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## POLSCI PAPERS

### ***Challenges at EU's New Eastern Frontier Twenty Years after USSR's Fall***

Liliana Popescu<sup>1</sup>

**Abstract:** The paper is an attempt to identify main challenges of the EU and of EU's eastern neighbours generated by EU's enlargement in 2007, that resulted in the shift of frontiers eastwards. The paper finds that the present EU eastern frontier is placed in an area where countries in between are subject to influences and centripetal forces coming from both east and west. The focus in this article is on Moldova and Ukraine – which represents the ‚southern flank‘ of the ‚tectonic plate‘ that separates EU from Russia. The first three parts of the article discuss the parallel evolutions of Russia and EU in the last twenty years, the development of the relationship between them and the impact of EU on Moldova and Ukraine, underlying some elements of Russia's impact as well. The fourth part is dedicated to the identification and discussion of the challenges EU, Moldova and Ukraine are faced with as a result of the evolutions generated by the 2007 enlargement.

**Keywords:** *EU neighbourhood, Republic of Moldova, Ukraine, europeanization, EU – Russia relations, Transnistria*

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## **I. Russia and the European Union – parallel evolutions in the last two decades**

The fall of USSR has been accompanied and followed by a series of processes: from independence movements and declarations to breakaway attempts – some of them successful – inside the newly independent states. The end of 1991 – twenty years ago – brought with it the disintegration of the large soviet empire. The end of the 1980s and the beginning of the 1990s was a period of change, which brought liberalisation and eventually democratization in Eastern Europe and Central Asia. Countries that were previously part of the soviet bloc – the satellites during the cold war – went through a reorientation process in their foreign policy. The need for security, both political and economic, drew them closer to their western neighbouring community, the European Community, in a period of neo-liberalism rise. The European Union – or the Common Market as it was best known during that time – started to be wooed by the newly liberated states which broke free from their soviet satellite status and acquired independence from the decayed soviet empire. The centripetal force of EU as well as the looming prospect of integration into a promising political entity named European Union after Maastricht made the former satellites to be active in their westwards orientation and seek concrete steps to get closer.

Meanwhile, Russia, who inherited most of the assets of the former USSR – for good and for worse – attempted to reorganize its neighbours and keep them close to the centre. The Community of Independent States was formed in December 1991 – the same period of time when the European Council was drafting the Maastricht Treaty, to be signed in February 1992. The Collective Security Treaty Organization (CSTO) was founded in 1992 at the initiative of Russia, but gathered much fewer former republics than CSI – certainly not Ukraine and the Republic of Moldova. If we follow the evolution in parallel of the two main power centres in Eurasia we may notice that while the Copenhagen Council was defining criteria to be followed and achieved by countries aspiring to become EU members (1993), Russia's top advisors were coining the 'near abroad' concept. In the same year Yeltsin succeeded in having the

Duma deputies vote a new Constitution that enhanced considerably the powers of the president, thus creating the premises for a rather de-balanced share of powers and for the reversal of democratisation. And he succeeded that after a bloody episode in Moscow in which hundreds of people were killed or injured. The time of liberalisation and attempted democratisation of the Russian Federation – spanning roughly between 1985 – 1993 – was longer than the one in the beginning of the XX-th century, when the first Duma was set up, but lasted less than a decade. Nevertheless, the freedom of Russians increased in comparison with soviet times. Meanwhile, the liberal democratic character of the Russian regime slid from a burgeoning democracy during Yeltsin's first years to a pseudo-democracy in the late Putin's years and Medvedev – to use Larry Diamond's concepts (1996).

While EU strengthened itself in the mid 1990s with the richest wave of enlargement with three neutral countries: Sweden, Austria and Finland, Russia got heavily caught in the first Chechen war. Two years later, the economic crisis that started in South East Asia severely hit Russia and all the countries strongly linked economically with her, including the „near abroad” countries in the western part of CSI, Republic of Moldova and Ukraine. The end of the 1990s brought to power Vladimir Putin and the rise of United Russia, a second mandate for Kuchma in Ukraine and the rise of the Communist Party in the Republic of Moldova. In the same period, the Treaty of Amsterdam was signed and ratified, and preparations for enlargement – a 'big bang' enlargement to the east of the EU – were on their way. The Councils of Luxembourg (end of 1997) and the Council of Helsinki (end of 1999) paved the way to the accession of twelve new countries – most of them either former soviet republics or former soviet satellites. Year 2000 brought with it yet another event: the beginning of rethinking the bases of the European Union and the project of a convention meant to debate a Constitution for the EU. The large wave of enlargement actually occurred in 2004, and 2007 respectively. Most of these countries became NATO members first, and only afterwards EU members. The proximity of NATO and the seemingly closer and closer Alliance generated concerns in Moscow. Meanwhile, EU developed its

second pillar, the Common Foreign and Security Policy, however, without progressing much beyond the intergovernmental level in the following years.

## **II. A Developing Relationship, Distinct Profiles: EU and Russia**

The legal basis of the relationship between the EU and Russia was set up in 1994 and entered into effect in 1997. The legal document signed by the EU and Russia took the shape of a Partnership and Cooperation Agreement (PCA), and it was based on the promotion of international peace and security and on the support of democratic norms and freedoms. It involved a mutual partnership in key fields like economy, culture, education, science and technology and other areas. The PCA was accompanied by an array of institutionalized meetings scheduled at various levels.

The Common Strategy of the EU on Russia (1999), like the PCA, set the goals of integrating Russia into a common economic space and of strengthening the stability and security through cooperation. One year before the first eastward EU enlargement, the EU and Russia agreed to enhance the existing PCA by creating four „common spaces” (St. Petersburg Summit, May 2003) covering 1) economic issues, 2) freedom, security and justice, 3) external security, 4) research and education. The subsequent consistence of the cooperation of the two sides was rather poor. However, the relationship grew at least formally if not substantially. There are many reasons why the substance of the relationship suffered: the rather closed business environment of Russia towards the business interests of Europeans and the development of a state controlled economy to a large extent, the enhanced rigours of the common European market, including the common policies regarding the admission of citizens outside the EU, which are generating frustrations for Russian citizens, among others. The list could continue. The eastward EU enlargement process, started in mid 1990s, continued with the de facto admission of East Central European (ECE) countries in 2004 (ten countries, including the Baltic states) and in 2007 (Bulgaria and Romania). For EU the two stages of enlargement represented a risk as well as an achievement. The previously acquired NATO

membership by these countries was regarded with concern by Russia. However, it is debatable what upset more the Russian leadership: the enlargement of NATO or the enlargement of the EU. Samokhvalov believes that Moscow is more concerned with the EU enlargement (2007). Russian leaders know the value of economic ties between neighbours and how they are transformed in influence and political power in time.

Russia gradually placed herself in a superior position, in the second part of the years 2000s, cultivating an 'asymmetric interdependence' with the EU, using various means but especially energy means (Leonard & Popescu 2007). In contrast, EU leaders are looking for peace and stability in a rather mutual and balanced interdependence. Nonetheless, different member states display different positions towards Russia. In the Power Audit of EU-Russia Relations, Leonard and Popescu identify the following categories: 'Trojan Horses' (Cyprus and Greece), 'Strategic Partners' (France, Germany, Italy and Spain), 'Friendly Pragmatists' (Austria, Belgium, Bulgaria, Finland, Hungary, Luxembourg, Malta, Portugal, Slovakia and Slovenia), 'Frosty Pragmatists' (Czech Republic, Denmark, Estonia, Ireland, Latvia, the Netherlands, Romania, Sweden and the United Kingdom), 'New Cold Warriors' (Lithuania and Poland). Meanwhile, some of these countries changed their positions. Thus, Poland might have migrated from the cold warrior category towards 'friendly pragmatist' one, whilst Romania probably migrated from the 'frosty pragmatists' category towards the 'new cold warrior' side. The main idea of the audit is that there are remarkable differences between EU member states with regard to Russia. One of the consequences is that Russia may play on these differences, may make use of the roman "divide et impera" principle, in order to achieve her purposes. This is what actually happened with the bilateral relation between Russia and Germany with respect to providing gas, for instance; also, with the countries involved in the South Stream project later on.

In contrast to the beginning of the 1990s, during Yeltsin's first years as president of Russia, when Russia's foreign policy was dominated by liberals, looking westward



and displaying eagerness in emulating European democratic values, the situation changed dramatically in the following decade. A liberal approach in foreign policy has been replaced by realist perspectives and even an aggressive geopolitical civilizationism (Secrieru 2008). Klitsounova (2009, p. 103) remarks that „in the course of the 2000s Western political influence within Russia was severely reduced, both in rhetoric and in practice”. Moreover, the perceptions over major events happened in Russia’s „near abroad”, which gradually became EU’s eastern neighbourhood in the same decade, became gradually very different. While in EU, the 2003 – 2005 wave of uprisings (the ‚colour revolutions’ in Georgia, Ukraine, Kyrgyzstan) were seen as revolutions and as democratic breakthrough, the Kremlin did not see them the same way. On the contrary, they were seen „as regime change sponsored by the West in order to advance geopolitically into the post-Soviet space – and Russia’s immediate neighbourhood” (Klitsounova 2009, p. 105).

The difference of perspective between the EU and Russia became significant in less than ten years after the adoption of the PCA. Better said, the two parties evolved differently so that the gap in perspective grew wider. Nonetheless, the two parties and neighbours have needs and interests that can be satisfied through mutual understanding and cooperation only. Russia’s interest in modernizing its economy and the country as a whole and this interest perceived as such by its less and less democratic leadership represents a good basis for the development of the relationship between the two giants on the Eurasian continent. The EU has a stringent interest in energy being supplied regularly and without arbitrary stops as well as an interest in a stable eastern neighbourhood.

The mutual perceptions of the two parties are important in view of the direction and quality of their relationship. Sergei Karaganov, Dmitri Suslov and Timofei Bordachev from the Russian Council on Foreign and Defence Policy perceive EU as a foreign affairs actor this way: „The European Union (EU) is growing weaker as an actor in foreign politics... the EU cannot be viewed as a significant player in the world's political and especially military-political arena” (Popescu, N 2009). This attitude could

be noticed in the middle of 2009 – about one year after the Russian-Georgian conflict. Russia tends to minimize the power of the EU in world affairs, given her leaders' Realpolitik worldview, while the EU takes pride in exerting soft power, in supporting a great deal of development aid throughout the world. The present economic and eurozone crisis in EU is certainly strengthening the view of a weak EU in the eyes of geopolitical strategists in Kremlin these days.

Various authors agree that there is a large gap between the EU and Russia not only in mutual perceptions, but also in levels of development and in economic management. Russian leadership, under Putin and Medvedev preferred a state controlled economy, particularly in strategic sectors like gas and oil. When it comes to modernization and the stated objective of modernization, Russia is seen as suffering from clientelism, corruption and lack of transparency in business dealings. „Russia will only become a modern European country when it institutes the rule of law” (Trenin 2010, p.2). This means, that Russia's modernization depends foremost on the decisions of its leaders rather than on the access to western technology. Technology will come to Russia if and when the business environment will be welcoming and clean. Technology is brought by businesses and not through state channels, as western economy's substance lies in private businesses and corporations.

Russia is very pragmatic in its relationships with partner countries, is looking for profit. „The EU's Russia policy is now mostly about pragmatic co-operation” (Barysch 2011a, p. 6). Russia is looking for technology, high-tech and „therefore needs to build good relations with USA and EU – it needs technology as a means to build its power and reassert herself” (Trenin 2010). Being closer geographically and historically, EU is Russia's most strategic partner, writes Trenin (2010). While writing this paper, a Russian Soyuz rocket is prepared to lift-off from a Western European basis (French Guyana) in the framework of the Galileo project. So, a pragmatic cooperation between EU and Russia is under way, „a marriage of cosmic convenience” writes Der Spiegel (2011). It is convenient for Russia, since it feeds

her need to strengthen itself technologically and modernize. The forecast for Putin's next presidential mandate is that he is going to consider closer relations with the EU and the US, given the relative decline of both Russia and the West and the simultaneous rise of Asia and China in particular (Saradzhyan & Abdullaev 2011, p.36).

The profile of EU differs significantly, in political and economic terms, from the profile of Russia. While EU is a union of states, each independently deciding a great deal of their economic policies, Russia is a federation of republics, with governors appointed by the president, in which the federal state controls a large part of the strategic resources and economy. Russia is a "hands-on state" in which a pseudo-democratic regime developed over the last decade. EU is a conglomerate, in which many views are manifested, with problems of coordination between states in those areas outside of the first pillar (the common policies) – particularly in the area of foreign policy. It is a Union with leaders democratically-minded. The norms within EU states and within the EU as a whole are liberal democratic: procedures, laws, legality, human rights etc, all based on the values of individual freedom and equality of opportunities. The difference in terms of values and the hierarchy of values between EU and Russia may be noticed in some of Russia's international actions. Emerson (2010a) found that the fact that she was the last country member of the Council of Europe to ratify Protocol 14 of the Convention on the European Court of Human Rights, in Spring 2010 is relevant in this sense.

The security aspects of the relationship between EU and Russia are also relevant for the present discussion. A parallel evolution of Russia and EU in the security area took place. While both EU countries and former soviet republics signed the Conventional Forces in Europe Treaty (CFE) in 1992, the fate of this treaty was rather sinuous over time. After agreeing on an Adapted CFE in Istanbul in 1999, the situation of Russian troops in Georgia and Moldova represented motives for its non-ratification by NATO members (many European members included). The US missile defence plans in Europe caused Russian upset and accusations of CFE breach.

Thus, Russia withdrew from CFE in 2007. The Georgian-Russian war in 2008 added concerns about the situation of conventional forces in Europe. This is the root of efforts made by EU representatives in the last years to resume talks about security in Europe with Russians.

Russia initiated the creation of the Collective Security Treaty Organization (CSTO) in 1992, which now numbers seven former soviet republics, including Russia. However, it does not include Azerbaijan, Georgia, Moldova and Ukraine. It includes Belarus – if we want to name a country in the European proximity. EU's progress in the area of an independent security has been slow. Most EU members' security is covered by the transatlantic link, NATO. Independently, the EU developed in the direction of a Common Defence and Security Policy (CDSP, as it is named in the Treaty of Lisbon) but which is specialized in civilian missions and in Petersberg type of military missions. The military troops and battle groups mobilized are episodic and gathered for specific missions – mainly out of Europe missions, even though there are a few of them in its vicinity – Western Balkans (6) and eastern borders (3). It is interesting to note in this context that the number of CDSP missions in Eastern Europe is much smaller than missions throughout the world – which is significant for the present discussion. It may indicate that the EU is shying away from intervening for security reasons in the tectonic plate area of Russia near abroad.

A reset of the EU – Russia relationship was attempted in the beginning of 2010, as a 'spill over' effect of the US efforts to revive talks on CFE (Secieru 2011). The German-Russian Summit of Meseberg in June 2010 resulted in the signing of a memorandum that sets way for the creation of an EU–Russia Political and Security Committee (ERPSC) to be chaired by EUHR for Foreign Affairs (Ms Ashton for now) and the Russian Foreign Minister. The initiative of creating this Committee would offer Russia a stake in European decisions on conflict resolutions, with a concrete application on Transnistria. However, the memorandum was later criticized by a series of European partners whose views differ from the German one. So far, the memorandum did not produce palpable results, but may represent a starting point in

further talks. In a cynical note, Vladimir Socor (2011a) writes „[q]uite likely, Moscow would try to offer process, rather than substance, on its side of the Meseberg trade-off”.

Geographically, but also politically and economically, the two parties are separated by a ‚tectonic plate’, situated in the area in between Russia and the EU. But perhaps the actual borders are less important than other kind of frontiers created in this area due to its very position in between Russia and the EU. In this paper I focus on the longest frontier between EU and Russia – having in between Ukraine and the Republic of Moldova.

### **III. EU’s relations with the Eastern neighbourhood and its impact on R Moldova and Ukraine**

The EU – Russia relations involve, among other issues, the “New Eastern Europe”: Ukraine, Belarus, and Moldova. All three of them are common neighbours of both Russia and the EU. The “New Eastern Europe” region evolved in important ways over the last twenty years, ever since the breakaway of the former soviet republics from the desintegrated USSR in 1991. As the frontiers of the EU gradually moved eastwards in three successive waves over the last two decades, at least three major processes took place in this region: 1) a process of learning self-government, 2) a process of democratization, 3) a process of Europeanization. This paper is focusing on the second and third above-mentioned processes, as they involve to a larger extent the dynamic of the EU and Russia relationship. To a certain extent, the processes of democratization and Europeanization overlap and they also have an impact on the development of learning self-governing skills and capabilities.

The evolution of Belarus, excludes her from a discussion on democratization and Europeanization. Also, it is a country that pertains strategically to the northern flank, and therefore it is not going to be the focus of this paper. The processes of democratization of both Moldova and Ukraine, as of all other former soviet republics,

started with Gorbachev's liberalization, which gradually gave way to the process of contestation – the distinctive mark of democratization. USSR imploded and the regime-initiated democratization process was an important part of the implosion's ignition. The political culture inherited by the New Eastern Europe countries from the former empire – attitudes, behaviour, values, actions – got perpetuated by the political elite for quite a long time – until and including Kuchma's second mandate in Ukraine (2004) and until the Alliance for European Integration in Moldova (2009). Taking Linz and Stepan's (1996) benchmarks for a successful transition to democracy, we may note that with regard to Moldova, the elections started to function formally as an institution soon after the declaration of independence, but their freedom and fairness indicate deficiencies even today. The Freedom House scores vary between 3,50 – 4 in the last decade (Crowther 2011). It is less obvious to what extent the Moldovan governments have the de facto freedom and capacity to create independent public policies, given certain constraints coming from outside, like the dependence on the Russian gas or the import interdictions (wine and other agricultural products) issued by Russia in the past. Looking at Ukraine, we may note that the situation of democratization there is not much different, except that there is a slight improvement from 4,5 to 3,5 on the free elections dimension, and from 4,92 to 4, 61 on the overall democracy score, according to Freedom House (Sushko & Prystayko 2011).

Beyond the electoral conditions and the condition of legitimate representatives' decision power and freedom, a democratic state needs more solid institutions to function in order to protect its citizens. Civil liberties and rights, political rights, accountability of the elected representatives – both vertical and horizontal – require time and determination. European Union played an increasing role in the process of Moldova's and Ukraine's democratisation, though in different ways and intensity. According to Bogomolov and Lytvynenko (2009) the EU's role vis-à-vis Ukraine's democratic advancement is controversial. By contrast, some authors single out Moldova as the CIS country most exposed to EU's influence on democratisation, displaying the highest interest in becoming EU member. External pressures, coming

primarily from the EU, rendered Moldova less vulnerable to authoritarian slides than other post-soviet states. Meanwhile, Russia was less successful in exporting the ideology of 'sovereign democracy' (Popescu & Wilson 2009).

EU's relationship with its present eastern neighbours, Republic of Moldova and Ukraine goes back to the 1990s when each signed a Partnership Cooperation Agreement with the EU (Moldova in 1994 and Ukraine in 1998). Both countries have been co-opted in EU's Neighbourhood Policy in the 2000s and each signed, accordingly, a separate Action Plan with the EU, having customized objectives, means and deadlines to accomplish. Both have been included in the Eastern Partnership (EaP), the Polish-Swedish initiative of 2009, by means of which EU's eastern neighbours enter a special relationship with the EU, analogous to the Mediterranean Union in the southern neighbourhood. Both Moldova and Ukraine aspire (and asserted their interest publicly) to become EU members, even though there are differences in the attitudes of citizens in this respect. Ukraine, succeeded earlier than Moldova to draw the attention of the EU and develop negotiations for a New Enhanced Agreement, in 2007 – 2008, and then for an Association Agreement starting in 2009. Kiev hopes to have the Association Agreement signed by the end of this year. Moldova is on her way to negotiating a similar Agreement.

It becomes clear, looking at the brief evolution of the relationship of Moldova and Ukraine with the EU, that the bulk of progress has been made in the second part of the years 2000s. EU's involvement with Moldova and Ukraine increased in the second part of years 2000s – by appointing special envoys – like Mr Adriaan Jakobovitz de Szeged, to deal with the Transnistrian issue – and with appointing delegations and EU heads of mission in these countries. In the Fall of 2005, it was established the opening of an EU Border Assistance Mission (EUBAM) at the eastern border of Moldova (the Transnistrian segment) with Ukraine. This is a civilian mission, still working and it has produced certain results in terms of contribution to decreasing the smuggling in that area and increasing the capacity of Moldovan customs to deal with smugglers.

The successive trade facilities offered by the EU also contributed to the dialogue and cooperation between the two pairs of parties. The common engagement of the two eastern neighbours with EU representatives in negotiations, in planning together and working together contributed to the process of Europeanization of both Ukraine and Moldova. In the literature on Europeanization, this phenomenon is defined through four main features: the adaptation of national policies to EU policies, the projection of national interests in EU policies, elite socialization and bureaucratic reorganization (Popescu, L 2010). The Europeanization process is generally discussed with reference to the EU member states. However, it is more and more discussed in relation to the neighbours, to countries outside the EU exposed to EU norms, values and practices. Some studies reveal that the intensified cooperation of the neighbours with the EU produced results in terms bureaucratic reorganization, of institution building if not in patterns of governance. Osoian assesses that both Ukraine and Moldova „established systems for coordination of European affairs similar to those of candidate countries: a national coordination structure, interministerial working groups, European integration units within ministries... [they] strengthened this framework without being exposed to membership conditionality” (Osoian 2008, p.10). Meanwhile, the lack of a membership perspective for the two neighbours is demotivating. In the case of Ukraine, the ‘uncoordinated implementation of EU conditionality’ has been conceptualised by Wolczuk (2007, p. 23) as ‘sporadic Europeanization’ – that is enactment of the EU defined reform agenda which is localised, unsystematic and often shallow” (Osoian 2008, p.37)

There are success stories in the relationship between Moldova, Ukraine on the one hand and the EU, on the other, but one can identify difficult and challenging aspects as well. The impact of the diplomatic intervention of EU envoys during the Orange Revolution in the Fall of 2004, the beneficial consequences of the Generalized System of Preferences (GSP) granted by the EU to Ukraine since 1993, the European support for Ukraine’s WTO membership (acquired in May 2008), the reorientation of Ukraine’s trade towards the EU (the trade between Ukraine on the



one hand and Russia and EU on the other hand are now at about the same level) – are benchmarks for the EU-Ukraine success. With regard to Moldova, which is a much smaller trade partner than Ukraine, EU's successful impact include: the beneficial consequences of the GSP, GSP+ and Autonomous Trade Preferences (ATP), the diplomatic interventions of European representative besides the American ones in persuading president Voronin not to sign the Kozak Memorandum (which would have federalized Moldova in the sense of „Transnistriation” as some authors put it (Serebrian 2004)), the EUBAM civilian mission, the recent attempts by the German chancellor to raise the issue of a solution for the breakaway region as a condition for setting up a EU–Russia Political and Security Committee (ERPSC) and so on.

As to the difficulties in the relationships between the two post-soviet countries on the one hand, and the EU on the other hand, the gas transit issue may be mentioned in the case of Ukraine, even though there is a trilateral relation there, Ukraine being involved as an intermediary between Russia and EU countries. In the case of Moldova, the most conspicuous and intricate matter is the rather shallow involvement of the EU in finding a solution to the separatist, so called “Moldovan Nistrin Republic” or better known as “Transnistria”, despite the presence of this objective in the ENP Action Plan signed between the two parties in 2005. However, the common difficult and challenging situation of both post-soviet republics is the fact that they both target becoming EU members but there is no promise on the part of the EU in this sense. This is an issue to be discussed later on.

### **III. 1. The Transnistrian issue**

The Transnistrian separatism is a very sensitive issue for Moldovans, to the extent that the Republic of Moldova, declared independence after decades of being a soviet republic, which comprehended both the historical Moldovan territory and the Stalinist creation of „The Autonomous Socialist Soviet Moldovan Republic” (in 1924) out of a western strip of Ukraine, later known as ”Transnistria”. So, the Moldovan citizens link

their identity with the whole territory of the former republic, including Transnistria, and this is a main reason why no political figure in Moldova is talking about accepting the separation of Moldova between Prut and Nistru and the land strip beyond Nistru, Transnistria. Also, the largest part of the industry producing GDP has been placed in soviet times in Transnistria – including the industry that generates power for the whole country. Thus, the reintegration of this territory in the main Republic is a major issue for Moldova.

Whereas the Transnistria subject was of OSCE competence and preoccupation in the 1990s, EU gradually got involved – first adopting a series of declarations without precedent during 2003 (Gheorghiu 2007). The creation of the European Neighbourhood Policy (ENP) in 2004, brought with it the cooption of all of EU's neighbours, including Moldova. Thus, Moldova signed a common EU – Republic of Moldova Action Plan, in which the Transnistrian question featured as a top priority. According to Gheorghiu (2007,pp. 65-66), but also to other Moldovan analysts (Nantoi, Funtasu, Munteanu) Russia is fuelling the Transnistrian separatism and thus is acting against the interests of Moldova and contrary to the ENP. The conflict is not an ethnically based conflict, but rather an inter-state one.

There are implications of this situation for the democratisation and Europeanization of Moldova; first of all, because the presence inside Moldova of a political force leading a breakaway region amounts to the erosion of the political legitimacy of the elected government in Chisinau. Second, because the leadership of the Transnistrian region refuses to take part in the process of Europeanization which includes, besides the institutional infrastructure, concrete steps to integrate Moldova into specific trade regimes connecting her to the EU. Natalia Gherman, Deputy Minister of Foreign Affairs, declared that a Deep and Comprehensive Free Trade Agreement (DCFTA) is more difficult to be reached than a simple FTA, therefore requiring the inclusion of representatives of economic interests and enterprises from Transnistria. But the regime in Tiraspol is refusing to participate in these talks with

EU representatives, thus undermining the negotiations of Moldova for DCFTA, which would bring the country closer to the EU (Preasca 2011).

It looks like it is impossible for the Republic of Moldova, at least in short and medium horizon, to be able to ‚put into brackets’ Transnistria and simply go ahead and behave as if the breakaway region was not there, as some solutions were suggested in the past – for instance, the solution put forward by Societatea Academica Romana (SAR) (Mungiu Pippidi 2005). In the absence of any external intervention in Transnistria, to press and precipitate a solution for the situation is not a good idea; second, taking the model of Cyprus and Greece’s tactics with regard to Cyprus, Moldova should try to evolve and get closer to the EU, leaving Transnistria somehow blocked out. Thus, in a future situation, Transnistria might be put in the situation to be the one to have an interest to get closer to Moldova (Mungiu Pippidi 2005). If we look back at what actually happened in the last six years, we realize that Moldova did exactly what the SAR project proposed. Secieru links the Europeanization of Moldova to progress in finding a solution to the Transnistrian conflict. The importance of Europeanization „If Moldova will be able to accelerate the pace of reforms in the coming years, the palpable benefits of European integration might open up Transnistria and empower various local constituencies to push more vigorously for changes. Only the gradual Europeanization of Transnistria will foster a local environment in which a viable solution to the conflict could emerge” (Secieru 2011, pp. 258-259).

In any case, these matters seem to be circular: Transnistria will feel attracted by Moldova’s progress with EU, but Moldovan central authorities in Chisinau need to exert persuasion power to include representatives from Transnistria in the DCFTA negotiations with the EU. Meanwhile, preparations for ‚presidential elections’ are under way in Transnistria, on the 11th of December. Russian sources lean towards finding an alternative to Igor Smirnov, who is preparing to bid for the fifth time in a row to become president, after 20 years in power. Dmitry Soin, deputy of the Supreme Council of Transnistria said in an interview with the Voice of Russia

believes that many Transnistrian residents say their leader's long term in office jeopardizes the entire democratic system (Voice of Russia 14 October 2011). Russia seems to be prepared to say good bye to Smirnov. However, Smirnov does not seem to be prepared to depart from his power position in Tiraspol, thus indicating he may have some political support in Kremlin.

### **III. 2. Moldova and Ukraine between two worlds**

Integrated by now in the World Trade Organization, being „globalized” tradewise, both eastern neighbours of EU are situated in between two regional blocks. The EU is much more developed than the Russian centred Eurasian Economic Community (EurAsEC, Treaty founded in 2000 and signed between Russia, Belarus, Kazakhstan, Tajikistan), to the extent that EU is a full common market (despite a series of aspects that flaw it) and is highly institutionalized as such. The present crisis might benefit EU in the sense that it is going to strengthen it as a common market. The alternative would be the demise of the eurozone and a drastic drawback from European integration. On the other hand, Russia has been trying alternatives to regionalize around it – first by the weak CIS, later on by founding the EurAsEC and progressing with two post-soviet states towards a Customs Union (Russia, Belarus and Kazakhstan), that came into existence in January 2010. Allegedly, this Customs Union will transform into a Single Economic Space in January 2012. Recently, Vladimir Putin announced the intention of developing a Eurasian Union, similar to the EU, which would include more post-soviet republics, to be built on the basis of the existing Customs Union. This initiative might prove to be either a viable solution of regionalization for many post-soviet countries, but it might also prove to be a reiteration of a non-viable CIS. Putin continues to anchor former soviet republics to Moscow through integration projects such as the Collective Security Treaty Organisation, the Eurasian Economic Community and the Commonwealth of Independent States (Saradzhyan & Abdullaev 2011, p.29).

The temptation of moving eastwards for the two EU eastern neighbours is still present, even more so under the condition of fresh offers of trade regimes, less demanding than DCFTA and less demanding in terms of technical standards like the ones required by the EU. There are advantages to reaching a DCFTA with the EU, but also disadvantages. The Ukrainian oligarchs were not happy with the harsh conditions imposed by the DCFTA, whereas the Georgians calculated a possible increase in prices of 90% (Grant 2011, p. 5). For Moldova, the trade increase with the EU would be slowing down given the fact that these countries benefited from other trade facilities before. In Chivriga and Tornea's opinion (2011), Moldova's major benefit from adopting a DCFTA would be the commercial closeness to the EU rather than CIS and Russia. In other words, the main gain for Moldova would be the political one. It is debatable whether the same kind of gain is at stake in the Ukraine case, which is in a stronger economical and trade position, and has more ties with Russia.

There is yet another element to be taken into consideration as a possible stimulus for Moldova and Ukraine to move eastwards: even though Europeanization made inroads in both Moldova and Ukraine, still „there are certain elements emerging from the communist past, which are against the EU norms and principles, such as over-centralisation, lack of transparency, reactive approaches to ‘ways of doing things’” (Osoian 2008, p. 37). The high levels of corruption in both countries place them in a far away position from EU's legalistic approach, values and ways of acting. It could be easier and more natural to connect to a world that functions non-transparent, illegal and clientelistic.

Yet, there is another element that contributed to the two countries positioning in between two worlds: EU's evasiveness in relationship with Moldova and Ukraine. Neither of these two countries is offered the prospect of EU membership. Emerson put it bluntly, in this respect: there is no unanimity on enlargement now, and „since this is a unanimity matter, the question is closed, at least for the time being” (Emerson 2011). On the other hand, president Yanukovich is trying to condition the

signing of the Association Agreement with EU in December 2011, on the invitation to become EU member, to receive the candidate status from the EU. While for the EU the purpose of Europeanization is to have a stable neighbourhood, for both Ukraine and Moldova, this is not a satisfactory approach and purpose (Osoian 2011, p. 38). Certainly, the two countries cannot be compared. One can guess that one of Ukraine's main targets by knocking on EU's door is to get a stake in the political process decision-making, given her magnitude both demographical and economical. Moldova's targets cannot be that high in this respect due to its size and capacity.

The EU is not getting too much involved in security issues in the post-soviet space either. In one of the criticisms with respect to EU's security approach, Huff remarks that „[f]rom refusing to replace the OSCE in Georgia in 2005 to avoiding peacekeeping in Transnistria a year later, the EU has consistently shied away from 'politicised' engagements to help resolve the region's conflicts” (Huff 2011: 8). Despite the number of frozen conflicts in the post-soviet space, EU preferred to contribute to various peacekeeping and conflict management missions outside Europe. The present economic and financial crises, the euro zone problems, stall for sure further changes in this sense. However, the Meseberg initiative last year attempted to make new inroads in asserting a European position towards EU's eastern neighbours.

The EU is not a coherent entity in foreign affairs in many ways. This is one reason why the German initiative in 2010 has not been endorsed. Looking at the EU foreign policy in terms of results, and disregarding the process of creating EU foreign policy, one may infer that EU's interest is to keep the status quo in the area of its eastern neighbourhood which includes Moldova and Ukraine. Russia, on the other hand, has the same interest, including the preservation of the status quo in the frozen conflicts of the area – particularly so after her success in Georgia in 2008. EU's eastern neighbourhood, which coincides with the western part of Russia's near abroad, might be seen by both sides as a buffer zone, the status quo of which might be of mutual profitability for both parties, so far. This does not preclude attempts on each

side of capturing more from the other side, commercially, economically, energetically, politically. From this viewpoint the weight of Ukraine and Moldova are different. Ukraine is a big stake, but also more difficult to integrate in a region or another. Moldova is much lighter economically and politically, therefore easier to catch and integrate. Moldovans are the most pro-Europeans of all post-soviet states and also waiting for more European activism towards her. Moldova tried to position herself intelligently on the side of other SE European country (she sought and acquired Pact of Stability, SEECP, BSEC memberships) and be assimilated to the countries of Centre and Eastern Europe (its CEFTA and ICE memberships) in order to be separated from her more heavy-weight neighbour to the north, east and south, Ukraine.

#### **IV. Challenges for the EU and its neighbours at the new frontier created in 2007**

The European Union was set up in the period of USSR's disintegration. It has been born, by coincidence or not, precisely in the period of USSR's burial, in December 1991. The draft Treaty of Maastricht was agreed upon at the European Council of Maastricht, Netherlands, between 9-10 December 1991, when USSR was declared dead. A weak CIS and, later, a CSTO replaced USSR. Meanwhile, the post-soviet states developed as independent entities; some of them – western ones, but not all – went through a process of democratization, in the liberal sense, and Europeanization. The most successful in these areas were Moldova and Ukraine, probably partly due to their proximity to the EU. The European Union moved in the direction of strengthening her common policies and including more areas under its „first pillar”, the communitarian one. However, foreign policy does not feature under this pillar, despite some progress in the direction of common action (the set up of European External Action Service, for instance) or in the direction of a common defence (CSDP in the Treaty of Lisbon). Under these circumstances, the new frontier of the EU created in 2007 gives rise to a series of challenges for the parties that have a stake in the region.

One main challenge to be identified at the new frontier of the EU is the challenge for post-soviet republics to calibrate their balance between EU and Russia, as both of these two parties offer different kinds of regionalisation. The latest elections in Moldova and Ukraine, brought to power distinct orientations of leadership in Kiev and Chisinau. The presidential elections in 2010 brought to power Viktor Yanukovich as pro-Russian president of Ukraine. The latest general elections in Moldova brought to power the pro-EU „Alliance for European Integration’. This might result, in short to medium term, in differentiations between the two countries with respect to their economic and political orientations. At the moment, both countries display a strong interest in becoming EU members. The refusal of the EU to promise membership acts as a challenge in itself for these countries (Popescu, L 2006), as they must make further efforts to reform and satisfy the conditions posed by the EU in order to enhance their status (from ACP to DCFTA, for instance) and Europeanize. The eagerness of Moldova to become EU candidate is clearly signalled by its governmental programme in 2011 which identifies seven priorities, among which the first one is „European integration”, second „the reintegration of the country”, and only fourth „the rule of law” or fifth „fighting poverty” (Ciobanu 2011, p. 7). The EU membership for Moldova seems to be seen rather as a political warrant from any arbitrary intervention from Moscow, as well as an economic shelter for a country with a quarter of the population working abroad.

Various authors are critical towards the ways in which the EU approaches its eastern neighbours. One kind of critics target the absence of perspectives. Another kind addresses the relationship with Russia. „Eastern Partnership, still projects no clear vision of the region’s future and carefully avoids addressing the target countries’ current major concerns, such as the complexity of their relations with the former metropolis” (Bogomolov & Lytvinenko 2009, p. 82). Another kind of critics looks at how conditionality is applied by EU. Conditions not well applied, or excessive conditionality, may result in wrong outcomes. Grant comments that the Action Plans signed under the ENP were implicitly conditional, in the sense that countries that do



not reform should not expect to receive all the benefits. Nonetheless, between 2004 - 2009, the Commission put less and less emphasis on conditionality, the priority being the disbursement of money (Grant 2011)

The problems related to the use of conditionality in relation to the eastern neighbours indicate yet another challenge, to be faced by EU: the ability of EU to develop her relationships with Ukraine and Moldova in order to keep them interested in European integration, without them looking for alternatives eastwards and preserving stability in the area. Working on how to apply conditionality is one aspect. Grabbe has been talking of the better use of political conditionality as means of access to further stages of integration ever since 2001 (Osoian 2008). This might be even more relevant for the two post-soviet countries discussed here. A series of creative proposals were made public. Some of them coming from politicians: the Vice-President of the Christian-Democratic Union from the European Parliament, Ingo Friedrich, proposed the creation of an Eastern European Union in April 2008 – a sort of mid way between full membership and non-member. The idea behind it was to ease the tensions created by the centripetal force of the EU and the subsequent wish of eastern neighbours to become members. It was issued in the same period of time when the Mediterranean Union was set up as an upgrade of the Barcelona Process in the south of Europe. Also, Elmar Brok, another Europarliamentarian proposed setting up a mid-way formula between full member and simple neighbour (Cristal 2009).

The promise of membership would be an important motivator for these countries in the east, as it was for Romania and other countries in Central and Eastern Europe. The impact of change was tremendous, even though not everything is solved. Mungiu-Pippidi is talking at length about Romania's trouble-ridden politics in the aftermath of her accession to the EU, about the conflicts over the rule of law, the clash between the directly elected President and Parliament, about the open defiance of Brussels and the forfeit of her promises, and not least about the corruption problems reflected in the presence of the Mechanism for Cooperation and

Verification (MCV) (Mungiu-Pippidi 2009). But the promise of membership did wonders in Romania, despite the residual problems left behind. And one may suppose similar effects for Moldova or Ukraine. There are actually many studies that reflect the beneficial effects of these countries' building closer ties to the EU.

If the EU cannot promise membership, and if mid-way status is not an option either, then perhaps the EU could do more with other assets at its disposal. Grant is proposing a few solutions. One would be to redistribute the funds allocated to dealing with development in areas outside of EU – that is, to allocate more to ENPI than the present figure of 11 billion until 2013, given the fact that the funds meant to reach ACP countries, Latin America, Asia, and other parts of the world are higher. A second one would be to increase the budget share of the EEAS (EU's External Service) from 7% to 10%. Yet a third one would be to offer visa facilities but conditional upon changes in the countries interested. Some individual EU countries, Romania included, already offered mobility visas for Moldova and Georgia. EU would need to make much more use of positive conditionality, and needs to make much more use of incentives (Grant 2011). In the same vein, a prominent opposition figure in Belarus, is suggesting that Brussels needs to change its procedures and adapt to the internal conditions of each country – and even more to an authoritarian one like in Belarus – in order to influence the situation there (Milinkevich 2011). The question that remains is: does EU have the will to do this? Thus, the challenge for the EU seems to be not so much whether it has the ability, but rather whether it has the will to change, and to influence things, processes and evolutions in the eastern neighbourhood.

The writing period of this article coincides with a major challenge for the EU: to maintain its integrity as a Union, to maintain its common currency and to protect the Eurozone. Therefore, the preoccupation with its eastern neighbourhood, under these conditions and after the high tide of revolutions and political uprisings in the south of Europe, might seem misplaced. However, when we look at evolutions in Russia, and at her international affiliations like Shanghai Cooperation Organization or G20, and if

we pay attention to the restructuring of international relations worldwide, we realize that EU needs a strategy to deal with its eastern neighbourhood. At the moment it lacks one.

In this context, a main challenge for the EU is to find the optimal direction for the development of her relationship with Russia. The EU member states are pretty divided in terms of attitudes and positions toward Russia (Leonard & Popescu 2007) even though they have been evolving ever since the Audit was made, with Poland improving significantly her relationship with Russia. In this sense, one question is what will be the fate of the German – Russian proposal to set up a EU – Russia Political and Security Committee (ERPSC)? This is a security matter, but the challenge mentioned above has other two dimensions: security and EU eastwards economic expansion.

The security aspect of the EU – Russia is an important component of this challenge. At the moment, EU's security is fundamentally linked to NATO. The neutrality of a few EU members like Ireland, Sweden, Austria and Finland, is in turn counterbalanced by the NATO membership of all other western and eastern EU members. EU's Common Defence and Security Policy (CDSP) is in its infancy, and far away from a common defence force. Moreover, the military and civilian missions placed in the eastern neighbourhood are very few (3) in comparison with the large number of missions displayed worldwide (tens). Transnistria is about 100 km from the EU and NATO border (Romania's eastern frontier), and there is no EU involvement in that region, apart from the civilian EUBAM which has advisory tasks and apart from EU's Special Envoy. There are proposals to include EU forces besides the Russian as peacekeepers in Transnistria, but they are far from being implemented. An optimistic view notes the following „the incorporation of the CSDP structures (including the Crisis Management Planning Department [CMPD], the EU Military Staff [EUMS] and Civilian Planning and Conduct Capability [CPCC]) into the EEAS, along with the Eastern Partnership officers under the Managing Director for Europe and two ENP officers who coordinate with the Commission's DG ENP, offers

a unique chance for the EEAS to consign inter-institutional rivalry to the past, by developing a set of clear EU policy goals for the Eastern neighbourhood and considering the use of all the instruments in the EU's broad toolkit"(Huff 2011,p. 14). It is not clear so far how powerful EEAS and the High Representative will be. The existing opinions on the matter is that so far EEAS is not evolving in this direction.

Russia's annoyance with an expanded NATO is on a par with her interest to protect the area which she believes it is her area of influence. EU's softness in defence matters posed EU in an inferiority position, in Moscow's eyes. One should not underestimate the difference in perceptions of the two political entities' leaders: zero-sum game on the side of Russia and win-win game on the side of EU (Samokhvalov 2007). A solution to this difference of perspective ought to be sought by EU's responsible authorities in this area, including the High Representative for Foreign Affairs and Security Policy and the EEAS. It is preferable to happen at this level rather than at the member states levels, be it Germany or other powerful member. Russia tends to make use of the strategy involving bilateral relationships with member states. However, this bilateral approach is part of a larger zero-sum game and will keep the eastern neighbourhood of EU in a status-quo and not necessarily a stable one. In any case it would not sort out the need for a common policy towards the east – beyond the benign ENP and EaP. But reaching such an achievement would require consensus among all 27 in foreign affairs matters, and very soon 28.

The eastward expansion of the EU (technically called ,enlargement') is another facet of the challenge EU is facing in its attempt to strike a balance in her relationship with Russia. The danger of the inclusion of Ukraine and Moldova in the EU felt in Moscow explains certain political moves. Recently, at the CIS Summit in St Petersburg, eight of the CIS members signed a free trade agreement, including Moldova and Ukraine. Certainly, this agreement must be placed in the context. Ever since CIS's inception, there have been signed hundreds of agreements within its framework, and only a small percentage of them have been implemented. However, this initiative, comes right before the would-be signing of an Association Agreement between Brussels

and Kiev, in December 2011. The visit of President Yuhovich to Brussels has been postponed – fact linked with EU officials' tough criticism of the treatment applied to the his main opponent, Ms Yulia Tymoshenko. Viktor Yanukovich (2011) declared that if the EU is not ready to provide for Ukraine's the prospect of membership, then signing of this association agreement may be postponed.

The positive effects of EU membership for the countries of the 2004-2007 enlargement wave had an important impact upon the would be candidates like Moldova and Ukraine, and particularly for the former, whose citizens are more prone to travel to their immediate western neighbouring country, Romania. Being left outside creates the so-called trade diversion effect, the specialists in International (or Global) Political Economy are talking about. In the case of Moldova this effect was not very important, due to various facilities offered by EU over time, from GSP to Autonomous Preferences. However, there are aspects other than trade which may create the centripetal force that were triggered by the border proximity created in 2007.

The EU's eastward enlargement has an important economic dimension – the EU is expanding its trade and economic relations with her eastern neighbours – but it also has a geopolitical value, to the extent that it encroaches upon what Russia perceives as being her legitimate sphere of influence. The region discussed in this paper is considered by Russia to be her „near abroad”. And, according to the zero sum logic, if it is her „near abroad” it is difficult to accept that it is also another entity's „near abroad”. Neither in the case of Moldova, where the stake is more political, nor in the case of the much more economically endowed Ukraine is Russia ready to make concessions. Ukraine seems to represent the highest stake. Ukraine was the second most developed and important economically former soviet republic, after Russia – way ahead of all other soviet republics, and it is symbolically loaded, being the cradle of the Russian civilization. One of the first moves of the present Ukrainian president was to offer an extension of the Russian fleet stationed in the Black Sea until 2042. In the Fall of 2011, Putin announced the forthcoming Eurasian Union, and

thus succeeded in creating a diversion and stimulating a conflict between EU and Ukraine in relation to the forthcoming signing of the Association Agreement between Kiev and Brussels.

Despite their continental neighbourhood, EU and Russia developed distinct political cultures at the level of their respective political elites. EU leaders tend to share a liberal view of international affairs, focused on trade development, on building economic relations and regimes, on focusing on sharing profitable businesses. Russian leaders display comfort with realist views of world affairs, focusing on the importance of states and power politics in international affairs. It is enough to think of the energy cards played by Russia in the last few years. There is a „growing discrepancy between the normative approach of the EU and the Russian power politics approach” (Samokhvalov 2007). Paraphrasing a well known author, Robert Kagan, on the same continent there are living two neighbours: EU Venus and Russia Mars. Russia is trying to use her relationship with the EU to boost her technological level and modernize her economy in order to rise again as a big world power. The EU is trying to protect her achievements and create favourable conditions for her business circles to invest and profit. „Russia negotiates only from force positions, any kind of compromise being interpreted as weakness” (Gosu 2009).

This paper’s purpose was not to focus on Russia, but to identify main challenges created by the presence of a new EU border starting in 2007. But the analysis would not be complete without mentioning at least the challenge Russia is facing when dealing with the EU and with their common neighbourhood. It is clear by now that there are two centripetal forces at work on the Eurasian Continent. One is almost entirely focused on trade and economy, and is accompanied by a legalistic approach – that is, the EU. The centripetal force generated by EU is coherent tradewise but not coherent politically. The other centripetal force center, Russia, is fairly coherent politically and achieved this coherence at the expense of her internal politics, becoming a pseudodemocracy over the last decade and a half. Russia’s centripetal force is based on her energy resources, on her assertiveness and notoriety,

including her outstanding performances in the international arena in terms of occupying strong political positions (UN Security Council Permanent Seat, G8, G20, SCO etc). Russia is also very inventive in keeping her ‚courtyard’ untouched. The latest maneuvers to seed intrigue between EU and Ukraine deserve a Machiavellian praise. However, they do not amount to solid and long term economic benefits for the ‚near abroad’ countries. They ‚do not keep warm’ as one popular saying goes. Nonetheless, the promised Eurasian Union may get contour and is a potential attraction for the post-soviet republics, as the WTO’s negotiations seem to be stuck and regionalisation represents a solution for countries non-aligned to the world trade regimes, like Russia. Russia is avoiding becoming a WTO member, because the rules governing this organization is not in agreement with the rules Russia wants to apply to her trade. WTO is a product of the states that developed market economies over the last 60 years, after the second world war. It is very likely that Russia will strive hard to make a regional organization work to compensate for other losses.

## **V. Conclusions**

The issue of EU’s eastern neighbourhood proves to be very complex, to the extent that it is a zone of overlapping worlds, with different sets of rules, institutions, values, practices, worldviews. The substance of the differences remains still to be explored. The present paper focused mainly on the clash of EU’s eastwards enlargement and Russia’s assertion of her sphere of influence in their common neighbourhood represented by Moldova and Ukraine. Both these countries are undergoing a process of democratisation and Europeanization. Despite their mutual differences, they are trapped in the ‚buffer zone’ in between EU and Russia. They are also subject of two centripetal forces – one more coherent economically (EU) and the other more coherent politically (Russia). EU is under the fire of the eurozone crisis, Russia is desperately trying to catch up technologically with the west. The people living in the countries and societies in between bear the social, economic, political consequences of both centripetal currents, coming from the east and from the west. A series of challenges developed in the last few years. The burdens of these

challenges are to be shared by the EU and her eastern neighbours, but some of them are to be also share by Russia.

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## ***Lilliputian in a Goliath World: the Preventive Diplomacy of Slovenia in Solving the Question of Kosovo's Independence***

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**Abstract:** The goal of this article is to analyse the diplomatic activities of Slovenia, which as the presiding country of the EU Council had to deal with prevention of a potential renewal of armed conflict between ethnic Serbs and ethnic Albanians during the most crucial period of Kosovo's path to independence, when possibilities of a new escalation of violence were imminent (from the 1<sup>st</sup> July 2007 to the date of the declaration of independence). However, we argue that the preventive diplomacy of Slovenia was not a necessity only in the time of the declaration of independence of Kosovo, but it was widened until the end of the *Brdo process*, started by the Slovenian Government in 2010. This attempt of the Slovene Primer Minister Borut Pahor to bring political leaders from the region, including Kosovar, regularly at the common 'negotiating table' was diluted, but as seen from the preventive diplomacy point of view, it was a positive attempt to stabilise the region. However, the EU missed this opportunity and current affairs in the region show that still lots of work has to be done if the EU would like to stabilise the Serbia-Kosovo neighbourhood.

**Keywords:** *preventive diplomacy, small states, Slovenia, independence of Kosovo, presidency of the Council of European Union*

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## Introduction

According to the theory of small states in international relations, small states do not have as many means to achieve their foreign policy goals as larger states have (Morgenthau, 1948/2004: 97; Keohane, 1969; Benwell, 2011). However, there are certain niches that can be filled up by small states, since they have certain comparative advantages to larger states (see for example Vital, 1967; Keohane, 1969; Ingebritsen, 2006; Cooper and Shaw, 2009; Steinmetz and Wivel, 2010). Due to certain rules and procedures in modern international relations, an important foreign policy task can be assigned to a small state. On one side, an important role can arise from the state's own ambitions to 'become' an important and credible actor in the international community (e.g. with candidature for a presidency of certain international organization), or on the other hand, such a role may arise from unexpected events in the international community (e. g. when an armed conflict breaks out in vicinity of the state, certain actors in the international community may ask the state to take certain measures regarding the conflict).

Slovenia, a country which by most of the definitions falls in the category of small states (Grizold and Vegič, 2001; Bučar and Šterbenc, 2002; Šabič, 2002; Brglez, 2005; Udovič and Svetličič, 2007), took over the presidency of the EU Council on the 1<sup>st</sup> January 2008, as the first new member state of the EU. Within this period it has been assigned an important role of chairing the work of all the configurations of the EU Council and representing the institution in the international community.

Slovenia, which has in its brief history as an independent nation already performed some demanding foreign policy tasks (UN Security Council presidency in 1998/99; OSCE chairmanship in 2005), faced not only the challenge of the EU presidency *per se*, but also one of the major (geo)political challenges of that time – when Slovenia took over the presidency, Kosovo was in final preparations to declare independence from Serbia. Planned proclamation of independence triggered harsh responses in Serbia and according to some analysts (Krstić, 2007; Janjić, 2007; Matic, 2007;



Šesternina, 2007) and media reports (B92, 2007; HINA, 2007), there was a substantial chance that the declaration of independence may renew armed conflict between Kosovars and Serbs. The worst case scenario was that a renewal of armed conflict in Kosovo would eventually cause a spill-over effect, which could lead into violence in the wider region (Macedonia, Montenegro, Serbia and Albania). Acknowledging that the EU perceives countries of the Western Balkans as natural parts of the EU, and consequently sees them as potential members of the EU in the near future (see for example EurActiv, 2009; Barroso, 2011), avoiding possible instabilities was necessary and it was clear that Slovenia, as the presiding member of the EU Council, was entitled to take appropriate measures to mitigate the tense situation in the neighbourhood.

Regardless of later developments, we argue that Slovenia, as a small state, was in the most crucial period, a coherent and honest broker between both sides in the Kosovo conflict. Slovenia was, because of its past ties with the region and its knowledge of national character particularities (Rašković and Svetličič 2011; Udovič 2011), able to conduct a stable and unbiased policy towards both nations involved in the Kosovo conflict. Its power of 'balance' sprang from its (positive) reputation in the region; firstly it was the first state from the region to join the EU, secondly it was the presiding member state of the EU, and thirdly, its role and behaviour during the dissolution of Yugoslavia in the 1990s and the wars that followed was relatively untarnished (Prebilič and Guštin, 2011). Both facts gave it a higher manoeuvre place, because on the one hand it was able to cope with particularities of national character of negotiators from Kosovo and Serbia, while on the other hand it remained calm and was not *a priori* in favour of anyone, retaining good relations with both countries.<sup>4</sup>

In the article we are trying to answer three questions. The *first* focuses on how Slovenia had, as a small country, by using the preventive diplomacy approach in the

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<sup>4</sup> "Good relations" as an instrument of balancing between the two conflicting parties will be explained in the following sections.

time of its presidency of the EU Council, tried to keep political and security *status quo* in the Western Balkans (in the crucial period of the preparations of Kosovo to declare its independence). The *second* clarifies the activities of the Slovenian EU Council presidency for preventing Kosovar authorities to declare independence in a way that would be uncoordinated with other relevant international actors in Kosovo (esp. the EU member states and the USA), since uncoordinated actions by Kosovar authorities could have led to a renewal of violence in Kosovo and the wider region – and on the other hand, how had Slovenia, in coordination with the EU, tried to appease Serbia to an extent that Serbian authorities did not resort to certain activities that could have triggered violence? And *third*, deriving from the analysis and using the method of induction, we are trying to clarify what the role of a small state can be – holding an important foreign policy position – in preventive diplomacy activities, if the interests of large states are high.

The methodological framework of the article is based on two mutually intertwined research methods: first, on the *analysis of activities* of the Ministry of Foreign Affairs of Slovenia *vis-à-vis* Kosovo through press releases, interviews and official speeches;<sup>5</sup> and second, on the *interviews* conducted by the authors of this paper with high ranking diplomats of the Republic of Slovenia, who have been engaged in preventive diplomacy *vis-à-vis* Kosovo and/or the EU at that time.<sup>6</sup> At this point we have to explain that the selection of interviewees can be seen as ‘biased’, because we have selected only Slovene government officials, but we argue that if we would like to analyse the preventive diplomacy of Slovenia in the Kosovo conflict, we have to focus on *Slovene* activities, which is best known precisely by Slovene government officials.

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<sup>5</sup> For our research period (between the 1<sup>st</sup> July 2007 and the 31<sup>st</sup> March 2010), 1589 press releases of the Foreign Ministry of the Republic of Slovenia, 34 interviews with the Foreign Minister/the State Secretary and 40 speeches of the Foreign Minister/the State Secretary were analysed.

<sup>6</sup> From the 1<sup>st</sup> October 2010 till the 17<sup>th</sup> December 2010, four semi-structured interviews with high-ranking officials of the Republic of Slovenia, who were actively engaged in the EU and/or Slovenian activities towards Kosovo in the analysed period, were conducted. All interviews are quoted in this article according to methodological outlays.

This analysis is relevant for at least three reasons. *Firstly*, preventive diplomacy has become one of the most important *raison d'être* of various international organizations (with the EU as one of the main promoters of preventive diplomacy – see for example Kronenberger and Wouters, 2004; Mason and Meernik, 2006; Zupančič, 2010), as well as of certain countries (e. g. Sweden, Finland, Norway, Canada); small states, becoming aware of their comparative advantages in that respect, are joining this multilateral efforts to avert bloodshed, so it is crucial to analyse experiences and learn from good practices/missed opportunities. *Secondly*, the lack of scientific and expert literature analysing how a small state can act as an important player in conflict prevention, is evident. Namely, the experts on conflict prevention/preventive diplomacy (e. g. Smith, 1995; Lund, 1996; Cahill, 2000; Carment and Schnabel, 2004; Kronenberger and Wouters, 2004; Steiner, 2004; Mason and Meernik, 2006; Ramcharan, 2008) emphasize the role of large states and/or international organizations with regard to conflict prevention, and at the same time omit a possible role of small countries in that respect – the findings of this research can, with a help of the inductive method, bring certain conclusions for a general theory of small states in international relations. And *finally*, a thorough analysis of the activities of the international community in the case of Kosovo and the processes that are taking place in the region is needed, because Kosovo (and the whole region of the Western Balkans) is likely to remain a trouble spot from a security viewpoint for at least the next few years.

The article consists of five sections. In the introductory section goals of the article its methodological framework and relevancy are described. The next section analyses the role of preventive diplomacy in the wider context of conflict prevention. The subsequent section discusses the (possible) role of small states in the framework of preventive diplomacy. The fourth section is the core of analysis: it focuses on the diplomatic activities of Slovenia towards Kosovo from the 1<sup>st</sup> July 2007 till the 31<sup>st</sup> March 2010. The final section presents some general conclusions and provides reflection on the opportunities for engagement of small states in preventive diplomacy.

Preventive diplomacy (within the framework of conflict prevention)

Preventive diplomacy is not a new phenomenon. We are reminded of this by Broderick (1924, 74) who said that “the function of a diplomat is to keep the peace and solve conflicts that could threaten the peace”. Nowadays the meaning of the concept of preventive diplomacy has broadened, which is why it is necessary to first conceptualise it for the purposes of this article.

The broadest concept linked to preventive diplomacy is (the idea and practice of) conflict prevention. It would be more accurate to use the *terminus technicus* 'the prevention of armed conflicts', as some (small) parts of the scientific community argue. Namely, not all conflicts should be prevented, since some of them could trigger positive (transformative) changes. What should be prevented are the conflicts with violent characteristics, which could turn into *armed* conflicts. However, the majority of English-speaking experts (see for example Lund, 1996; Kronenberger and Wouters, 2004; Mason and Meernik, 2006) and Russian-speaking experts (see for example Yurgens, Dynkin and Baranovsky, 2009; Antonenko, 2011) in the field, whose 'scientific voice' is much stronger due to the wider use of these two languages, mostly use the term 'conflict prevention'.<sup>7</sup>

Thus, in accordance with the wide-ranging definition, conflict prevention is defined as any political, military or economic activity intended to prevent the outbreak of (armed) conflict. Some authors complement this basic definition with activities that de-escalate tension or mitigate the conflict so as to prevent it from reaching the violent phase. One of the first post-Cold War scientists and the author of one of the most widely accepted comprehensive definition of conflict prevention, Michael Lund (1999) derives his argumentation on that basis. He argues that

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<sup>7</sup> The use of terms 'prevention of armed conflicts' (предотвращение вооруженных конфликтов – predotvraschenye voruzhenyh konfliktov) and 'prevention of wars and armed conflicts' (предотвращение войн и вооруженных конфликтов – predotvraschenye voruzhenyh konfliktov) is relatively rare in Russian scientific literature, comparing to the use of the term 'conflict prevention' (предотвращение конфликтов – predotvraschenye konfliktov).

Conflict prevention entails any structural or interactive means to keep intrastate and interstate tensions and disputes from escalating into significant violence and to strengthen the capabilities to resolve such disputes peacefully as well as alleviating underlying problems that produce them, including forestalling the spread of hostilities into new places. It comes into play both in places where conflicts have not occurred recently and where recent largely terminated conflicts could recur. Depending on how they are applied, it can include the particular methods and means of any policy sector, whether labelled prevention or not (e. g. sanctions, conditional aid, mediation, structural adjustment, democratic institution building etc.), and they might be carried out by global, regional, national or local levels by any governmental or non-governmental actor.

The debates on more efficient preventive diplomacy (and the general theory of conflict prevention) began in the 1960s. This however does not mean that preventive diplomacy is only a century old. There are many historic examples of limiting the right to wage war (*ius ad bellum*), which are part of this field (for more see Karoubi, 2004; Grizold, 2001). This kind of preventive diplomacy is, according to Bedjaoui (2000: 30) *traditional preventive diplomacy* (e.g. exchanging territory for other concessions, dynastic marriages amongst monarchs etc.). Countries that wished to fulfil their own ambitions turned to traditional preventive diplomacy; not necessarily to ensure peace *per se*, but to further their own standing in relation to their surroundings. Preventive diplomacy as we understand it today has replaced the 'national interest' with finding a consensus to 'secure world peace or a global approach to solving global problems' (Lund, 1999; Mason and Meernik, 2006).

The post-Cold War era of preventive diplomacy has mostly been determined by the activities of the UN. Soon after the end of the Cold War, Secretary General Boutros B. Ghali (1992) published the groundbreaking report *Agenda for peace*, in which a whole chapter is dedicated to preventive diplomacy. Preventive diplomacy, as defined in the *Agenda for peace*, has many components: confidence-building measures, fact-finding, early warning, preventive deployment (of armed forces) and

demilitarised zones (Ghali 1992). This definition, and definitions derived from it, that were created in the early 1990s were very state-centric, which is why there was a new definition proposed at the scientific summit on preventive diplomacy in Skopje in 1996. It dictates that preventive diplomacy encompasses:

.../s/pecial actions, policies procedures and institutions that are called for in situations where existing means seem unlikely to peacefully manage the destabilizing effects of economic, social, political and international change and thus they are applied by governmental and non-governmental bodies or protagonists themselves in order to keep states or groups within them from threatening or using violence, armed force or related forms of coercion, as the way of settle interstate or national political disputes (Ginifer and Eide in Björkdahl 1999: 56).

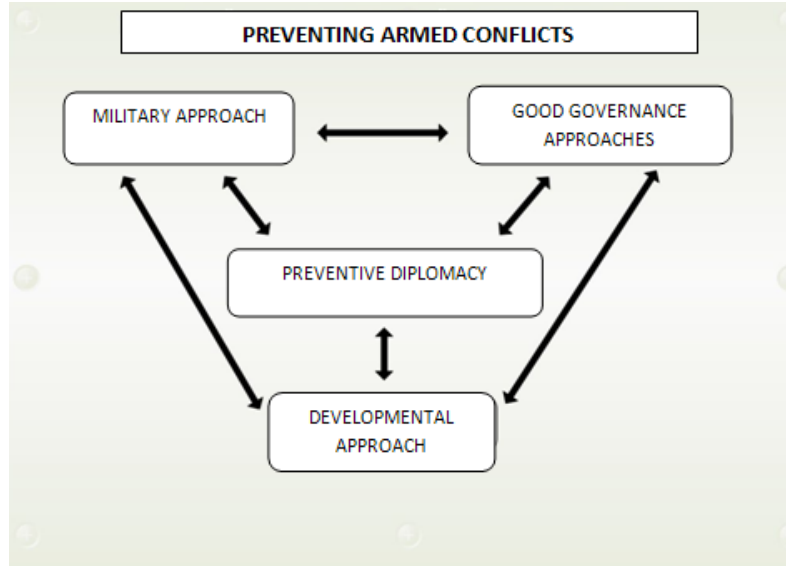
On the basis of the aforementioned, we can conclude that the interpretation of conflict prevention has been partly de-etatised<sup>8</sup> and broadened over time, and now includes a wide set of elements and actors (also civil society, non-governmental organizations etc.). However, despite the broadening of actors in conflict prevention, *hard-core* preventive diplomacy still remains on the states' shoulders, meaning that states try to mitigate hostile behaviour of other states and the development of possible instabilities, especially in regions where they have interests or strong political and economic ties.

Therefore, preventive diplomacy remains a key component of conflict prevention, but not the only one. The position of preventive diplomacy within the wider concept of conflict prevention is depicted in Figure 1.

### **Figure 1: Relationships within the components of conflict prevention**

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<sup>8</sup> According to Stanchev (2004), de-etatisation is the process of transferring state and nationalized assets to private domain; generally speaking, the term could also mean that a state is losing authority over a certain sphere.



(Source: Authors' own elaboration)

Preventive diplomacy also impacts other components of conflict prevention (the military approach, good governance and the development approach) and *vice versa*. It is also important to note that the link between preventive diplomacy and the other components of conflict prevention is rather blurry as some activities can incorporate more than one component. The system of preventive diplomacy is circular, but the effect depends on the stability and security of the supporting components of preventive diplomacy and how they affect it.

This 'mushrooming effect' of conflict prevention actors in recent years has led to 'de-etatisation' of conflict prevention, meaning that the state is not the only actor in that respect. That kind of development should be especially well understood by small states, because they, according to the theory (see for example Morgenthau, 1948/2004: 97; Grizold and Vegič, 2001; Benwell, 2011), do not possess a set of (traditional hard-power) means to influence international relations, and consequently have to put a relatively stronger emphasis on coordination of its conflict prevention (and especially preventive diplomacy) actions with other (more influential) actors involved in the conflict.

On the basis of the literature review and taking into consideration new 'conflict prevention environment' (encompassing more actors than in the past), we define preventive diplomacy as:

the central component of a broader concept of conflict prevention that concerns diplomatic activities of *the state* which, with the intent to mitigate/solve the conflict, incorporate other relevant (state and non-state) actors (e.g. economic actors, civil society etc.), with the final aim of preventing the armed conflict. Preventive diplomacy seeks a consensus of all parties in the conflict on a certain decision. If armed conflict is unavoidable, then the state's activities are directed towards ending the armed conflict as soon as possible with as little material damage and as little loss of civilian life as possible.

This definition of preventive diplomacy will be used in this article for analysing how Slovenia performed its preventive diplomacy activities as the Chair of the European Council in the case of Kosovo's declaration of independence.

The (possible) role of small states in preventive diplomacy

The review of literature (see for example Vital, 1967; Lund, 1996; Steiner, 2004; Steinmetz and Wivel, 2010 etc.) shows that scientists either analyse small states theory *or* preventive diplomacy. In other words, the analyses usually deal with two separate bodies of literature and only rarely try to bring them together.<sup>9</sup> Since the bridge between the two (separate) corpuses has been understudied so far, it is – before further exploring the case study of Slovenia's role in collective preventive diplomacy efforts in Kosovo – necessary to link the theory of small states (in international relations) and preventive diplomacy. Furthermore, this section also briefly explains the role of the EU Council Presidency in Foreign and Security Policy,

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<sup>9</sup> One of the rare attempts, which try to bridge the two (separate) concepts, can be found in the book of Annika Björkdahl (1999). On the other hand, it is questionable if this is a good example, because Sweden cannot be described as a classical small state (due to its relatively big influence in international relations, compared to Slovenia, for example).



because it is questionable which actions lie 'in the domain' of the EU as an institution and which in the (small) state's domain.

The belief that small countries have relatively limited opportunities to be important actors in international relations is relatively deeply integrated in the realist theory of international relations (see for example Vital, 1967; Strange, 1995; Brglez, 2008; Steinmetz and Wivel, 2010), and especially characteristic of the area of high politics which includes preventive diplomacy. This comes from the aforementioned internal and external capacities of a small country which it has to take into account in its foreign policy and diplomacy (Petrič, 1996: 879). But despite this, it can - precisely because it is a small country - make the most of the advantages this gives it in the world of big interests (Benko, 1997: 252 – 254). This article highlights four possibilities that a small country can avail of in the field of preventive diplomacy.

*Firstly*, if a state enjoys a high level of credibility in a region, it can act as an unbiased broker in conflicts (see more on this in Kleiboer, 1996).<sup>10</sup> This is of course hard to achieve alone, especially for a small state. The chances of success are higher if it is backed by other (influential) actors in the international community. In this context, a small country can act as a coordinator of actions in the international community if it has cultural, linguistic, historic etc. ties to the region or conflicting parties. Another possibility would be to achieve this within the framework of regional networks and initiatives.

*Secondly*, on the basis of linking peacekeeping and the theory of small states – see for example Keohane (1969), Diggins (1985), Bray (1987), Vuga (2010) –, a small state with the appropriate legitimation from the international community (e.g. UN Security Council) can contribute peacekeeping forces as many small countries are *per definitionem* less encumbered by ideology than many major forces which often come under attack for their uncompromising pursuit of their national interests. A good example of this is the work of the Nordic battalion NORDBATT in the

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<sup>10</sup> It should be noted that the author does not analyse the small states in that respect in details.

peacekeeping operation UNPROFOR/UNPREDEP in Macedonia (Björkdahl, 1999).<sup>11</sup>

*Thirdly*, a small country that does not possess relational power (Strange, 1995), can achieve its goals on the basis of its normative power in the region, provided of course it has such power. This primarily concerns the reputation of a country and could be done in an 'internationalistic' (multilateral) manner within the framework of international organizations (see for example Thorhallsson, 2004 or Hyde-Price, 2008): setting an example with the consistent implementation and promotion of policies for which the country claims that it stands for. An example of this is that a country could credibly encourage the rule of law in a third country only if it itself had an exemplary record in that area. Thus a small country can enable another country to position itself in the network of institutions and interdependence. This way also indirectly strengthens the power of international law, which is *de facto* one of the rare advantages of small countries in international relations.

The EU, especially when a country is holding the presidency of the EU Council, provides an excellent opportunity to put forward the normative power agenda of that country. However, this was easier before the enactment of the Lisbon Treaty, when the Trio's priorities were accorded between the Trio's member states. Nevertheless the key Trio foreign policy priorities were accorded and settled down, the presiding country had the possibility to act on its own behalf in *ad hoc* situations. In such situations the presiding member state put the peril issue on the agenda of GAERC (General Affairs and External Relations Council), which it presided, and tried to achieve a common decision. Within this framework the presiding member state was able to put forward issues that were in its interests and to promulgate its own

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<sup>11</sup> The peacekeeping operation in Macedonia, from February 1992 to March 1995 named UNPROFOR (United National Protection Force), and between 31<sup>st</sup> March 1995 and 28<sup>th</sup> February 1999 named UNPREDEP (United Nations Preventive Deployment), are classic examples how a potential armed conflict can be successfully prevented. However, the stability in Macedonia remains fragile even nowadays, since the tensions between the ethnic Macedonians and ethnic Albanians have not been fully settled yet. Another problem is that people in Macedonia tend to be disproportionately highly armed as a consequence of the uncertain political situation (Prezelj, 2010: 213).

position, covering them by the “community umbrella”. However, after the Lisbon Treaty entered into force in 2009, the community foreign policy was transferred from the presiding state to the new institution, the High Representative, which is now the central actor of the EU foreign policy.

*Fourthly*, deriving from the argumentation of Krugman and Venables (1990, 59) that small countries can have close and easy access to various markets (regions), it can be said that in case a small country had such an access, it could (in terms of preventive diplomacy) serve as a ‘world informer’ about escalating tensions in that particular region. Having done so, it could simultaneously influence public opinion at home and abroad about the tensions. This is especially relevant in the contemporary society as the possibility of fast and efficient mobilisation of necessary resources is greater than it used to be. Northern European states and their non-governmental organisations are pioneers in this area too, as they consistently raise awareness about tensions that could evolve into armed conflict (more on this in Björkdahl, 1999). Assuming these countries are not ideologically encumbered, a small country can also generate new initiatives on how to deescalate tensions and begin the long term solving of a conflict.

The presented theoretical framework, in which we modelled the concept of preventive diplomacy, linking it with the basic lines of the small states’ position, was the basis of our research of the preventive diplomacy of Slovenia in the case of the Kosovar declaration of independence. This happened in February 2008, in the second month of the Slovene chairing of the EU Council. Our analysis links together three particularities, which were seen in the Kosovar case. The first is the importance of a common cultural past, which helped Slovenia in conducting its relations with Kosovar and Serbian authorities. The second is that the position of Slovenia as a first new EU member state chairing the EU Council, gave it a position of an honest broker, establishing a large panel of possibilities to negotiate and mitigate between Priština and Belgrade and among all EU member states. The third particularity is that because of long historical and cultural heritage with ex-Yugoslav

countries, Slovenia realised that the preventive diplomacy towards Kosovo should not be finished with the recognition of Kosovo, but should go further. The result of such thinking was the idea of the Brdo process, in which Slovenia tried to couple together all countries from the territory of ex-Yugoslavia. Because of the reluctance of EU officials, the importance (and possible advantages) of the Brdo process vanished, the results were poor and it faded into history. The EU *faux pas* disempowered all efforts of Slovenian preventive diplomacy and brought the Kosovo–Serbia agenda on the margins of EU interests.

Analysis of the diplomatic activities of Slovenia towards Kosovo (1<sup>st</sup> July 2007 – 31<sup>st</sup> March 2010)

We have divided the diplomatic activities of Slovenia towards Kosovo into three periods: 1) half a year before the proclamation of independence (from 1<sup>st</sup> July 2007 to 31<sup>st</sup> December 2007), when Slovenia was working within the framework of the EU Troika; 2) the key period of Slovenia's presidency of the EU, when Kosovo declared independence (1<sup>st</sup> January to 30<sup>th</sup> June 2008); 3) from the end of the Slovenian presidency of the EU to the Conference on Kosovo at Brdo, Slovenia (1<sup>st</sup> July 2008 to 31<sup>st</sup> March 2010).

Before getting into deeper analysis, a short historical and political introduction of the Slovenia–Serbia–Kosovo relationship should be presented. In the geographic and political structure of Yugoslavia, Slovenia shared the same destiny with Kosovo, which was that both entities (Slovenia as a republic, and Kosovo as an autonomous province) were at the country's verge. For Slovenia it meant that it has been more than other Yugoslav republics connected to the West (economically, politically, as well as culturally – see for example Ministry of Foreign Affairs of the Republic of Slovenia, 2000), while Kosovars felt more sympathies towards their ethnic kin in Albania than for other 'Yugoslav nations' (Woodward, 1995; Caplan, 1998; Repe, 2008). After the death of Tito, Serbian nationalism started to find a way out of Kardelj's Constitution of 1974, which defined Yugoslavia as a federation, in which nations have the possibility to gain their independence. The first step was the

intervention of the Yugoslav Popular Army in Kosovo in 1981, claiming that riots in Kosovo were supported by secessionist forces. This intervention did not solve the problem, but merely postponed it. Slovenia faced the Serbian nationalism in 1983 after the proposal of a common “education nucleus”, which called for the unification of teaching materials in all six republics and two autonomous provinces. Slovenia was the key factor the measures did not pass. However, Slovenia realised that different forces in Yugoslavia were strongly opposed to the pure concept of federalisation and therefore the advantages of the federative system would be soon jeopardised. Nevertheless on the federal level some actions were taken, Serbia promulgated the nationalistic policy as the core of its policy towards other federal republics. Within this, Slovenia strengthened its relations with Croatia and Kosovo, which was the most politically suppressed part of Yugoslavia at that time. The first step of Slovene understanding of the ‘Kosovo problem’ occurred in 1984, when a book with the title *Albanci* (Albanians) was issued in Slovenia. Its authors were some ethnic Albanians from Kosovo, who (probably for the first time in the modern era) had an opportunity to present their ‘truth’ about Serbian repression in 20<sup>th</sup> century to a wider audience (Repe, 2008). The reaction in the Slovene public was quite positive, but Serbia started a strong pressure towards Slovene authorities, which (indirectly) supported Kosovo’s ‘secessionist’ activities. But what finally ruined the relations of Slovenia with Serbia was ‘the miners’ affair’ in 1989, when Slovenia unequivocally supported striking Kosovar miners, who protested against the reduction of Kosovo’s autonomy in the revised Serbian constitution (Woodward, 1995: 97-98).

These are just few reasons, which briefly explain the solidarity and sympathies of Slovenians towards Kosovars. When Slovenia was given the ‘conductor’s baton’ in the EU preventive diplomacy action in 2008, it had to take these aspects into consideration.

The period of maturing (decisions): 1<sup>st</sup> July 2007 – 31<sup>st</sup> December 2007

In the second half of 2007 there was increasing talk of Kosovo gaining independence. Slovenian diplomats were at first hopeful that this question would be resolved before the 1<sup>st</sup> January 2008 (Ministry of Foreign Affairs, 2007a), but it soon became clear that the declaration of independence would almost certainly happen during the Slovenian presidency. This is showed by some facts that occurred during the Portuguese presidency. On the 2<sup>nd</sup> July the Slovene Minister of Foreign Affairs stated that an ideal scenario would be if the “issue” would be resolved during the Portuguese presidency of the EU, but that there was a possibility that all the process would start at the end of the Portuguese presidency and in that case Slovenia would have the deal with the “question” (Ministry of Foreign Affairs, 2007a). A week later there a new information was granted by Slovene MFA, explaining that the Kosovar Prime Minister Agim Çeku guaranteed to the Slovene colleague that Kosovo would not declare independence in 2007 (Ministry of Foreign Affairs, 2007j). However, in September it became clear that the declaration of Kosovo’s independence would not occur under the Portuguese presidency, but it will be a special topic within the Slovene presidency of the EU Council (STA, 2007).

Realising that the “issue” would not have sprung in the time of the Portuguese presidency, enhanced the involvement of Slovenia in the developments on Kosovo question, especially in EU diplomatic activities of the Trio. Together with the other two Trio members (Portugal and Germany) Slovenia promoted the *policy of a balanced approach*, leveraging among both parties, similarly to Kissinger’s shuttle diplomacy.<sup>12</sup> The idea of *shuttling* among both state-parties was on one hand in balancing the possible Serbian reaction on the declaration of Kosovo’s independence, while on the other hand the idea was on preserving as much as possible stable political and economic ties and stability with Serbia. That is why

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<sup>12</sup> An illustration of this is the visit from the Serbian foreign minister Vuk Jeremić on the 16th July 2007 and a day later a visit from Lulzim Basha, the Minister of Foreign Affairs of Albania, a country with very close ties to Kosovo (Ministry of Foreign Affairs, 2007c). An analogous trip would also be the visit of Rupel to Belgrade (where he promised the Serbian political leadership Slovenian backing in integrating into Euro-Atlantic networks) (Ministry of Foreign Affairs, 2007e) and the visit to Kosovo the next day. After the meeting with the Kosovar authorities, he also stopped in one of the Serbian monasteries and the enclave Goraždevac (Ministry of Foreign Affairs, 2007g).

Slovene political representatives stressed, on numerous occasions, that they wished to cooperate with European countries in solving this problem (especially with France that took over the EU presidency after Slovenia) and that the EU countries should remain unanimous on that issue. At the same time, they stressed that a division of Kosovo was not an option (Ministry of Foreign Affairs, 2007j; 2007k; 2007l).

Parallel with Slovene effort within the Trio in mitigating the possible declaration of Kosovo independence, Slovenia tried to direct actions of Serbian and Kosovar authorities.<sup>13</sup> Concerning Serbia, it supported the EU policy, which promised Serbia an expedited accession to the EU via the ratification of an accession agreement (Ministry of Foreign Affairs, 2007h), helped with economic investment in the Serbian economy and promised development and visa concessions if Serbia did not oppose to the independence of Kosovo. With regards to the Kosovar authorities, Slovenia was convincing them not to undertake any independent unforeseeable action (Ministry of Foreign Affairs, 2007f). At the same time Slovenian diplomacy was stressing that both, Kosovo and Serbia, had a joint future within the EU.

On the 7<sup>th</sup> December 2007 the last negotiations between Serbia and Kosovo fell through. It became clear that it wouldn't be possible to achieve an agreement and that the declaration of independence was only a matter of time (BBC, 2007). The Slovene Minister of Foreign Affairs Dimitrij Rupel implied that the declaration of independence would almost certainly occur during the Slovene Presidency of the EU. On the 18<sup>th</sup> December Rupel reconfirmed that it was expected that the declaration would be announced during Slovenia's Presidency. He also said that the EU representatives were attempting to avoid a unilateral proclamation of independence and that they constantly had to talk to the representatives from Kosovo about that. He added that the EU had not yet had serious discussions about recognition (Ministry of Foreign Affairs, 2007b). Statements of the Minister of Foreign Affairs (from the 20<sup>th</sup> December 2007) confirm that there were many unknowns

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<sup>13</sup> Institutions of good governance (such as the Centre of Excellence of Finance, the Foundation Together, the International Trust Fund, the Centre for European Perspective ...) were said to have had important roles as mediators.

regarding the date of the proclamation. He also said that he thought that the declaration would be towards the end of the Slovene Presidency (Ministry of Foreign Affairs, 2007i).

The act (of proclamation) and its consequences: 1<sup>st</sup> January 2008 – 30<sup>th</sup> June 2008  
On assuming the Presidency of the EU, Slovenia continued the policy of balancing.<sup>14</sup>  
All the activities of the EU and Slovenia as its presiding member state, made it clear that there would soon be changes in Kosovo. When and how the proclamation would happen was, at the time when Slovenia assumed the Presidency, still a mystery. Towards the end of January when Slovenia was still coming to grips with the Presidency, the contents of a diplomatic dispatch known as the Washington dispatch was leaked, which encumbered the work of Slovene diplomats at a key time of Kosovo's route to independence (Interview with X, 2010).

The key problem of the dispatch was that it was not marked as "secret", and therefore was available to everyone employed in the Slovene Ministry of Foreign Affairs. Even though the content of the dispatch was "nothing unexpected" (it was a short note on the conversation between the political director of the Ministry of Foreign Affairs Mitja Drobnič and Daniel Fried, the assistant of the American Secretary of State, in which Fried supposedly urged to the Slovene presidency of the EU Council to be the first member state to recognise Kosovo), the publication of the dispatch in Slovene media caused serious internal and external political problems. The issue was further complicated as two daily newspapers – Slovene Dnevnik and Serbian Politika – published the dispatch on the same day. This would not cause any problem, if the two journalists in charge (Igor Mekina and Svetlana Vasović Mekina) have not been married. Five days after the publication of the dispatch in the media, the political director of the Slovene MFA resigned.

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<sup>14</sup> Rupel was paid a visit on the 11th January 2008 by the Serbian foreign minister Jeremić. Rupel told his counterpart that the future of the whole Western Balkans lay in the EU and that the Slovenian Presidency was trying to get the Stabilisation and Accession Agreement with Serbia signed as quickly as possible (Ministry of Foreign Affairs, 2008n). A few days after this (23<sup>rd</sup> January) Rupel met the Kosovar President Taçi in Brussels from whom he got "important information on the basis of which the policy towards Kosovo would be formed" (Ministry of Foreign Affairs, 2008g).



The Slovene diplomats were notified about the exact date of the proclamation of Kosovo's independence approximately two to three weeks before the fact. Rupel stated on the 3<sup>rd</sup> February (around the time that Slovenia got the exact date of the proclamation) that he was not sure that things concerning independence would move that quickly (this came after a journalist had said that Kosovo could be declaring independence in the next few days). A week later (the 11<sup>th</sup> February 2008) Rupel hinted heavily that independence would come soon (Ministry of Foreign Affairs, 2008e), but he declined to share the exact date with the public despite it already being known in diplomatic circles. According to information from an interlocutor, the date of Kosovo's independence was decided on by the USA in consensus with the Quint<sup>15</sup> (Interview with X, 2010). This means that the entire process of gaining independence was managed from the top down and that the Kosovar authorities were 'merely' informed of it. From the interviews it is clear that despite Slovenia has been presiding over the EU Council, it had no real influence in determining the date of the declaration of independence (Interview with X, 2010; Interview with Y, 2010; Interview with Z, 2010). This questions the actual influence of a small country in international organizations, when the stakes are high.

However, the independence of Kosovo was not only a bilateral (EU–US) project. The Quint was informing the diplomatic representative of the Russian Federation in Kosovo of all important events and dates. Despite the attempts of the Russian Federation to be perceived as the (natural) ally and protector of Serbia, the Russian Federation did not seriously attempt to resist the proclamation of independence; namely, the Russian Federation understood *de facto* that the proclamation was inevitable and would happen sooner or later (Interview with X, 2010; Interview with Z, 2010). Further evidence that most things had been co-ordinated with the Russian Federation was the visit of the Russian foreign minister Sergey Lavrov, who met Rupel in Goriška Brda only five days before Kosovo's proclamation of independence.

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<sup>15</sup> By 'Quint' we mean the five countries that negotiated with the Kosovar authorities about the declaration of independence (USA, Great Britain, France, Germany and Italy).

Though they did not answer the journalists' questions related to Kosovo after the meeting, the upcoming proclamation of its independence was most probably high on their agenda. A day later, Slovenia also hosted the EU Trio – Russia meeting (Ministry of Foreign Affairs, 2008b; 2008k). If the Russian Federation actually had a serious interest to prevent the declaration of independence, Lavrov would rather take no part at these two events or would at least fervently oppose against declaring the independence in public.

On the 17<sup>th</sup> February 2008 Kosovo declared its independence, which was met with strong opposition within Serbia. The EU member states were primarily fearful of the potential outbreak of armed conflict in Kosovo although its eruption was much less likely than it was represented to be in the media. There were several reasons for this such as the presence of military peacekeepers, the economic interests of both nations, diplomatic pressure on both, Serbia and Kosovo. These all made the outbreak of conflict much less likely than it was reported to be. On the other hand, the dramatic media reports on the situation in Kosovo and Serbia caused also a sort of *panic attack* in the Brussels institutions. The ministers in the EU Council feared possible Serbian aggression on Kosovo, but this was only because they relied on media and asymmetric information given by their correspondents.<sup>16</sup> On the other hand Slovene liaison officers in the region reported that “nothing special was going on and that the panic was unjustified” (Interview with X, 2010; Interview with Y, 2010).

The day that Kosovo declared independence, violence broke out in Belgrade. Protestors also damaged the Slovene embassy; Rupel personally protested to the Serbian Minister of Foreign Affairs Jeremić (Ministry of Foreign Affairs, 2008č). Slovene President Danilo Türk condemned the attack on the embassy and

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<sup>16</sup> A typical example of false information would be the forecast arrival of the Serbian paramilitary unit The Guard of Tsar Lazarus, which was said to have marched on Kosovo (B92, 2007). It was later ascertained that it was only a few individuals who were carrying out their threats primarily on the internet. Journalists and politicians blew this 'threat' up dramatically (Interview with X, 2010).

demanded that Serbia fulfil its obligations under international law and pay for reparations (Office of the President RS, 2008).

Contrary to the contents of the Washington dispatch, Slovenia was not the first to recognise Kosovo, which was in line with Rupel's explanation from the 3<sup>rd</sup> February 2008 that "Slovenia would not be the first state to recognise Kosovo" (Ministry of Foreign Affairs, 2008f). Nevertheless, it did this relatively soon (5<sup>th</sup> March 2008), with the act of Slovene parliament (67 MPs were present, 57 voted for and 4 against).<sup>17</sup> As a sign of protest against the recognition, Serbia recalled its ambassador the same day and protested the parliament's decision.

In the first period after the declaration of independence, Slovenia intensively practiced preventive diplomacy towards Kosovo and Serbia. The latter was based mainly on the 'carrot' policy in the form of economic and other incentives, encouraging the pro-European forces in Serbia's upcoming elections<sup>18</sup> and a balanced/balancing diplomacy.<sup>19</sup> The success of Slovenia's preventive diplomacy can be surmised from the intensity of relations between Slovenia as the presiding state of the EU and Serbia months after the majority of EU countries recognised Kosovo. The first attempt to pacify the conflicting parties was an informal meeting of foreign ministers of the EU on the 29<sup>th</sup> March 2008 at Brdo (Slovenia), to which both

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<sup>17</sup> The reaction to the recognition of Kosovo within the key Slovenian companies that operate on the markets of the former Yugoslavia was very interesting. Both the Association of managers (Interview with X, 2010) and the company Mercator (Interview with Z, 2010) were very much against recognising Kosovo, but after the fact, Serbia did not impose any kind of retaliatory sanctions against Slovenian companies as they simply couldn't afford to. Thus the reactions of the Slovene business community after the recognition of Kosovo was milder than before it. Only Mercator responded to the recognition with the statement that the "fast and rash decisions in the procedure show that economic interests are considered less important in these matters" (Zimic, 2008).

<sup>18</sup> On the 2nd April 2008 the French Minister of Foreign Affairs Bernard Kouchner and his Slovenian counterpart Rupel, published an open letter in which they promised to work towards visa liberalisation for Serbia and a timely signing of the Stabilisation and Accession Agreement with the EU (Ministry of Foreign Affairs, 2008l).

<sup>19</sup> The policy of balancing is visible in the consistency of meetings with both sides. On the 28<sup>th</sup> April Rupel met his Serbian counterpart Jeremić in Brussels, on 9<sup>th</sup> May he met the prime Minister of Kosovo Taçi. On the 13<sup>th</sup> May he met the President of the Kosovar Assembly Krasniqi and on the 26<sup>th</sup> May again met with Jeremić (Ministry of Foreign Affairs, 2008a; 2008h; 2008j; 2008m).

the Kosovar Prime Minister Thaçi and the Serbian Minister of Foreign Affairs Jeremić were invited (Ministry of Foreign Affairs, 2008r). Despite Slovenia's hopes that there would be a direct meeting between them, this did not come to pass. Jeremić left Brdo immediately after outlining Serbia's position on the issue of Kosovo. Regardless of this, Kosovar independence was fast becoming an unavoidable reality. To facilitate Serbia's 'recovery' the EU and Serbia signed a Stabilisation and Accession Agreement which was a large step towards Serbia's accession to the EU. Rupel took this opportunity to say that "this event is confirmation that the EU wishes Serbia to join the European family [as soon as possible]" (Ministry of Foreign Affairs, 2008s). The Serbian parliamentary elections took place the following month and ended with a victory for the pro-European political parties. This victory demonstrated that Kosovo *de facto* was a much lower priority for Serbian voters than the EU.

'Normalisation' of Slovene relations with Kosovo and Serbia: 1<sup>st</sup> July 2008 – 31<sup>st</sup> March 2010.

After France took over the EU Presidency, the number of activities of the Slovene diplomacy concerning Kosovo declined dramatically. The Slovene diplomatic core was no longer invested in getting other EU states to recognise Kosovo. Regardless of this, there were still a number of operations of preventive diplomacy towards Kosovo.<sup>20</sup>

Later months did not bring any noteworthy events; on the 15<sup>th</sup> of September Rupel appealed to Serbia to at least minimally co-operate with regards to the question of sending the EULEX mission to Kosovo (Ministry of Foreign Affairs, 2008d).<sup>21</sup> On the 8<sup>th</sup> October Slovenia abstained from a vote on the Serbian proposal of a UN GA resolution in which Serbia was asking the International Court of Justice for an advisory opinion on the legality of Kosovo's proclamation of independence. Slovenia

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<sup>20</sup> On 4<sup>th</sup> July 2008 in Bled Rupel met the foreign minister of Kosovo Skender Hyseni who came to thank Slovenia for recognising Kosovo. On 11<sup>th</sup> July a Donor Conference took place in Brussels at which Slovenia gave Kosovo 500 000 € (Ministry of Foreign Affairs 2008i, 2008o).

<sup>21</sup> More on the role of EULEX in Kosovo in Malešič (2011).

abstained arguing it could bring instability to Kosovo and EULEX (Ministry of Foreign Affairs 2008c).

A good year after the proclamation of independence, on the 20<sup>th</sup> April 2009, the newly appointed Slovene foreign minister Samuel Žbogar paid a visit to Kosovo and met with the political leadership. The visit more resembled of a post-stabilization approach than of a preventive diplomacy: they signed an agreement on developmental co-operation and Slovenia pledged 150 000 € for scholarships and assistance with joining international financial institutions. Furthermore, Žbogar also stated that an important task of the Slovene Presidency of the Council of Europe would be dedicated to the project “Our rights” which aims to raise awareness amongst Kosovar school children about children’s rights.<sup>22</sup> Žbogar continued the policy of balancing as he also visited a representative of the Serbian minority (Ministry of Foreign Affairs, 2009c).

The following months did not bring anything significant. On the 11<sup>th</sup> September 2009 the Slovene foreign minister Žbogar met with his Serbian counterpart. According to the public information, their meeting did not include a talk about Kosovo (Ministry of Foreign Affairs, 2009b), which is hard to believe. On the 16<sup>th</sup> December Anton Berisha was named the first Kosovar ambassador to Slovenia (Ministry of Foreign Affairs, 2009a). An important indicator of the effectiveness of the Slovene preventive diplomacy is also the introduction of a ‘visa-free’ system for citizens of Serbia, Macedonia and Montenegro on the 19<sup>th</sup> December 2009 (one of the most vigorous supporters of that decision was Slovene member of the European Parliament Tanja Fajon). In doing this Slovenia strengthened its reputation and standing in the countries of the Western Balkans, which after numerous years, now had the opportunity for visa-free travel into the Schengen area.

From the perspective of preventive diplomacy, March 2010 was a productive month. The 25<sup>th</sup> March 2010 marked the opening of the Slovene consular department at the

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<sup>22</sup> Slovenia was presiding the Council of Europe in 2009.

Embassy in Priština (Ministry of Foreign Affairs, 2010b). At Brdo (Slovenia) the conference “*Together with the EU*” was co-hosted by the Slovene Prime Minister Borut Pahor and his Croatian counterpart, Jadranka Kosor (20<sup>th</sup> March). The idea behind the conference was an attempt to reconcile the positions of the representatives of Serbia and Kosovo. Slovenia, as the only EU member state in the region, wanted to position itself as a bridge to the European integration of Western Balkans countries. The conference did not pan out as Slovenia expected. The ‘symbols’ of the EU – the Spanish foreign minister Angel Moratinos, who presided the Council of the EU at that time, and the president of the EU Council Herman van Rompuy did not attend the conference (Ministry of Foreign Affairs, 2010a). This kind of diplomatic behaviour left Slovenia with a bitter taste in its mouth, but we must not neglect the fact that such attempts at bringing the region together are an important indicator of the necessity of promoting preventive diplomacy in the region and that Slovenia still has many opportunities to take advantage of.

On the 15<sup>th</sup> July 2010 Slovenia executed one of the final acts in the area of preventive diplomacy towards Kosovo and the Western Balkans. The parliament passed a Declaration on the Western Balkans (Official Gazette, 2010). We can see from the preamble that Slovenia prioritises “creating an area of lasting security and general co-operation in the Western Balkans and with it guaranteeing realistic opportunities to join the Euro-Atlantic networks in set time frames and on the basis of assessments of their real progress”. On the basis of the preamble, the Declaration outlines some important goals that form the basis of the future preventive diplomacy of Slovenia.

## **Conclusion**

With regard to the first research question (*how had Slovenia, as a small country presiding over the EU Council, tried to keep political and security status quo in the Western Balkans with the means of preventive diplomacy, and in this way present itself as a country which is up to the role of an EU Council presiding country in the*

*crucial period of the preparations of Kosovo to declare independence*), the analysis suggests that:

Slovenia, as the presiding state of the EU, tried to send out signals both to Serbia and Kosovo that it acts in the name of the EU (and not in its own name) as an impartial actor, which understands the viewpoints and arguments of both nations, and tries to settle the dispute by a negotiated solution; it should be added that Slovenia tried to show that its voice is heard in the Western Balkans, although the analysis shows that this usually was not the case;

the means of preventive diplomacy Slovenia has been relying on during the chairmanship were mostly: a) meetings with the representatives of both nations (in Belgrade, Priština, as well as in Ljubljana and Brussels); b) sending political messages to the Serbian and Kosovar political leadership that their future is common and lays in the EU; thus, both nations have to 'behave in the European manner' and negotiate instead of resorting to violent means;

Slovenia, however, took into account its own (relatively small) political weight and soon realized that it cannot keep the *status quo* alone; Slovene diplomats realized that potential 'unilateral actions' would soon turn out counterproductive; this is why it co-ordinated its preventive diplomacy activities with the 'Quint' (the USA, Great Britain, France, Germany and Italy); when Slovenia tried to get concessions from Serbia regarding Kosovo, it usually explained that such a position is the result of the 'will of the EU', and not its own (nevertheless, such explanation was not accepted by the majority of Serbs and their political elites);

Slovenia, taking into consideration its relatively close ties to Serbs and Kosovars, did not wish to be seen as 'the hero' that resolved the question of independence in one way or another, and that's why it hoped the declaration of independence would not happen during its presidency over the EU Council; the main reason for that is that one cannot 'sit on two chairs' at the same time, and Slovenia was not eager to endanger its political and economic ties either with Serbia or Kosovo; if the declaration of independence would have happened after the Slovene presidency, Slovenia would not lose anything, and it could claim that it did not have influence over the declaration of independence (however, *nomen est omen*, and Slovenia,

heading the EU Council, was perceived by the Serbs as one of the main promoters of the independence of Kosovo; such perceptions aggravated Slovene position within Serbia);

With regard to the Russian Federation (a country which is an ally of Serbia regarding the question of Kosovo) and attempts to keep the situation in the Western Balkans as stable as possible, Slovenia (and the EU) tried to follow 'the policy of a balanced approach; the Russian Federation was informed about certain activities regarding the declaration of independence, and most probably also about the exact date (after it had been set by the Quint and the Kosovar authorities); the 'balanced approach' could be seen from visits of Russian foreign minister in Slovenia virtually on the eve of the declaration of independence in Kosovo; this conclusion rests contrary to the media reports – namely, the declaration of independence has been more 'internationalized' than one may conclude from the media reports, which were mostly warning about 'the Russian Federation protecting Serbian interests'".

*As for the second research question (what were the activities of the Slovene EU Council presidency for preventing Kosovar authorities to declare independence in a way that would be uncoordinated with other relevant international actors in Kosovo, and on the other hand, how had Slovenia, in coordination with the EU, tried to appease Serbia to an extent that Serbian authorities did not resort to certain activities that could have triggered violence), we can conclude that:*

the highest political echelons in Serbia knew that it was practically impossible to prevent the declaration of independence (but were unable to admit this to its people); Slovenia (and the EU) had availed of the carrot policy, which was executed adequately (the promise and later signing of the Stabilisation-accession agreement, which was the first step of Serbia towards joining the EU); furthermore, Slovene diplomats never 'forgot' to warn Serbian politicians how devastating would it be for Serbian future, if the country tried to use violent means to 'resolve' the question of Kosovo;

Slovene diplomats raised the question of necessity to coordinate the declaration of independence in a multilateral framework at most of the meetings with Kosovar



politicians (on the other hand it has to be underlined that the main reason why the Kosovar political leadership has been relatively patient in that respect was the same pressure from the USA).

With regard to the third research question (*what can be the role of a small state – holding an important foreign policy position – in preventive diplomacy activities, if the interests of large states are high*), from which we can generalize some conclusions for the theory of small states in preventive diplomacy, we can conclude that:

Slovenia was *de facto* not a key player in the final phases of ‘coordination’ of the declaration of independence, and it was well-aware of the fact that it is difficult for a small state to be ‘the main driver of preventive diplomacy’ in such a volatile region; interviews proved that Slovene diplomats had known that some negotiations regarding the declaration of independence happened without them (‘award’ for being patient and not to say that publicly maybe brought some other advantages for Slovenia or them personally, but this topics should be researched further);

it is important for a small state, when speaking of a preventive diplomacy, to be aware of the fact that its intelligence information is usually modest compared to bigger states; due to the lack of reliable information and partial intelligence reports, the media in Slovenia (and also wider in the EU) created a sense of panic – certain Slovene diplomats in the region knew that it is relatively unlikely that the group of armed Serbs could enter Kosovo (that was the story in the media), and meanwhile some other diplomats in Slovenia and the EU didn’t have detailed information, so they ‘helped’ to spread the panic; it is necessary for small states to establish a good information-sharing network, when they are included in preventive diplomacy;

from the perspective of preventive diplomacy, it is recommended for a small country to engage in those regions, which are geographically, historically or culturally close to it or, in other words, in the areas, where it enjoys a decent amount of credibility and reputation; it is recommended that such a country finds support not only in the region, but also that bigger countries recognize and support the country’s intentions in the framework of preventive diplomacy - without wider international support such efforts of a small state, usually with limited resources at its disposal (small diplomatic

and consular network, small armed forces, limited intelligence information, small number of companies willing to invest in risky areas etc.), may resemble of Don Quixote fighting windmills.

Last, but not least: an important aspect of a small state, willing to contribute to stability and peace, is to be committed in a long-term, and not only in the period when it is “politically convenient” to help or when it is put in such a position (as Slovenia was in that case); having long-term, but smart commitment means not only that the credibility of a small country will rise (what would bring later also economic opportunities), but it also means an important contribution to the old Chinese saying that it is better to teach a man to fish than to fish instead of him.

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## ***Diverging Party Outcomes in Hybrid Regimes: The Cases of Croatia, Serbia, Montenegro***

**Ivan Vukovic\***

**Abstract:** In countries that have undergone democratic transition from hybrid regimes in the last two decades, regime collapse was, as a rule, causally linked with turnover in power. Nonetheless, a number of states that have democratized during this period saw the end of hybrid regime without experiencing such political change. Put differently, whereas most of the parties that had been ruling in hybrid regimes lost their power when these regimes ceased to exist, some of them remained politically dominant notwithstanding democratic changes. And while different developmental trajectories of hybrid regimes in the post-Cold War period are thoroughly studied, the diverging fates of their ruling parties have largely been neglected. By focusing on the hybrid regimes that existed in the 1990s in Croatia, Serbia, and Montenegro, this paper puts forward a potential explanation of such political dynamics. It argues that the structure of power in these regimes was the key factor determining whether an incumbent party would stay in power or not. It thereby makes a distinction between regimes whose power is 'personalized', i.e. structured around a charismatic leader (as were the former two), and those in which it is 'institutionalized', that is derived from a party organization (as was the latter). Due to this structural difference, it contends, the Croatian and Serbian incumbent parties lost power as the regimes collapsed, whereas the Montenegrin ruling party stayed in power despite democratic change. In addition, it posits that the levels of stability of three regimes were considerably different due to the same reason.

**Keywords:** *Hybrid regimes, Structure of power, Party outcomes, Regime stability, Western Balkans*

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## Introduction

Contrary to 'overly optimistic' scholarly expectations (Levitsky and Way, 2002), transitions from authoritarianism in the last quarter of the preceding century have, in rare instances only, led to creation of democratic political systems alike those that had already existed.<sup>23</sup> Instead, as Carothers effectively points out, thereby announcing the end of 'transition paradigm' based on the assumption that 'any country moving away from dictatorial rule can be considered a country in transition toward democracy', most of these regimes have ended up in a 'political grey zone...between full-fledged democracy and outright dictatorship' (2002: 7). As the third wave of democratization (Huntington, 1991) began to break, the world has witnessed an emergence of so-called hybrid political regimes (Karl, 1995).

These ambiguous systems, writes Ottaway, combine rhetorical acceptance of liberal democracy, the existence of some formal democratic institutions, in the first place multiparty elections, and respect for a limited sphere of civil and political liberties with essentially illiberal or even authoritarian traits (2003: 3). The fusion of democratic procedures and authoritarian practices, in a way that the existence of the former masks the reality of the latter, thus provided the base for hybrid regimes' establishment. Formally embracing democracy while, at the same time, regularly resorting to blatant abuses of human and political rights, these regimes, in effect, failed to make clear-cut break with non-democratic past.

The end of the Cold War has given a particularly strong impetus to the process of their global proliferation. Following the collapse of communism, under conditions of emerging liberal hegemony, world-wide promotion of democracy and human rights, comprehensive economic change, and communication technologies' revolution, very

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<sup>23</sup> The degree of the democratizing bias in early analyses of these regimes was nicely depicted in the following observation of the two authors: 'Russia was treated as a case of "protracted" democratic transition during the 1990s, and its subsequent autocratic turn was characterized as a "failure to consolidate" democracy. Likewise, Cambodia was described as a "nascent democracy" that was "on the road to democratic consolidation"; Cameroon, Georgia, and Kazakhstan were labeled "democratizers"; and the Central African Republic and Congo-Brazzaville were called "would-be democracies". Transitions that did not lead to democracy were characterized as "stalled" or "flawed". Thus, Zambia was said to be "stuck in transition"; Albania was labeled a case of "permanent transition"; and Haiti was said to be undergoing a "long", "ongoing", and even "unending" transition' (Ibid, 2010: 4). For more on this topic, see: Collier and Levitsky (1997).

few governments were willing to continue advocating non-democratic systems of governance. However, while increasingly adopting forms of democracy during this period, very few of them were actually willing to bring about substantive democratization. In effect, says Schedler, they would strive to constrain, contain, and control their own institutional creations, i.e. try to make sure that, nominally democratic, they remained substantively authoritarian (2009: 8)

Throughout Latin America, Africa and Eurasia, by legalizing opposition parties and allowing for competitive elections whilst manipulating the process so as to ensure political survival, they discovered ways to acquiesce to internal and external demands for democratization while still maintaining their hold on power (Howard and Roessler, 2006: 365). At the end of the 1990s, autocrats allowing some form of multiparty elections thus outnumbered those who did not by more than two to one (Schedler, 2002: 47). By 2001, Brownlee reminds, five dozen of these regimes blended liberalization with repression and signified the durability of authoritarianism during a period that had augured global democracy (2007: 16). As a result, roughly a third of all regimes have arguably fallen into the hybrid category (Hale, 2008: 1). This way, hybrid regimes have become not only the modal form of government in the developing countries but also 'the most widespread political system in the world at the beginning of the twenty-first century' (Howard and Roessler, 2006: 365).

This new political dynamics in the course of the last two decades has, unsurprisingly, generated a considerable academic attention.<sup>24</sup> After acknowledging their significant presence within the realm of contemporary non-democratic political systems, students of hybrid regimes have recognized 'the need to shed light on this murky set of regimes by studying them relative to one another, rather than by highlighting the numerous ways in which they fall short of the standard set by advanced

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<sup>24</sup> Morlino thus calls attention to the fact that 'in more recent times, the growth of democratization and the development of associated research have aroused considerable interest in the more specific theme of the spread of hybrid or "transitional" regimes' (2008: 1).

democracies' (Ibid).<sup>25</sup> The analytical focus, in that regard, has been on the specific conditions in which political competition in hybrid regimes takes place.<sup>26</sup>

Namely, their formally democratic edifice and, in particular, multiparty elections as its most important structural element, guarantees - at least theoretical - opportunity for incumbent turnover by regular political means. Keeping in mind the risk of political defeat, hybrid regime governments have, therefore, mastered manipulative techniques that are supposed to enable them to stay in place without jeopardizing international standing. Instead of resorting to naked repression, open electoral fraud, or other - potentially very costly - sorts of blatant power abuse, they make use of incumbency to create unfair conditions of political game and thus thwart opposition challenges. More precisely, through the privileged access to resources, media, and the law, they construct so-called 'unlevel playing field' (Schedler, 2002) in which, as Levitsky and Way explain, state institutions are abused for partisan ends, and incumbents are systematically favored to the extent that the opposition's ability to organize and compete in elections is seriously impaired (2010: 10).

However, despite considerable advantage of their incumbents over political rivals, a certain number of hybrid regimes did not manage to consolidate in the post-Cold War period. In fact, taken all together, we can identify three different developmental trajectories they followed during the last twenty years: a number of them went through the process of democratization; some regimes – most of which African (Kenya, Madagascar, Senegal, etc.) – failed to democratize despite experiencing at least one transition change; finally, in countries like Zimbabwe, Cameroon, and Russia, hybrid regimes remained stable to date (Ibid: 20).<sup>27</sup> Various factors brought to the light by the recent literature on hybrid regimes outcomes<sup>28</sup> can crudely be

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<sup>25</sup> Numerous scholars have, as Schedler puts it, come to realize that has finally come to abandon misleading labels and to take non-democratic nature of hybrid regimes seriously (2002: 36).

<sup>26</sup> These are most thoroughly analyzed by Schedler (2002, 2009, 2010), and Levitsky and Way (2002, 2005, 2010).

<sup>27</sup> Albeit having the same ending point - regime survival - the developmental trajectories of hybrid regimes from the last two of the abovementioned categories differ in terms political dynamics. While the former was characterized by intense process of repeated interaction between hybrid regime incumbents and their challenges (Alexander, 2008: 931), which resulted in at least one turnover in power, the latter was marked by incumbents' continuous domination.

<sup>28</sup> For comprehensive discussion on the determinants of regime outcomes, see: Bunce and Wolchik (2010), Levitsky and Way (2005, 2010), McFaul (2005), Schedler (2010).

grouped into the following categories: the power of state and incumbent party, opposition strategy and public mobilization, and Western democratizing leverage.

And while focusing on hybrid regimes' 'diverging faiths' in the last two decades (Levitsky and Way, 2005), scholars have paid little attention to the diverging faiths of ruling parties in these regimes. Namely, in the countries that have recently undergone democratic transition from hybrid regimes, regime collapse was, as a rule, causally linked with turnover in power. In other words, the process of democratization in these states – as a substantial alteration of the rules of political game hitherto serving interests of an incumbent party – would usually be initiated by its electoral defeat.<sup>29</sup> However, a few countries that have democratized during this period saw the end of hybrid regime without experiencing such political change. In Macedonia – to mention the most recent case – the ruling VRMO-DPMNE party remained in power even though democratization took place in the period subsequent to its 2006 electoral victory.<sup>30</sup>

*How did it happen, one may ask, that while most of the parties that had been ruling in hybrid regimes lost their power when these regimes ceased to exist, some of them remained politically dominant notwithstanding democratic changes? Or, to*

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<sup>29</sup> In light of that, one can, as a rule, easily identify the moment of democratic change in a given country. The critical juncture of the Slovak political transition, for instance, was the defeat of Vladimir Meciar's Movement for Democratic Slovakia (HZDS) in the 1998 parliamentary election. In the following period, Levitsky and Way write, Slovakia was democratic, elections were free and fair, restrictive media laws were overturned, and laws dictating balanced coverage on public television were enforced (2010: 92). In some cases, however, democratic change represents a process whose time frame is more difficult to define. In Romania, for instance, the 1996 elections put an end to the hybrid regime dominated by the National Salvation Front (1990-1992) and its faction, the Party of Democratic Socialists (1992-1996). However, after 4 years of Emil Constantinescu's democratic governance, hybrid regime was re-established by the old new President, Ion Illiescu (Ibid: 103). Mainly due to the EU's political leverage in the period subsequent to the launch of accession negotiations, Romania gradually implemented democratic reforms and, under intense international monitoring, held relatively clean parliamentary and presidential elections in 2004. After 2005, Levitsky and Way conclude, Romania was democratic (Ibid).

<sup>30</sup> Based on a number of Freedom House, ODIHR, and the U.S. Department of State reports, Levitsky and Way write the following: 'By 2008, Macedonia had democratized. There were few reported incidents on media harassment, and there existed a robust private media – with national reach – that reflected a variety of viewpoints. Although the 2008 parliamentary elections were crisis-ridden due to violence and manipulation in Albanian regions, the VMRO-DPMNE-led government responded by re-running elections that were deemed unfair or fraudulent, sending a massive police contingent to the region and encouraging a large international-observer presence. Consequently, conditions improved in the second round. The 2009 presidential election, which was won by VMRO-DPMNE candidate Gjorge Ivanov, was characterized by an open media environment and no serious incidents of violence or fraud' (2010: 127-8). In addition, as indicated in the latest International Crisis Group report on Macedonia, the 2011 parliamentary election was deemed by the OSCE as 'competitive, transparent, and well-administrated throughout the country' (2011: 5).

*paraphrase Levitsky and Way (2010), what are the determinants of the diverging party outcomes in hybrid regimes?*

The central contention of this paper is that it is the structure of power in these regimes that determines whether an incumbent party stays in power or not. In that sense, by focusing on the cases of hybrid regimes in Croatia (1990-2000), Serbia (1990-2000), and Montenegro (1990-1998), I make a distinction between regimes whose power is 'personalized', i.e. structured around a charismatic leader (as it was the case in the former two), and those in which it is 'institutionalized', that is derived from a party organization (as was the latter). As a result, I posit, the Croatian Democratic Union (HDZ) and Socialist Party of Serbia (SPS) – even with a considerable organizational power (employed in electoral competition, clientelistic networks' maintenance, political recruitment, etc.) – served as mere 'transmission belts' of their leaders' political will, whereas the Democratic Party of Socialists (DPS) played the key role in political life of Montenegro. Due to this structural difference, I further argue, the HDZ and the SPS lost power as the regimes collapsed, where the DPS stayed in power despite democratic change. In addition, I maintain, thus refereeing to the larger theoretical debate on hybrid regime outcomes, the same rationale applies to the diverging levels of stability of the Croatian, Montenegrin, and Serbian hybrids.

## **2. Hybrid regimes in the Western Balkans: Croatia, Montenegro, Serbia**

### **a) Contextual resemblance**

To date, the literature on hybrid regimes has identified three ways in which they typically come into being. As argued by Morlino, these regimes arise out of:

Different types of authoritarianism that had existed in recent decades, or earlier;

Some form of traditional regime, most often monarchy or sultanism;

The crisis of an earlier democratic system (2008: 7).

The Croatian, Montenegrin and Serbian regimes clearly fall under the first genealogical category. Their emergence followed the breakdown of the single-party authoritarian regime that had ruled socialist Yugoslavia for more than four decades. Historically contextualized, this is to be seen as a part of the broader wave of

political changes that encompassed the region toward the end of the 1980s. And while, in that sense, the way they originated does not differ from other post-communist hybrid regimes, the three cases in question share certain features that make them distinctive within this particular group of political systems.

Firstly, as Alexander (2008) notices in the only related analysis that encompasses all of them, Croatia, Montenegro, and Serbia were the only countries in the Southeast Europe in which the initial change in power brought about a domination of nationalist political forces. In his words, the starting incumbent turnover in the region 'ranges from an all-out revolution in Romania; to an anti-communist government in Slovenia; to a rise of extreme nationalists in Serbia, Montenegro, and Croatia; to slow reform within socialist ranks in Bulgaria, Macedonia, and Albania; to radical nationalism and state failure in Bosnia-Herzegovina' (p. 936).

Moreover, the three regimes consolidated in the atmosphere of Yugoslav political turmoil whose occurrence was determined by the outcome of first multiparty elections. In that sense, Zakosek points out that the specific feature of the simultaneous processes of regime change and state-building in these countries was that they were accompanied by wars (2008: 592). Under these circumstances, the Croatian and Serbian leaderships, in particular, sought to politically benefit by presenting themselves as legitimate protectors of their peoples' national interests.

Finally, in such political ambience, effective external leverage on these regimes throughout most of the period of their rule was inconsistent and at a significantly lower level when compared with other regimes in the region. As Fairbanks writes, in order to emphasize 'conditional and even accidental origin' of Western democratizing influence on the Milosevic regime, the effective pressures on Serbia started only in 1995 and resulted from the coincidence of various factors that were themselves highly contingent - including electoral politics in the United States, the personal history and ambitions of political actors in that country and in France and the development of a real army in Croatia (2009: 85). Alexander takes the argument even further, saying that, by negotiating with perpetrators of the Balkan ethnic wars, the West lent de facto legitimacy to oppressive regimes in Croatia, Bosnia-

Herzegovina, Serbia, and Montenegro, thus contributing to authoritarian consolidation (Ibid: 945).

I argue that these specific political conditions in which the three regimes originated and developed make them *most similar systems* within the realm of post-communist hybrid regimes.<sup>31</sup> To fully understand their political dynamics, however, we need to compare them to each other rather than to similar political systems in the region. In that context, I posit and elaborate below both empirically and theoretically important structural difference among these regimes.

### **Structural divergence**

Namely, when the three regimes are juxtaposed, a striking divergence comes into view concerning the patterns of power within their respective party organizations. On the one hand, the Croatian and Serbian regimes were structured around the personalities of Franjo Tudjman and Slobodan Milosevic. Accordingly, the Croatian Democratic Union and the Serbian Socialist Party were under the absolute political control of their leaders and informal circles around them. Therefore, the primary source of power of the two regimes was not in the ruling parties but in their leaders. On the other hand, the Montenegrin regime was based upon the strength of the hegemonic Democratic Party of Socialists. As a result of power dispersion within its leadership, the DPS represented basic structural framework within which the regime's authority was exercised. In other words, the party itself was the primary source of the regime power in Montenegro. Put differently, the HDZ and the SPS were characterized by the monocratic form of headship, 'defined by the prime role of a single person in the shaping of a group's decision', where 'the entire organization tends to identify with him' (Schonfeld, 1981: 231). In contrast, the Montenegrin ruling party in the 1990-1997 period stands as an example of the oligarchic type of leadership, 'in which a limited coalition of people tend to exercise disproportionate share a of influence over a group's collective decisions', and where 'the titular head

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<sup>31</sup> Cular reminds that - precisely because of specific variables that were not easy to control in comparative empirical research - this 'Yugoslav exceptionalism' (Bunce, 1995) not only meant durable exclusion of the former Yugoslav cases from numerous studies dealing with the universe of post-communist countries, but also served as a crucial proof for the claim that post-communist transitions cannot be compared to those in Southern Europe and Latin America (2000: 31).



of the organization may be...more powerful than any of his colleagues, but they collectively are significantly more influential than he is' (Ibid).

This structural difference, I believe, to a great extent influenced the level of stability of the three regimes and, more importantly, the 'fates' of their incumbent parties. More concretely, highly personal character of power of the incumbent parties in Croatia and Serbia prevented their institutionalization, thereby making the two regimes more vulnerable to electoral and inter-electoral opposition challenges. Moreover, owing to the great political dependency on their leaders' charisma, the HDZ and the SPS lost power as the regimes collapsed in 2000. At the same time, because of high institutionalization of power of the DPS - ensuing from its division among the party leaders - the Montenegrin regime was more stable when faced with similar threats. For the same reason, the party managed to survive in power the 1997 regime collapse. Thus, I argue, the three cases confirm Brownlee's assertion that 'the years during which political regimes first emerge are formative for subsequent regime durability and instability' (2007: 34).

Interestingly, the Serbian and Montenegrin hybrid regimes grew out of the old communist system, whereas the Croatian was formed by the HDZ-led anti-establishment political forces. Bearing in mind their official ideological continuity with, as well as the infrastructural inheritance of the *ancien regime*, one would most likely expect to see similar power structures of the former two. In that sense, however, it turned out that the Serbian and Croatian regimes had much more in common. To be able to understand their surprising organizational development, we first need to explicate in more detail the political circumstances in which these regimes emerged.

### **The element of charisma**

Panbianco's well-known genetic model of party organization and development implies that the party's organizational characteristics depend upon how the organization originated and consolidated (1988: 50). In that sense, the author emphasizes the role of charisma in the party's formation, arguing that it is of substantial importance for this process 'whether or not the party is essentially created by, and vehicle for, a charismatic leader...who imposes himself as the

undisputed founder, conceiver, and interpreter of a set of political symbols which become inseparable from his person' (Ibid: 52). The charisma, Panebianco underlines, does not necessarily stem from the leader's messianic components, but from 'a state of acute social stress that gets the people ready to perceive as extraordinarily qualified and to follow with enthusiastic loyalty a leadership offering salvation from distress' (Ibid). In my understanding, this is precisely how charismatic leaders rose to power in Croatia and Serbia.

Namely, in 1986, in the midst of intense controversy over the future development of the socialist Yugoslavia, party conservatives led by Milosevic seized the power over the Serbian branch of the Yugoslav Communist League (SKS)<sup>32</sup>. The new party leadership - strongly supported by the Serbian Orthodox Church, right-wing intelligentsia, and nationalistic media – declared the protection of 'endangered' national interests of the Serbian people its top political priority. Supposedly, the nation was in great peril as a result of the 1974 Yugoslav Constitution which provided the Serbian provinces of Vojvodina and Kosovo with a high degree of autonomy. Soon after the appointment, Milosevic thus embarked on a mass nationalist mobilization aimed at correcting these and other 'historical injustices made to the Serbian people'. What is more, he used the momentum to purge the liberals from the SKS leadership in September 1987. What came afterward, Gagnon precisely describes as 'reimposition of a monolithic Stalinist notion of the party, a takeover of the once independent and liberal Serbian press, an extremely crude and racist campaign of demonization against ethnic Albanians, and harsh repression within Kosovo' (1994: 121). The culmination of this process took place in March 1989 when the amendments to the Constitution of Serbia were adopted, depriving its provinces of the best part of their autonomy. As a result, Milosevic was raised to the status of the 'new leader of the Serbian people' (Darmanovic, 2003: 154).

During this period, Milosevic was politically active in Montenegro as well. Parallel with the process of regime formation in Serbia, he expanded the sphere of political influence on this neighboring country. On the wave of his populist campaign, following the mass demonstrations in the capital city of Podgorica, the old

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<sup>32</sup> In July 1990, it was renamed the Socialist Party of Serbia.

communist leadership of Montenegro was overthrown in January 1989. The control of the Montenegrin League of Communists (SKCG) – renamed the Democratic Party of Socialists in 1991 - was thus taken over by younger party officials, politically loyal to Belgrade.<sup>33</sup> And, although both in Serbia and Montenegro the revolutionary transfer of power took place within the communist establishment, political authority - which Milosevic managed to monopolize following the party coup - was effectively shared by a small nucleus of communist leaders in the post-revolutionary Montenegro.<sup>34</sup> Seemingly irrelevant, this fact would, in my opinion, prove to be of key importance for the diverging developmental paths of the future ruling parties in the two countries.

In contrast to the supremacy of 'neo-communist' elites in these two states, political scene in Croatia came to be dominated by an anti-communist political movement based around the Croatian Democratic Union. In the first multiparty election held in April/May 1990 at the initiative of the Croatian communist reformists<sup>35</sup>, the HDZ - led by communist-turned-nationalist Tudjman - scored a landslide victory (40.9% of votes, 57.5% of seats)<sup>36</sup>. Its electoral success was greatly influenced by the deteriorating political situation in Yugoslavia. In view of the aggressive nationalistic rhetoric coming from Serbia and strongly echoing in Montenegro, says Pusic, 'it was becoming apparent that remaining part of Yugoslavia would mean coming under the rule of Milosevic, whose forces had recently stripped the Kosovo region of its autonomy and subjected the mostly Albanian populace there to oppressive measures whose results could be seen every night on television' (1998: 112). Bearing this in mind, she continues, 'a majority of Croatian voters concluded that it would take Croat-nationalist hard-liners to defend Croatia against Milosevic and his Serb-nationalist hard-liners' (Ibid). Under such circumstances, Tudjman imposed

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<sup>33</sup> For more on these events, see: Bieber et al. (2003)

<sup>34</sup> In the period between 1990 and 1996, the Party was effectively controlled by its president, Momir Bulatovic, and the two vice-presidents, Svetozar Marovic and Milo Djukanovic.

<sup>35</sup> As explained by Cular, the Communist party leadership made the decision on holding first multiparty elections in view of the weakly organized domestic party scene that was supposed to guarantee its victory (2000: 32).

<sup>36</sup> Its main political rival – League of Communists of Croatia-Party for Democratic Change – won 26.6% of votes and 30% of seats.

himself as the 'the protector of Croatian national interests' and, after being elected the President in May 1990<sup>37</sup>, took over full political control of the country.

Furthermore, the results of elections held in Croatia and Serbia in the following years clearly show that Tudjman and Milosevic were more than just party leaders. In the 1990 Serbian parliamentary and presidential elections, the SPS garnered 46.1% of votes<sup>38</sup>, whereas Milosevic won the presidency with an impressive 65.3% (+965,212 votes). Two years later, his reelection was supported by 53.2% of voters, while his party won only 28.8% (-1,155,961), thus losing absolute parliamentary majority. Similarly, Tudjman's personal popularity in this period greatly exceeded the boundaries of his party's constituency. In the 1992 Croatian elections, he won 56.7% of votes as a presidential candidate, whereas the HDZ got 12% less (-342,663)<sup>39</sup>. Moreover, the Croatian ruling party won 45.2% of votes (59% of seats) in the next parliamentary election held in 1995, while two years later, its leader was reelected the President with the support of 61.4% of voters (+244,587).

Quite the opposite, the results of the Democratic Party of Socialists in parliamentary elections held in this period were, more or less, in line with those of its leader as a presidential candidate. Thus, in the 1990 elections, with the turnout of 75.7%, the party won merely 1,034 votes more than its head<sup>40</sup>. Two years later, with the elections turnout of 67.3%, the margin of votes in favor of the DPS was insignificant 2,900. In other words, unlike his omnipotent Croatian and Serbian counterparts, the DPS leader and the President of Montenegro was as politically strong as was his party.

Finally, the political charisma of Tudjman and Milosevic was officially 'legalized' in 1990, when the semi-presidential constitutional design was introduced in Croatia and Serbia (Kasapovic, 2001, McGregor, 1996). Wide scope of presidential prerogatives guaranteed their absolute domination over political systems of the two countries. The

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<sup>37</sup> Tudjman was elected in accordance with the old, communist-era Constitution. The first Croatian presidential election - originally planned for 1991 - was postponed for a year due to the outbreak of war in the country.

<sup>38</sup> Due to majoritarian electoral system, the party won as much as 77.6% of seats in the Parliament.

<sup>39</sup> Again, owing to electoral rules, the HDZ won 61.6% of seats.

<sup>40</sup> The DPS got 171,316 votes (56.2%), whereas Bulatovic, running as its presidential candidate, won 170,092 (42.2%) votes in the first round. He was elected in the second round, with the support of 76.1%.

principle of personalized political authority was thereby formally transmitted to the Croatian and Serbian state organizations. Likewise, a new Montenegrin Constitution, adopted in October 1992, reflected the existing political situation in the country. Thus, contrary to semi-presidentialism in Croatia and Serbia, classical parliamentary system was established in the post-communist Montenegro (Goati, 2001).

### **Regime power: 'institutionalized' vs. 'personalized'**

The scholars dealing with hybrid regimes have recognized strong incumbent parties as one of the key determinants of their survival.<sup>41</sup> Thus, for instance, Magaloni argues that 'autocratic political parties play the functional role of making intertemporal power-sharing deals between the dictator and his ruling coalition possible, increasing the longevity of dictatorships' (2008: 24). Likewise, Brownlee shows that 'ruling parties enable durable authoritarianism by providing a political setting for mediating elite disputes and preventing elite defections to the opposition' (2007: 42). Levitsky and Way (2010) summarize these and other related arguments, saying that strong party organizations contribute to the maintenance of hybrid regimes by managing intra-elite conflicts and facilitating executive succession, on the one hand, and helping autocratic incumbents to win elections and control legislatures, on the other.

To operationalize party strength, the authors use two variables: 'scope', referring to the size of a party's infrastructure (i.e. degree to which it penetrates the national territory and society), and 'cohesion', proving incumbents' ability to secure the cooperation of partisan allies within the government, in the legislature, and at the local or regional level (Ibid). They further claim that a party's strength may be considered high if it represents mass organization that penetrates virtually all population centers down to village and neighborhood level and/or civil society and/or

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<sup>41</sup> In her abovementioned 1999 regime typology, Geddes thus shows that, in the post-Second World War period, single-party regimes lasted, on average, considerably longer (23 years) than personalist (15 years) and military regimes (9 years). The reason, she explains, is that, through control over the allocation of educational opportunities, jobs, and position in government, 'single parties can typically claim the loyalty (or at least acquiescence) of many of the most able, ambitious, and upwardly mobile individuals in the society, especially those from urban and marginal backgrounds whose social mobility might otherwise have been quite limited' (p. 134). For more on the topic, see: Way (2005)

working place. Thus measured, the Socialist Party of Serbia - which inherited the old communist party's assets, had an extremely large membership body, and embraced then-mainstream-ideology of Serbian nationalism - was, in the authors' view, extremely well organized. At the same time, in consideration of the party's 'solid national structure' and a 'salient nationalist ideology' in which it was rooted, Levitsky and Way score the Croatian Democratic Union's organizational power as medium high (Ibid: 104-114).

While acknowledging high analytical value of this model - in particular for larger-N comparative studies - I believe that full understanding of the way incumbent parties contribute to hybrid regimes' stability, as well as of their diverging political trajectories, require closer inspection of their power organization. In other words, *rather than measuring the amount of party strength, we need to enlighten its structure*, to be able to explain this effect. Accordingly, with regard to their organizational characteristics, I make a distinction between the DPS, on the one hand, and the HDZ and the SPS, on the other. More specifically, I posit a substantial difference between the former and the latter two parties in terms of the level of institutionalization they attained. To measure it, I use two scales created by Panebianco: the degree of their 'autonomy vis-à-vis the environment' and the degree of 'systemness', i.e. interdependence of their internal sectors (1988: 55). Put in the context of the analysis of the three hybrid regimes, this model allows us to see to what extent was their power located in the incumbent parties as well as how was it dispersed within these organizations.

Owing to the way it originated, the DPS, in my view, scores high on both dimensions of the party institutionalization. Following the 1989 revolution in Montenegro, the power was, as mentioned above, taken over and shared by a narrow circle of young party officials. Out of this group, Goati writes, no one emerged as a supreme political authority (2001: 146). Bulatovic, the party president, was hence *primus inter pares*

rather than its charismatic and indisputable leader (Ibid: 156).<sup>42</sup> Likewise, the leading posts in the country were distributed among the highest party representatives: Bulatovic became the President, whereas Djukanovic and Marovic - the two equally powerful vice-presidents of the party - took offices of the Prime Minister and the Speaker of the Parliament respectively. Politically absolutely dominant in this period, the Montenegrin ruling party represented a very autonomous organization, fully able to control the processes of exchange of human and material resources with its environment (Panebianco, Ibid).<sup>43</sup> At the same time, the dispersion of authority among its leadership yielded a high level of internal structural coherence within the party. As a result, the structure of power of the Montenegrin regime was determined by the structure of power of the ruling DPS.

On the contrary, like other charismatic parties 'born through the federation of a plurality of spontaneously germinating local groups and/or preexisting organizations identifying with and submitting to the same leader' (Ibid: 66), the Tudjman's CDU and the Milosevic's SPS were characterized by the absence of institutionalization and the presence of a very strong centralization of authority. Hence, the control over 'the zones of organizational uncertainty' was concentrated in the leaders' hands, i.e. 'outside of a context of bureaucratic development' (Ibid). For the reasons mentioned above, Tudjman and Milosevic were perceived by most of their countrymen as undisputed national leaders. Their political authority, however, was never effectively transferred to the parties they led. The routinization of their charisma – to use the Panebianco's words - never took place.

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<sup>42</sup> One political episode from the early 1990s shows the real amount of his power. Namely, at The Hague Conference on the future of Yugoslavia, held in September 1991, Bulatovic voted in favor of the plan according to which the country was supposed to become a confederation of six independent states. Milosevic, his main political ally, opposed the plan, allegedly worried about the protection of the Serbs living in Croatia, and Bosnia and Herzegovina. At that point, the majority of the Montenegrin public and, more importantly, the ruling DPS shared the view of the Serbian leader. Therefore, upon the return from the Conference, Bulatovic was put under an enormous political pressure to change his 'unpatriotic' decision. As a result, the Montenegrin president soon withdrew his initial support for the plan.

<sup>43</sup> In this context, Darmanovic writes the following: 'The DPS held the system together by assiduously using its complete control over state organs and resources in order to squelch critics and rivals and win elections. The usual range of methods was employed, including party domination of the state-owned media; the packing of offices with party favorites; the maintenance of slush funds; occasional intimidation of adversaries; the abuse of police authority to influence the electoral process; and manipulations of the electoral system. Backed by these kinds of tactics, the DPS easily bested its dispirited opponents and retained an absolute majority of seats in the Montenegrin parliament' (2003: 147).

On the one hand, as pointed out in an International Crisis Group report on Croatia, the HDZ was 'a broad movement rather than a modern political party, representing a wide range of political views and interests, united behind the authority of its leader, President Franjo Tudjman, in the aim of achieving Croatian sovereignty and independence' (1998: 1). In effect, Kasapovic explains, the party was arbitrarily ruled by its president: its formal leadership did not have any independent influence on the decision-making processes, the officially adopted party rules and procedures were regularly ignored, whereas the real power lied in informal networks and parallel organizations - such as the Council of Defense and National Security - controlled by Tudjman (2001: 21-2).<sup>44</sup> More to the point, Cular writes that the Croatian president, as the 'untouchable charismatic leader with almost messianic meaning for his followers', had full control over both the state and the party: 'He used his power extensively in decision-making in the government, parliament, party, but also in daily, education, sport and such matters', thereby making the autocratic way of ruling, not only a political feature, but 'an institution underlying a wide range of political and social activities' (2000: 35). Accordingly, very few were surprised when Tudjman decided to appoint his son, Miroslav, the head of the Croatian intelligence agency in 1993.

The personalization of power during Milosevic's rule in Serbia was even more apparent. From the moment he became the head of the Serbian branch of the Yugoslav Communist League - later to be renamed the SPS - his political authority within the party was undisputed. In that context, Goati points out the 'easiness' with which Milosevic was occasionally deposing the highest party representatives.<sup>45</sup> Thus, the author reminds that, in November 1995, his proposal to oust 6 members of

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<sup>44</sup> In this regard, the author accentuates the 1999 creation of the Presidential Council that was supposed to serve as a 'preventive counter-government' to a potential opposition government that could have been formed following the next parliamentary election (Ibid).

<sup>45</sup> In another ICG report, his style of rule was depicted in the following way: 'Slobodan Milosevic...has not changed his style of ruling the country since he took power in Serbia more than a decade ago. He steers all important activities and sets the rules, but he does not commit himself in any direct or concrete way on many policy issues. As a result, he does not suffer the consequences of continuous failure of his strategies, or at least is able to minimize the damage by blaming and then replacing high-ranking officials. Milosevic uses people and discards them when they have served his purpose...He has never had close associates or for that matter anyone he trusted' (2000: 5).



the party leadership - including 2 vice-presidents - was approved by the SPS's Supreme Council without a discussion (2001: 174).<sup>46</sup> Even more convincing evidence of Milosevic's political supremacy in the party was his unopposed decision, made toward the end of his rule, to give over a large number of government, military and business appointments to the politically marginal 'Yugoslav left' - the SPS's coalition partner and, more importantly, the party led by his wife. Albeit staying within the ruling family, a considerable amount of the regime power was thus transferred out of the ruling party by the will of its head. What is more, as the national leader of his people, Milosevic ruled Serbia in the same fashion. Thus, while serving as its President (1990-1997), he was, as Goati writes, regularly taking over the authority of the parliament and government (Ibid: 84).<sup>47</sup> What is more, even after he took an office of the President of Federal Republic of Yugoslavia (FRY)<sup>48</sup> – whose function, according to its Constitution, was mainly ceremonial – he continued playing the main political role in the country.

### **Party outcomes and regimes' stability**

Unlike the Montenegrin DPS which, as a result of the way it originated, represented a political value 'in and of itself' (Panebianco, 1988: 66), the HDZ and the SPS remained mere political tools of Tudjman and Milosevic. Accordingly, whereas in Montenegro it was vested in the ruling party, the authority of the regimes in Croatia and Serbia was highly personalized, i.e. concentrated in the hands of their leaders. In my view, the effect of this structural divergence of the regimes in question was two-fold.

On the one hand, as mentioned above, it determined the outcome of the elections that brought about their end. After winning three consecutive parliamentary elections under Tudjman's rule, the HDZ was heavily defeated<sup>49</sup> and the Croatian hybrid regime collapsed in January 2000, merely a month after his death. In the following

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<sup>46</sup> Similarly, only 1/3 of the Supreme Council members and 1/4 of the Executive Council members were re-elected at the 1996 party congress. This way, says Goati, Milosevic used a fear of purges of the SPS's members to ensure the discipline within the party (Ibid).

<sup>47</sup> Throughout this period, marked by the post-Yugoslav crisis and the wars in Croatia and Bosnia and Herzegovina, Milosevic also acted in the international affairs on behalf of the FRY.

<sup>48</sup> The federation of Serbia and Montenegro, created in April 1992

<sup>49</sup> The party won almost 26.8% of votes - almost 20% less than in the 1995 election.

period, the party did manage to revive the memory of its leading political role in the struggle for the country's independence and, therefore, make a strong political comeback. In 2003, based on the popular discontent caused by the government's decision to start 'delivering' Croatian generals to the War Crimes Tribunal at The Hague, the HDZ won the parliamentary election. What is more, its right-wing coalition government's political legitimacy was confirmed four years later. However, in the last parliamentary election held in December 2011, the HDZ made the worst result ever (23.8% of votes), thus paying a high price for over-reliance on the political legacy from the Tudjman era.

Likewise, following Milosevic's defeat in the 2000 Yugoslav presidential election, which set in motion the process of disintegration of the Serbian hybrid regime, the SPS lost the parliamentary election later that year.<sup>50</sup> Primarily due to the well-developed party infrastructure, the SPS politically survived in the subsequent years. Its future prospects, however, remain substantially limited by the people's recollection of the dreadful political and socio-economic results of its governance during the 1990s. Unsurprisingly, its best electoral result in the last decade was modest 7.6% of votes made in 2003.

In contrast, the DPS survived in power the 1997 split within its leadership<sup>51</sup> and the ensuing collapse of the Montenegrin hybrid regime. Challenged by a new Socialist People's Party (SNP) – established by its former president Bulatovic – the DPS managed to win the next parliamentary election<sup>52</sup>. Moreover, despite the radical change of the political course in 2001, when the party - up till then advocating the federation with Serbia in which Montenegro would be politically equal - officially

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<sup>50</sup> The party got merely 13.2% of votes, thus losing 48 out of the previously held 85 seats.

<sup>51</sup> The split resulted from a disagreement between the party president Bulatovic and a vice-president Djukanovic about the political alliance with Milosevic. While the former stayed loyal to the old political friend, despite terrible economic and political consequences of his belligerent politics, the former gradually moved away from him, and toward new political partners - in the first place, the EU and the US. The contest between the two most powerful political figures in Montenegro - which Djukanovic triumphed by winning the next presidential elections - marked the end of the hybrid regime they had built together. Free and fair electoral competition has become one of the basic rules of political game in this country ever since.

<sup>52</sup> In the coalition with two smaller parties, the DPS won almost 49% of votes and an absolute majority of seats in the Parliament (42 out of 78). The free and fair character of the election was, in addition to the OSCE positive report (1998: 1), confirmed by the fact that the SNP recognized its result, i.e. accepted electoral defeat

accepted the idea of Montenegrin independence, it has managed to stay in power to date.

On the other hand, the structural difference of the three regimes had a great influence on the level of their stability throughout 1990s. Namely, the high degree of institutionalization of the Montenegrin ruling party rendered its rule almost unchallenged prior to the division at its summit. In the three parliamentary elections held in this period, the party won an absolute majority of seats. Moreover, in November 1996, only a few months before the split, the DPS won 51.2% of votes, thus defeating a coalition of almost all relevant opposition parties. Among the former communist parties in the Southeast Europe, Goati reminds, this was an unprecedented electoral result (2001: 137). In a word, ahead of 1997, the DPS managed quite easily to overcome political challenges coming from the opposition. As a result, the Montenegrin hybrid regime remained perfectly stable in this period.

In a similar socio-economic and political context, with the same 'menu of manipulation' (Schedler, 2002) at disposal, the CDU and the SPS had great difficulties in ensuring the continuity of their rule. The charisma of their leaders, a considerable political asset in the early phase of these parties' formation, later proved to be their major functional disadvantage. Consequently, in the 1993 election for the Chamber of Counties<sup>53</sup> - in the midst of the war for independence led by its president Tudjman - the CDU won fewer votes than the coalition of opposition parties (45.5 to 48%).<sup>54</sup> Furthermore, the party lost the 1995 election for the local assembly of the capital city of Zagreb, held at the peak of national euphoria stirred by the successful military operations against the Serb rebels.<sup>55</sup>

Likewise, in Serbia, the SPS failed to win a majority of seats in the 1992 parliamentary election. What is more, until the end of its rule, the party would not manage to reestablish an absolute political dominance in the country. Even after the 1997 parliamentary election in which the biggest opposition parties did not partake,

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<sup>53</sup> The Croatian Parliament was bicameral in the period from 1990 to 2000

<sup>54</sup> Owing to the electoral system, the CDU got more than 57% of seats in the Chamber

<sup>55</sup> Despite the electoral result, Tudjman refused to give his - constitutionally required - consent to the appointment of an opposition candidate for the mayor of Zagreb. 'We cannot allow an "oppositional situation" in the capital', the Croatian president then famously proclaimed (Cular, 2000: 40)

the SPS had to enter a coalition with the Serbian Radical Party in order to form a government. In addition, following the 1996 local elections, the Milosevic's party lost political control of Belgrade as well as of a few other big cities in Serbia.<sup>56</sup>

### **Concluding remarks**

While diverging trajectories of hybrid regimes in the post-Cold War period are thoroughly studied, the 'faith' of their ruling parties has largely been neglected. The reason, in my opinion, lies in the fact that the interested scholars, as a rule, do not make a difference between the two. Instead, in most of their works, hybrid regimes - as specific institutional sets of rules by which political actors compete - are simply equated with parties in power. Bearing in mind the examples of incumbent parties that - as the Montenegrin DPS - managed to stay in power despite the regime collapse, as well as those of regime survival in spite of turnover of the parties in power<sup>57</sup>, I here call attention to the conceptual fallibility underlying such analyses. At the same time, while bearing in mind the problems of causal inference and theoretical generalizability of the small-N research (Brady and Collier, 2004; King, Keohane, and Verba, 1994), I seek to contribute to better understanding of the different political destinies of incumbent parties in hybrid regimes.

In that sense, on the examples of regimes that existed in Croatia, Montenegro and Serbia during the last decade of the preceding century, I emphasize the importance of their structures of power. More precisely, I argue that the way these regimes' authority was internally organized determined the outcome of the elections that brought about their end. Likewise, I try to show that the same factor to a great extent influenced the level of their stability before the collapse. Therefore, the well-institutionalized Montenegrin ruling party stayed in place despite the 1998 democratic change. At the same time, the regime - whose power was based upon it - was, prior to the breakdown, basically unchallenged by the democratic opposition. In

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<sup>56</sup> Throughout the 1990s, Levitsky and Way remind, 'the protest levels in Serbia during the 1990s were among the highest in the post-communist world. On numerous occasions, the opposition mobilized between 50,000 and 100,000 demonstrators (and, on a few occasions, even more) in multiple cities across Serbia' (2010: 107)

<sup>57</sup> In Albania, for instance, notwithstanding several changes of the incumbent parties during the last two decades, the regime has survived. In 2008, as Levitsky and Way put it, 'Albania was nearly democratic' but still 'competitive authoritarian' (Ibid: 124).

contrast, living in political shades of their charismatic leaders throughout 1990s, the incumbent parties in Croatia and Serbia were removed from power as the regimes collapsed. In addition, owing to the same reason, these regimes' stability was, well before that moment, seriously challenged on several occasions.

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## ***Deconstructing security***\*

**Ruxandra Ivan**\*

**Abstract:** The last decade of the 20<sup>th</sup> century was marked by a process that continues today, consisting in the diffusion of the discourse about security in all the spheres of everyday life. The theoretical impetus of this phenomenon (also called “securitization”) was given by the Copenhagen school, but it slowly penetrated the political discourse, and even the policies of States. We will try to understand what this emphasis on the security problematique means and how it can be interpreted, or read. The method we will use is Derrida’s “double reading”, where in the first reading, we will present the issue of security as it is tackled nowadays in the international scholarship and policy-making environment, while in the second reading we will try to deconstruct the evolution of the discourse about security. This helps us understand the consequences of the evolution “security” for the relation between the international community and the State, on the one hand, and between the State and its citizens, on the other hand. After examining the meaning of the constructed dichotomy between liberty and security, we will argue that the inflation of the security discourse has resulted into a quasi permanent state of exception (Carl Schmitt) invoked by the State in order to consolidate its sovereignty, which is more and more threatened by the globalization processes. Thus, the security discourse is an instrument of the political power which is re-producing its society, threatened by the porousness of borders, migration, and evolving international interventionism.

**Keywords:** *security, discourse, deconstruction, Copenhagen school.*

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Environmental security. Food security. Military security. Markets security. Social security. Human security. It seems that all the aspects of everyday life are covered by some form of security. Barry Buzan deplored, in the first edition of his very famous book, *People, States, and Fear: An Agenda for International Security Studies in the Post Cold War Era*, the fact that the concept of 'security' was insufficiently developed in international relations and political science and that it was only used in its military dimension (Buzan 1983). The situation is completely different nowadays and probably Barry Buzan will not have anything to complain about anymore. Because the concept of 'security' penetrated the whole range of human activities. But the unstoppable inflation of 'security' discourses might prove just as unproductive, if not as dangerous, as neglecting the concept.

### **The method**

The main question that will guide this article concerns the evolution of the understanding of 'security' since the 80s, when Barry Buzan first draw the attention to the limited use of the concept, until nowadays, when it seems that 'security' is everywhere. We will make an inquiry into the meaning of this emphasis on security and the way it can be interpreted, or read.

The term 'reading' immediately directs us to the idea of textuality, of the world as being constituted like a text that we incessantly interpret (Derrida 1967a). We will actually try to interpret the discursive phenomena that created an inflation of the security preoccupations among theorists, policy-makers and the public opinion through a method proposed by Jacques Derrida, which is the *double reading* (Derrida 1972a; 1972b). The method has been successfully used in IR theory by Richard Ashley (Ashley 1988), who deconstructed the concept of "anarchy" through a double reading. This is a strategy of interpretation of the discourse and, finally, of the world understood as a discourse or text. The first reading is a commentary, or repetition, of the dominant interpretation, which reproduces its apparent internal coherence. It is a re-construction or re-assembling of the mainstream discourse. The

second reading is an attempt to seize the instability points of the first reading, with the purpose of exposing its internal tensions, the system of binary oppositions upon which rests the dominant interpretation, as well as what is excluded from it. The reason why we chose this method is that we have been intrigued by the easiness with which the word 'security' is associated with every aspect of everyday life, as if an immediate and constant danger would perpetually hang over us. This led us to raise the question of how we came to consider this constant preoccupation for security as being natural. How did this stability effect appear? The double reading method will allow us to grasp the way in which the discourse about security was constructed and whom it serves, since, in the words of Robert Cox "theory is always *for* someone and *for* some purpose" (Cox 1981: 128). It will show how this discourse has been instrumented by the political power in order to extend the sphere of intervention of the State into the private lives of the citizens. This approach has the advantage of questioning the *status quo* of the theory, as well as concepts that are usually taken for granted (and 'security' is one of them) with the purpose of showing how knowledge and power are intertwined (Foucault 1975).

'Security' doesn't seem to be a problematic concept. It has been so widely debated since it was relaunched by the Copenhagen school, that it would appear that little has been left outside the discussion. However, it is precisely this saturation and its apparent stability that makes it problematic. The most stable concepts, the most deeply embedded in 'normal' discursive practices, the most taken for granted, *are*, in fact, the most problematic, because we ceased to question them a long time ago. Without being questioned, they subtly evolved in a way that we are not aware of. Moreover, after September 11, the concept of 'security' has evolved in an at least bizarre opposition with 'liberty': it appears that societies have to choose between being more secure, with the price of restricting their liberties, and keeping their civil liberties untouched, with the price of being in danger<sup>58</sup>. Except for some IR researchers from the poststructuralist stand, such as R.B.J. Walker, Jef Huysmans,

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58 The deconstruction of this false opposition is the subject of the Challenge project, financed through the 6<sup>th</sup> Framework Programme of the European Commission, in which took part 60 scholars from 23 Universities and Research Institutes ([www.libertysecurity.org](http://www.libertysecurity.org)).

Didier Bigo, who took part in the *Challenge* project (Challenge 2009), nobody has yet questioned this opposition; moreover, the policy-makers present it as inevitable, and the public opinions take it for granted. Thus, the object of our inquiry is not security as such, but the meaning it has in today's discursive practices. Derrida thought that "we need to interpret interpretations more than we need to interpret things" (Derrida 1967 b). We will try to unveil what has been hidden behind the apparent stability and consensus around the meaning of concept of 'security', through the strategy of double reading.

Why is this strategy useful? According to Derrida, we have to identify the double structure of meaning of a concept (Derrida 1972b: 10). The first one is inherent to what he calls 'logocentrism' – that is, the system of significations which is commonly assigned to a concept in the current discursive practices. In this reading, the concept is clear, stable, apparently natural and unquestioned, because the whole network of meanings is constituted *inside* the discourse. The second structure of meaning is external to the discourse and is related to the understanding of its mode of constitution and instability points, that have to be uncovered. This is the task of the second reading. In what concerns our subject, the first reading will reproduce the security discourses as they appear in IR theory, security studies, but also in political practice. This will be a simple repetition of the dominant, mainstream way of understanding security in the recent decades. We will uncover the way in which 'security' has been coupled with various other concepts; one direction of inquiry will be, for example, the process that constituted the concept of 'human security', leading to 'humanitarian assistance' and 'humanitarian intervention', to end up, nowadays, in 'responsibility to protect'. During the second reading, we will try to deconstruct the evolution of the discourse about security in order to understand the significance of this evolution, on the one hand, for the relations between the 'international community' and the nation-State, and, on the other, between the State and the citizen. This will inevitably lead us to the problem of sovereignty, which is, after all, underlying all discussion about international security in the 21<sup>st</sup> century. As we will show, during the evolution of the concept, a shift has taken place. At the beginning

of the debate, the need for human security was used in an attempt to justify humanitarian intervention. But, since this could not be reconciled with the basic principle of state sovereignty, the concept shifted towards 'responsibility to protect'. This concept, while replacing that of 'humanitarian intervention' after 2000, is not incompatible with sovereignty.

### **Security: the first reading**

#### *From hard security to societal security*

Security seems to have been the most important preoccupation of men in the state of nature, as described by the contractualist philosophers of the 17<sup>th</sup> and 18<sup>th</sup> century. This is the main reason why they decide to give up part of their individual sovereignty by willingly submitting to political power: “Fear of oppression, disposeth a man to anticipate, or to seek aid by society: for there is no other way by which a man can *secure* his life and liberty” (Hobbes 1651: XI, 9). Security is, according to Hobbes, the main incentive for men to live in society; this is also the task of the highest authority of the State: “The office of the sovereign (be it a monarch or an assembly) consisteth in the end, for which he was trusted with the sovereign power, namely the procuration of *the safety of the people* (...) But by safety here, is not meant a bare preservation, but also all other contentments of life, which every man by lawful industry, without danger, or hurt to the commonwealth, shall acquire to himself” (Hobbes 1651: XXX, 1). In a strange way, the words of Hobbes seem to anticipate the meaning given to 'security' by the Copenhagen School in the 1990s: not only preservation of life, but also a whole range of conditions that assure a good life in all its dimensions.

While all through the Cold War, security has been perceived in military terms – security meaning protection of the State against the threat of a conventional or nuclear war – towards the end of the 1980s, Hobbes' definition seems to slip into the field of international politics. The author who brought it in is Barry Buzan; in his first book on the subject (Buzan 1983) he argued that too little attention has been

devoted to the concept of 'security' in International Relations. His ideas needed a few years to develop into an articulated vision which attracted other scholars. Together with Ole Waever and other theorists, he produced a categorization of security into five different fields: military, political, economic, environmental, and societal (Buzan, Waever, Kelstrup and Lemaitre 1993). These authors observed that the new European security agenda of the end of the 20<sup>th</sup> century focuses on other types of security threats than the traditional, Cold War security agenda, which was mainly preoccupied by military aspects. After the Cold War, security can be re-conceptualized on two dimensions: "state security" - in the traditional sense, and "societal security", which is focused on identity as the basic value of a society. Identity, the authors contend, is at least as important as physical preservation; this is why a threatened identity is at least as significant as a military security threat. But threats to identity are not as visible as military threats; they come into being only by being stated by a political actor. This is actually the key of the vision of the Copenhagen School, offered by Ole Waever (Waever 1995). Security threats are performed through speech acts; they only exist if they are perceived as such; and they come to be perceived by a society if there is a political actor which emphasizes them. Thus, security issues are those issues that are "staged as existential threats to referent objects by a securitizing actor who thereby generates endorsement of emergency measures beyond rules that would otherwise bind" (Buzan, Waever and De Wilde 1998: 5). This is the core of Waever's famous theory of 'securitization'<sup>59</sup>. The influence of Carl Schmitt on Waever's work is visible in this statement, as this definition explains the way in which security threats can be used in order to invoke a state of exception that asserts sovereignty beyond the legal norms of a society (Schmitt 1922). We can go further and infer that this is the way in which State sovereignty, more and more threatened by the 21<sup>st</sup> century evolutions of the international environment (we can also include here international criminal justice), tries to survive the new globalized, transnational and de-territorialized realities of our world.

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59 The theory would deserve more attention, but it is not our purpose to get into details here. One of the best and most interesting commentaries on Waever's securitization theory is Williams 2003.

Coming back to our discussion, the definition quoted above shows that Buzan and Waever are aware of the danger that political actors use the discourse about security threats in order to promote their political purposes. But they do not explicitly assume the role of theory in contributing to this kind of political behavior: after all, it is the book of Barry Buzan, *Peoples, States, and Fear*, which brought to the fore the whole discussion and discourse about security. Political practice and political theory are the two mutually enforcing sides of the same coin: an idea launched by one of them has all the chances to be developed further by the other, and sometimes theories of IR become self-fulfilling prophecies. The status of the realist theory and the related geopolitical doctrines (containment, domino theory etc.) during the Cold War, and the way in which they inspired policy-making that in its turn led to the confirmation of the realist geopolitical arguments, is the most notorious example (O'Tuathail and Agnew 1992; O'Tuathail 1998).

The discourse about security constructs State identities in a world so fluid that States need to incessantly reassess themselves. The idea that States maintain their very existence through security discourses has been further examined by IR scholars. One of the most famous contributions belongs to David Campbell, according to whom “The constant articulation of danger through foreign policy is thus not a threat to a state's identity or existence: it is its condition of possibility” (Campbell 1998: 12), but there are also other contributions to the topic (such as Stern 2005).

The extension of the sphere of the concept of 'security' through the 1980s and especially the 1990s was possible because the end of the Cold War fundamentally changed the configuration of the world – and that of the theory itself. If bipolarity has proven to be the most stable type of international structure (Mearsheimer 1990), the new configuration allowed for proliferation of conflicts, porousness of borders, and massive flows of people. Moreover, the number of internal conflicts (civil war) has dramatically increased after 1990, surpassing the number of conflicts among States. The mutual control exercised by the two

superpowers on each other and their satellite States had limited the proliferation of threats other than military ones – on the contrary, bipolarity and ideology functioned as identity-enhancers for the societies concerned. The radical change of configuration of the international system needed a theoretical discourse to explain it. This is how, in the context of more and more instability, the discourse about security proliferated.

*From societal security to human security*

The end of the 1990s brought another evolution of the concept of 'security'. After it had been transposed into economic, political, environmental and, most thoroughly developed, societal terms, the word was given a new dimension in the expression human security. The term has been launched by the United Nations Development Program: the Human Development Report of 1994 is entitled “New Dimensions of Human Security” (UNDP 1994). The concept “equates security with people rather than territories, with development rather than arms” (UNDP 1994). Its use spreads all through the second half of the 1990s, although there is no agreement as to its definition (Crouzatier et al., 2009); it mostly refers to human living conditions, as stated by the Report quoted above: “Human security can be said to have two main aspects. It means, first, safety from such chronic threats as hunger, disease and repression. And second, it means protection from sudden and hurtful disruptions in the patterns of daily life – whether in homes, in jobs or communities” (UNDP 1994). Other authors define it as “freedom from fear and want” (Chen 1995), which is quite unrealistic especially in what concerns the second part of the definition, the human nature being always inclined to need more as it acquires more. The UN Office for the Coordination of Humanitarian Affairs sheds more light on the issue: “Human security means protecting fundamental freedoms. It means protecting people from critical and pervasive threats and situations. It means using processes that build on people's strengths and aspirations. It means creating political, social, environmental, economic, military and cultural systems that, when combined, give people the building blocks for survival, livelihood and dignity” (UN Trust Fund for Human Security



2011). What needs to be kept in mind is that the accent is not on the State anymore, but on the human being; it is actually an attempt of the UN to promote this kind of discourse to the detriment of the States' power and in favor of an interventionist approach. But the problem is that 'human security' can be placed in the same category of concepts as 'sustainable development': it has a lot of normative appeal, everyone agrees that it's needed, but no one can actually tell how it can be achieved. The extensive definitions of 'human security' go as far as to cover even the 'food security' or 'psychological well-being', which are obviously not operational. Even more ambiguous is the subject of human security: is it the individual? The citizen? The communities? The society? The people? Or the 'population'? Scientific literature on the subject does not tackle this issue, and the documents of the UN which make reference to the notion are even more cautious in designating the subject. Or, as we will show in our second reading, the political subject to whom are addressed the efforts of protection of the international community is very significant for the way in which the new international landscape is being constituted.

The notion of 'human security' has been promoted mostly by the UN (Newmann and Richmond 2002; MacFarlane and Khong 2006), which also created a Commission on Human Security; and, in what concerns States, by traditional middle powers that are known for their humanitarian positions inside the Organization, such as Canada or Norway. These two states created, in 2000, a Human Security Network, composed of the States and NGOs that supported the concept. The shift of the emphasis from the State to the human being allows for the inclusion, into the concept of human security, of situations that occur inside States – such as genocides committed by the State itself against its own people. The multiplication of infra-state conflicts and events that lead to waves of refugees, migration and political instability certainly contributed to this shift, as well as to the consecration, in international politics, of another controversial notion: 'humanitarian intervention'.

The delicate balance between the two terms of the expressions we are studying is very important for understanding the evolution of the discursive practices around the notion of 'security' in IR. Since its resurrection, the notion of 'security' shifted to 'societal security' and 'human security'. Then, the emphasis moved to the other term of the expression: the human dimension. The need to protect – or to assure the security of populations – was a preferred topic in the international political discourse of the 1990s and 2000s. Actually, 'human security' is a notion that evolves in a close relation to those of 'humanitarian protection', 'humanitarian assistance' and 'humanitarian intervention' – a term that has been used for the first time to characterize the UN intervention for the protection of the Kurdish population in Northern Iraq, in 1991 (Bozarslan 1993)<sup>60</sup>. The UNSC Resolutions avoid using these terms, but they appear in other soft law texts of the UN, such as the General Assembly resolutions. However, the idea of humanitarian intervention could not gain much terrain: while its supporters insisted on the word 'humanitarian', its contenders emphasized the word 'intervention'. The different emphasis puts the notion in two very different perspectives. The first is focused on the need to protect human lives at all costs, thus putting human rights above the idea of sovereignty. The second insists on the observance of sovereignty as the fundamental norm of international law: its infringement, in the name of humanitarian intervention, would open the way for abuses. The end of the 1990s brought about several too bold speeches of the UN Secretary General, Kofi Annan, about the need for humanitarian intervention (for a discussion around these initiatives, see Weiss 2000): after this moment, this type of discourse begins to fade, which can be a sign of the pressure from the States against the idea of interventionism.

*From human security to the responsibility to protect*

Around the year 2005 can be identified a turning point in the legal language of the UN bodies. Although they refer to the same objects and actions, the texts don't speak of *human security* or *humanitarian intervention* anymore, but of the

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<sup>60</sup> The French language offers a more subtle distinction between intervention and ingérence.

*responsibility to protect*. The international lawyers are aware of the difficulty of putting together human security, in its broad sense, with the fundamental norm of the international system during the last four centuries: sovereignty. This is why the term *responsibility to protect* seems better suited to cover what was called before *human security* or *humanitarian intervention*: because it manages to reconcile the idea of intervention with State sovereignty<sup>61</sup>. Although the three notions cover the same type of consequences in terms of actions of the international community, the logic behind them is different and they are not perfectly equivalent. *Human security* had a wide sphere of application, covering also economic aspects such as poverty and underdevelopment, and (as we tried to show previously) it was rather poorly defined. The notion of *humanitarian intervention* had quite a short career, since it was widely criticized, and the idea of intervention could not gain terrain against the opposition of States. Finally, the *responsibility to protect* seems to overcome the shortcomings of the other two, being in the same time more precise and less invasive.

But all these three notions finally lead to the idea that the international community should intervene in order to secure threatened human lives. Thus, in the end, this was only a question of wording and a theoretical artifice that rendered the idea of international intervention more acceptable for the States<sup>62</sup>.

The title of the Report of the International Commission on Intervention and State Sovereignty, delivered in 2001, is precisely "The Responsibility to Protect" (ICISS 2001). Thus, the UN, as well as the other supporters of the idea of humanitarian intervention and human security, such as Canada, Norway, Sweden, Switzerland, or the Netherlands, replaced it with the notion of *responsibility to protect*, hoping for a better reception from the part of the reluctant States. The concept of 'responsibility to protect' is based on the idea that sovereignty not only confers rights to States, but also entails obligations, mainly, the obligation to protect the life of citizens (more on this issue in Cabanis, Crouzatier, Ivan, Mihali, and Mbonda 2010). This idea is

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61 The tension between sovereignty and intervention has been widely discussed in the IR literature. See, for example, Weber 1995; Lyons and Mastanduno, 1995.

62 We developed this argument in Cabanis, Crouzatier, Ivan, Mihali, and Mbonda 2010: 165-196.

clearly endorsed by the UN General Assembly and expressed in the Paragraphs 138 and 139 of the Outcome Declaration (UN General Assembly, 2005). When the State is not able or not willing to assume this obligation, it is the duty of the international community to intervene, even with military means. The Millennium +5 Declaration reads: "...we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, *including Chapter VII*, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity" (UN General Assembly 2005: par. 139). In another UN document from 2009 we find the following formulation: "It is now well established in international law and practice that sovereignty does not bestow impunity on those who organize, incite or commit crimes relating to the responsibility to protect" (UN General Assembly 2009: par. 54). The fact itself that the UN bodies use this type of language is an important evolution in what concerns the content of the notion of *sovereignty*.

There is another sign of the lawyers' and politicians' hesitation to use the notions discussed above and of the strong opposition from the States to the related idea of limited sovereignty. If we read the political discourse of the second half of the 2000s, we can notice that the scope of the term *human security* narrows, while the scope of the notion of *responsibility to protect* is also very limited. The international community is not willing to assume the responsibility to protect 'populations' from hunger or unemployment, as it seemed in the 1990s, but the responsibility is limited to four cases: genocide, war crimes, crimes against humanity, and ethnic cleansing (the latter being the only one, of the four terms, that has not been defined in conventional law). The terms become thus more explicit and operational.

#### *The return of national security*

In parallel with the emergence of the notion of *responsibility to protect*, another evolution can be grasped in international politics after the September 11 attacks, namely, the return of the emphasis on national security or 'homeland security'. The

war against terrorism brought about a whole series of measures intended to increase security, such as the Patriot Act or the law of the Military Commissions in the USA (Wedgwood 2002), but also the 2008 security package in Italy (Merlino 2009). In order to be safe, the governments argued, citizens must accept to give up some of their liberties – such as, for example, the secrecy of correspondence or of medical files. Moreover, governments are more and more preoccupied by threats from within, such as immigration or terrorism. These are two of the most quoted 'new types of threats' indexed in the national security strategies of the Western countries. But the difference with respect to the Cold War national security discourse are obvious: the threats are not exterior to the state anymore. They come from within; the anarchic foreign environment has infiltrated itself inside the States, threatening its coherence, its cohesion, and its existence.

### **The Second Reading**

How did the international community come to give that much importance to the need for security of the populations, while this has been a neglected topic throughout the Cold War? How was possible this evolution which started with a strong emphasis on State sovereignty (through the notion of State security, relaunched by Buzan at the beginning of the 1980s), in order to arrive at a point in which more international security is related to a limitation of sovereignty, while more homeland security is purportedly requiring a limitation of civil rights, and hence a re-affirmation of sovereignty as capacity to decide exception (Schmitt 1922)? Which are the binomials and the exclusions that made possible this evolution? What kind of international system, or society, does this evolution foreshadow?

We think that the evolution of the content of the notion of 'security', as we traced it in the first reading, is a hypostasis of the transformation of the nature of sovereignty. In what follows, we will argue that the discourse about 'security' reflects two opposed, but complementary, transformations of this notion: the erosion of the external sovereignty, on the one hand, and the consolidation of the internal sovereignty (as an attempt of the State to re-constitute what has been lost in the first sequence of

this process) on the other hand. We will thus proceed by highlighting the false opposition, constructed through political discourse, between security and liberty, with a special emphasis on the securitization practices. We will then try to establish the semantic field of the concept of 'security' and the notions that are most often associated with it. In a third step of our reading, we will study the relation between security and sovereignty in both its internal and external dimensions, showing the way in which the State is trying to re-constitute its political body and hence its sovereign power through the manipulation of the security discourses. Finally, we will examine the new meaning of State sovereignty associated with responsibility.

### *Liberty-security*

We showed earlier the way in which political actors use security threats in order to invoke a state of emergency (Waever 1995) or a state of exception, thereby reasserting their sovereignty. More and more often, especially after September 11, we hear politicians speaking of the 'balance' between liberty and security. Because of the 'new types of threats', mostly the threats from within, the governments justify the institution of exceptional measures that suspend the normal legal order. IR scholars from the critical and postmodern schools already inquired this tendency (*Challenge* 2009). The *Challenge* project tries to deconstruct the apparent naturalness of the dichotomy liberty-security, suggesting that we don't actually have to make a choice between being surveyed and being threatened. On the contrary: the language of balancing "justifies discriminations, legal transgressions and violence of security policies by implying that the exceptional and the violent can always be reconciled with the acceptable..." (*Challenge* 2009). In the same line of arguments, the *Challenge* project shows the way in which, based on the exceptional security policies designed to prevent illegal migration and terrorism in the EU, the distinction between police and military is more and more diluted, mainly because of the increasing ambiguity of the distinction between internal and external. Or, it is precisely this distinction that *constitutes* the State: "the opposition between sovereignty and anarchy rests on the possibility of clearly dividing a domesticated political space from an undomesticated outside" (Devetak 2001: 193). When the

distinction is not clear anymore, the very identity of the State as a political subject is threatened.

In fact, some kind of opposition between liberty and security can be traced back to Hobbes: “the condition of mere nature, that is to say, of absolute liberty (...) is anarchy, and the condition of war...” (Hobbes 1651: XXXI). By contrast, the institution of the sovereign limits liberty, but insures “the safety of the people” (Hobbes 1651: XXX, 1). In this binary system, security is the term that is positively valued, while absolute liberty is equated with the state of anarchy and the war of all against all. Richard Ashley has shown the way in which the system of binary oppositions works in IR, using the example of what he calls *the anarchy problematique* (Ashley 1988): one of the two terms of an opposition is always preferred over the other. In the hierarchical opposition anarchy-sovereignty, it is always sovereignty, and thus the internal realm of the State, which is positively valued (Ashley 1988: 230. The author calls this 'heroic practice'). The political discourse about 'security' is on its way of creating this kind of hierarchical opposition with 'liberty': one cannot enjoy his/her liberty, if he/she is deprived of life. Or, security is, above all, about the preservation of life. The analogy with Ashley's couple can go further: just like sovereignty, security is rational, homogenous and continuous, while liberty supposes permanent change, instability, contingency and ambiguity. Thus, 'sovereignty' and 'security' are both concepts with a high capacity to be *foundational* concepts, because they appear to be stable and rational.

The theorists of the Copenhagen School have understood the political consequences of the semantic extension, operated by themselves, of the notion of 'security'. At the end of the 1990s, Buzan, Waever and De Wilde drew a signal on the potential of politicization of threats, which they call *securitization* (Buzan, Waever and De Wilde 1998). They describe the way in which a political actor can use the security discourse in order to extract an issue from the political sphere and move it to the technical domain of security, where it cannot be controlled by the public anymore and where the State can take exceptional measures.

*Security and biopower*

If we claim that, in the end, security is about the preservation of life – both in what concerns internal measures of fight against terrorism, or international measures of protecting populations, we are touching another significant aspect of the transformation of the State in the globalized era. Commenting on the closing of *La volonté de savoir* of Michel Foucault, Giorgio Agamben interprets it as follows: “Foucault summarizes the process by which, at the threshold of the modern era, natural life begins to be included in the mechanisms and calculations of the State power, and politics turn to *biopolitics* (...) According to Foucault, a society's 'threshold of biological modernity' is situated at the point at which the species and the individual, as a simple living body, become the stake of political strategies...” (Agamben 1998: 3). The turning point of modernity is, thus, the politicization of the bare life.

Michel Foucault has made an argument about the way in which, historically, the State has begun, since the end of the 17<sup>th</sup> century, to treat its subjects – the citizens – in terms of 'populations' while the power is more and more exercised as a power over the bare life. Series, statistics and probabilities are some of the means by which the State *manages* the population, with the purpose of ensuring its security. Thus the space where the State exercises its power becomes a space populated by masses, and not by citizens. The *political* concept of 'citizens' is replaced by the statistical idea of 'population'. The new technology of power – biopower – is taking in charge the population, as a whole, as a totality. Biopolitics is, thus, politics that is ordered, structured, organized by the principle of security – not security of individuals, but of *populations* (Foucault 2004). Foucault places this evolution in a paradigm that he calls 'governmentality' – or an 'art of government' intended to manage and control the populations through various security techniques.

This over-preoccupation for the preservation of life, to the detriment of other values, does not reinforce our democratic values; on the contrary, as Agamben notes, “Our politics doesn't know, today, of other value (and, implicitly, of other negative value) than life, and as long as the contradictions involved by this fact will not be annulled,



Nazism and Fascism, which made of the decision on bare life the ultimate political criterion, will unfortunately remain actual” (Agamben 1998: 7; see also Arendt 1958).

The semantic field of the notion of 'security' is also particularly relevant for the way in which biopower is exercised. The term 'security' is most of the times used and conceived in relation with 'danger', 'threat', 'risk', 'crisis'. We will take as an example the Romanian National Security Strategy, but probably this applies to other national security strategies: the term 'security' appears 162 times, 'threat' – 48 times, 'danger' – 36 times, 'risk' – 60 times, 'crisis' - 28 times, and 'conflict' – 35 times (SSNR 2007). This is, according to Foucault, the language used in medicine; the language that underpins the distinction between normal and pathological. The state of insecurity would thus pertain to the pathological, thus necessitating an intervention (of the State) to bring normalcy back in the life of the society.

#### *Re-constituting sovereignty*

The distinction between the internal and the external domain is one of the constituting features of the modern State, which is territorially constructed. Sovereignty is exercised over a given territory. The very identity of the State rests on a distinction between an inside which is ordered, domesticated, stable, and secure, and an outside which is anarchical, dangerous, irrational and unstable. Or, more than ever, this distinction is not very clear anymore. If “any political subject is constituted by the marking of physical, symbolic and ideological boundaries” (Devetak 2001: 192), then the loss of the distinction inside/outside threatens the very existence of the State as a political unit.

How is this distinction threatened nowadays? First, in symbolic terms, the development of the doctrines of humanitarian intervention and responsibility to protect discussed above places populations outside the exclusive jurisdiction of the State. The members of a people or a nation come to be considered only in their human – or, more precisely, biological dimension. The national identities are thus undermined by the growing responsibility of the international community towards human life in general.

Second, the physical distinction is also blurred. The borders have become porous: all kinds of flows are crossing them, and the State cannot control them anymore – be it about communication, money transfers, or even persons. The borders are not marking the distinction between *us* and *them* anymore, thereby posing an identity problem to the national political communities. This identity problem undermines State sovereignty in its core. This is why, through the security discourse, the States attempt at reconstituting the borders *inside*, by insisting on the national, ethnic and cultural differences between the natives and the immigrants. Now, the immigrants are inside, the terrorists are potentially inside, and thus, the frontier between *us* and *them* is, itself, inside the state. This is what justifies the institution of surveillance and repressive mechanisms. Not being able to reconstitute its territorial borders, not being able to control the flows that are penetrating its frontiers, the State takes refuge in the core of its attributions, the one that have been granted to it through the social contract: insuring security. This is the first and minimal attribution of a State which sees itself deprived of other marks of its identity – such as a coherent and cohesive national community (because of massive immigration) or the exclusivity of jurisdiction over its subjects (because of the claims of intervention from the international community). The State thus attempts at reconstituting its undermined sovereignty by re-constituting its political body (or the object of its governance) through the discourse of threat. The existence of common threats creates cohesion and holds together the political body and ultimately the identity of the State. This is why we think that the security discourse is a way of 'production' of the society as a cohesive object of governance by the political power<sup>63</sup>

*The responsible sovereign: disciplining the State*

If we look closely to the transformation of the notion of 'sovereignty', through the discourse of the international organizations during the last ten years, in order to

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63 The construction of social cohesiveness through a discourse about threats and enemies has been successfully used in the case of the State of Israel. Being faced with a cultural diversity which was quite difficult to manage in the early 50s, Israel used the militarization of the entire society as a means to hold the political body together. See Ben-Eliezer 1995.

include the responsibility to protect the population, we can also notice some aspects that converge with our previous arguments about the erosion of the external sovereignty understood as the exclusive jurisdiction of the State over a given territory, or, put differently, independence from foreign intervention.

Sovereignty as responsibility actually equates sovereignty with the *obligation* to insure security. Or, attaching *obligations* to sovereignty undermines its philosophical meaning – if we consider that “sovereign is he who decides on the exception” (Schmitt 1922: 1) – that is, he who is above the law and has the power of instituting the law. We have already shown in the previous section that the mechanisms of security (and, ultimately, repression) are the means of the State of defending itself from the dissolution of identity brought about by the globalization processes. Thus, on the one hand, sovereignty as responsibility to insure security leads to a consolidation of *internal* sovereignty, understood as the power of the State over its subjects. On the other hand, sovereignty as responsibility allows for the elimination from the international landscape of the States that do not abide by this norm<sup>64</sup>: if a State is not able or not willing to protect its citizens, the international community has an obligation to intervene, says the doctrine of the responsibility to protect (R2P). From this point of view, the doctrine of the R2P is weakening the *external* sovereignty, understood as independence from any foreign intervention. From now on, it seems that another authority could exist, an authority that supersedes the State, which decides of the exception: because intervention *is*, in the international realm, an exception from the norm of sovereignty. Unfortunately, the legal doctrine of the R2P is still quite underdeveloped, especially in what concerns the subject that is the holder of this responsibility: if it is the international community, than, who is, actually, the international community? Is it the widely contested Security Council? Is it the weak and conflictual General Assembly? Is it a mere “coalition of the willing”, as recent cases, including that of Libya, have demonstrated? Until an answer to these question is firmly provided at least in international law, the extension of the notion of the *responsibility to protect* over the concept of sovereignty is dangerous,

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64 Richard Ashley argues that the 'failed states', as a negative example, actually reinforce the hegemonic model of the sovereign statehood, which is the norm in international politics. See Ashley 1988..

both for individual rights and liberties and for the international (post)Westphalian order.

Another interesting aspect concerning the responsibility to protect is the preoccupation, in the security discourse, for the *biological* aspects of human life – famines, natural calamities, diseases, which the responsibility to protect supposedly covers (UN General Assembly 2009). Thus, “the space of bare life extends to coincidence with the political space” (Agamben 1998), taking over all that used to be 'political' in international politics. The man is neither a citizen, nor a legal entity, holder of rights and obligations anymore; he is rather a statistical element, a living individual in a *population*, a subject of governance – a governance that is instituted for his protection, but not necessarily in his name. “The inclusion of bare life in the political realm constitutes the original – if concealed – nucleus of sovereign power. *It can even be said that the production of a biopolitical body is the original activity of sovereign power*” (Agamben 1998: 6. Underlined in original). Thus, the doctrine of the R2P institutes some kind of an international 'super-sovereignty', since, according to the Report of the Secretary General (UN General Assembly 2009), the international community can decide the exception from the norm of sovereignty. Moreover, through the responsibility to protect, the paradigm of governmentality discussed by Foucault (Foucault 2004) penetrates the international: because in the end, the rationale of the responsibility to protect lies in the danger of spillover of the negative phenomena brought about by civil wars, genocides or waves of refugees. Thus, the responsibility to protect is not only about securing human lives, but probably more about rendering the international *governable*, managing it as an object of governance and avoiding or marginalizing deviant phenomena.

We begun this article by wondering about the meaning of the widespread penetration of security preoccupations among theorists and policy-makers during the last thirty years. We tried to show, in the first reading, the way in which the notion of 'security' evolved and grew covering more and more aspects of daily life; how it was endorsed by the international community which ultimately found itself responsible for guaranteeing a minimum degree of security for populations through the doctrines of human security, humanitarian intervention and responsibility to protect. We also

identified a renewed preoccupation for 'homeland security', the homeland being threatened from within by phenomena such as immigration or terrorism. We thus mapped the perimeter of the use of the notion.

The second reading was an attempt at deconstructing the meaning of security. Its purported opposition to liberty, its association with the exercise of biopower, its instrumentation by the political power in order to legitimize the institution of mechanisms of control and repression, as well as its taking over by the international community in order to discipline the States and to render the international realm more governable – all these point to a hidden, but fundamental *malaise* of the (post)modern State. Its external sovereignty is put under question by the claims of the international community to intervene in cases where States do not fulfill the *obligation* to protect their populations. Its identity is threatened by the globalization processes in at least two ways: first, by the porousness of borders as a criterion of distinguishing between the internal and the external realms; and, second, by the massive penetration of foreigners in its political body. But the State struggles to survive to these transformations by appealing to its core attribution, for which the social contract was instituted – insuring security. This is why the proliferation of the security discourse and its extension to all aspects of human life is vital for the survival of the modern, sovereign State.

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***'Backseat Driving': European institutions and crisis management in Moldova***

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**Abstract:** In discussing the international relations of the European Union, it has been suggested that the European Commission is the 'backseat driver' of European foreign policy, while the intergovernmental Council plays the primary role. This paper argues that the crossover between competencies is a result of functional 'spillover,' particularly as regards the EU's relations with Moldova. This case study examines the different foreign policy instruments used by both institutions, focusing particularly on the EU's relationship with Moldova in the European Neighbourhood Policy (ENP) and the European Union Border Assistance Mission (EUBAM) in the disputed Transnistrian region.

**Keywords:** *European Commission, EU, Moldova, ENP, EUBAM, Russia, Ukraine, Transnistria*

## Introduction

The European Union (EU) is one of the largest economic powers in the world but has often been reluctant to engage in international affairs on a level commensurate with its potential might. Although attempts at forging a common European foreign policy reach back to the 1970s with the creation of European Political Cooperation (EPC), member states have been reluctant to sacrifice what is seen as one of the most crucial aspects of sovereignty – the right to independent international conduct – for the sake of greater European cohesion. In the case of Moldova, a small country on Europe's periphery, the European institutions have played largely separate roles in directing the EU's relationship with the country since its split from the Soviet Union twenty years ago. The conflict between the member states' desire to retain some national autonomy and the need to maintain a united European front in world affairs has led to a unique arrangement among the institutions of the EU, which utilize civilian and 'soft' power mechanisms to further foreign policy goals in Europe's near abroad.

The Treaty of Maastricht (1992) established the Common Foreign and Security Policy (CFSP) as the second pillar of the European Union, placing its competencies firmly in the hands of the intergovernmental Council of Ministers as a gesture to member states anxious to retain sovereignty in foreign affairs. However, as noted by a former External Affairs Commissioner, the supranational European Commission still maintains a degree of control over European foreign policy. While the member states in the Council may determine the political direction of foreign policy, the Commission is often pulling the levers in the back room to get the foreign policy machinery moving (Patten, 2006: p. 158). This 'backseat driver' metaphor is very useful in explaining the intertwined roles of both the Council and the Commission in European relations with Moldova, which have emerged despite the member states' general desire to maintain foreign policy as a strictly intergovernmental policy area. The recent post-Lisbon Treaty reforms, particularly the creation of the European External Action Service (EEAS), are creating stronger diplomatic links between Moldova and the European Union, and the Commission is now more able to use its

expertise in practical areas such as development, trade and energy to implement the foreign policy goals of the Council.

I intend to argue that the crossover between competencies is a result of functional 'spillover', particularly in the context of the EU's relations with Moldova and the near abroad. To examine the Commission's role as the 'backseat driver' of European foreign policy, I will briefly chart the development of CFSP from EPC and the treaties' interpretations of the foreign policy competencies of both the Council and the Commission before contextualizing these developments in terms of EU-Moldovan relations. The policy frameworks of the European Neighbourhood Policy (ENP) and the European Union Border Assistance Mission (EUBAM) in the disputed Transnistrian region provide clear examples of how the European Council and Commission perform complementary functions while promoting European foreign policy aims, while the aftermath of the election crisis of 2009 demonstrates the role that the new High Representative for CFSP has played in creating a more cohesive policy response to crises on Europe's borders. By tracking the relations between Moldova and the EU institutions over the past two decades, I will demonstrate the way in which the Commission and Council's roles in European foreign policy have grown from what was suggested in the treaties.

Data for this analysis were collected from the published statements of Commission officials and Council declarations between 2004 and 2011, including speeches, press releases and treaties between Moldova and the EU. The narrow date range reflects the relatively recent development of the European Neighbourhood Policy and Moldova's efforts to move closer to Europe. By observing how the instruments used by either the Council or the Commission are discussed in a public forum, it is possible to see how the Commission's 'backseat driving' allows these institutions work together to achieve stability in Moldova.

### **A Theoretical Framework**

The project of pooling sovereignty, particularly in the process of foreign policy coordination as seen with CFSP, proves baffling for realist theorists. As the EU is a *sui generis* entity, operating halfway between a traditional state actor and an

international organization, academics have had to develop their own theoretical models to explain its behaviour (Wallace, 2007: p. 3). Realist and interdependence theories can help to explain some aspects of CFSP, but the most useful tool for explaining the Commission's 'backseat' role in foreign policy can be found in neofunctionalism.

Realist theories focus on the state as the primary actor in international affairs and view international relations as a state of constant competition, with hostilities simmering below the surface of any peaceful interaction. Therefore, although realists cite member states' concerns with retaining national sovereignty and their desire to avoid surrendering foreign affairs to a supranational authority to support their case, this theoretical model fails to explain foreign policy coordination in the EU (Eilstrup-Sangiovanni, 2006: p. 90; Smith, 2004: p. 20). Often, member states' power politics are balanced against competing objectives or muted because of other factors, leading to compliance with CFSP decisions that may not produce any evident gains for a member state. Realists also face difficulty in explaining the magnitude of the EU's impact on the international system, despite its limited foreign policy mechanisms (Sjursen, 2003: p. 38). Likewise, it is impossible for realists to explain why state objections to CFSP have not led to a return to the EPC structure, but have instead led to a lengthy process of reform; although Moravcsik and Schimmelfennig argue that the EU treaties since Maastricht have merely restructured the existing constitutional system rather than providing serious reforms, the EU has progressively expanded its foreign policy competencies rather than returning all foreign policy-making to the member states (Moravcsik and Schimmelfennig, 2009: p. 83).

Interdependence theories suggest that as security concerns between one set of states diminish (in this case, the EU member states) and foreign policy issues become increasingly entangled with economic and security issues, those states will cooperate to manage the costs and benefits of their external relations (Smith, 2004: p. 21). Although this theory is helpful in explaining the necessary conditions for developing CFSP, it is inadequate for explaining the evolution of a European foreign policy. Within the EU, states often find it easy to agree on foreign policy goals (such

as promoting democracy and human rights abroad) while remaining divided on the best ways to achieve those goals (Dahl, 2000: p. 8). In the institutional structure of CFSP, this can be demonstrated by the divisions between supranational and intergovernmental competencies – while all economic issues and some political issues have been comfortably allocated to the Commission's responsibility, security and defence remain firmly intergovernmental, and the Council retains its supervisory role in most political fields (Smith, 2004: p. 213). Despite agreeing to the *acquis communautaire*, member states prefer to retain freedom of action in developing policies in politically-sensitive areas – and although the Council's control of CFSP does create an intergovernmental policy process, how can we explain the Commission's crucial role as 'backseat driver'?

Neofunctionalism and the related concept of 'spillover' offers a better framework for understanding the growing role of the Commission in CFSP. This theory acknowledges that policy areas are increasingly interlinked and, as institutional cooperation in one area leads to spillover into other areas, a dynamic process of deepening is created in the European Union (Niemann and Schmitter, 2009: p. 52). Lindberg and Scheingold (1970) identified the concept of sectoral (or functional) spillover, wherein integration in one sector (such as agriculture) leads to integration in another related sector (such as transportation); other authors have also identified the concept of political spillover, whereby an activity in one sector becomes increasingly politicised at the supranational level, and cultivated spillover, which focuses on the role actors such as the EU institutions play in facilitating integration (Diez and Wiener, 2009: p. 8; Eilstrup-Sangiovanni, 2006: p. 94; Rhodes and Mazey, 1995: p. 31). While neofunctional spillover has frequently been used to explain the gradual evolution of the common market into a customs union and finally a monetary union, it can also be used to explain the expansion of the Commission into foreign policy despite member states' desire to keep this competency on an intergovernmental basis. Various authors have pointed out that EPC evolved from a desire to protect the economic policies of the EC, and it is precisely this desire to secure Europe's international economic interests that has gradually led to a stronger role for the Commission in European foreign policy (Niemann and Schmitter, 2009:

p. 57). Although treaty reforms have consistently attempted to restrict the role of the Commission in CFSP, even placing foreign policy in a strictly intergovernmental pillar outside the supranational competencies of the Commission, the Commission's role in funding crisis management missions and negotiating international trade and accession agreements with neighbouring countries on behalf of the EU gives it a great deal of leverage in foreign policy (Gourlay, 2006b: p. 117). While the Commission may only be the 'backseat driver' in the entire foreign policy process, the increasingly interconnected areas of economics, politics and security ensure that even in the backseat, one can have an influential role (Cameron, 1997: p. 100; Smith, 1996: p. 249). The Council's attempt to restrict 'hard' foreign policy matters to its own domain is proving more and more difficult as many 'soft' mechanisms to achieve these goals are controlled by the Commission, including economic sanctions, favourable trade regimes, and the ultimate 'golden carrot' of eventual membership in the EU. Neofunctionalist spillover demonstrates that, while the overall direction of foreign and security policy may still be under the control of the member state governments, in practice it is becoming increasingly difficult to ignore the Commission's supporting role in the European foreign policy process (Niemann and Schmitter, 2009: p. 48; Sjursen, 2003: p. 39).

Although neofunctionalism largely ignores the role played by external actors in the process of European integration, this concept of spillover is the best explanation for the Commission's increasing importance as a 'backseat driver' in European foreign policy (Eilstrup-Sangiovanni, 2006: p. 185). External relations with states on Europe's periphery demonstrate that in a variety of aspects – economic, political, and military – the Council may direct policy but the Commission often supplies the tools necessary to carry out these abstract aims. By looking at the development of CFSP over time, we can further see how these intersecting foreign policy roles have been institutionalized in the structure of the European Union treaties.

### **A Brief History of CFSP**

Although the EU's relations with Moldova are relatively new, developing only since the collapse of the Soviet Union in 1991, the treaty framework establishing the Commission as the 'backseat driver' of foreign policy has existed almost since the beginning of the European Union. The project of European integration began simply, with the pooling of national sovereignty in the areas of coal and steel production among the six signatories of the Treaty of Paris (1951): France, Germany, Belgium, the Netherlands, Luxembourg, and Italy. This unique project was designed to limit the war-making potential of the member states by creating a transparent system for the allocation of these two key resources, but its pragmatic, short-term functions also served to boost the post-war European economy and create a common market (EUROPA, 2010). The European Coal and Steel Community (ECSC) used economic cooperation and partnership as a peace-building technique to put an end to European warfare, sowing the seeds of 'civilian power Europe' from the very beginning of the integration process (Manners and Whitman, 1998: p. 233). The Treaty of Rome (1957) added two more communities to the ECSC – the European Economic Community (EEC) and Euratom – and, in Article 113, gave the EEC the responsibility to conduct trade relations between the Communities and the rest of the world. This seemed to be a logical extension of the common market, particularly necessary after the establishment of a customs union and a common external tariff, but it marked the beginning of the supranationalization of foreign trade policy as it allocated one of the Communities' key foreign policy tools to the Commission (Smith, 1996: p. 248; Tranholm-Mikkelsen, 1992: p. 7).

Several attempts to give the European Communities a foreign policy dimension failed during the 1950s and 1960s, but the December 1969 Hague Summit instructed the member states' foreign ministers to develop a plan for European political unification as the EU faced enlargement to include Denmark, the United Kingdom, and Ireland. This resulted in the Luxembourg Report (1970) which established European Political Cooperation (EPC) as an informal network of foreign policy cooperation between member states (Petersen, 1993: p. 14). EPC began outside of the Communities' treaty framework on an intergovernmental basis to prevent the Commission from developing a strong role in creating European foreign

policy, although the inevitable overlap between foreign affairs and external economic relations led to recognition in the London Report (1981) of the Commission's 'associated' role at all levels of EPC (Smith, 2008: p. 32; Vanhoonacker, 2005: p. 79). Despite this nominal involvement in EPC, the Commission still played a subordinate role to the more direct guidance of the national ministers and diplomats meeting in the Council, who had the political authority to make unanimous EPC decisions without the scrutiny of national parliaments or the media (Wallace, 2005: p. 433). The Single European Act (SEA, 1986) brought EPC into the Community treaties, effectively synthesizing various reports and declarations into one legal text. This treaty also fully included the Commission in EPC, as both the Council President and the Commission – particularly in the newly-created External Relations Directorate General– were meant to work together to secure coherence between the policies of EPC and the Community (Dosenrode and Stubkjær, 2002: p. 12).

By the end of the 1980s, it was clear that the enlarging European Communities would need new direction, particularly in the foreign policy area. In 1992, the Treaty of Maastricht was ratified, establishing the pillar structure of the European Union, which divided EU competencies into one supranational area (the Community pillar, where the Commission has the most authority) and two intergovernmental areas (the CFSP pillar and the Justice and Home Affairs pillar). Although Maastricht restricted policy initiative, representation, and implementation in CFSP issues to the Council, the Commission retained the 'fully associated' status it held under EPC (Wallace, 2005: p. 438). The European Council was responsible for setting the broad guidelines for CFSP, while the Council of Foreign Ministers implemented them. Despite this apparent exclusion of the supranational Commission from European foreign policy-making, its associated role under the Maastricht Treaty provided a key opportunity to establish itself as the 'backseat driver' Chris Patten recognized. With power over the EU budget and management of consular staff in EU delegations worldwide, the Maastricht Treaty provided opportunities for the Commission to remain an important factor in CFSP regardless of its official exclusions from the second pillar (Cameron, 2007: p. 53).



The Treaty of Amsterdam (1997) fleshed out the CFSP system begun by Maastricht, most notably by creating the position of High Representative of the CFSP and the Policy Planning and Early Warning Unit (PPEWU) to work alongside the existing CFSP secretariat as a unit to foresee any international crises, such as the Balkan wars which caught the EU off guard in the first half of the 1990s (Smith, 2008: p. 41). Although Article 18.3 of the treaty stated that the High Representative was intended to assist the Council Presidency, Javier Solana expanded the position to represent Europe in all foreign affairs issues, serving as one international voice for all the foreign ministers of the member states (Patten, 2006: p. 157). The longer term of office – five years, as compared to the six-month-long rotating presidency – ensured greater consistency and recognition when Europe spoke on the world stage (Cameron, 2007: p. 15). The Treaty of Amsterdam also clarified the role of the External Relations Commissioner to include coordinating the Commission's external relations activities across all the Directorates General, as well as interfacing with the High Representative for CFSP (Dosenrode and Stubkjær, 2002: p. 20; Patten, 2006: p. 157). Although the External Relations Commissioner composed a third of the European Union's international affairs 'troika' (the other two being the High Representative and the Council Presidency's Foreign Minister), the treaty once again restricted the Commission to a supporting role while increasing the Council's role and visibility in EU foreign policy (Cameron, 2007: p. 53).

The Treaty of Nice (2003) furthered the role of the Commission in CFSP, as the Council depended on the Commission's opinion before authorising joint actions or common positions under the second pillar, but by far the biggest changes to the institutional structure were proposed in the failed Constitutional Treaty (2004) and implemented with the ratification of the Lisbon Treaty (2009). Lisbon created a new High Representative of the Union for Foreign Affairs and Security Policy, merging the positions of the old High Representative and the External Relations Commissioner to create a bridge between the CFSP and the Community-centred aspects of EU foreign policy (Smith, 2008: pp. 42-43). The new High Representative is appointed by the Council but, as Vice-President of the Commission, serves the

same five-year term as the other Commissioners and is equally accountable to the European Parliament, which must approve this appointment as it must for any other Commissioner (Whitman, 2008: p. 5; Duke, 2008: p. 14). This is meant to give the Commission a greater voice in the foreign policy process, as the High Representative serves as both the Commission's Vice-President and as chairman of the Foreign Affairs Council. However, the Treaty of Lisbon removes the Commission's 'fully associated' status from the policy-making process and restricts its right to submit proposals to the Council, instead channelling proposals through the High Representative who is also permitted to introduce new initiatives unilaterally (Dagand, 2008: p. 6). The new High Representative also is supported by the European External Action Service (EEAS), a diplomatic service composed of civil servants from the Council, Commission, and national diplomatic corps which not only bridges the 'pillar divide' between Council and Commission but also the divide between EU and national foreign policies, as cooperation may foster agreement on the nature of foreign policy issues and the best way to approach them (Smith, 2008: p. 43). This development under the Lisbon Treaty may be seen as an attempt to legislate the Commission's role in CFSP as policy facilitator rather than policy initiator, and allow the Commission's own 'soft power' implementation mechanisms to complement the 'hard power' CSDP mechanisms available to the Council (McCourt, 2008: p. 11).

The numerous treaty reforms outlined above have legitimised the Commission's increasing power in EU foreign affairs, despite the overwhelmingly protectionist attitude of member state governments. The divergent roles played by the Commission and Council in various CFSP foreign policy instruments can be seen particularly in the relations between the European Union and Moldova, a small state in Europe's neighbourhood that has not received as much academic attention as its larger neighbour, Ukraine, or the volatile states of the Balkans and Caucasus (see especially Pond, 2006; Malfliet et al, 2007; Velychenko, 2007). Despite the conspicuous presence of the Council's various agreements between the EU and Moldova, I will argue that the Commission's role in maintaining positive relations with

Moldova provides the 'backseat driving' to achieve the Council's goals with specific, targeted actions.

### **Moldova, ENP, and EUBAM**

Moldova provides an excellent case study to examine role of both the European Council and Commission in crisis management in Europe's near abroad. Its independence from the Soviet Union is only twenty years old, but in this time Moldova has received development aid from the European Union and has negotiated an association agreement to bring Moldova closer to the European institutions (EUROPA, 2011). The management of the Transnistrian crisis and the establishment of democracy and a free market economy in the former Communist country have been the primary goals of the EU's relations with Moldova, and to meet these goals effectively has required the close cooperation of both the European Council and Commission. Perhaps the most significant EU mechanism in its relations with Moldova today is the European Neighbourhood Policy, or ENP.

On 16 December, 1991, the Council of Ministers issued a statement containing 'Guidelines on the Recognition of New States in Eastern Europe and in the Soviet Union' to create a common European response to the collapse of the Soviet Union. This document demanded that the new republics respect the treaties and agreements signed by the Soviet Union, particularly those preserving human rights in their territories, and promised recognition once these republics assured the EU that they would follow the commitments outlined in the 'Guidelines' (Warbrick, 1992: p. 481; Nørgaard, 1993: p. 102). Then-Commissioner for External Relations, Frans Andriessen initially advocated for strong cooperation between the Commonwealth of Independent States (CIS) and the EC but without any prospects for eventual membership or association agreements similar to those of the former Soviet satellite countries in central and Eastern Europe. Instead, he and Chancellor Kohl recommended forming an independent economic group which could act as a bridge between Europe and Asia, and assuage Russian fears that the EC would encroach on its traditional sphere of influence (Nørgaard, 1993: p. 103). Still, as it became obvious that these states would need assistance in restructuring what remain the

poorest economies in Europe, the Commission developed the Technical Assistance to the Commonwealth of Independent States (TACIS) program in 1992. TACIS, administrated by the Commission through DG Development, aimed to promote many of the goals that the later Neighbourhood Policy would also espouse – assisting the fledgling free market economies of these states, emphasising the development of civil society, and advocating for nuclear safety and security (Nørgaard, 1993: p. 104). By 1994, Moldova, a recipient of TACIS aid, had also concluded a Partnership and Cooperation Agreement (PCA) with the Commission, establishing goals for the next ten years; although it was not ratified by the EU member states in the Council until 1998, this marked Moldova's first step on the road towards greater European cooperation (Korosteleva, 2010: p. 1272; Weiner, 2008: p. 183). Moldova was also included in the Stability Pact for South-Eastern Europe in 2001, although notably left out of the Stabilization and Association Process, which denied Moldova the 'potential candidate' status of the Western Balkan members of the Pact. However, the pro-European government remained determined to leave the 'neighbourhood' benefits and become a full member of the European Union, and by October 2003 Moldova had developed a concept of European integration to begin harmonizing Moldovan laws with the *acquis communautaire* (Verdun and Chira, 2008: p. 433; Weiner, 2008: p. 183). Moldova's European ambitions were further accentuated by the development of a new European Strategy for Moldova in 2005, which not only implemented the criteria of the new Action Plan of the same year but also attempted to prepare Moldova for eventual European accession (Phinnemore, 2006: p. 12). As the accession of other CEECs meant the country would soon share a border with the European Union, EU involvement in Moldova increased, and in 2005 the Council appointed a new EU Special Representative to Moldova (EUSR) and created the EU Border Assistance Mission (EUBAM) to monitor the Moldova-Ukraine border, while the Commission opened their first delegation to Chişinău (Phinnemore, 2006: p. 16). In 2009, recognizing that countries with legitimate European aspirations such as Moldova and Ukraine required a different foreign policy approach than the North African nations also in Europe's 'neighbourhood,' the EU launched the Eastern

Partnership (EaP) in May 2009, extending greater political and institutional opportunities for Moldova (Ghinea and Chirilă, 2010: p. 22).

Moldova, ENP and EaP

One of the primary tools used by the European Union to promote stability in Europe's near abroad is the European Neighbourhood Policy. As the world's largest trading bloc, the European Union has a great deal of fiscal leverage internationally; however, the EU has also established itself as a normative power, desirous of exporting its values worldwide. To further this foreign policy aim, the Council and Commission have long held out the 'golden carrot' of membership to Europe's most exclusive club for states who pursue the common goals of democracy, rule of law, protection of minorities and human rights, free market economies and the adoption of the complete *acquis communautaire* as outlined in the Copenhagen Criteria for membership in 1993 (Bretherton and Vogler, 2006: p. 139; Verdun and Chira, 2008: p. 431). However, after the addition of eight central and eastern European countries (CEECs), Cyprus and Malta in 2004, and the accession of Romania and Bulgaria three years later, the European Union now appears to suffer from 'enlargement fatigue' and has turned to the European Neighbourhood Policy as an alternative to membership, offering 'everything but the institutions' to potential candidates. This inclusive approach is meant to create political stability on the EU's external borders, recognizing the economic and political sources of conflict in the region and resolving disputes with non-military instruments, but critics fault it for offering a one-size-fits-all approach to foreign policy, as not every conflict may be resolved through these mechanisms (Sasse, 2007: p. 163; Smith, 2008: p. 173). Although ENP was meant to convey a desire for close and cordial relations with states on Europe's periphery, the concept of 'neighbourhood' itself implies a denial of the 'neighbouring' states' potential to become candidates for membership and can lead to resentment from those with European aspirations, such as Moldova (Bretherton and Vogler, 2006: p. 148). Likewise, the reforms expected of states in the 'neighbourhood' are often quite challenging, and the appeal of the EU's normative power is often lessened without the possibility of membership (Korosteleva, 2010: p. 1280). To address some of

these issues, the European Union developed the 'Eastern Partnership' (EaP) in May of 2009. This partnership establishes a new foreign policy direction for states with European aspirations, particularly Moldova and Ukraine but also the Caucasus states of Armenia, Azerbaijan and Georgia (Łapczynski, 2009: p. 144). This attempt to secure European borders while halting eastward expansion, and the potential conflicts that may result, makes ENP and EaP major instruments of European foreign policy.

The Commission plays a major role in all aspects of Moldova's involvement in ENP. Although the Presidency Conclusions of the Copenhagen European Council (December 2002) gave the impetus for a new regional project, referring to a desire to 'promote stability and prosperity within and beyond the new borders of the Union,' the Conclusions actually left the development of ENP to the Commission and the High Representative (Council of the European Union, 2003: pp. 7-8). The New Neighbours (2002) and Wider Europe (2002-2004) initiatives laid out in the Commission's *Strategy Paper* of May 2004 were the preliminary solutions found by the Commission to 'prevent the emergence of new dividing lines between the enlarged EU and its neighbours and to offer them the chance to participate in various EU activities, through greater political, security, economic and cultural co-operation' (Commission of the European Communities, 2004: p. 3). This outlined an attempt to develop a privileged relationship with neighbouring states while also creating a firm frontier between the enlarged EU and its new neighbours (Casier, 2008: p. 22). Under ENP, the Commission prepares Country Reports to assess the political, institutional and economic situation in each country participating before developing individual Action Plans which outline the specific targets to be reached in the three to five years before a reassessment. The Commission negotiated an Action Plan with Moldova in 2005 which was approved by the Moldovan Parliament two months later. This EU-Moldovan Action Plan focused primarily on stabilization of the breakaway Transnistrian region on the Moldovan-Ukrainian border, recommending major democratic reforms in Moldova as a tool to draw the region back into the state structure and put an end to the rampant corruption and crime that exists in the province (Bosse, 2010: p. 1299; Weiner, 2008: p. 183). However, the

Action Plan also acknowledged Moldova's 'European aspirations' and suggested that undertaking the reforms presented in the Action Plan would 'support Moldova's objective of further integration into European economic and social structures' (Commission for the European Communities, 2005: p. 2). In 2010, negotiations began between the Commission and Moldova to create an Association Agreement in an effort to 'enhance political dialogue and economic integration, including regulatory approximation, ... significantly enhance the EU-Moldova common institutional framework and facilitate the deepening of relations in all areas, involving reciprocal rights and obligations' (European External Action Service, 2011: p. 1). These negotiations between Moldova and the European Commission within ENP and EaP have been crucial to carrying out the goals established by the European Council of securing the economic and political future of Moldova.

The joint role of the Commission and Council in EU-Moldovan relations under the ENP is apparent in the ongoing election crisis in Moldova. In April 2009, after receiving a €2 million grant from the European Commission and the United Nations Development Programme to provide support to Moldova during its election cycle, the ruling Communist Party of Moldova failed to achieve the seats in parliament necessary to elect the new president; however, President Vladimir Voronin refused to step down. While the OSCE-led election observation mission found the elections to be free and fair, subsequent protests were dealt with in a heavy-handed manner, causing concern for human rights abuses in Moldova (Bosse, 2010: p. 1305). On 23 April 2009, the EU Commissioner for Enlargement, Olli Rehn, addressed the European Parliament about the situation in Moldova, stating that the Commission had 'strongly condemned the excessive use of force' and advocating that the European Union Special Representative (EUSR) should cooperate with the Moldovan government to look into human rights abuses following the election (Rehn, 2009: p. 1). In June, the European Council adopted conclusions regarding the Republic of Moldova, which included a call for impartial investigation into the human rights abuses following the April elections and for free and fair elections in the forthcoming parliamentary elections (Council of the European Union, 2009). That election, held early in July, resulted in the formation of a pro-European coalition (the

*Alianța pentru Integrare Europeană*, or AIE) which again lacked the seats required to elect the president. Javier Solana, the High Representative for CFSP, issued a statement after the July election approving of the peaceful and democratic process, but the encouragement he offered the Moldovan factions to work together to form a coalition and elect a new President was ineffective, and a third election was held in December 2009 (Council of the European Union, 2009). Benita Ferrero-Waldner, Commissioner for External Relations and ENP, met with coalition and opposition leaders immediately prior to the December election to offer her support for political stability in the country; she was the first Commissioner to visit Moldova since the July elections (EUROPA Press Releases, 2009). No further election were held until 2010, when the Foreign Affairs Council acknowledged that Moldova had taken ‘important steps during the past year to consolidate democracy,’ and again urged that the parliamentary elections – scheduled now for the end of November – should be free and fair (Council of the European Union, 2010). After the election, a joint statement by the High Representative Catherine Ashton and Commissioner for Enlargement and ENP Stefan Füle applauded the conduct of the elections and again urged the Moldovan Parliament to create a coalition and elect a president, but for the fourth time the coalition failed to receive the votes necessary to elect a president (European Union, 2010). Throughout this election crisis, the European Union remained on the sidelines, focusing on potential human rights and electoral abuses rather than recognizing Marian Lupu (the de facto president and head of the AIE) as the future president of Moldova (Bosse, 2010: p. 1306). The failure to sanction the former president, Vladimir Voronin, for his actions throughout the election crisis also met with criticism by many in Moldova (Ghinea and Chirilă, 2010: p. 17). Although in this situation the EU’s foreign policy failed to achieve its goal of securing the election of a compromise president, the statements issued throughout the crisis by various members of the Council and Commission demonstrated that the EU institutions were united in their goals for Moldova. The Commission’s partnership with the UNDP to allocate funds for election monitoring demonstrated the Commission’s role of ‘backseat driver,’ providing the concrete means to achieve the goal of fair and free elections promoted by the Council.



*Moldova and civilian crisis management*

Another example of the Council and Commission's dual role EU-Moldovan relations can be seen in the instruments employed to cope with the breakaway province of Transnistria in the eastern part of Moldova. To complement the foreign policy objectives set out in the Treaty of Maastricht – promoting human rights, democracy and economic development – the European Union has established civilian crisis management instruments alongside the military instruments available through NATO, the European Security and Defence Policy (ESDP) and individual member states' military capacities for various stages of international crisis situations. These instruments, directly under the authority of the European Council, aim to offer political and diplomatic support to defuse potential crises, improve stability and protect human rights and democracy during transitional periods, and begin the process of economic and social reforms (Gourlay, 2006: p. 49). Conflict prevention and crisis management, particularly in Central and Eastern Europe, became a priority after the Balkan Wars, as states realized that conflict on the edge of Europe would negatively impact the EU's economic and security interests (Smith, 2008: p. 174). The goal of these civilian crisis management missions is often to promote stability by strengthening the rule of law in a conflict zone, whether by educating local police forces, training civil administration, monitoring ceasefires and borders or otherwise supporting the EU Special Representative (Chivvis, 2010: p. 6). In many cases, as with Moldova, several crisis management mechanisms are utilised simultaneously, requiring the direction of the European Council and the funding of the European Commission; however, due to the large number of European institutions and directorates-general whose portfolios occasionally intersect with external affairs (such as DG Trade or Transportation), it has been difficult to ensure that all Community policies are consistent with the aims of the crisis management missions (Gourlay, 2006: p. 66).

To demonstrate the EU's commitment to the resolution of the decades-long Transnistrian conflict, a European Union Special Representative (EUSR) was

assigned to Moldova – first Adriaan Jacobovits de Szeged (2005-2007), then Kálmán Mizsei (2007-2010). These men reported directly to Javier Solana, serving as his key aides on the Moldovan file and representing the Council's interest in Moldovan security, particularly since Transnistria is less than one hundred kilometres from the EU's easternmost border after the 2007 accession of Romania (Mizsei, 2009). Despite the Council's clear authority over the EUSR, the Commission again played the 'backseat driver' role by '[providing] logistical support in the region,' along with the Presidency and/or the Member States, and the EUSR remained in 'full association' with the Commission through frequent progress reports and briefings (Schäuble, 2007: pp. 60-1). However, inter-institutional bickering began almost immediately upon appointment of the first EUSR in 2005, with the Commission initially insisting that the EUSR should not be involved in implementing Moldova's ENP Action Plan (Bretherton and Vogler, 2006: pp. 176-177). This institutional division was overcome by a compromise mandate, stating that the Special Representative would only deal with 'relevant aspects' of ENP in exercising his duties, and restricting his influence almost entirely to the Transnistrian conflict (EUSR Moldova, 2010). The EUSR's function – to create greater institutional cohesion and improve visibility on the ground – was therefore called into question almost immediately, as the Special Representative was restricted to carrying out only the Council's work and remained in The Hague for much of his appointment (Popescu, 2005: p. 31; Bosse, 2010: p. 1302). However, with the institutional changes established by the Lisbon Treaty, the duties of the EUSR have been taken over by the EEAS, reducing the inter-institutional strife undermining EU-Moldova relations (Ashton, 2010: p. 12).

Although management of the Transnistrian conflict has seen much more involvement from the Council and its Special Representative than has the primarily Commission-led ENP discussed above, the Commission has also had a 'backseat' role in the management of this crisis that should not be ignored. After a request from the Ukrainian and Moldovan presidents sent to both Solana and the Commission president in June 2005, a joint Council/Commission fact-finding mission went to the border region to observe the situation, whereupon they recommended an EC-

financed border assistance mission (Sannino, 2005: p. 2). The Commission financed a new EU Border Assistance Mission (EUBAM) to Moldova and Ukraine in an attempt to regulate the illegal traffic of goods and people through Transnistria (Weiner, 2008: p. 192; Popescu, 2006: p. 2). By requiring goods passing through Transnistria to obtain customs stamps from the authorities in Chişinău, the EUBAM hopes to prevent illegal weapons, drugs and human trafficking and limit the export of goods from Transnistria under the preferential trade regime between the EU and Moldova and thereby pressure Transnistrian leaders to begin negotiations (Commission for the European Communities, 2005: p. 8). While the ENP has attempted to liberalise trade and enhance democracy in Moldova, the security threat represented by instability on Europe's eastern border has been one of the most significant factors in the EU's relations with Moldova and has led to increasing involvement from both the Council and the Commission. Despite the turmoil in Transnistria, the primary function of the EUBAM is to inspect and analyse current practices, as well as training local border and customs officials (Commission for the European Communities, 2005: pp. 9-10). Traditionally, crisis management is the intergovernmental Council's domain, while the Commission focuses on conflict prevention and post-conflict rebuilding, such as in the Balkan wars of the 1990s; critics point to this division as one reason behind the underdeveloped EU policy vis-à-vis the Transnistrian border conflict (Ranieri, 2007: p. 84; Popescu, 2005: p. 10). Neither the ENP nor the Action Plans regarding Moldova chose to include the settlement of the Transnistrian dispute as a requirement for closer cooperation with the EU; CFSP instruments have also been under-utilised in restructuring the whole of Moldova and making it more attractive to separatists in the breakaway province. Despite the decades-long struggle between Chişinău and Tiraspol, it is only recently that the Council has begun to take the political steps necessary to find a solution to the Transnistrian crisis with the support of the Commission's many instruments. Perhaps with greater cohesion between the two institutions, their joint political and practical instruments could achieve greater stability in the European neighbourhood. While the individual member states represented in the European Council may desire to remain in the driver's seat of an intergovernmental European foreign policy, the

Commission's effective use of its own foreign policy instruments has occasionally, in the case of Moldova, been undermined by inter-institutional bickering. As the 'backseat driver', the Commission is responsible for carrying out the political aims of the Council, but even when the problem is identified it can be difficult to coordinate a response.

### **Conclusion – An End to Backseat Driving?**

Despite the member states' desire to retain sovereignty in international affairs, in reality the European project has necessitated common positions on international issues almost from the earliest days of the European Coal and Steel Community. While the Commission's ability to act in international economic affairs has never been questioned – as the creation of a common market requires common external tariffs, joint positions in GATT meetings, and so on – the modern security shift from purely military interests to economic, social, and other threats has increased its ability to act in foreign affairs. This is a result of functional spillover, as the European Union treaties clearly demonstrate the desire to restrict supranational action in external relations in favour of a more intergovernmentalist approach. Chris Patten, former Commissioner for External Relations, observed that although the Council regularly takes the lead on EU foreign affairs, it is the Commission which possesses the instruments necessary to implement the Council's positions. This position of 'backseat driver' has granted the Commission much more power than may have been intended in the treaties, as the Council's rhetoric is almost useless without the Commission's economic sanctions, aid benefits, and ultimate decision on EU membership. This can be seen particularly in the EU's relations with Moldova, which began with a mandate from the Council but used the instruments of the Commission-led European Neighbourhood Policy and European Union Border Assistance Mission to encourage greater stability and growth on Europe's easternmost border. However, conflict between the two institutions has occasionally impeded European actions in Moldova. The Lisbon Treaty's creation of the new High Representative of the Union for Foreign Affairs and Security Policy, supported by the European External Action Service, has streamlined the foreign policy-making process so that

both the political and the technical aspects of CFSP will be responsive to the same person, ensuring that the 'backseat' and 'front seat' drivers are more able work together to bring stability to Europe's easternmost border, Moldova.

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## ***Some histories stay secret, but not entirely silent: dealing with the communist past in Central and Eastern Europe***

**Roxana Radu\***

*“If particular representations of the past have permeated the public domain, it is because they embody an intentionality - social, political, institutional and so on – that promotes or authorizes their entry” (Wood 1999, 2)*

**Abstract:** From 2004 onwards, a second wave of lustration proposals emerged throughout Central and Eastern Europe, at a time when EU accession already started. Among the post-communist states, Poland, already an EU member state, extended the purpose of its previous lustration law in 2006. The same year marked the heated debate over the drafting of a lustration law in Romania, where previous proposals on this issue were not validated by the Parliament. Sixteen years after the regime change in these countries, the assessment of the formal mechanisms to deal with the past permeated the public agenda in an attempt to answer the question of how much of the documented illegal activities committed during communism remained secret and purposefully uncovered. In this article, I scrutinize the lustration processes and debates up to 2008 in two countries from the region. Based on that evidence, I argue that the salience of the transitional justice controversies during the second wave of lustration proposals plays a symbolic function, rather than pursuing a consistent policy endeavor.

**Keywords:** *Poland, Romania, lustration law, communism, CEE, post-communism*

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Since the demise of communism in Central and Eastern Europe (CEE) in 1989, transitional justice has been invoked as the most appropriate means to deal with the past injustices while strengthening the newly - adopted democratic procedures. Predominantly chosen over criminal procedures or truth commissions, lustration was initially understood as a temporary process of screening public officials for links with the Communist Secret Services, meant essentially to reconcile the need for trust-based institutions and to protect the development of liberal democracy. Nevertheless, with democratic procedures formally in place, under pursuit, a series of legislative proposals known as “the second wave of lustration” in mid-2000s advance an expansion of the scope and of the targeted groups of lustration. This calls into question the extent to which previous lustration policies were effective in reaching their goals, as well as the role that lustration can play in post-communist countries once transition has come to an end. The present paper explores these aspects a multiple case study design, by analyzing Poland and Romania after 2006 in a comparative perspective.

Starting in 2004, the interest for the implementation of lustration policies reemerged. In the year in which the Central European and the Baltic countries became full members of the European Union, a series of initiatives meant to extend the application and the scope of early lustration programs dominated the internal debates. Slovakia, Slovenia and Latvia were among the first countries to face the second wave of lustration or what has been identified as “late lustration” (Horne 2009). In 2006, the Polish and Romanian Parliament analyzed the draft proposals for extensive administrative purges, while the Czech Republic and East Germany reentered this deliberation in 2007. This cross-national phenomenon questions one of the foundational purposes of lustration, that of ensuring that the new democratic regime is not undermined. Moreover, it points to the integration of reckoning with the past in the political rhetoric beyond the first transition years.

Studies on the status of lustration in Eastern Europe are limited to attempts at dealing with the past and in-depth analyses of legal deficiencies. Despite an increased interest in the issue of transitional justice, little comparative empirical research has been conducted. Previous studies on early lustration tended to approach the topic in any of the following three ways. A first group of studies focused unilaterally on finding the causal factor for the initiation of lustration procedures (Welsh 1996, Williams et al 2005). A second group provides explanations for the timing of screening procedures, the legal and the practical implications of different lustration attempts (Offe 1992, Schwartz 1994, Nedelsky 2004), while a third group of analyses concentrates on the moral implications and the extent to which transitional justice hinders liberal democracy strengthening (Moran 1994, Rosenberg 1995).

Apart from these, the second wave of lustration has remained unexplored to the present day. The interaction between institutional change, accountability, communication advancements and civic empowerment in the post-communist context has been given little attention so far. Cynthia Horne was one of the authors to address systematically the relationship between late lustration and the strengthening of democracy in post-communist countries by breaking the cycles of distrust and restricting corruption. The present study represents an exploratory research intended to combine empirical research with conceptual analysis, while arguing against the efficiency of legislative proposals on administrative vetting twenty years after the dismantling of communism. As such, this critical examination of the post-2006 attempts to extend the purpose and scope of screening procedures would shed more light on the evolving meaning of lustration, touching on different aspects of political credibility in the aftermath of regime change.

The remainder of this paper is organized as follows. The first part explores the definition and application of lustration procedures in CEE, while pointing out their critical aspects. The second part is dedicated to the methodological underpinnings and case study design. The substance of the early and late lustration programs is

revealed comparatively in section three. Section four concludes and suggests directions for further research.

### **Lustration as a “fact of life” in CEE**

Lustration means “the purification of state organizations from their sins under the communist regimes” (Boed 2002: 358). This process aims at “investigating the past records of people in the public life of the new democracies” (Robertson 2006: 89) and must be distinguished from “decommunization”, which refers to legally banning the communist parties, confiscating their property, and using the criminal law against former apparatchiks (Czarnota 2007: 225). More narrowly, lustration presupposes the screening and barring of former collaborators with the communist regime or members of secret services from becoming public employees or political representatives for a number of years after the regime change. In this respect, lustration laws represent “special public employment laws” (David 2006: 350), regulating access to public positions for members of the ancient regime, based on the logic of collaboration downplay.

Following Horne, I draw a distinction between “early lustration” and “late lustration” (Horne 2009). The former category refers to the initial set of lustration processes taking place as soon as possible after the regime change. Generally, a time span is set for the screening procedures and their duration varies between 5 and 10 years. The first example of early lustration being applied occurred in Czechoslovakia in 1991. On the other hand, and quite contrastingly, late lustration refers to a second wave of lustration proposals started in 2003, which aimed at expanding the scope of initial lustration, as well as the composition of the targeted groups.

In CEE, the vetting of public officials for links with the communist secret police has represented the first and the most frequently used method for settling accounts with the past. Besides, what remains common for this process as it took place in the region was the “reliance on information in the Secret Police files of the former regime

to assess past regime involvement” (Horne and Levi 2003: 2). Yet, lustration practices are different from one country to the other in what regards the timing, the set of targeted positions and the associated sanctions for past injustices, as well as the set of persons entitled to access the information about the past.

The history of lustration in each of the CEE countries follows its own path: Poland was the first country where communism collapses, but not the first one to implement a lustration law. In fact, it was only in 1997 that the Sejm voted on this initiative. On the other hand, Czechoslovakia passed a law on lustration the earliest, in November 1991, but the split of the country meant following different directions in implementing that specific legislation: in Slovakia, it was inefficiently pursued and expired in 1996, whereas in the Czech Republic it was extended indeterminately. Hungary adopted a mild lustration law in 1994, with the ending of screening procedures set for 30 June 2000. *Table 1* summarizes the most important aspects of the adoption of lustration laws in the Visegrad countries, whose mode of transition involved the so-called “round table” negotiations between Communist party leadership and opposition elites. In Bulgaria<sup>65</sup>, characterized by “delayed transition”, the debate on lustration gained leverage only after 1997 and this timing disconnected it from similar processes taking place in the region several years before.

Table 1. Enactment of lustration laws in Czechoslovakia , Hungary and Poland

Country	Prior legislative proposals	Month and Year of adoption	% pro votes <sup>66</sup>	Amended	Type of pursuit <sup>67</sup>
Czechoslovakia	0	October 1991	49.3%	-	Harsh
Hungary	3	March 1994	46%	1996	Mild
Poland	6	June 1997	47%	1998, 2006	Mild

<sup>65</sup> In Bulgaria, the first lustration law passed in 1992, but was limited to screening leaders of scientific organizations for collaboration with the Communist Party leadership.

<sup>66</sup> Following Williams et al (2005).

<sup>67</sup> Consistent with Kaminski and Nalepa (2004: 9)

Romania represented the exception among the cases of 1989 peaceful transition, being the only country to face a bloody revolution ending with the assassination of Nicolae Ceausescu on the 25<sup>th</sup> December 1989.

The enactment of lustration laws in Poland, Hungary and Czechoslovakia (see Table 1 below) reveals that the process was driven by the compromise that would be acceptable to as many members of the Parliament as possible, as the pro votes did not exceed 50% in either of the cases. Apart from the internal political dynamics, the chronology of adopting lustration also emphasized the tendency to decreasing support for such legislation as years go by. According to Williams et al (2003: 18), “the modifications that produced the centrist compromises entailed a number of additions and subtractions, which, along with other contextual factors and learning from neighbours’ experiences, explains why the three cases varied in their sanctions and range of people affected”.

Originally, the “lustrations systems” (David 2006: 351) have been uncritically regarded as an appropriate solution for ensuring that members of the former regime do not undermine the development of the new democracies. There are three main ways in which lustration has been defended, as identified by Williams et al. (2006). Firstly, using prophylactic arguments, focusing on making sure that democracy is safeguarded against potential threats coming from former communists. Secondly, employing blackmail arguments, claiming that those who used to work for the *nomenklatura* may be forced to act against the new state by taking orders out of fear. Thirdly, relying on public empowerment arguments brought forth the issue of establishing and maintaining the credibility of new public institutions. However, other studies on this topic warrant against the potential for “politicization” of lustration measures, in spite of their inherent purpose of “de-politicization”. By and large, in spite of being an elite-driven process (Williams et al 2005: 33), lustration enjoyed a large support from civil society in CEE.

The interplay of these two approaches makes the debate on lustration and the application of specific regulations a complex process, understood by Schwartz as a

“fact of life in most Central and Eastern Europe” (1994: 461). Writing one of the most influential books on lustration, Rudi Teitel rightly points out that “politicized public [employment] laws can effect radical change when it distributes power explicitly on the basis of the new ideology” (2000: 149), leading to political manipulation and serving political disputes rather than public good. Further on, these may affect the general level of trust and the construction of institutional memory. In the understanding of Welsh (1996), the initial factors that determined the pursuit of lustration may become salient in the political struggle later on. Given the large number of actors involved in collaborating with communist secret services prior to 1989, memory plays the role of linking past and present. Individual memory, understood as “what the individual people remember, or think they remember, about their pasts”, would, however, make use of information that is known. In contrast, making information available and disclosing classified documents has more to do with institutional memory, defined by Lebow (2006: 13) as “efforts by political elites, their supporters, and their opponents to construct meanings of the past and propagate them more widely or impose them on other members of society”. In line with Williams et al (2005), I dismiss the hypothesis that the type of non-democratic regime and the mode of exiting from it influenced the adoption of lustration policies (Huntington 1991, Moran 1994), and I focus instead on the nature of the transitional process itself.

After scrutinizing the primary arguments surrounding the lustration debate and its most relevant aspects, the following section sets out to briefly describe the comparative bases for analyzing two case studies, before turning to the legislative processes and their implications in Romania and Poland.

### **Methodological underpinnings**

The methodology employed in this article is based on a comparative case-study design. The systematic comparison of empirical facts and conceptual ideas is used to explain the phenomenon of late lustration in Romania and Poland after 2006,



relying on a thorough qualitative analysis of the lustration initiatives in the two countries and their effects. The comparative method (Ragin 1987) is employed throughout the paper for assessing the role of the second lustration wave in post-communist democracies and for tracking the sequence of events that strike a balance in interpreting the potency of rival explanations.

These two cases were selected for the present analysis for three reasons: (1) the equal time-span for settling accounts with the past and the same year for embarking on second wave lustration initiatives<sup>68</sup>; (2) the type of relationship they had with Moscow before 1989, which allowed them to develop their own secret services: the *Sluzba Bezpieczenstwa* (SB) in Poland and the *Securitate* in Romania<sup>69</sup>; and (3) the different ends of the spectrum they belong to in what concerns the adoption of lustration policies, which allows for meaningful cross-national comparison. The time frame under consideration is comprised between 2006 and mid-2008, the first being the year in which lustration proposals started to reappear on the public agenda, while the latter marks the farthest point in the development of the debate.

### **Lustration before 2006 and after: The Romanian Case**

The main differentiation in the strategies used for reckoning the communist past in Poland and Romania consisted in the type of pursuit undertaken, as emphasized in the legislative drafts. Poland was recognized for its future-oriented emphasis in its early lustration policy, whereas Romania seemed more inclined towards backward-looking proposals (Petrescu 2008: 16). Although never adopting a lustration law per se, Romania was confronted with three important attempts for passing a specific policy on the vetting of public officials.

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<sup>68</sup> For this reason, the East-German case is not included.

<sup>69</sup> The Baltic States were excluded from the analysis, due to two main structural distinctions: the lack of a quasi-independent locally-formed secret police and the significant Russian minority settled in those countries.

In March 1990, the Timisoara Proclamation<sup>70</sup> was published, with article 7 making clear reference to the 1989 Revolution being not only anti-Ceausescu, but also anti-communist. The Proclamation required limiting the participation of former communists in high-state positions. However, it took three more years for a former political prisoner to draft a law on lustration and access to files and six more years for a modified draft version of it to pass the parliamentary vote. In 1999, the Law on Access to One's Own File and Securitate's Unveiling as Political Police was adopted with the goal of the screening for past collaboration with the Securitate. The law included no sanction for those found guilty of secret services involvement, but their names would be made public. With the creation of the National Council for the Study of the Securitate Archives (NCSSA) in 2000, the process of uncovering former agents gained visibility through the frequent scandals over public figures involved in immoral activities during communism. This has come to be known as the so-called "dosariada"<sup>71</sup> phenomenon.

According to the law, the eleven members of the College of the NCSSA were to be first recommended by parties (also, the President and the Prime Minister may name their own favorites) and then appointed by Parliament through vote for a period of four years, with their beginning and end corresponding to electoral mandates. The potential of political manipulation was thus perceived as quite high, since the Council was accountable only in front of the body nominating it.

By 2002, 63% of the political leaders were still former communist leaders (Cioflanca 2002: 85), whereas the number of those lustrated was below 10,000. The data gathered by Stan (2008: 131) show that the network of informers as of December 1989 included at least 507,003, and was supplemented by 13,275 agents and 984 civilian personnel. Moreover, in Romania, the most significant predictor of being part of the new business elite was past membership in the communist leadership (David 2003: 414).

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<sup>70</sup> The text of the Timisoara Proclamation is available online at [http://www.ceaurescu.org/ceaurescu\\_texts/revolution/procl\\_tm\\_eng.htm](http://www.ceaurescu.org/ceaurescu_texts/revolution/procl_tm_eng.htm) [last accessed 10 March 2011]

<sup>71</sup> "Dosariada" could be translated as "the rush after Secret Services files", mainly pointing to the political manipulation behind the settling of accounts with the past.

In 2006, a new draft initiated by the Democratic Liberal Party (DLP) proposed that the persons who have held certain public offices during the communist regime (including leading positions in the Romanian Communist Party, leading positions in the communist students' unions, editors of the media-agencies, rectors and deans from the political educational system, prosecutors, presidents of the Supreme Court) should be banned, for a period of 10 years, from holding certain public offices (president of the state, member of the government, senator or deputy, prefect, mayor, judges and prosecutors, member of the diplomatic corps). The latter proposal belongs to the late lustration programs, imposing harsher sanctions than the previous law. However, the DLP proposal was voted down after the special committee of the Parliament in 2008 delivered its reasoning on it. The denial of access to public offices was found unconstitutional and in contradiction with the democratic values promoted in the country. Moreover, the late lustration system was associated with application deficiencies common to prior attempts to lustrate. Among these, the most relevant were: incomplete information (missing files, incomplete folders, functioning of state councils dealing with Secret files) and the impossibility to clearly draw the line between the status of "collaborator" and that of "victim".

### **The Polish Case**

Poland was also a late-comer in what concerns the adoption of early lustration. Immediately after the demise of communism, Mazowiecki pursued the so-called "thick line" politics between past and present, leaving the door opened to accepting former members of the ancient regime in the new political systems if they were embracing the newly-adopted democratic principles (Stan 2008: 79). In 1991, Olszewski proposed a bill that would require the Ministry of Interior to screen all elected officials for working for the communist secret services, but that resulted in the collapse of the government, after the Interior Minister Antoni Macierewicz denounced 64 members of the Parliament that used to work as collaborators before the regime change (Calhoun 2002: 503-505).

After a series of six other failed proposals between 1994-1996, the lustration law passed in March 1997 screened current officials and candidates for public offices for past collaboration with the SB between 1944 and 1990 by checking their statements of (non-)collaboration and punishing solely the lustration liars. The sanction for this was a 10-year ban on holding public offices. The positions screened included the President, members of the Parliament and cabinet, judges and prosecutors, persons appointed to senior posts by the President, the Prime Minister or the General Prosecutor. In 1998, amendments to the law extended its scope to include all barristers (Williams et al 2005: 27). According to Lavinia Stan, there were more than 98,000 secret spies prior to 1990 and information on 1,200 informers was destroyed in 1990 (Stan 2008: 87). The total number of persons subjected to lustration was 23,000 as of January 2004 (Kaminski and Nalepa 2004: endnote 25).

By 2006, the Law and Justice Party (LJP) proposed that the lustration scope be extended to include all public figures (teachers, journalists, diplomats, municipal officials, heads of state-owned companies, editors, publishers and school principals). The affidavits of these persons would be made public and liars would be fired from their current positions and be denied their right of access to any public office for ten years. On 15 May 2007, the Institute of National Remembrance (*Instytut Pamięci Narodowej*) was given provisional lustration powers, decision which led to several controversies regarding the decision-making power of this institution (Stan 2008).

Both Romania and Poland were inclined to adopt the “inclusive” lustration approaches before 2006, where sanctioning occurs only for lying and not for past wrongdoings. By revealing the truth, a person may retain his/her public function and the so-called “value-based discontinuity” occurs (citizens knowing about this may control against repetition of the violations committed in the past). David Roman even places Poland in the category of “reconciliatory inclusive” systems (David 2006: 360), with lustration certificates being made public only in the case in which the concerned official refuses resignation or transfer to a non-lustrated position. The

laws applied in that period did not restrict access of former collaborators to meaningful political participation, but rather relied on the expectation that they will voluntarily step down from their positions, a fact, which, at least in Romania, by 2002 “had not happened yet” (Stan 2002: 54).

### **Late lustration and its symbolic function**

Resurfacing as a salient political issue after 2006, lustration policies are considered functional and symbolical attempts to come to terms with the past in a more efficient way than previous application of similar legislation. The vetting procedures before and after 2006 in both Romania and Poland are characterized by a set of distinctive features in terms of initiators, coverage and coupling with other reform packages. As opposed to the previous wave of lustration laws, proposed by opposition forces in all Eastern Europe (Stan 2008), from 2006 onwards the policies for limiting the participation of former collaborators in government were drafted by the parties in power at that time - Law and Justice Party (LJP) in Poland and Democratic Liberal Party (DLP) in Romania.

Moreover, the coverage extended to comprise the educational, municipal offices and media positions, in an attempt to restore the trust in institutions (Horne 2009). On top of that, the timing of renewal of lustration procedures matched the advancement of anti-corruption packages, which made transitional justice instrumental to eliminating privileged economic relations. As such, the function of lustration became highly politicized, serving temporary interests for opposition or ruling government. It has also become part of the political culture of countries in which the democratic ideals stated in 1989 still resonate two decades years after regime change. The practical drawbacks in applying earlier lustration (missing files, incomplete folders, definition of “collaborator”, and constitutionality of denial of access to public offices) resurface with the newly proposed programs of vetting officials, thus pointing to the fact that in designing the new laws, no substantial changes were envisioned for a more accurate procedure of coming to terms with the past. Additionally, the ageing of the

adult population able to collaborate with the secret services prior to 1990 seems to be overlooked by the legislative proposals after 2006. Considering that they did not address the outstanding problems related to the effectiveness of prior lustration attempts, the rationale of the late lustration proposal must be sought for at a symbolical level.

Drawing on Edelman's theory of symbolic uses of politics (1964), the efforts to lustrate officials formerly linked to the communist secret services after 2006 play two important symbolic functions: firstly, the function of social adjustment, necessary on the political scene and in political discourses for bringing closer those with similar political opinion; secondly, the so-called function of the "externalization" of unsolved problems, intended to remove attention from unsuccessful reforms, economic drawbacks etc. in an attempt to put aside those anxieties prior to electoral periods. Additionally, while trying to appeal to the citizens (either voters or support groups) by making reference to the idea of lustration, a certain way of dealing with the problem is revealed – that is in conformity with the general perception and expectation, in this case a functional law with effective outcomes. Going back to the words of Nancy Woods (1999: 2), "it is an embodiment of the intentionality" permeating the public domain only occurs when it comes in line with the direction of contemporary interests.

The recurrence of the theme of lustration as part of the political culture of Central and Eastern European democracies goes beyond the practical implications of placing the administrative purges debate in the agenda-reforming and institution-strengthening conundrum. In fact, it directs towards a proper understanding of the evolving definition of lustration. In the words of Cynthia Horne (2009 346):

*"Defining lustration as vetting of politicians no longer captures the reality of vetting in the region. Defining lustration as a process focused on ascertaining secret police collaboration also does not capture the criteria being currently used for employment*

*exclusion. [...] At its essence, lustration is a form of employment-vetting: who that involves and the criteria for that exclusion are the subject of debate”.*

Moreover, the attempts to confront participation in the former secret services activities move beyond the practical functions and become what Himmelstrand (1960: 34) calls “symbol acts”, which are political efforts that are both instrumental and expressive in acquiring public opinion support. Graber (1976) refers to these as “condensation symbols”, which are never clearly defined, but have the power of compressing not only specific images and attitudes, but also evaluative judgments capturing the most relevant aspects of it. In the Polish and Romanian cases, “collaboration with the secret services” remained both under-defined and uncovered to a large extent, in spite of the recurrence of lustration on the political agenda. To a certain extent, the ambiguity surrounding it plays into the dynamics of the lustration resurfacing at different points in time, as “condensation symbols are particularly useful when applied to ambiguous situations because they enable an individual to focus on the specific aspects of the situation that are most meaningful” (Zarefsky 1986: 11)

In part, this lack of a clear definition can be ascribed to “the inconvenience and danger” (Graber 1976: 294) of making this explicit, in particular with a view to outcomes such as the downfall of government in Poland in 1991 or the “dosariada” scandal in Romania in the early 2000. Overall, lustration remained politicized and served political interests as far as 2006. Kaufel and Carley (1993) referred to reform processes being rhetorically condensed into “pregnant placeholders”, a reference category which “names overarching handles of hot clusters of ideas whose details have yet to be ironed out or agreed upon” (Kaufel and Carley 1993: 207). Coming in and out of the political discourse at convenient times, with its characteristic ambiguity, transitional justice in Poland and Romania serves a symbolic function, rather than being subscribed to a systematic public policy pursuit.

## **Conclusions**

This study assessed the role of late lustration legislative attempts in Poland and Romania from 2006 to 2008 in comparison with the vetting procedures applied prior to this period. In effect, the 2006 drafts focused on expanding the scope of administrative purges, as well as the composition of the target group. The failure of both proposals in Parliament emphasized a two-fold dynamics: on the one hand, their dismissal was based on the fact that they did not respond with the problems emerged from the implementation of previous attempts to lustrate and thus offered no solutions to dealing with them; on the other hand, they seemed to ignore aspects such as the aging of the target groups, pointing to a need to understand lustration as a political symbolic act, which its characteristic ambiguity and contestation in the public sphere. While the benefits of such new programs cannot be tracked outside the sphere of political rhetoric, the second wave lustration proposals play an important symbolical function: they echo the ideals of the 1989 regime changes and they show that the past should not be treated as a legacy, but rather came to terms with.

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## POLSCI REVIEWS

### ***Cristian Preda, Rumanii fericiti. Vot si putere de la 1831 pina in prezent***

**Ioan Bulei**

Apart from his excellent works about the evolution of the Romanian political thinking or about the history of liberalism, Cristian Preda has published so far three books (obviously, also many other studies) which are milestones for the electoral systems in the Romanian political history: "*Post-communist Romania and interwar Romania*", "*Parties and elections in post-communist Romania*" and "*The regime, parties and political systems in Romania*", at Nemira and Meridiane publishing houses.

Recently he has published a fourth book, "*Contended Romanians. Vote and power from 1831 until today*" (Polirom, 2011, 376 p.). A remarkable book featuring an analysis of the relationship of vote and power in the realm of Romanian politics from 1831 until today. An analysis of a historical evolution and reality accomplished by the means of political science.

The idea of undertaking such an analyse was inspired by the great French sociologist and politolog Dogan Mattei, to whom Cristian Preda dedicates this volume. However professor Cristian Preda succeeds accomplishing a very difficult task.

Beacuse of the fact, that the history of the Romanian politics does not provide to the researcher specific criteria such as a reliable party system, long-standing electoral fomulas, distinct interest groups, distribution of the executive power, details about the centralized or federal character of the gouvernement and so on. Quoting Cristian Preda himself, in the case of Romania, there are only "short, uneven historical series of coup d'état, frequent changes of the Constitution, revisions, revolutions or abdications". It means that he can not research medium and long term

periods. Throughout the last two centuries, the whole Romanian society has been looking to the West trying various formulas to copy it. To define such a movement, Cristian Preda does not start from Arend Lijphart's criteria that are to be found in his volume *"Democracy in plural societies"*. For him there are three main starting points. First point is what he calls the "regulation" of the vote, which means a synchronization of exercising the vote with its evolution in the West; from census to universal vote, passing, in Romania, through the political and social experience which was communism, where the vote was a tool for mobilizing and legalizing the totalitarian regime.

The second benchmark seems to be the "domestication" of the authority. The separation of powers and especially their balance was hard to be imposed in Romania. There was no lack of constitutional regulations, as they were rather plenty, but the power acted much more "in the realm of confusion and concentration rather than in that of distinction" (this type of functioning is blamed by the author for the totalitarian or dictatorial slides in the last two centuries of Romanian history, rather than in the nature of one the Romanian historical characters).

The vote which became ordinary and the domestication of power created the third point, democratization. Although it was developed late, because of the totalitarian experiences or of the "national rebirth" illusion, democracy arrived, even though it was not quite real.

Cristian Preda's book shows extensive knowledge. The feeling that the author knows everything is very present. Only a few of the historiographical contributions are skipped, probably because the author wanted to ease the reading. A 10 years work and still the angles of the approach are quite new in our literature. The author brings novelty and proves a rare comparative capacity.

If this capacity is extended to other states around us, then the analysis undertaken by the author will become global. The relationship vote-citizen is essential for the history of modern states. It explains and commits to all changes even in a region like ours, in a world of relativity, where the French intellectual Paul Morand noticed indulgence, adaptability, optimism and a sort of historical neglect, where nothing seems really serious (because nothing worths being taken seriously?).

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