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EU Neighborhood Policy and a New Order at the External Borders

Contrary to optimistic political statements, enlargement will create new, dividing lines between initiated EU Member States and their neighboring third countries, especially in regard to border issues. To overcome the detrimental effects of restrictions on what was previously, relatively free movement, a new border or visa regime should be developed which takes account of bona fide crossing of borders and facilitates sub-regional development, while also taking full account of the security concerns. This article, meanwhile emphasizing the need for ‘Schengen friendly borders’, examines how this idea appeared and developed in the latest phase of enlargement and neighborhood policy.

Who are the neighbors of Hungary and the EU? - Confusion over terminology

First of all, I would like to clear up some of the confusion over the term ‘neighborhood policy’ as it is used in different contexts in Hungary and in the EU. Hungarian neighborhood policy refers to the bilateral relations of Hungary with its neighboring countries, especially in the context of preservation and promotion of, and support to the Hungarian ethnic minorities whose members are neither citizens nor residents of Hungary. Thus, geographical proximity is an essential element, and the Hungarian policy does not cover distanced countries where large numbers of Hungarian minorities live. This concept is also reflected by the personal scope of the famous Status Law, or Act LXII of 2001 on Hungarians living in neighboring countries, which aims at providing benefits and assistance to ethnic Hungarians living in Slovakia, the Ukraine, Romania, Serbia and Montenegro and Slovenia. Though it is a neighboring state to Hungary, Austria is also excluded from

the scope, mainly due to the fact that approximately 90% of the ethnic, Hungarian minority living there did not lose its citizenship.

European Neighborhood Policy refers to the framework of relations with the Union's neighbors who currently are not granted so much as perspective EU membership. There are a variety of expressions used by various institutional and individual actors. Aside from 'European neighborhood policy' or ENP in short, the 'Wider Europe Initiative' is also frequently used. And, one may also find references to the 'ring of friends of Europe', 'relations with the Eastern and Southern neighbors', 'privileged relations between the Union and neighboring States' or 'the Union and its immediate environment.' Despite this wide range of terminology, most documents refer to 'European neighborhood policy', and websites of the Community institutions also decided in favor of the latter term to name the policy field. Thus, this article will also use the latter term.

As to the question of exactly which countries are included, it has remained unclear until now. The disagreement over the definition and concept of EU neighborhood policy has been primarily due to the fact that even today, 'there is no Mr. EU' and that it has yet to be decided whom shall be the voice of Europe whose statements will be regarded as authentic and authoritative concerning EU external relations. For example, the president of the Commission, Romano Prodi referred to a '*ring of friends surrounding the Union from Morocco to Russia and the Black Sea*'¹, while Christopher Patten, Commissioner for External Relations and Javier Solana, High Representative for CFSP advocate for more intense relations with and focus on the Russian and Newly Independent States' within the framework of the neighborhood policy. The big EU Member States have also been lobbying for different priorities. For instance, while Germany favors a more Russia-oriented approach, France would place equal emphasis on African countries.

Nevertheless, the countries targeted by the EU external relations' programs in the EU Annual Policy Strategy for 2005 gave a good indication of the dimension of the policy. According to the document, EU neighborhood policy is aimed at '*neighboring States which are not (with the exception of the Western Balkan countries) candidates for EU accession*'. The document includes initiatives towards Russia, the Western Newly Independent States², the Western Bal-

¹ Romano Prodi: *A Wider Europe – a Proximity Policy as the key to stability* Sixth ECSA World Conference, Brussels, 5–6 December 2002.

² The Ukraine, Moldova, Belarus

kans, the Mediterranean³, and the Gulf, including amongst others Iraq and Iran, and some African countries. Thus, the list clearly endorsed Prodi's conception.

The very recent Commission Communication on European Neighborhood Policy Strategy Paper of 12th May 2004 in this regard reflects the latest developments. It clearly addresses the EU's immediate neighbors to the east: the Ukraine, Belarus and Moldova. Currently, there is a separate strategic partnership between the EU and Russia, which was launched during the 2003 St. Petersburg Summit. Yet, Russia will be eligible to receive funding from the financial instruments, which support the neighborhood policy. To the south, the policy is addressed to neighbors who participate in the Barcelona process: Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Syria, Tunisia, as well as the Palestinian Authority. As a result of recent political changes, Libya is on the track to being integrated into the Barcelona process and will eventually be included in the neighborhood policy. Although there is a clear tendency to clarify the countries involved, there is still dispute over whether to include countries in the Southern Caucasus, namely Armenia, Azerbaijan and Georgia. There is also confusion over Belarus as although it is an immediate Eastern neighbor, it has no contractual relationships with the EU. Nevertheless, EU neighborhood policy is expressly open to Belarus in the event of fundamental, political and economic reform replacing the present undemocratic situation.

Returning to the distinction between Hungarian and EU neighborhood policy, it is clear that the EU policy is definitely a wider concept than the Hungarian one. First of all because it refers to neighbors of the EU, thus, it inherently includes more countries than the Hungarian policy. Second, as while in the Hungarian context neighborhood refers to countries with common borders to Hungary, such an exact physical/geographical proximity is definitely not a criterion for the EU neighborhood policy, which is based on the concept of political proximity. In other words, EU neighborhood policy comprises an undefined number of countries with which the EU aims to maintain preferential relations for reasons of political, and especially security interests. Thus, not only geographical neighbors of the current EU 25 are included, but also neighbors of the accession countries including Turkey, for example, whose dimensions extend the range of countries involved to Geor-

³ Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Palestinian Authority, Syria, Tunisia

gia, Armenia, Iran, Iraq and so on. Nevertheless, geographical proximity still plays a subsidiary role as the policy is applied to undefined countries falling within a sort of ring around Europe. And that is why EU Commission President Romano Prodi called the third countries included in the EU Wider Europe policy, the 'ring of friends', which does not denote a 360° circle around Europe but rather a half circle containing non-EU countries in the Eastern and Southern dimension – thus, excluding Norway, Switzerland and the micro states in Europe.

I would also like to draw the reader's attention to another difference between the Hungarian and EU policy: to the cases of Romania and the Western Balkans. While third countries with which the EU has already concluded an Accession Agreement – presently Romania, Bulgaria and Turkey – are not included in the EU neighborhood policy, Romania is definitely one of the most important elements of the Hungarian neighborhood policy. The Western Balkans, comprised of Croatia, Serbia and Montenegro, Bosnia and Herzegovina, the Former Yugoslav Republic of Macedonia and Albania, are also excluded from the EU neighborhood policy because they are in the Stabilization and Association process. Yet, they are given the prospect of becoming members if they fulfill the Copenhagen economic and political criteria of EU membership.⁴

To conclude this comparison of the scopes of the Hungarian and EU neighborhood policy, the only, common feature seems to be that both policies are part of external relations and provide a framework of bilateral relations with third countries where Hungary or the EU have particular interests. According to the author, there are three very important differences between the Hungarian and EU neighborhood policies. First, there is a difference in the underlying political interests: while the political interests of Hungary are the ethnic/minority and identity policy nurturing of Hungarian minorities living in neighboring countries, for the EU, the political interest is definitely security. Second, there is a different interpretation of what geographical proximity means. While in the Hungarian context it definitely refers to *de facto* common borders, at the EU level proximity is interpreted according to political interests – an unclear half circle around Europe. And lastly, I would like to mention the status of the countries targeted. While Hungarian neighborhood policy is directed towards its neighbors regardless of

⁴ *Conclusions of the Presidency*, European Council in Copenhagen, 21–22 June 1993, SN 180/1/93 REV 1.

their legal status in regards to the EU, be it a Member State or not,⁵ EU neighborhood policy encompasses only non-EU countries, which are not envisaged to become EU members in the framework of an already established preferential legal relationship, i.e. accession agreement or the Stabilization and Association process. Thus, being included in the EU neighborhood policy raises an additional, political indication to the countries concerned: aspiration for EU membership is not impossible in the far future but is presently, definitely excluded for an undefined period.

What is EU neighborhood policy about?

European neighborhood policy emerged not so long ago as new, external relations, policy field of the EU. Thus, the exact meaning of neighborhood policy is under constant redefinition. To some, such as Commission President Romano Prodi, it is a debate about the EU's future borders establishing 'a ring of friends'. For the Greek presidency it involves a debate about our identity and values. To others, it is about devising a formula to satisfy countries that might otherwise hastily apply for membership, or who will fail to meet the criteria. In short, there is no agreement on the definition or even the concept of 'Wider Europe'⁶ and various institutions and individual stakeholders still refer to, and advocate for, very different and often contradictory concepts.

Despite confusion over what is meant by EU neighborhood policy, there is a noticeable evolution from the more reserved aim of establishing 'balanced relations with all its (the EU's) neighbors'⁷ in 1994 to the idea of a more pro-active policy in recent years. The Copenhagen European Council of 2002 set the objective as 'forward relations with neighboring countries based on shared political and economic values' and promoting 'democratic and economic reforms' as well as 'sustainable developments of trade'.⁸ The European Convention was also a major step forward in this regard as it placed the neighborhood policy field on a constitutional level by including a title on 'Privileged relations between the Union and Neighboring States' in the Draft Constitutional

⁵ Although with the duty of differentiation between them from 1st May 2004.

⁶ Fraser Cameron: *The Wider Europe – reflections on the EU's strategy towards its wider neighborhood, post-enlargement to a Union of 25*, the European Policy Centre, 2003. Available at the following website: <http://www.euractiv.com/cgi-bin/cgint.exe/774659-287?204&OIDN=250956&-home=search>

⁷ Presidency Conclusions of the Essen European Council, of 9 December 1994.

⁸ Presidency Conclusions of the Copenhagen European Council of 12 and 13 December 2002.

Treaty⁹. During the work of the Convention this title was reworded to the softer ‘The Union and its immediate environment’ (Title VIII). Why such a tremendous change in the formulation occurred is not very clear but the inclusion of the policy in the Draft Constitutional Treaty is undoubtedly a major innovation and highlights the importance given to the development of new privileged relations between an enlarged Union and its periphery.¹⁰ The title consists of one article (Article 56), the first paragraph of which defines the general objectives and nature of EU – neighboring countries relationship: ‘*The Union shall develop a special relationship with neighboring States, aiming to establish an area of prosperity and good neighborliness, founded on the values of the Union and characterized by close and peaceful relations based on co-operation*’. As happens quite often with EU provisions, it is a sort of everything and nothing: great visions but nothing concrete.

Nevertheless, through the ‘steep career’ of the EU neighborhood policy its objectives have been continuously redefined. The Annual Policy Strategy of the European Communities for 2005¹¹ mentioned amongst its policy priorities that ‘*the Union will take on a new external responsibility, with emphasis on the neighborhood dimension*’. The objectives described under the heading ‘External responsibility: Neighborhood and Partnership’ are still quite vague, nevertheless they give a good indication of where this policy field is heading: ‘*The Commission will implement a new EU neighborhood policy and will strive to promote intra-regional cooperation*’ and continues that ‘*the Commission will be required to play a greater role in promoting sustainable development in line with Europe’s international commitments*’. This is an explicit declaration of the objectives of the EU neighborhood policy: political and economic stabilization of the neighboring regions by transferring multilateral governance, ‘*on the basis of the shared values in particular democracy, human rights, rule of law and respect of minorities*’.

The latest Strategy Paper of the Commission of 12th May 2004 on EU neighborhood policy defines a set of priorities and key areas for specific action, which gives an indication of the most recent objectives: ‘*political dialogue and reform; trade and measures preparing partners for gradually obtaining a stake in the EU’s Internal Market; justice and home affairs; energy, transport, information society,*

⁹ Preliminary Draft Constitutional Treaty, CONV 369/02, 28 October 2002.

¹⁰ Erwan Lannon, Peter Van Elsuwege: The EU’s Emerging Neighborhood Policy and its Potential Impact on the Euro-Mediterranean Partnership. In Peter G. Xuereb (ed.): *Euro-Med Integration and the Ring of Friends*. European Documentation and Research Centre, University of Malta, 2003. 35.

¹¹ Annual Policy Strategy for 2005 Communication from the Commission to the European Parliament and the Council, 25 February 2004, COM (2004) 133 final.

environment and research and innovation; and social policy and people-to-people contacts.' In short, the idea is to draw neighboring countries closer to the EU economically, politically and culturally, and through reinforcing existing forms of regional and sub-regional cooperation, also reinforce their stability and security, and contribute to conflict resolution.

Sensitive external borders

Migration is increasingly perceived as a threat in itself to security as politicians connect it directly with transnational, organized crime and the unmanageable flood of the poor. However, it is a very short-sighted view, especially in the Central and Eastern European region. Besides "States" in the classic sense of international law, there exist true sub-regions stretching over two, three or even more countries, possessing a lively cultural, social and economic life facilitated by reciprocal, visa-free or even passport-free travel, negotiated after the changes of the political system in the 1990's. Indeed, one of the great achievements of the post-communist Central and Eastern European countries has been the reintroduction of permeable borders that enabled the revival of said economic and social ties in the whole region. Applying the Schengen acquis strictly cuts up these sub-regions forcibly, introduces impermeable borders, and places these countries in different legal statuses in their relations to the EU. Thus, Schengen contradicts the regional interests of Central and Eastern European countries, which prefer maintaining the permeability of these borders.

In this regard, warnings from leading researchers and institutions began as early as the late 1990's.¹² Occasionally, their concerns were reflected in EU documents as well. In Agenda 2000 for example, adopted in 1997, the Commission acknowledged that enlargement '*will influence EU relations and policies towards third countries and regions*' and warned that '*adverse effects could result from enlargement, were it to be perceived as raising new barriers in Europe*'.¹³ In 2001 The Centre for European Policy Studies identified several, highly sensitive borders which could adversely be affected by enlargement and the Schengen sys-

¹² E.g. Robert Schuman Centre of the European University Institute, European Policy Studies (CEPS), Stefan Batory Foundation etc.

¹³ *Agenda 2000. The Challenge of Enlargement* (Vol. II), COM (97) 2000 final, 15 July 1997. 14.

tem. In fact, such borders surround virtually the EU's entire future external frontier:¹⁴

- *the Narva-Ivangorod border between Estonia and Russia*, where Russian communities are living directly alongside each other;
- *the borders of Russian Kaliningrad with Lithuania and Poland*, given that Kaliningrad is due to become an enclave within the territory of the EU;
- *the borders between Ukraine and its EU candidate neighbors (Poland, Hungary, Slovakia and Romania) as well as between Belarus and Poland* with quite extensive movement across these borders at present for purposes of trade and personal connections;
- *the borders of South East Europe*, where there is an outer ring of visa-free states (Croatia, Slovenia, Hungary, Romania [soon], Bulgaria and Greece), which surround an inner core subject to visa requirements [countries in the Western Balkans];
- *the border between Moldova and Romania*, with many Moldovans now acquiring dual Moldovan and Romanian citizenship because of the prospect of the new Schengen frontier;
- *the Aegean islands of Greece which are very close to the Turkish coast.*

Taking the example of Hungary, its relationship with its neighbors can be described by the strong physical connections and personal relations that derive from its common borders, infrastructure, and natural environment that should and can only be protected by joint and harmonized measures, transnational economies, and of course, the strong net of cultural, lingual and family ties.¹⁵ Enlargement of the EU and the eastward push of the Schengen border, thus the reintroduction of visas from 1st May 2004 vis-à-vis countries whose nationals previously enjoyed the advantage of visa-free or passport-free travel, is undoubtedly a negative consequence of enlargement which may hamper well-functioning, bilateral, international relations. Hungarian ethnic minorities living in currently non-EU member countries will probably

¹⁴ Joanna Apap (ed.): *Reshaping Europe's borders: Challenges for EU Internal and External Policy Report & Policy Recommendations from the Conference on New European Borders and Security Cooperation*. Centre for European Policy Studies (CEPS), Sitra Foundation and Stefan Batory Foundation, Brussels, 2001.

¹⁵ András Kováts, Pál Nyíri and Judit Tóth: *Migration Policy Group: EU and US approaches to the management of immigration – Country Report on Hungary*, 2003.

be hit the hardest, and maintaining cross-border family ties will undoubtedly become more difficult.

EU neighborhood policy and external borders

After introducing the concept of EU neighborhood policy in general, the focus will now be turned to the issue of facilitated crossing of the external borders within the framework of this policy. Almost as a rule, all documents on EU enlargement and neighborhood policy state that *'the accession of the new member states will strengthen the Union's interest in enhancing relations with the neighbors'*¹⁶, and *'enlargement will benefit not only existing and new Member States but also neighboring countries.'*¹⁷ Despite these over optimistic statements, however, enlargement will create new dividing lines in Europe, especially regarding the border issues.

Of the various documents on neighborhood policy of the past years, very few have touched upon the question of borders. However, parallel to the evolution of the objectives of the EU neighborhood policy, from maintaining good relations with neighbors to the possibility of including them in the internal market, the issue of cross-border movements has slowly come into light. Taking a step further, the idea of preferential and eased border crossing has recently become expressly included, although more at the level of statements than practical measures.

The 2003 Commission Communication on "Wider Europe"¹⁸ was of utmost importance concerning the issue of external borders in the context of EU neighborhood policy. It not only envisaged an *'area of shared prosperity and values based on deeper economic integration, intensified political and cultural relations, enhanced cross-border cooperation'* etc., but also provided measures to be taken. *'The EU and the neighbors have a mutual interest in cooperating, both bilaterally and regionally, to ensure that their migration policies, customs procedures and frontier controls do not prevent or delay people or goods from crossing borders for legitimate purposes'*. Furthermore, under the heading 'Perspectives for Lawful Migration and Movement of Persons', communication, as an exception, surpassed broad statements and envisaged more pragmatic instruments to apply at the external

¹⁶ Wider Europe – Neighborhood: A New Framework for Relations with our Eastern and Southern Neighbors, Communication from the Commission to the Council and the European Parliament, COM (2003) 104 final, 11 March 2003.

¹⁷ Making a success of enlargement. Strategy paper and report of the European Commission on the progress towards accession by each of the candidate countries, COM (2001) 700 final, 13 November 2001. 1.

¹⁸ Wider Europe – Neighborhood, op. cit.

borders in order to ensure that *'the new external border is not a barrier to trade, social and cultural interchange or regional cooperation.'* It mentioned the need for *'putting in place mechanisms that allow workers to move from one territory to another where skills are needed most'* and that *'an efficient and user-friendly system for small border traffic is an essential part of any regional development policy. The EU is currently looking at ways facilitating the crossing of external borders for bona fide third-country nationals living in the border areas that have legitimate and valid grounds for regularly crossing the border and do not pose any security threat.'* However, in my opinion, the revolution lies in the following sentence: *'the EU should be open to examine wider application of visa free regimes'*.

Regarding sub-regional cooperation in the framework of neighborhood policy, it is interesting to note that while the Commission Communication mentioned both bilateral and regional cooperation, the Report of the European Parliament on the Communication clearly says that *'a bilateral approach is more promising in the East as regional cooperation scarcely seems possible in view of these differences (i.e. differences between the neighboring countries)'*¹⁹. Furthermore, the Report pointed out that *'the regions concerned are already covered by major EU geographical cooperation programmes'* and noted that *'the Communication does not give any clear indication how these will be streamlined, made more effective and how they will finally play a part to reach the ambitious goals of the new Initiative.'* This criticism by the European Parliament clearly indicates that policy formulation is still at the stage of debate over major principles and directions rather than the implementation.

Although the Annual Policy Strategy for 2005²⁰ did not contain any additional elements in this regard it did mention neighborhood policy as one of the policy priorities. Furthermore, it was novel as, through the issue of external borders, it connected external relations with enlargement, two areas that had been quite artificially separated before: *'The Union's new dimension and the new external borders resulting from enlargement, will make it necessary to put in place a stable, comprehensive political framework with the neighboring countries of the south and the east. Once enlargement becomes a reality, the implementation of this sphere of prosperity and stability will be the central external priority.'*

Although the Commission's latest strategy of 12th May 2004 on neighborhood issues reaffirms the need for a more flexible external border regime, it does not introduce any such novelty, but repeats only what has been said be-

¹⁹ A5-0378/2003 final, 5 November 2003, Report on Wider Europe – Neighborhood, op. cit.

²⁰ Annual Policy Strategy for 2005, op. cit.

fore: 'Border management is likely to be a priority in most Action Plans as it is only by working together that the EU and its neighbors can manage common borders more efficiently in order to facilitate legitimate movements. ... The goal should be to facilitate movement of persons, whilst maintaining or improving a high level of security. Moreover, a Commission proposal for Regulations on the establishment of a local border traffic regime is currently under consideration by the Council and will, if adopted, make it possible for border area populations to maintain traditional contacts without encountering excessive administrative obstacles. The European Union may also consider possibilities for visa facilitation.' What this new order at the external borders will look like in practice, however, remains to be seen as despite the proposals for two Council regulations on local border traffic²¹, there is no concrete plan envisaged.

EU minority policy and external borders

One of the underlying causes for drawing up a new order at the external borders is the issue of ethnic minorities who might be impeded in maintaining family ties with new EU citizens. Some authors even suggest that the EU and its Member States could be held liable of breaching their own international commitments if some flexibility was not introduced in this regard. Examples could include the 1990 CSCE Copenhagen Document, the 1992 UN Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities, and the Council of Europe 1995 Framework Convention on the Protection of National Minorities all of which contain affirmations to the effect that persons belonging to national minorities have the right to establish and maintain unimpeded contacts across frontiers with citizens of other states with whom they share common ethnic or national origin.²²

Today, although quantitative approximations are extremely problematic, it might be estimated that no more than one-tenth of the population in Central and Eastern Europe belongs to an ethnic minority. Along the eight sensitive borders listed above, the three largest minority groups are: Rus-

²¹ 2003/0193 (CNS) Proposal for a Council Regulation on the establishment of a regime of local border traffic at the external land borders of the Member States; 200/0194 Proposal for a Council Regulation on the establishment of a regime of local border traffic at the temporary, external land borders between Member States.

²² Giuliano Amato, Judy Batt: Minority Rights and EU Enlargement to the East, Report of the First Meeting of the Reflection Group on the Long-Term Implications of EU Enlargement: the Nature of the New Border. European University Institute, Robert Schuman Centre Policy Paper No 98/5.

sians/Russophones²³, Hungarians and Romanians/Moldavians.²⁴ Poland, the Czech Republic, Slovenia and Hungary have minority populations not exceeding 10% of the total population, in Slovakia, Bulgaria, Romania and Lithuania minorities comprise up to 25% and in Latvia and Estonia minorities, in fact, a single Russian-speaking or Slavic minority exceeds 30% of the population.²⁵

The rights of ethnic minorities are a new area of concern for the EU. This issue first came onto the agenda as a matter of external policy, when the EU began to redefine its relations with the countries of Central and Eastern Europe. The bloody collapse of Yugoslavia was taken as a dramatic warning of the potential throughout the post-communist region for a reemergence of ethnic conflict. But at the same time, the obvious aspiration of all Central and Eastern European states to 'return to Europe' has presented the EU with an opportunity to influence developments by including minority rights into a broad definition of political conditionality:²⁶ The European Council of Copenhagen explicitly placed the protection of minorities amongst the political conditions for associated countries that aspire to apply for membership.²⁷ It has to be highlighted however, that besides the EU, other organizations, such as the Council of Europe and the Organization for Security and Cooperation also greatly contributed to the positive achievements made in minority issues in the region.

Unlike certain regions, such as Moldova and the rest of ex-Yugoslavia, Central and Eastern Europe minority problems have not exploded into armed conflict and are not likely to do so. However, they continue to weigh considerably on the internal evolution of the region and its future relations with the EU. On the one hand, the underlying problem seems to be the dom-

²³ According to Iris Kempe 'Russophones' refers to all former, non-Baltic Soviet citizens in the Baltic states as they tend to be Russified to a large degree. 'Russian-speakers' would be a misleading term as many Balts also speak Russian as a second language.

²⁴ Iris Kempe (ed.): *Beyond EU Enlargement – The Agenda of Direct Neighborhood for Eastern Europe*. Bertelsmann Foundation Publishers, Gütersloch, 2001. 130.

²⁵ Andre Liebich: *Ethnic Minorities and Long-Term Implications of EU Enlargement*. Robert Schuman Centre, Working Paper No 98/49, Florence, 1998.

²⁶ Giuliano Amato, Judy Batt, op. cit.

²⁷ "Accession will take place as soon as an associated country is able to assume the obligations of membership by satisfying the economic and political conditions required. Membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for 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." In *Conclusions of the Presidency, European Council in Copenhagen, 21–22 June 1993, SN 180/1/93 REV 1*.

inant conception of the state in Central Eastern Europe, and on the other, the currently intensified process of nation building. From this perspective, minorities are often viewed as peripheral and illegitimate. They create a potential to question the territorial integrity that is invariably perceived by the nationalizing state as the greatest threat.²⁸ Nevertheless, it is not justifiable to assume that the situations of these countries are comparable. There is a considerable gap between the minority-friendly policy pioneered by Hungary, the lukewarm or indifferent stance of Poland, the Czech Republic and Slovenia, the recently tempered hostility of Romania and Lithuania, the continued animosity of Bulgaria and Slovakia, and the confrontational position of Latvia and Estonia.²⁹

As a consequence of the ethnic minority issue in Central and Eastern Europe, enlargement will definitely confront the EU with new challenges both in the Inter-Member State and transnational context. As new members bring with them different interests in this matter, which often contradict with EU external relations' policies or simply the agnosticism of EU, by channeling those interests in the EU decision-making procedure, Central and Eastern European countries will substantially alter the EU policy agenda in the near future.

Currently, there is no EU minority policy as such, however, because of factual constraints of regional history and geography, it is predicted to assume greater importance with the present and envisaged enlargements. Indeed, the Commission Communication on Wider Europe highlights that '*cross-border cultural links, not least between people of the same ethnic/cultural affinities, gain additional importance in the context of proximity*,' clearly linking the minority issue with both internal and the external relations.³⁰ Possibly, in the enlarged Union ethnic relations will be inserted in the development policy envisaged for euroregions and other trans-border arrangements. Nevertheless, a cross-border regional policy will be unsustainable without some flexibility introduced into the Schengen system.

²⁸ Iris Kempe (ed.): *Beyond EU Enlargement – The Agenda of Direct Neighbourhood for Eastern Europe*. Gütersloch: Bertelsmann Foundation Publishers, 2001. 136.

²⁹ Andre Liebich, op. cit.

³⁰ Wider Europe – Neighborhood, op. cit.

Conclusions

Although EU neighborhood policy is still relatively in its infancy, as neighborhood policy seems to be becoming the broader and long-term framework of drawing countries closer to the EU politically and economically, it clearly needs to focus on emancipation and more conscious and consistent construction. Enlargement of the EU is a continuous process. Romania and Bulgaria are envisaged to accede in 2007. The door is expressly left open to countries in the Western Balkans. And, there is still debate over the candidacy of Turkey. Furthermore, although EU neighborhood policy is targeted towards countries that are not accepted as candidates for membership at present, in the future it is not unimaginable that they might eventually become members, taking as an example Ukraine, which has been strongly lobbying for candidacy.

Despite very optimistic and ambitious declarations about the benefits of enlargement to both new members and third countries who will become new neighbors, enlargement does create new dividing lines, especially regarding the external borders. The EU cannot allow itself to pursue a classic foreign policy pursued along the lines of inclusion-exclusion vis-à-vis new neighbors. Their exclusion from the process of Europeanization (i.e. transferring political and economic stability through institutions and instruments of EC/EU) contains a risk that should be avoided. Indeed, the EU neighborhood policy aims at the stabilization of the neighboring regions primarily through regional and cross-border co-operation. Since failed economies may lead to political turmoil in these countries, more is needed than just financial aid. The EU has to lead a conflict prevention strategy entailing effective support to the economic and political transformation that is at the very core of the democratization process of these countries.

At the 2004 enlargement round, the effect of enlargement on cross-border cooperation with third countries definitely did not receive the attention due of its relevance. New Members States should have been allowed to contribute their own concepts to the debate in advance. Accession states can bring new value to future specific policies and Eastern initiatives of the EU as their respective, comparative advantage stems from common historical ties, geographic and linguistic proximity, as well as shared experience of post-communist transition. The accession states enter the Union offering better knowledge of realities and understanding of (local) attitudes, as well as a unique set of experiences and know-how. While their financial and military

resources remain limited, they can bring in fresh ideas, regional initiatives and innovative modes of institutionalized interactions in relation to future Eastern and Southern neighbors of an enlarged EU.³¹

Despite this idealistic vision of a constructive interaction between the EU and acceding countries, in my opinion the EU has not fully succeeded in taking precautionary steps to minimize the detrimental effects of enlargement vis-à-vis new neighbors. The EU has not succeeded in taking into account the historical legacy of the region, and its special geographical features. Nor has it recognizing that migration, minorities and security issues are intertwined at the external borders, including the most sensitive ones listed above. It would have been advisable to allow some concessions or exceptions in this regard. However, it should also be mentioned that the priority of applicant states to clear the way for accession to the EU as quickly as possible prevented them from voicing their particular regional interests 'loudly' enough. Thus, neither side has paid sufficient attention to the issue.

In the future, the feasibility, scope and alternatives to a more flexible Schengen border regime should be planned strategically in advance and made an essential part of further enlargements. Up to now, the visa strategy of EU Eastern enlargement has been restricted to the requirements of the *acquis communautaire*. However, there is a great need for an active visa policy that would go beyond the technical, standardized aspects of the Schengen regulations and stand for the basis of said sub-regional development. Such a flexible border regime should be designed to facilitate bona fide cross-border relations, and at the same time, capable of fully maintaining the security aspects of the external border. Thus, as far as the regions beyond the future EU borders are concerned, the key question seems to be exporting stability without importing instability.³²

Nevertheless, one should also be aware of the risk potentials of an eventual flexible border regime. By admitting the buffer zone countries into the EU, the Union will, for the first time, be in the direct neighborhood of two crisis areas, namely the Western Balkans and the Commonwealth of Independent States. Promoting the development of sub-regions comprised of areas of both member and non-member states sounds very appealing, however, there is an underlying paradox in the theory: migration always flows

³¹ Bertelsmann Foundation and Center for Applied Policy Research (eds.): *Thinking Enlarged – The Accession Countries and the Future of the European Union – A Strategy for Reform*. Gütersloch: Bertelsmann Foundation Publishers, 2001.

³² Iris Kempe, op. cit. 12.

from poorer to richer countries. Why neighboring countries are still neighbors is due to the fact that they do not meet the economic and political criteria to enter the Union. Thus, easing the visa or border regime might lead to abuse of the legal means of admission by their nationals.

Several consequences follow. First, in what ways security can be maintained even if there are more grounds to enter, must be studied. This might lead to the redefinition of security in the context of migration. The second consequence concerns resetting the hierarchy of priorities. The short-term, almost day-to-day priority of the Community is maintaining its security. However, until there is a substantial gap between the life-standard of the EU and its neighbors, illegal migration will persist. Thus, in light of the long-term objective, one option would be to take the risk and bear the negative consequences of more flexible borders in the short run. The long term objective would be to enhance economic performance in the neighboring country through sub-regional development to a level where the financial advantage of living in a rich country as an illegal migrant does not outweigh having a modest but legal income in the country of origin and living in the security of the net one was born in. It also has to be highlighted that the possibility of EU membership is in itself a stabilizing factor. Thus, the EU should make it clear that the doors are open if a country meets the criteria, but should lay down those criteria in a transparent manner.

I would like to conclude by highlighting that there is a substantial overlap *ratio materie* between enlargement, external relations and justice, and home affairs. Thus, their strict distinction is no longer sustainable but shall be replaced by a joint approach towards the issues of minorities, sub-regional development and cross-border co-operation, visas, customs, and security within the framework of EU neighborhood policy.

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