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LISBOAN

Linking Interdisciplinary Integration Studies by Broadening the European Academic Network

Report on the workshop “The European Neighbourhood Policy and the Lisbon Treaty: What has changed?”

Istituto Affari Internazionali Rome (Partner No. 31)

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Lisboan Seminar: The European Neighbourhood Policy and the Lisbon Treaty: What has changed? Friday, 22 March, 2013

The European Neighbourhood Policy (ENP), launched by the EU on the eve of the “Big Bang” enlargement, had at first developed in an informal way, being based on “soft law” instruments. However, the Lisbon Treaty provides a specific legal basis for the ENP and, more generally, for the EU’s relations with neighboring countries (Article 8 TEU). Moreover, the Lisbon innovations concerning the introduction of a High Representative and of the European External Action Service (EEAS) also have an impact on the ENP.

The ENP revision carried out in Spring of last year has resulted in an attempt to deepen both positive and negative conditionality in the EU’s relations with neighboring countries. The EU acknowledged that in the past it was too accommodating with authoritarian regimes in power in the Southern Mediterranean countries and that for the future the EU would be more serious in making conditionality work. However, the question is not only about how to evaluate the performance of neighboring countries, but also what to do with countries underperforming in democratic practices and not respecting the rule of law and human rights. While it is clear that sanctions and related measures have to be taken in the case of gross human rights violations, the question is what do to in less serious cases. Also, when it comes to the post-Arab Spring countries, the problem lies in the possible rejection of the conditionality logic by the countries that have gone through a democratic process of reforms through a purely endogenous path.

Finally, it has to be noticed that the 2011 ENP revision does not take into account the innovations brought about by the Lisbon Treaty and notably the introduction of Article 8 TEU and the opportunities that can stem through its use.

Against this background, the workshop organized by the IAI Rome on 22 March 2013 brought together 22 researchers working on the ENP and EU external relations. Participants came from different countries and various disciplines (notably law and political science). The organizers were particularly pleased that both senior experts in the field and PhD students in the early stages of their professional career took part in the event. After a general introduction into the seminar’s topic by Michele Comelli (IAI Rome) and a keynote speech by Barbara Lippert (Stiftung Wissenschaft und Politik, Berlin), eight presentations addressed various aspects of the ENP in three different panels.

The first panel of the workshop, chaired by Cesare Pinelli (University of Rome “La Sapienza”) dealt with the ENP from a legal perspective. The aim was to assess the legal grounds for the ENP post-Lisbon. The first speaker focused on Article 8 TEU, which for the first time allows the conclusion of specific agreements in order to develop a special relationship with neighboring countries. Tracing back its developments to the mind-set during the Convention in the early 2000s, and against the background of a comparison with the ‘traditional’ provision for

association (Article 217 TFEU), the speaker argued that the introduction of Article 8 TEU essentially had a political rather than a legal significance. In that sense, the ongoing negotiations for upgraded bilateral framework agreements with the EU's eastern and southern neighbours and especially the pending association agreement with Ukraine were described as a test case for evaluating the practical impact of Article 8. The speaker noted that Article 8 TEU was placed in the Common Provisions of the Treaty on European Union, meaning that there were no direct links neither with the article on enlargement (as was the case in the Constitutional Treaty), nor with the provisions on the EU's external action.

The second contribution was based on the soft vs. hard law approach. The speaker argued that in line with the original set-up of the ENP as a progressive, differentiated and pragmatic approach, soft law was the predominant instrument before the Lisbon Treaty. In his view, political transitions in a number of neighbouring countries also called for a soft law approach. However, there were indications that the Lisbon Treaty would promote a policy model based on hard law to a larger extent:

- the ENP was now under the umbrella of the general legal framework applicable to all strands of the EU external action,
- Article 8 TEU provided for the first time the conclusion of specific agreements in order to develop a special relationship with neighbouring countries,
- the exercise of the ENP treaty-making power implied a more effective involvement of the European Parliament and could also lead to a more coherent policy at European level towards the neighborhood.

The speaker cautioned, however, that a recent EU Communication on the ENP had failed to mention the legal framework introduced by the Lisbon Treaty, indicating that the soft law approach was still recognized as more important.

The workshop's second panel, chaired by Ettore Greco (IAI Rome), dealt with coherence of the whole system of the EU external action in general and of the ENP in particular. The first speaker argued that given the breadth of some of the innovations, one could speak of a 'revolution' in the ENP. However, it was a 'creeping revolution' only, as it would take a very long time to uncover their full potential. At present, the eastern dimension of EU external action was hampered by a number of structural weaknesses: a scarcity of staff in EEAS headquarter in Brussels and EU delegations, an underrepresentation of 'new' Member States, and a lack of 'esprit de corps'. She concluded that the ambitious aims of the Lisbon Treaty in terms of coherence and effectiveness had not yet been reached.

The second speaker took up these more general considerations and examined the cooperation between EU delegations and member state embassies in providing support to local civil society in Moldova and Ukraine. She argued that stronger coordination through an increased number of

meetings post-Lisbon was in practice countermanded by a lack of political will to strategically coordinate.

The third contribution focused on values within the ENP. The speakers raised the question whether compliance with EU values was used as a pragmatic instrument aimed at obtaining access to the EU financial and/or technical assistance. On the other hand, ‘opt-outs’ from EU values granted in areas of security or material interest (energy) needed to be considered in their view.

The third panel, chaired by Gianni Bonvicini (IAI Rome), asked whether or not the ENP was still a viable option for the EU to explore further convergence with third countries, given the new geopolitical, economic and institutional situation. The first contribution dealt with the consequences of the Arab spring for the Mediterranean branch of the ENP and examined the EU’s possibilities to support the democratic changes in those countries. The speaker argued that the European Parliament should be the main actor in promoting democracy, considering its credibility. He went on to stress that if the EU aimed to establish democratic societies in North Africa, it needed to support individual freedom and prosperity.

The second contribution presented the main objectives and challenges faced by the Eastern Partnership Roadmap (EPR) 2012 – 2013 and the European Enlargement Strategy (EES). The speaker considered that both were in danger to be neglected due to the events in the Eastern and Southern Mediterranean. Making reference to the main goals of the EPR and EES (implementation of rule of law principles and fundamental human rights, independent judiciary and fight against corruption, public administration reform and negotiations of deep comprehensive free trade areas), the speaker questioned the efficiency of conditionality as the EU’s instrument of choice to achieve further reforms in some neighboring countries. Countries which had made considerable progress should be rewarded, or existing frustrations were likely to increase. She argued that the EU should be as supportive as possible with countries that are clearly willing to adhere to EU standards.

The third speaker highlighted the geopolitical challenges which the EU faced with the Eastern Partnership. In her view, Russia was a major player in the region that stepped away from a more cooperative approach in the early 2000s. As a result, a decisive move towards the EU could result in some serious short, medium or long term economic problems for some EaP countries, e.g. Ukraine. Deciding between the offer of “deep and comprehensive free trade agreements” of the EU and the Customs Union within the Eurasian Economic Community of Russia would strongly impact on the future development of those countries. In turn, the speaker explored different scenarios on how this competition may turn out while also identifying common interests between Russia and the EU in the region.

PROGRAMME

09:30 – 9:45 Introduction to the Seminar
Michele Comelli, Istituto Affari Internazionali (IAI), Rome

09:45 – 10:00 Keynote Speech
Barbara Lippert, Stiftung Wissenschaft und Politik (SWP), Berlin

10:00 – 11:15 FIRST SESSION: A LEGAL BASIS FOR THE ENP AND THE POSSIBILITY OF
NEIGHBOURHOOD AGREEMENT

Chair: *Cesare Pinelli*, University of Rome “La Sapienza”

Speakers:

Peter Van Elsuwege, University of Ghent: “Article 8 TEU: A Symbolic Provision or a
Fundamental Legal Basis for the European Neighbourhood Policy?”

Federico Casolari, University of Bologna: “The Janus Face of the new European Neighbourhood
Policy: Normative Power v. Pragmatic (Soft) Approach”

Discussant: *Hans Peter Neuhold*, University of Vienna

11:15 – 11:30 COFFEE BREAK

11:30 – 13:15 SECOND SESSION: HAS THE LISBON TREATY BROUGHT ABOUT MORE
COHERENCE TO THE ENP AND THE WHOLE SYSTEM OF THE EU EXTERNAL ACTION?

Chair: *Ettore Greco*, Istituto Affari Internazionali (IAI), Rome

Speakers:

Alessandra Mignolli, University of Rome “La Sapienza”: “The coherence in the EU external
action after the Lisbon Treaty”

Anita Sek, Trans European Policy Studies Association (TEPSA), Brussels: “An Audit of the
EEAS in the Eastern Neighbourhood – to what extent have the new Treaty provisions delivered?”

Dorina Baltag, Loughborough University: “Post-Lisbon EU in action: EU cooperation for civil
society support in Moldova and Ukraine – a case of lost opportunity?”

Rosen Dimov, University of Istanbul and *Bogdana Depo*, University of Cologne and Prague:
“The values within the ENP: shared, imposed or a matter of business? The Perspectives of the
Eastern and Southern Dimensions”

Discussant: *Michele Comelli*, Istituto Affari Internazionali (IAI), Rome

13:15 – 14:15 LUNCH

14:15 – 15.45 THIRD SESSION: DOES THE ENP STILL MAKE SENSE IN THE CURRENT
GEOPOLITICAL, ECONOMIC AND INSTITUTIONAL CONTEXT?

Chair: *Gianni Bonvicini*, Istituto Affari Internazionali (IAI), Rome

Speakers:

Mohamed Youssef Laarissa, University of Hannover: “The European Neighborhood Policy of Northern Africa after the Arab Spring”

Agnes Nicolescu, European Institute of Romania, Bucharest: “The Eastern Partnership Roadmap 2012 – 2013 and the European Enlargement Strategy: Main challenges to the conditionality and differentiated integrated principles”

Zsuzsa Ludvig, Institute of World Economics, Budapest: “The EU and its Eastern Partners: conditionality and expected benefits- How does the Russia factor matter?”

Discussant: *Nona Mikhelidze*, Istituto Affari Internazionali (IAI), Rome

15:45 – 16.30 SUMMARY OF WORKSHOP AND FINAL DISCUSSION