the historic 'widening,' the EU needed to call off or at least to slow considerably down the enlargement policy and find a different way to engage with its new neighbours. EU had to take into consideration on the one hand the need to assuage the anxieties of the new member states and on the other the acknowledgement of the fact that in the new international context after 9/11 it was better to bring stability to the neighbouring region in order not to run the risk of being destabilized by its instability. So it had to find ways to 'support and foster stability, security and prosperity' in countries at its new periphery with which it had had hitherto relative scarce official relations. As enlargement was not any longer a viable option, the goal in the relation with these countries became to 'achieve the closest possible political association and the greatest possible degree of economic integration.' By this ambiguous formulation its proponents tried to reproduce the accomplishments of the enlargement without making recourse to its main ingredient, namely, the accession perspective, while leaving member states enough room for interpretation and offering them means to accomodate the policy's rationale with their own preferences. For some it was sufficiently vague to consider it as a *voie de garage* whereas for others it looked like an 'antechamber to accession.'[1]

ENP was planned with the intention of forging closer ties with the nine states lying at EU's southern periphery – Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Palestine, Syria and Tunisia, and the six at its eastern border – Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine. Summarizing its content briefly, we may characterize ENP briefly by being a bilateral policy between the EU and each partner country that was later complemented by regional, multilateral cooperation initiatives – the Eastern Partnership, the Union for the Mediterranean Partnership and the Black Sea Synergy. It employs instruments drawn from a number of policy areas as for instance foreign policy and security policy, development aid, justice and home affairs and justice.

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[1] David Cadier, 'Is the European Union a substitute for enlargement?' in London School of Economics IDEAS Reports, *The Crisis of EU Enlargement*, Special Report, November 2013, pp. 53-54.

From its inception, ENP was revised several times. In the beginning the idea was to establish regional stability by sustaining the transformation of these surrounding countries. ENP was meant to support their adjustment to European values and bringing their politics and policymaking in line with the customary European standards. In 2009 along with the entering into force of the Treaty of Lisbon, ENP was brought into the EU treaty framework and had to adapt to the new institutional setup. In Article 8(1), the Treaty specifically mentioned that the 'union shall develop a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union.' The 2011 revision was from the beginning ill-fated as it was conducted shortly before the Arab Spring and the limits of EU capacity to act as a reliable actor in crisis situations in its own neighbourhood were exposed. However, this revision remains noteworthy for introducing the principle of differentiated cooperation with neighbouring countries.

The present research follows the structure of a policy analysis thus attempting to interpret the structures and bureaucratic procedures of the ENP from the perspective of the overall management of this policy and not only in terms of its internal consistency and efficiency.[2] It aims at offering an understanding of the organization, means and core values of ENP from its onset to the present day by scrutinizing it from the perspective of the processes and changes that took place, the power and resources of the main political actors, as well as the rules of the game, with the purpose of evaluating its stability and coherence.[3] In this way, the 'policy subjected to evaluation is to be seen in its complexity, allowing a display of its shortcomings and an appraisal of their potential impact on related fields of activity.'[4] Given the evolution of ENP from the previous enlargement policy, in evaluating its stability, we take into consideration also the path dependency understood in the sense that the option range for today's decisions depend on past knowledge and choices and is thus limited. In other words, 'history matters for current decision-making situations and

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[2] Peter Knoepfel, Corinne Larrue, Frédéric Varone, Michael Hill, *Public Policy Analysis*, Bristol, The Policy Press, 2007, p. *xi*.

[3] Bas Arts, Jan Van Tatenhove, 'Policy and power: A conceptual framework between the 'old' and 'new' policy idioms,' *Policy Sciences*, Vol. 37, 2004, pp. 341–342.

[4] Peter Knoepfel *et al*, *Public Policy Analysis*, p. 3.

has a strong influence on strategic planning.'[5] It basically assumes that once the actors have adjusted their expectations and behaviour to a given policy or benefit from this, they start to defend it even with the risk of inhibiting the making of necessary decisions or turning it suboptimal.[6]

European Union is a *sui generis* system of governance. It is neither a state, nor an international organization. Hence, it is difficult to assess it by current standards. EU has a 'highly decentralized' political system 'based on the voluntary commitment of the member states and its citizens.'[7] It has a multilayered structure called multilevel governance with reference to the fact that inside the EU decision-making authority has been dispersed over several levels of government – supranational, national, subnational. The governments are not any longer dominant players. Other participants come to be involved with varying degrees in decisionmaking. Among these, European institutions stand out in particular ways – European Commission is a key political entrepreneur with a considerable influence on both enlargement and ENP due to its involvement in both setting conditions and assessing the compliance with them, the Council is a pivotal decisionmaker, whereas the Parliament has the power to either accept or reject the entire agreement via the assent procedure. In order to enhance synergies and EU credibility in international relations an External Action Service headed by a High Representative for Foreign Affairs and Security Policy was established by the Treaty of Lisbon. For many, EU is a 'unique, not to say strange, political actor', with 'divided and clashing institutions', 'blurred sovereignty', and a 'weak sense of common interests,'[8] which stuns outsiders as it is not clear where exactly does the political power lie (national capitals, council, commission).

With regard to European Neighbourhood Policy the similarities with the enlargement policy are more than striking, which is to a certain extent challenging as 'EU's international actorness is far less developed and

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[5] FT lexicon, 'Definition of path dependence' in *Financial Times*, [http://lexicon.ft.com/Term?term=path-dependence] 15 March 2017.

[6] Alasdair R. Young, 'The European Policy Process in Comparative Perspective' in Helen Wallace, Mark A. Pollack, Alasdair Young (ed.), *Policy-Making in the European Union*, 6-th edition, New York: Oxford University Press, 2010, p. 65.

[7] Simon Hix, Bjørn Høyland, *The Political system of the European Union*, 3-rd edition, Basingstoke, Palgrave Macmillan, 2011, p. 15.

[8] Dov Lynch, 'Russia faces Europe' in *Chaillot Papers*, No. 60, 2003, p. 78.

remains controversial'[9] and treating ENP as any other common policy is problematic because it assumes that by projecting values, norms and regulations on the others they will adhere to EU's own code of conduct.

European Commission which was at the centre of the process of conceiving both policies maintains further a dominant position that needs to be coordinated with the High Representative for of the Union for Foreign Affairs and Security Policy and the European External Action Service (EEAS). As its *modus operandi* is bureaucratic and technocratic, Commission attempted from the beginning to handle ENP as any other common policy, namely, by making extensive use of its normative power.

Equally conspicuous is the fact that most of those who worked on enlargement policy have come to deal with ENP, which explains the penchant for conditionality and socialization as the preferred tools for conducting ENP, the emphasis on values and the similarities in language terms employed in designing the policy.

Based on the mandate that it receives from the Council (drafted nevertheless on the Commission's own proposal), Commission negotiates with each neighbouring country a bilateral action plan which sets out a roadmap for jointly agreed short and medium-term priorities on political and economic reforms for the next three to five years that reflects the country's needs and capacities, as well as its and the EU's interests. The action plans build on existing legal agreements these countries have with the EU – partnership & cooperation agreements (PCAs), which resemble in many respects the Europe agreements negotiated previously with the countries of Central and Eastern European countries. Once the priorities are met, an association agreement (AA) is signed and the action plan is replaced by an association agenda. The newest AAs, as for instance those signed with Georgia, Moldova and Ukraine in 2014, include a Deep and Comprehensive Free Trade Area (DCFTA) and are aimed at furthering economic integration and political association. Implementation of reforms is both jointly monitored by the partners through various joint institutions set up under the PCA/AA (cooperation council, established as a forum of discussions between the Council of the European Union and the members of partner country's government, a cooperation committee with sub-committees

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[9] Nick Wright, 'The European Union: What Kind of International Actor?' in *Political Perspectives*, Vol. 5, No. 2, 2011, p. 28.

on various issues – economic, cross-border cooperation, energy, environment, education etc. – created in order to facilitate dialogue between experts from European Commission's directorate generals (DGs) and those from partner country's ministries) and unilaterally assessed by the European Commission in Progress Reports released each year.

As already mentioned, ENP came to rely in the same vein as enlargement policy on a 'combination of conditionality incentives and socialization dynamics.'[10] However, in terms of conditionality, EU cannot go as far as offering ENP countries a membership perspective which proved to be the most powerful incentive for reforms in countries in East and Central Europe.[11] Still, EU does not go empty-handed in the relation with the ENP countries. Its offer has been captured by the '3 Ms' that stand for Money, Markets and Mobility.

'Money' refers to the financial aid provided for the implementation of reforms. The European Commission assumes a key role in this regard due to the prerogatives the treaties rest upon it for the management of EU budget. According to the EU Financial Regulation and its Rules of Application in force since 2013, in exerting its prerogatives Commission has

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[10] David Cadier, 'Is the European Union a substitute for enlargement?,' p. 55.

[11] The issue has been extensively researched in the academic literature. Without attempting of being exhaustive, see for instance Frank Schimmelfennig, Ulrich Sedelmeier, 'Governance by conditionality: EU rules transfer to candidate countries of Central and Eastern Europe' in *Journal of European Public Policy*, Vol. 11, No. 4, 2004, pp. 661-679; Antoaneta Dimitrova, Geoffrey Pridham, 'International actors and democracy promotion in central and eastern Europe: the integration model and its limits' in *Democratization*, Vol. 11, No. 5, 2004, pp. 91-112; Wojciech Sadurski, 'Accession's Democracy Dividend: The Impact of the EU Enlargement upon Democracy in the New Member States' in *European Law Journal*, Vol. 10, No. 4, 2004, pp. 371-401; Frank Schimmelfennig, Ulrich Sedelmeier (ed.), *The Europeanization of Central and Eastern Europe*, Ithaca and London, Cornell University Press, 2005; James Hughes, Gwendolyn Sasse, Claire Gordon, *Europeanization and Regionalization in the EU's Enlargement to Central and Eastern Europe. The Myth of Conditionality*, Basingstoke, Palgrave Macmillan, 2005; Geoffrey Pridham, *Designing Democracy: EU Enlargement and Regime Change in Post Communist Europe*, Basingstoke, Palgrave MacMillan, 2005; Heather Grabbe, *The EU's Transformative Power: Europeanization through Conditionality in Central and Eastern Europe*, Basingstoke, Palgrave MacMillan, 2006; Frank Schimmelfennig, 'European regional organizations, political conditionality, and democratic transformation in Eastern Europe' in *East European Politics and Societies*, Vol. 21, No. 1, 2007, pp. 126-141; Tim Haughton, 'When does the EU Make a Difference? Conditionality and the Accession Process in Central and Eastern Europe' in *Political Science Review*, Vol. 5, No. 2, 2007, pp. 233-246.

to choose between a direct management, an indirect and a share management mode for spending €15.4 billion allocated via the European Neighbourhood Instrument (ENI) from 2014-2020. Two of the Commission's directorates general take up extensive prerogatives in this respect, namely, that for Neighbourhood and Enlargement Negotiations (DG NEAR) and that for International Cooperation and Development (DG DEVCO). For the purpose of strengthening coherence between external relations and development cooperation, European Commission needs to coordinate its efforts with the European External Action Service (EEAS).

Another important remark in this respect concerns the fact that the policy and expenditures related to development aid has to be endorsed by the European Parliament and the Council of the European Union (acting on Commission's proposals) and are subject to the scrutiny of the European Court of Auditors. This financial aid is further supplemented by the European Investment Bank (EIB) and European Bank for Reconstruction and Development (EBRD).

Moving to the next 'M', the one that stands for 'Market', this pertains to privileged access to certain shares of EU market, that can increase to full access to EU's internal market with the signing of DCFTA.

Nevertheless, this last step comes in exchange for extensive legislative and technical harmonization with EU *acquis communautaire*. As in matters regarding the internal market European Commission is assigned a central role, again this EU institution comes to dominate the agenda of policy planning, implementation and evaluation.

The last 'M', the one that refers to 'Mobility' is connected to adoption of incremental steps towards visa liberalization. In exchange for reforms in justice and security the neighbouring countries gradually gain access to free movement to and inside the Schengen area. The whole process starts with a Visa Facilitation Agreement, allowing for more affordable visas and simpler application, which paves the way to a visa free travel agreement to be signed on the condition that mobility can take place in a secure and well-managed environment and meant to allow for free travel to the Schengen area for holders of biometric passports. European Commission with its Directorate General for Migration and Home Affairs (DG HOME) and working in close cooperation with a number of EU agencies specialized in border management like the European Border and Coast Guard Agency

(Frontex), European Police Office (Europol), European Asylum Support Office (EASO) or Agency for large-scale IT systems (eu-LISA) assumes responsibility on handling these aspects.

At the same time, the EU undertakes to foster reforms by encouraging the socialization[12] of ENP countries. If in the beginning, the EU focused primarily on its relations with the governments of the neighbouring countries, it has gradually expanded the scope and turned its attention on other non-state actors. As with the Central and Eastern European countries, the process is built around the European values of good governance, democracy, rule of law and human rights and is directed towards civil society. EU support for civil society organizations is many-faceted and holds to the view that their existence needs a democratic setup that ensures civic freedoms and, at the same time, the functioning of democracy necessitates an active and dynamic civil society. By empowering state and non-state domestic actors, they turn demand and exert pressures in the direction of reforms. Further on, civil society networks assume monitoring activities in policy specific fields that allow for alternative evaluation and benchmarking governmental behaviour.[13] In order to support these grassroots organizations a number of initiatives and instruments have been setup at EU level, as for instance, European Endowment for Democracy (EED), Civil Society Facility (CSF), Non-state Actors and Local Authorities in Development (NSA-LA).

Overall, in dealing with the neighbouring countries, European Commission raised demanding preconditions and handled these relations by similar procedures to those employed for Central and Eastern countries during their preaccession. In the absence of a clear target or at least a long

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[12] See for instance Jeffrey T. Checkel, 'Why Comply? Social Learning and European Identity Change' in *International Organization*, Vol. 55, No. 3, 2001, pp. 553–588; Charlotte Epstein, 'Stop Telling us How to Behave: Socialization or Infantilization?' in *International Studies Perspectives*, Vol. 13, 2012, pp. 135–145; Ian Manners, 'Normative Power Europe: A Contradiction in Terms?' in *Journal of Common Market Studies*, Vol. 40, No. 2, pp. 2035–58; Frank Schimmelfennig, Stefan Engert, Heiko Knobel, *International Socialization in Europe: European Organizations, Political Conditionality and Democratic Change*, Palgrave Macmillan, Basingstoke, 2006.

[13] Aron Buzogany, 'Governance and governmentality of EU neighbourhood policy. Two perspectives on the role of civil society in external democracy promotion,' in Vera Axyonova, (ed.), *European Engagement Under Review. Exporting Values, Rules, and Practices to Post-Soviet Space*, Stuttgart, ibidem-Verlag, 2016, pp. 69-75.

term strategic vision, the ENP countries were hesitant to reform as long as benefits remained dim. Practically, EU support concerned primarily their efforts to harmonize their legal frameworks with the *acquis* and reform their institutions. Under these circumstances, against the background of its stated goal of bringing 'stability, security and prosperity' in the neighbouring regions, the results of ENP implementation up to now are at least mixed. The last evaluation of this policy offers a more detailed glimpse on what it did not work – a lack of ability to come up with quick and adequate responses to crisis situations as those in Ukraine, Syria or Egypt, an awkwardness in finding answers to politically sensitive issues such as cooperation with authoritarian regimes, the neighbouring countries' access to the EU labour market or the policing of the common border, a limited capacity to infuse the neighbouring countries with European values, difficulties in communicating on what does EU stand for in a number of situations, failure to tackle root causes of some of the most pressing problems affecting ENP countries – poverty, unemployment, lack of education. During the evaluation process kicked off in 2015, European Commission assumed responsibility for the way it handled ENP.

Aware of the disappointment with the overall ENP performance, the EU tried to come up with a response with perceptible shades of difference from its previous positions in the latest revision process. It was by then acknowledged that the causes of instability lie 'outside the security domain alone'[14] and stem still, despite EU's endeavours of the past more than 10 years, from the ill-functioning of the state, economic sluggishness and social unrest. As a consequence, the assumption that the EU could transform its neighbourhood has all but disappeared from the political discourse, whereas references to democracy, human rights and good governance, remain still prominent on the agenda. Without abandoning ENP values, the latest revision is more focused on cooperation in areas where there are 'genuinely shared common interests' with a special emphasis for regional stability, controlled

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[14] European Commission, High Representative of the Union for Foreign Affairs and Security Policy, *Review of the European Neighbourhood Policy*, Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, JOIN(2015) 50 final, Brussels, 18 November 2015, [http://eeas.europa.eu/archives/docs/enp/documents/2015/151118_joint-communication_review-of-the-enp_en.pdf], 15 March 2017.

migration, trade, investment and energy cooperation. Also, the principle of differentiated action (the principle 'more for more and less for less') has acquired more prominence in the relations with the neighbouring countries. In essence, the Commission's Joint Communication recognizes that 'not all partners aspire to comply with EU rules and standards.'[15] As a consequence Commission is determined now to abandon the one-size-fits-all approach and replace the annual package of country reports and come up with more tailor-made reports focusing specifically on 'meeting the goals agreed with partners.'[16]

        In terms of policy analysis, the factors that favor the operation of changes in the way a certain policy works are the contestation of the policy by those whose interests are not any longer deserved, the change in circumstances, and the achieving of the objectives that made that policy necessary. A closer look to ENP through the lenses of the latest revision process set in motion by the European Commission and the High Representative for of the Union for Foreign Affairs and Security Policy with the Joint Communication on the ENP review offers indications for a pattern of path dependency in the way the ENP evaluation process was conducted and policy changes were put forward for future deliberation and decision.

        This shows that the key driver for policy reform was the change in circumstances which led to adjustments of the main policy goals without major alterations to the way in which this policy works and practically no attempt aimed at its debureaucratization. As a result of extensive consultation in the process of drafting the revision proposals, we can witness a better recalibration of the focus of the entire ENP. Up to now, the ENP review proposals are rather indicative of a lack of interest in improving the way in which ENP works although it became obvious that excessive bureaucratization places EU in an awkward position when it needs to make decisions on politically sensitive issues. A number of recent interventions of the President of the European Commission on the necessity for the EU countries to step up and stop 'hiding behind' the union[17] might contribute to a reconsideration

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[15] *Ibidem*.

[16] *Ibidem*, p. 5.

[17] See for instance European Commission, *Speech by President Juncker at the Forum of the outermost regions*, Brussels, 31 March 2017, [http://europa.eu/rapid/press-release_SPEECH-17-824_fr.htm], 1 April 2017.

of the balance between member states and European institutions as well as in the case of ENP whose process of reform is now ongoing. In the 2015 proposal for ENP reform, the commission just mentioned that 'there will be a greater role for the Council and member states in identifying priorities and in supporting their implementation.'[18] In the new context this might be indicative of the fact that the European Commission intends to distance itself and let the national governments to make the necessary political decisions. For many ENP countries EU remains an significant standard of reference in terms of stability, welfare and security. Yet, the EU's unduly bureaucratic and normative approach to their transformation estranged them from this model. In order to preserve its clout in the relations with the ENP countries, EU needs not only to refocus the entire neighbouring policy, but also to make it more flexible, less bureaucratic and more sensitive to politically charged issues.

Conclusions

ENP has its roots in the enlargement policy, which significantly contributed to the transformation of the countries in Central and Eastern Europe. Although the policy has been revised several times since its inception, its institutional framework apart from the changes introduced by the Treaty of Lisbon remained more or less the same. At the center of the policy was placed the European Commission, which dealt it in the same bureaucratic way as enlargement policy thus displaying noticeable signs of path dependency. It built it on the institutional set up created for the enlargement policy, it borrowed its staff, it employed its key principles, it made use of a similar terminology, although it had more ambiguous aims than its predecessor (stability, security, prosperity vs. accession) and was meant for a different set of countries (by all standards, a more eclectic group in comparison to that of the Central and Eastern European countries).

Rather than clearly explaining its strategic vision and what it stands for, the EU has offered the countries lying at its periphery just a collection of inconclusive goals in exchange for their thorough transformation by

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[18] European Commission, High Representative of the Union for Foreign Affairs and Security Policy, *Review of the European Neighbourhood Policy*, p. 5.

adopting European values and norms. As long as the costs were high and the benefits limited, the motivation on the side of ENP countries for undergoing this transformation was at most modest. The inability to offer solutions to entrenched economic and social problems marring the situation of these countries or the limited capacity to intervene in crisis situations, further deteriorated EU credibility to act as a reliable partner in the neighbouring region. In the end, EU failed to inspire.

On the occasion of the latest review of the ENP, the European Commission assumed responsibility for this situation. After successfully using enlargement as a foreign policy tool in order to enhance its influence on this policy area,[19] it became obvious that its attempt to replicate this situation with ENP is doomed to failure. The Commission is now compelled to accept a recast of its role and a more assertive implication of the Council in handling sensitive political issues. This raises however an interesting question regarding the future relation between these two institutions with regard to ENP and the way the Council as principal might decide to further delegate powers in this realm to the European Commission acting as an agent. Essentially, the delegation of powers to the European insitutions occurs in two situations – on the one hand, for the purpose of 'reducing decision-making costs' which leads to concerns about diminishing 'the ability of the agent to enact outcomes different from the policies preferred by those who originally delegated powers' and, on the other, for the purpose of 'enhancing the credibility of a long-term policy commitment' and this leads to choosing an agent with a 'well-defined agenda,' whose 'policy preferrences differ from those of the delegating principal' and whose success is evaluated by 'the amount of the agenda' it accomplishes.[20] It is obvious that in the case of enlargement policy Council was motivated primarily by the desire to reduce decision-making costs. In the case of ENP, the Council pondered principally the need to enhance the credibility of its long-term policy commitments to 'support and foster stability, security and prosperity in the countries closest to its borders.'

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[19] Ulrich Sedelmeier, "Enlargement. From Rules for Accession to a Policy Towards Europe", in Helen Wallace, Mark A. Pollack, Alasdair Young (ed.), *Policy-Making in the European Union*, 6-th edition, New York: Oxford University Press, 2010, pp. 421-425.

[20] Giandomenico Majone, *Dilemmas of European integration. The ambiguities and ptfalls of integration by stealth*, New York, Oxford University Press, 2005, pp. 64-67.

However, the bureuacratic way in which the Commission handled the policy could not fulfill neither the aspirations of the neighbouring countries, nor the expectations of the member states. It remains under the current situation to be seen how the Council will decide to organize ENP in the future.

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