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A Neighbourhood of Freedom, Security and Justice?*

When in May 2004 the European Commission presented the strategy paper providing the grounds for the European Neighbourhood Policy (ENP), it conveyed the “vision“ of creating a „ring of countries, sharing the EU’s fundamental values and objectives, drawn into an increasingly close relationship, going beyond co-operation to involve a significant measure of economic and political integration” (European Commission 2004a: 5). Whether this ambitious aim will prove realistic, whether the Action Plans concluded bilaterally between the EU and its neighbouring states will prove adequate to reach the goal, whether the idea of an external promotion of stability and democracy can be successful without the incentive of EU membership – all of these questions are subject to controversial discussions in academic and political debate (Hayoz et al. 2005; Koopmann/Lequesne 2006; Overhaus et al. 2005).

However, what is frequently overlooked in the debate is the fact that the answers could differ from one particular policy area to another. The ENP is an interdisciplinary project that encompasses economic, trade, environmental and energy policy as well as measures against the proliferation of weapons of mass destruction. However, this paper argues that cooperation in Justice and Home Affairs (JHA) has a key role within the ENP. Whether the ENP can succeed in turning a heterogeneous neighbourhood into a „ring of countries“ that share EU member states’ values and maintain a trustful political cooperation with them will be decided first and primarily in the field of JHA.

JHA in the relations to the neighbouring states

Cooperation in JHA between the EU and its neighbours did not start with launching the ENP initiative in 2004. The Partnership and Cooperation

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Agreements or Association Agreements, respectively, already contained corresponding regulations, which – following the dynamics of cooperation within the EU – grew more comprehensive the later they were concluded. For instance, while the Association Agreement with Tunisia of 1995 (European Communities 1998: Art. 61/62) contained only two articles concerning the fight against money laundering and drug trafficking, the treaty with Algeria of 2002 dedicates a whole chapter to this particular policy field (European Communities 2005: ch. VIII). Nevertheless, for a long time the EU did not grant JHA any political priority within its policy toward the Mediterranean or the East. Specific subcommittees on JHA established below the level of the partnership and association councils have only been established in the case of Israel, Jordan, Morocco, Moldova and Ukraine. Ukraine is also the only ENP participant with whom a specific “JHA Action Plan” has been concluded (December 2001) and with whom annual bilateral meetings at the ministerial level are held (Council of the EU 2006a).

Thus the ENP project could build upon elements of cooperation that were already established in the 1990s. However, the ENP program has furnished the issue with a new impetus. JHA was even given a priority status in the Commission’s strategy paper as well as in the subsequent country reports and Action Plans. In contrast to the latest round of enlargement, where JHA had been a latecomer (Apap 2004; Knelangen 2004), within the ENP context the policy area was given priority from the outset. There are several reasons for this. First, the prominent placement of issues like external borders, legal and illegal immigration or fighting terrorism is due to the fact that the JHA *acquis communautaire* has rapidly increased during the last several years not least because accession of new member states was imminent (Mitsilegas et al. 2003; Henderson 2005). As such, the ENP reflects the increased relevance that this policy field is attributed within the EU. Of course, this is not the whole story. Second, one should take into account that, in order to reach its policy goals, the EU depends upon a certain level of cooperation with its neighbourhood in almost all areas of JHA. This holds particularly true for the fight against organised crime as in some crime areas (e.g. illegal drug trade, trafficking in human beings) close links between the EU and neighbours in Eastern Europe and the Mediterranean exist. In the area of asylum and immigration functional interdependence is even more apparent as migration movements, by definition, permeate the common borders between the EU and its neighbours. Moreover, inasmuch as asylum and immigration policy is based on a strategy of “externalisation”, the EU needs to ensure that neighbouring countries do not act in contradiction to its policy goals (Lavenex/Ucarer 2004).

As a result, JHA issues have gained a structuring power in forming relations between the EU and third states. Severe shortcomings in terms of capacities of police and other authorities as well as the deficient state of legisla-

tion in this area are likely to question potential applicants' accession after years of negotiations. Accordingly, though Romania and Bulgaria joined the EU on January 1, 2007, reform of the judiciary and the fight against crime and corruption remain subject to monitoring by the European Commission (European Commission 2006a). Also, the latest progress reports on the candidate countries Croatia, Macedonia and Turkey focus on JHA issues (European Commission 2006b). Thus the signal sent by the EU is clear: the Union expects satisfactory results of reforms in JHA matters and renders reform a prerequisite for deepening cooperation. Although the ENP does not aim at preparing countries for accession, the structural argument should apply to neighbour countries as well.

Finally, one should not forget to mention that a focus on matters of JHA corresponds to the expectations of EU citizens. In a "Eurobarometer" survey in 2006, 90% of the respondents deemed special relations between the EU and its neighbours important with regard to the fight against terrorism and organised crime, 64% expected a decrease of illegal immigration resulting from close cooperation (European Commission 2006c: 28f., 47). Results should not be overestimated, though, as only 18% of respondents had heard about the ENP at all, according to the same survey (European Commission 2006c: 19).

Justice and Home Affairs, the rule of law and democracy

The high degree of attention credited to topics of JHA in the process of the ENP can be explained by functional interdependencies on the one hand and a generally increased relevance of this policy field within the EU on the other. The same could be said, of course, for quite a range of policy fields. However, in contrast to trade, environmental or energy policy, the question of possibilities and limitations of deepened JHA cooperation touches the very heart of the whole ENP process. To substantiate this thesis one has to recall the fundamentals of the program. As is generally known, the granting of a privileged partnership is supposed to build on a „mutual commitment to common values“ concerning foremost the rule of law, good governance, the respect for human and minority rights, good neighbourhood relations and the principles of market economy and sustainable development (European Commission 2004a: 3). Thus the Neighbourhood Policy builds on a model that partners in Eastern Europe and in the Mediterranean cannot credibly comply with for the time being. It goes without saying that neighbours differ significantly. On the one hand, there are states like the Ukraine or, to a much lesser extent, Georgia that are on a complex and everything but irreversible path to democracy; on the other hand there are decidedly authoritarian states

like Azerbaijan and Tunisia. These differences notwithstanding, all of the neighbours have difficulties in complying with the declared common values. Taking into account data of the qualitative democracy and transformation research, this thesis can be verified further. The „Bertelsmann Transformation Index“ (BTI) has developed distinguished criteria to measure the progress that transformation states have made – or have not made – on the road to democracy and a market economy (Bertelsmann Stiftung 2005). In our context, two dimensions of BTI criteria are of particular interest: (1) the criterion „rule of law“ which comprehends the separation of powers, the autonomy of the judiciary and the guarantee of civil liberties and (2) the criterion “stability of democratic institutions“ which measures the capabilities of the administrative and judicial systems as well as the regard of the population for democratic institutions (Bertelsmann Stiftung 2005: 83-104).

Figure 2: Rule of law and the stability of democratic institutions in the neighbouring states

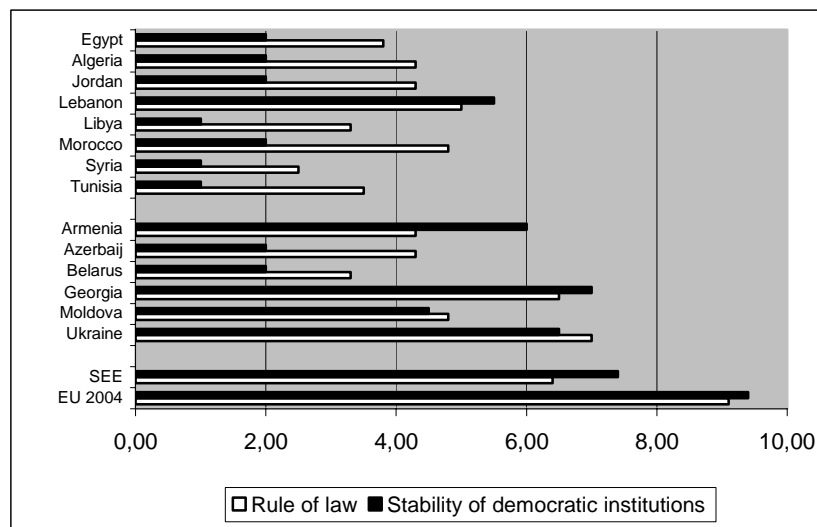


Figure 2 provides a summary of the point scores that the neighbouring countries were given by the BTI for above two criteria. Additionally, the point scores of two different groups of countries are listed as a point of reference. The group “EU 2004“ comprises the average point scores of the countries that acceded to the EU in 2004 (with the exceptions of Malta and Cyprus). The group “SEE” (South Eastern Europe) comprehends those Balkan states that have been offered an accession perspective but that will not receive a

concrete accession offer in the medium term (Albania, Bosnia-Herzegovina, Macedonia, Serbia and Montenegro, but not Croatia). The comparison reveals that in both categories all ENP states lie well below the threshold value that is expected for a functioning democracy ($x \geq 8$). The same is true for the Balkan states, though they score better than most ENP states. Only the Ukraine and Georgia come close to the level of the SEE group. The value of these two transformation states lies within the margin that the BTI would expect for „deficient democracies“ ($6 \leq x < 8$). In contrast, the values of all remaining neighbours in Eastern Europe point to severe shortcomings concerning respect for the rule of law and their administrative and judicial system. For the Mediterranean states the picture is even worse. None of the southern neighbours considered by the BTI (no dates are available for Israel and the Palestinian National Authority) are even close to the values that one would expect for a functioning constitutional democracy. Particularly bad are the values for the effectiveness of institutions in Libya, Syria, and Tunisia, which received the lowest score possible in the BTI. Albeit differences among the southern neighbours are observable, but they severely and systematically violate those principles upon which the ENP has been built.

The country reports that the European Commission prepared prior to the negotiations of Action Plans and that refer to reports of international governmental and non-governmental human rights organisations do not overlook these shortcomings. The reports appreciate the legal and administrative reforms undertaken, but they equally point to the shortcomings. The country report on Georgia, e.g., states that torture and abuse as well as the excessive use of violence by the security authorities cause the Commission concern (European Commission 2005: 10). Similarly, the country report on Morocco notes cases of torture, the absence of separation of powers, and ineffective administrative structures (European Commission 2004b: 7, 9). In the case of Tunisia, the Commission points out that torture and arbitrary imprisonment are prohibited under Tunisian law, as in the preceding two countries. Still, the Commission notes that torture is applied in the legal process, that authorities tolerate other inhumane practices, and that custody often extends beyond the maximum allowed by national law (European Commission 2004c: 10).

What consequences do these findings have for the cooperation in JHA matters within the framework of the ENP? This paper argues that the question of JHA cooperation touches the very heart of the ENP process as a whole. Actually, there is no other policy field in which the tensions between a commitment to common values and the evident deficiencies that occur during their implementation are as manifest as here. Factors that may be separated in the case of energy or environmental policy should be seen as two sides of the same coin in the case of JHA. The action (or failure to act) of public institutions that are entrusted with people's security, law enforcement or border management immediately reflect the character of government in a

particular country. In this respect, JHA is inherently value-related. It is impossible to speak about cooperation between immigration authorities or security forces of the EU and neighbouring countries without considering the availability of independent judges, the status of prisoners, minority and refugees' rights or the corruption of the public administration. In other words, if the EU's approach to offer incentives for democratic and constitutional reforms via the ENP should prove successful, these reforms will impinge on no other policy area with greater clarity than on JHA.

The EU's dependence on its neighbourhood

With the Treaty of Amsterdam the EU has embraced the objective to "provide citizens with a high level of safety within an area of freedom, security and justice" (Art. 29 [1] TEU). Whether this objective will be attained depends significantly on factors that the Union and its member states can influence indirectly at best. This is especially true for the prevention and prosecution of criminal offences. The country reports note for numerous neighbouring states a troublesome degree of organised crime. Albeit the reliable provision of crime statistics is problematic, the available surveys confirm this assessment (Council of Europe 2005: 58-67; Kury/Karimov 2006). The social situation (huge social inequality, poverty, and unemployment) fosters crime as much as weak and corrupt state structures. Furthermore, in some cases, e.g., in Georgia and Moldova, the central authority is ignored in some separatist regions and the resulting power vacuum is used systematically for criminal purposes.

The EU is directly affected by these developments (Europol 2005a; 2006). Some highlights shall suffice here: In drug trafficking Eastern European neighbours have a key role as transit routes to Western Europe. The same is true for Western African neighbours, in particular for Morocco, which is the main transit country for drug trafficking from Latin America to Spain. Homogenous ethnic groups, in particular Eastern European ones, play an increasingly important role in the EU, according to Europol. Beside illegal drug trade, trafficking in human beings and the smuggling of people are of particular importance. In these areas – apart from Russia and Turkey, neither of which participate in the ENP – the Ukraine, Morocco, Libya, and Tunisia are especially important junctions where countries of origin and destination interconnect. In the case of asylum and migration policies similar interdependencies link the EU and its neighbourhood. The number of asylum seekers and refugees the EU has to cope with is essentially determined by domestic conditions within neighbouring states. Although the numbers apparently are decreasing, some of the ENP states are important countries of origin for

migration to the EU. For instance, from the 238,000 asylum seekers that entered the EU in 2005, 6,480 stemmed from Georgia, 4,490 from the Republic of Moldova and 4,000 from Armenia (UNHCR 2006: 22). Above all, however, ENP states are transit countries for migrants from Sub-Saharan Africa and Central Asia. In the short term, the pertinent question is to what extent neighbours are willing to cooperate with the EU to prevent illegal immigration into the EU area. Though Europol notes that the main routes for (illegal) migrants lead through Northern Africa, it stresses the fact that the Central and Eastern European route has gained significant importance (Europol 2005b: 3). However, the interdependence between the EU and its neighbouring countries does not stem from functional links alone. In fact, the EU has explicitly enhanced interdependence by the specific construction of its asylum and immigration regime. The EU asylum policy is based on a strategy of “externalisation”, according to which the eligibility of an asylum application is to be assessed outside the EU borders. Via the “third country rule” and the “safe country of origin” principle, neighbouring states are included systematically in the EU asylum regime (Lavenex 2006).

Against this background, it is no coincidence that issues traditionally belonging to the realm of domestic politics have gained central significance in the foreign policy of the EU. Reciprocally, external instruments are essential to achieve the central aim of EU JHA policy, which is to create an “area of freedom, security and justice”. The Commission emphasized this conjunction decidedly in its strategy paper on ENP: European Neighbourhood Policy could serve the Union’s objectives in the area of Justice and Home Affairs, „in particular in the fight against organised crime and corruption, money laundering and all forms of trafficking, as well as with regard to issues related to migration“ (European Commission 2004a: 6). One can express it more trenchantly: Decisions concerning the conditions of domestic security in the EU and concerning legal and illegal immigration are taken not only in Frankfurt and Budapest, but also in Tbilisi and Casablanca. Hence there is no serious alternative to closer cooperation with neighbouring states. Against this background the Justice and Home Affairs Council adopted a “Strategy for the external dimension of Justice and Home Affairs” in December 2005, which constituted a programmatic foundation for the increased inclusion of this policy field in EU’s external relations. In this context, the Council accentuated the importance of Neighbourhood Policy and emphasised that the implementation of the JHA provisions in the ENP Action Plans should obtain priority (Council of the EU 2005: 6).

The focal points of the Action Plans

In contrast to enlargement policy, the ENP does not envisage the transfer of a precisely fixed compendium of EU legislation into national law. Rather, the projects named in the Action Plans are by and large openly formulated and grant a significant political leeway. The relative openness can be considered the charge for the principle of partnership to which the EU attaches considerable value. At the same time, openness corresponds to the character of the ENP, which is not designed as preparation for accession but for the improvement of cooperation.

Even though the Action Plans have been negotiated bilaterally between the EU and the respective neighbour, and thus reflect different points of departure and national characteristics, some general focal points can be identified. First, they refer to the harmonisation of legislation within ENP states with international (democratic and constitutional) standards. In the area of legal regulations the need for action is frequently expressed, e.g., concerning the creation of a legal basis for the prosecution of certain crimes. Through this point two goals are being pursued: On the one hand, the rule of law and the legality of the administration's actions are to be enhanced. On the other hand, specific gaps in the legislation, in particular in criminal law, shall be closed.

The second focal point deals with creating and improving administrative and judicial structures and enhancing effectiveness of the authorities. The need is obvious: Authorities in the neighbouring states often lack adequate technical equipment and skilled personnel to cope with challenges of crime and illegal migration. However, this is not only a financial issue. For example, the reform of post-Soviet police and judicial authorities turns out to be extremely difficult for cultural reasons, too. Enormous efforts of the Council of Europe, OSCE, and EU notwithstanding, the security agencies of Eastern Europe are still far from the vision of a democratic civic police (Beck et al. 2006). Finally, the third focus is on fostering practical border-crossing cooperation. On the one hand, regional cooperation between neighbours is to be enhanced. On the other hand, it goes without saying that political and practical cooperation of the EU and its neighbours is also to be intensified.

However, the Action Plans pay most attention to the area of external border policy. In particular, the agreed projects go significantly beyond the creation of institutional-legal fundaments or declarations of intent for enhanced cooperation. This is no coincidence: The logic of the Schengen cooperation, according to which internal border controls are given up and moved to the external borders, has put the EU's borders with its neighbours in the centre of the debate about internal security in Europe. The Central and Eastern European EU members that entered the Union in 2004 simultaneously entered into the Schengen treaty; they already apply important elements of

the Schengen acquis, e.g., the visa policy. However, the old member states will not remove their border controls vis-à-vis these states before the Council unanimously concludes that they meet the Schengen control requirements at their Eastern borders. Thus effective control of the EU's Eastern external borders is a compulsory prerequisite for the establishment of freedom of movement, which is carefully monitored by the old member states. Obviously, this task cannot be accomplished without cooperation with neighbours. Therefore, in the Action Plans concrete projects have been agreed with Eastern European and Mediterranean neighbour states. As a result of Tunisian government's increasing institutional capacities for border controls, an improved exchange of information and training programs for border police forces have been agreed (EU/Tunisia Action Plan 2004: 19f.), while in the case of Moldova the EU has put emphasis on modernizing border control forces and enhanced training efforts (EU/Moldova Action Plan 2004: 30f.).

What has been achieved so far?

In comparison to the central role that JHA occupy in the basic documents and Action Plans, results in practice are rather modest (European Commission 2006d). With regard to the 18-month lifespan of the ENP this is hardly surprising, especially since the implementation of JHA reforms demands structural changes in the neighbour states that cannot be conducted within a few months. As a consequence, the measures that have already been taken in the fields of immigration and border control, which had already been given special weight in the Action Plans, are all the more striking. Whereas most aspects of JHA have been treated rather superficially in the interim report of the Commission, border related issues are highlighted (European Commission 2006d). "Facilitating mobility and managing migration" has become one of the seven strategic "action lines" that the Commission recommended in order to strengthen the program (European Commission 2006d: 5).

This headline hides a structural conflict between the EU and its neighbours. On the one hand, the EU urges the completion of readmission agreements by which the neighbouring countries commit themselves to readmit asylum seekers and (legal and illegal) immigrants who were not given the right of residence in the EU. On the other hand, the neighbouring states wish to attain a facilitation of visa procedures and the removal of obstacles to legitimate travel. The EU has repeatedly pointed out that it will make concessions in this area dependent upon the willingness of neighbours to sign readmission agreements (Frattini 2006). The success of this "juncture strategy" seems to be rather limited until now. In October 2006 the EU initialled an agreement with the Ukraine that stipulates visa facilities as well as readmis-

sion obligations. Negotiations with Moldova and Morocco about similar agreements are in an advanced stage (European Commission 2006d: 7). In other cases, the prospect for rapid agreements is rather poor for the time being, because the structure of interests between the EU and its neighbouring states is asymmetric.

Beyond the issue of readmission one can say that the neighbours only agree to safeguard the Schengen regime if the EU member states in turn offer political and financial help. In recent years, the EU's southern and eastern neighbours have upgraded their border controls with increased personnel and equipment, which indicates these states' increased commitment to the Schengen regime. These efforts are not only attributable to political pressures from Brussels, but also result from EU and member states intensive financial support for these measures (Mattes 2006: 5). The capacities for humane treatment of asylum seekers have not kept pace with improved border controls. Human rights organisations report from several neighbouring states that refugees and asylum seekers are arrested temporarily mistreated or placed in problematic accommodations (Human Rights Watch 2006). In principle, this problem has been recognised on a political level: the JHA ministers enacted a program for the implementation of regional protection programs in January 2006, which should support the countries of origin and the transit countries in their endeavours to build up and extend their institutions for the protection of refugees (European Commission 2005b). According to the EU Commission's plans, pilot schemes should be implemented in Ukraine, Belarus, and Moldova as well as in Tanzania. At an EU-Africa conference in Rabat in July 2006 a package with more than sixty measures was stipulated, which envisaged the improvement of border controls as well as a capacious program for better treatment of migrants and economic development in the region (Rabat Action Plan 2006).

These ambitious plans notwithstanding, in political reality the repressive character of cooperation is still in the foreground. It has become much more difficult for migrants to reach the continent legally, not only because of tightened immigration and asylum laws, but also because neighbouring states control their borders more effectively. As a consequence, migrants switch to other, less supervised routes. Furthermore, North African countries have unwillingly become target countries themselves, because the way to Europe as well as the way back is blocked for immigrants. A bitter consequence is already on the horizon: Neighbouring states have started to intensify controls at their external borders as illegal migrants are viewed as a security problem in the transit countries (Mattes 2006). Although measures at the external borders of neighbouring states can not be ascribed to EU's pressure alone, one has to concede that these measures are consistent with the aims of European border control policy. Along this line, the European Commission advocates strengthened cooperation with the "neighbours of our neighbours" in the

fight against illegal immigration in its interim report of December 2006 (European Commission 2006d: 13).

In the Ukraine and in Georgia efforts have been made to restructure the security sector and to reform the judiciary with the support of the EU. In this area further EU engagement can be expected throughout the coming years. With the “European Neighbourhood and Partnership Instrument“ there will be a financial instrument available from 2007 on, which develops further already existing instruments (particularly TACIS and MEDA). In this context, JHA projects will probably play an important role (European Commission 2006d: 14f.). At the Moldovan-Ukrainian border the EU established on the invitation of both states a “Border Assistance Mission” in 2005 consisting of about 70 police and customs officers. This project aims at supporting the local authorities in combating smuggle, human trafficking, and customs fraud, and should foster cooperation between the two states. Most notably, the situation at the border to Transnistria worsened in the last several years since Moldovan authorities could not control their border. Thus this region developed into an area free from control. The lack of control was misused massively by networks of organised crime. The border mission became possible when the Ukrainian government responded to the EU’s demands and retreated from its reticent position towards the Transnistrian regime. The outcome is satisfactory: although problems cannot be neglected, the border between the Ukraine and Moldova is on a long way to becoming a normal state border. At the end of November 2006 both states signed an agreement that ties into their common project. Both parties commit themselves to a better exchange of information on cross-border movements of persons and goods (Press Release IP/06/1592).

In May 2006 the Austrian Presidency of the European Council invited EU members and the neighbouring states to a ministerial conference in Vienna concerning the “Role of internal security within the framework of the relations of the EU and its neighbours”. The “Vienna Declaration of Security Partnership” points out the common interests of the EU and its neighbours in areas such as the fight against terrorism, organised crime, corruption, and the control of migration (Council of the EU 2006b). As a lead perspective, the declaration calls for the establishment of “security partnerships” based on mutual trust and common interest. Whereas most parts of the document are of a global and abstract character, the passages on border controls and migration are rather concrete. The governments identified several measures “to be implemented” in this area, among which are improving the security of travel documents including introducing biometrics, establishing functional border control systems, and the completion and implementation of readmission agreements.

In the field of police reform first results can be recorded. The government of Moldova ratified international conventions and amended its legisla-

tion for human trafficking and money laundering (European Commission 2006e: 11f.). The Ukraine continued the reform of border authorities and signed the convention of the Council of Europe regarding human trafficking (European Commission 2006f: 15). To what extent these legal reforms affect administrative and judicial reality in the respective countries remains to be seen.

The conflict between security and the rule of law

The results of the first stage of the Neighbourhood Policy are ambivalent from a JHA perspective. On the one hand, moves toward reform of the legal and institutional setting of migration and security policy in the neighbour states are visible. Also, it cannot be denied that the EU is succeeding gradually in including its neighbours in the European Asylum and Immigration Regime. On the other hand, the EU faces a serious conflict between its interest in efficient cooperation in JHA and its demand for constitutional reforms on the basis of democracy and the rule of law. With regard to security issues, the EU depends partly on cooperation with states that are highly problematic from a human rights perspective (Kahl 2006). While the financial and technical support for migration and security authorities in Georgia and the Ukraine, persisting difficulties during the process of transformation notwithstanding, can in fact foster constitutional reforms, in other cases, supporting police and border control structures means supporting instruments of repression. Inhumane conditions in prisons, inhumane treatments of asylum seekers, the brutal conduct of security forces, and the degree of corruption in the migration administration have not only been criticised by human rights organisations, but also portrayed starkly by the Commission in its reports. One has to keep in mind that these factors are not merely lamentable marginal phenomena in illiberal states, but play a key role for the respective regimes' claim to power and have, at least in the short and medium term, a system-stabilizing function.

To what extent this conflict between security interests and reform demands can be solved eventually depends on the way the neighbouring countries go in the near future. Can the ENP contribute to a balanced approach between these two sides of the story? Which perspectives do the instruments of the ENP offer for fostering a „neighbourhood of freedom, security and justice“? This question has to be answered with caution. In particular, the principle of conditionality borrowed from the enlargement policy will only have limited effects on the accomplishment of constitutional reforms. Even during the process of enlargement the effectiveness of this leverage was essentially bound to the domestic conditions in these societies: „In the democ-

ratic front-runners, the EU's incentives were unnecessary; in undemocratic countries, they were ineffective" (Schimmelfennig/Sedelmeier 2005: 210). With regard to states such as the Ukraine one can justly assume that the goals of the ENP will be fulfilled as they correspond with the self-declared commitment to democracy and the rule of law. Here, the problem could merely occur that the ENP falls "victim" to its own success for the program is decidedly not an accession strategy, but essentially a non-accession strategy. However, as soon as reform states modernize their security, justice, and administration structures in compliance with the Action Plans and if they fully cooperate with the EU, it will not be easy to reject accession applications inasmuch as they are European states.

What about the states with little or no perspective of accession, and with little prospect of democratization? How effective can a strategy of applying conditionality be in these cases? One should not be too over-optimistic. One reason is that the Union has little to offer that has not already been on the agenda in the framework of the Barcelona Process. Results of this cooperation are rather disappointing. Most governments of the African partner states have few incentives to give the EU's urging for democratization and constitutionality priority since they would threaten the core of the present constellation of power. From an EU point of view, the short-term interest for security and walling-off will remain contradictory with long-term regulatory policy interests. One will have to wait and see whether time will bring a reform and cooperation dynamic that has not been discernible so far. The prevailing strategy of externalising the EU's problems in the area of security and immigration and of giving priority to security concerns over freedom carries the risk of fostering problematic structures in neighbour countries instead of eliminating them.

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