

EU MEMBER STATES AND THE ENP: TOWARDS GREATER OWNERSHIP?

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"(...) it will be important to seek a deeper involvement of EU Member States in re-energising work with our neighbours."

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the European Neighbourhood Policy, 18.11.2015

Ownership of the ENP by EU Member States themselves is a critical issue that deserves scrutiny. The Survey shows that the lack of involvement from Member States is not an unknown reality to its respondents.

When the word "ownership" is used in the context of the European Neighbourhood Policy (ENP), it is most often to refer to the need to better involve EU neighbours. However, the ownership of the ENP by EU Member States themselves is also a critical issue that deserves scrutiny. And this is not a new issue. In May 2011, the Joint Communication on the ENP review¹ already stated that "co-ordination between the EU, its Member States and main international partners is essential and can be improved" and that "the ENP should be a policy of the Union with the Member States aligning their own bilateral efforts in support of its overall political objectives." The Joint Communication published on 18 November 2015 provides an honest assessment of the ENP and its limitations. As part of this assessment, the Joint Communication also acknowledges that the involvement of the Member States remains insufficient.

An analysis of open answers to questions 4 and 6 shows that the lack of involvement from Member States is not an unknown reality to the respondents of the Survey. "Better involve the EU Member States", "all the 28 members of the EU should be involved", "it would need more attention from EU Member States" are examples of how a German, a Finn and a Hungarian respondent, respectively, answered the question "how can the European neighbourhood policy perform best?"

Question 4

What should be the vision for the future relations between the EU and the Southern Neighbourhood partner countries?

Question 5

What do you expect from the EU relations with its Southern Neighbourhood partner countries?

Question 6

How can the European Neighbourhood Policy perform best?

The objective of this contribution, whose scope is limited to the Southern Neighbourhood and to the political aspects of the ENP (leaving aside the financial arm of the ENP that is not directly affected by the Joint Communication), will be to substantiate the alleged lack of involvement of Member States and to try to explain it.

1. A New Response to a Changing Neighbourhood – Review of the European Neighbourhood Policy, 25 May 2011.

Some Mechanisms Are Foreseen to Involve Member States in the Conduct and Design of the ENP

A mere theoretical review of ENP structures and tools would not necessarily help in substantiating the lack of involvement of Member States. On paper, the ENP foresees an important role for Member States that are both invited to contribute to ENP-related documents and to participate in relevant meetings. Let's take the example of ENP Action Plans: Member States are involved at working level in the drafting exercise through the Maghreb-Mashreq (MAMA) working group of the Council and at political level as the Action Plan needs to be adopted by the Foreign Affairs Council. EU Member States are also involved in the Association Councils, at least in two ways. First, the EU line-to-take during the meeting as well as the final statement coming out of the meeting are prepared, negotiated and need to be approved by the Member States ahead of the meeting. Second, Ministers of the EU-28 Member States are invited to attend - as observers - part of the Association Council where they may also be given the floor.

It should not be forgotten that Member States are not only involved in the conduct of the ENP; they are also involved in shaping its design. The ENP review as presented in the Joint Communication on 18 November for instance was only a proposal to the Member States that endorsed it through Council Conclusions on 14 December 2015.² Moreover, even before the Joint Communication was presented, Member States had several opportunities to express their views and to influence its content.

Member States have arguably good reasons to show interest in the ENP. The first reason is political. Behind the technical dimension of some sectorial sub-committee meetings lay sometimes important issues that might have – positive or negative – implications for the bilateral relationships of Member States with their southern Mediterranean partners. The interest of Member States in some sub-committees is particularly high when they relate to a policy for which the EU has strong competence (trade for instance), when sensitive political issues are being discussed (labelling of products coming from Israeli occupied territories for instance)³, and when they deem it useful that the EU conveys certain messages to neighbouring countries, i.e. without necessarily having to do it themselves. Last, for a majority of Member States that do not have strong bilateral cooperation with southern Mediterranean partners, the ENP potentially represents a good source of information and provides fora for interaction with those partners at different levels.

Some Keys to Understand the Malaise of Member States vis-à-vis the ENP

Despite the structural design of the ENP that gives some space to the Member States and the aforementioned interests they have in being involved, it appears that the conduct of the ENP is not characterised by a strong involvement of Member States. For instance, a very limited number of ministers usually participate in Association Council meetings with southern Mediterranean partners.⁴ The same goes for meetings at a lower level. The development of alternative formats by Member States is another indicator of the rather low involvement of Member States in the conduct of the ENP. Some Member States have developed strictly inter-governmental processes outside the ENP, such as the 5+5 format that offers a cooperation framework for western Mediterranean countries. Some observers have also analysed the creation of the Union

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2. <http://www.consilium.europa.eu/en/press/press-releases/2015/12/14-conclusions-european-neighbourhood/>

3. See, for instance, the issue of the non-recognition by Algeria for trade purposes of Croatia's accession to the EU that prompted Croatia to ask the EU to make the point in the Association Council with Algeria in June 2014.

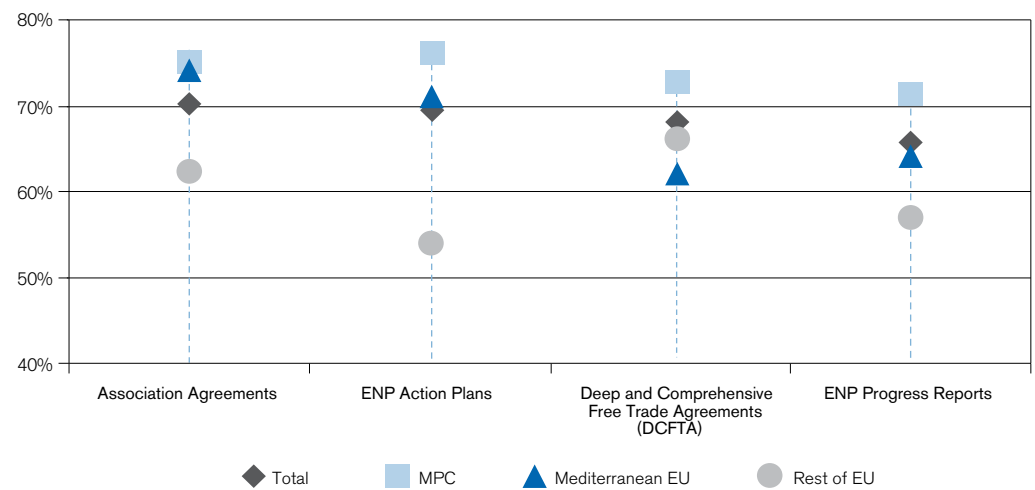
4. There are exceptions though, e.g. Association Councils with Israel always attract quite a deal of attention from Member States. Similarly, after a long period without an Association Council with Egypt, one could assume that the next meeting will mobilise a certain number of ministers.

for the Mediterranean upon French initiative in 2008 as an attempt to create an alternative – and more intergovernmental – framework to the existing EU-Mediterranean frameworks. There has also been the tendency to multiply alternative formats at the ministerial level through the so-called “Friends of” meetings, not only with candidate countries (e.g. Serbia) or countries in crises (Syria, Yemen) but also with Lebanon. Although these meetings are ad hoc and do not tend to repeat themselves, they reflect a certain malaise of Member States vis-à-vis the ENP that needs to be analysed.

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If “(...) the ENP needs to demonstrate its relevance first and foremost to European states,” as Rosa Balfour puts it,⁵ it means among other things that Member States have not seen the benefits of the policy framework. In this regard, it is interesting to note that, in relative terms, the respondents to the Survey from EU countries – and in particular the non-Mediterranean EU countries – seem to be the ones with less faith in the ENP toolbox (see graph 1).

Graph 1: In developing formats, instruments and criteria of cooperation with partner countries, to what extent should the following be privileged? (the graph below displays the % answers considering high or very high extent)



Source: Compiled by the IEMed based on the results of the 6th Euromed Survey/Question 14

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Member States tend to assess ENP procedures as too heavy and “overwhelming”⁶ and some find it difficult to attend all ENP related meetings. ENP processes are also seen as too scripted. Association Council meetings, for instance, are often described as particularly uneventful. In a volatile Mediterranean, Member States are inclined to focus on the short term and on addressing the crises, for which the ENP is of limited help.

Some argue that the European External Action Service (EEAS) and the European Commission bear some responsibility for the disengagement of the Member States. In the post-Lisbon context, the EEAS has been eager to assert its profile in foreign policy, and some Member States have felt that it has tried to maximise its autonomy in policies such as the ENP to the detriment of Member States.⁷

5. Balfour, Rosa, *Making the Most of the European Neighbourhood Policy Toolbox*, German Marshall Fund, 18 November 2015.

6. Interview with a Member State diplomat based in Brussels.

7. A fundamental institutional debate on the legal nature of the ENP relates to this issue and originates from the fact that Article 8 of the Treaty on the European Union (TEU) introduces a legal basis for the EU to develop a “special relationship” with its neighbours that no longer binds the ENP either to the enlargement provisions or to the provisions of the treaties relating to the external action of the Union.

It is true that the EEAS has a decisive role to play in the ENP. The European External Action Service is responsible for drafting documents that then go through the relevant Council structures, especially the MAMA working group (which an EEAS representative has chaired since the Lisbon Treaty). It is equally true that Member States are not fully associated with some ENP meetings: ministers from Member States are only invited to the plenary part of Association Councils, which are usually followed by a more restricted session excluding Member States.

However, the lack of involvement of Member States in the ENP is prone to subjective interpretations and it would be misleading to only put the blame on the European Commission or the EEAS. Member States have often been reluctant to let the exclusivity of their bilateral relationships with southern partners dissolve into an EU framework. Another phenomenon highlighted by some respondents to the Survey is the unhealthy division of labour between the EU institutions and Member States on human rights, whereby Member States tend to let the EU convey difficult messages on human rights violations to partners without supporting the same line unequivocally in the context of their bilateral relations. For instance, a French respondent commented "...all EU Member States should be equally engaged in the promotion of its principles." However, it appears that there are variations among Member States on the importance attached to human rights and it seems that the language on human rights has been a contentious point among Member States in the ENP review process up to the adoption of the Council conclusions on 14 December 2015. Traditionally, northern European countries have been more attached to the "more-for-more" rationale than some Mediterranean EU countries.

In addition to the distinctions made between small and big Member States (regarding the capacity to cope with the ENP toolbox), on the one hand, and northern and southern Member States (regarding the importance of "more-for-more" and human rights in the ENP), on the other, it is important to introduce another distinction between those Member States that have more interest in the EU's southern neighbourhood and those that are more inclined to the eastern neighbourhood. It could be argued that there is only a partial ownership of the ENP by Member States, with EU southern Member States involving themselves more on the southern Mediterranean and the EU eastern Member States showing more interest in the eastern dimension of the ENP. This can be illustrated by the attendance of Association Councils: most often, the few ministers that attend Association Councils with southern partners are from EU Mediterranean countries. This specialisation is not healthy according to a Swedish respondent who claims that the ENP should not be outsourced to some specific EU countries: "France is not the country to run EU-Algeria policy and neither should Germany, Sweden or Poland run the Union's Russia policy."

Reviewing the dynamics that may have an impact on Member States' involvement in the ENP without mentioning the divisions on foreign policy matters among Member States would not be satisfactory. The ENP is not only the victim of a lack of coordination between the Member States but also of substantive divisions within the 28 countries on how to deal with situations in the EU's Southern Neighbourhood. Respondents to the ENP Survey make no mistake about it. To the fourth question (on the vision for future relations between the EU and the Southern Neighbourhood partner countries), a respondent wrote: "I don't see a real European policy in Syria, Palestine, Iraq, Egypt, Yemen even Tunisia. Instead, disinterest, alignment on the US position or continuation with national policies." Another respondent introduces a link between the lack of visibility of the EU and the inner divisions, for example, on migration: "the EU at the moment is practically invisible from the South. There is still a lot to be done on the EU's side to have a joint view on questions and represent them. I don't see this happening in the short term on most of the issues, e.g. speaking with one voice on the migration issue has been impossible so far."

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Conclusion

The mere repetition of a formula referring to the lack of involvement of Member States in successive ENP reviews is a good indicator of the seriousness of the issue. Therefore, the effort of the latest review released on 18 November 2015 to address some of the concerns of Member States that may explain their relative disengagement should be commended. The ENP was considered too ambitious, too broad and too bureaucratic. The ENP review proposes to go for streamlined priorities, to concentrate on interests of stakeholders, including EU Member States (hence the focus on migration and security) and to rationalise the toolbox, including the reporting exercise. The effort will need to be sustained in the upcoming period: when engaging with partner countries on the revised policy, EU institutions will need to closely involve Member States. However, the success of the ENP will also require a constructive engagement from Member States that should not only be concerned with making the ENP work for their bilateral relations. Only under this condition will the ENP perform better and the EU will be able to avoid the prognosis made by a respondent to the Survey: *“Il existe une tendance lourde a voir l'UE devenir un partenaire banal parmi les acteurs regionaux, a la fois politiquement et surtout econmiquement.”*

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