
THE YEAR OF LIVING DANGEROUSLY: THE EUROPEAN UNION AND ITS EASTERN NEIGHBOURS IN 2008

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INTRODUCTION

In his excellent contribution to the 2007/2008 edition of the *Strategic Panorama*, José Ignacio Torreblanca—writing, no doubt, under the impact of the recent signing of the Treaty of Lisbon on 13 December 2007—optimistically augured the «end of the constitutional quagmire» in which the European Union had been caught since the defeat of the Constitutional Treaty in the French and Dutch referendums of 2005. In his opinion, overcoming this situation would at last enable the EU to project itself «much more decisively towards the future and, in particularly, beyond its borders» (1). However, the rejection of the Treaty of Lisbon in the binding referendum held in Ireland on 14 June 2008 dashed this hope, at least in the short term, further prolonging the uncertainty surrounding the reform process inaugurated by the adoption of the Laeken Declaration in 2001, which has been going on for over seven years now. This new constitutional crisis no doubt dented the EU's credibility, giving fuel to those who usually criticise it for devoting too much time and effort to internal reforms of no interest to public opinion instead of focusing on the major challenges it faces, such as climate change, energy security and immigration.

As has usually occurred during other episodes of extreme internal uncertainty in Europe, the world did not have the courtesy to stop and give the EU a chance to put its house in order at its own pace. As was to be

(1) JOSÉ IGNACIO TORREBLANCA, «*El fin del atolladero constitucional: nuevos líderes, nuevos instrumentos, desafíos pendientes*», in *Panorama Estratégico 2007/2008*, Instituto Español de Estudios Estratégicos and Real Instituto Elcano (Ministerio de Defensa, Madrid, 2008), p. 137 et seq (English Edition «The end of the constitutional quagmire: new leaders, new instruments, pending challenges).

feared, several crises that afflicted the EU's immediate neighbours in 2008 (particularly in the east) put to the test its internal cohesion, the leadership capacity of its senior representatives, the versatility of its instruments and policies and, ultimately, its ability to behave like a significant global actor. The first of these crises was triggered by Kosovo's declaration of independence in February 2008 and opened up wounds that have not yet fully healed. The second involved Georgia, which was invaded by Russian troops in August, giving rise to what was, despite its brevity, the first European war of the twenty-first century. Russia also played the leading role in the third of these crises, the interruption of the gas supply to Ukraine at the end of the year and, consequently, to several EU member states. These three conflicts raised doubts and fears about the possibility of establishing satisfactory relations with Russia and also about the EU's neighbourhood policy and its ability to export stability and security to the states in its immediate vicinity.

Inevitably, these conflicts and the tensions they sparked heightened EU citizens' interest in the US presidential campaign and its outcome in November 2008. Although the opinion polls revealed that, save very rare exceptions (Poland), the Europeans were overwhelmingly in favour of the Democratic candidate, Barack Obama, the future president did not devote much attention to his future relations with the EU in his campaign, which focused increasingly on domestic issues as the international financial and economic crisis worsened. As a result, shortly after his resounding victory, serious doubts were voiced—in both the United States and Europe—about the impact the change of White House tenant would have on transatlantic relations.

LISBON AND ITS RATIFICATION DIFFICULTIES

As readers will recall, one of the aims which had inspired—brought about, even—the opening of this reform process was precisely the realisation that the EU as an international actor needed to play a bigger role that was more in keeping with its economic weight and political ambition. Although less ambitious in this area than many would have wished, both the Constitutional Treaty and its successor, the Treaty of Lisbon, envisaged modifications designed to make the EU more effective in this field. However, the conflicts that arose during 2008, which we will go on to analyse, merely confirmed the need for the EU to implement these reforms as soon as possible in order to be able to intervene more decisively and effectively in them. Furthermore, Ireland's «no» vote and its impact on the entry into

force of the Lisbon Treaty could slow down the EU's forthcoming West Balkan enlargement, on which definitive peace in the region probably depends (2). In short, although some experts had exaggerated the disastrous consequences of the Treaty of Nice on the EU's decision making process, there were sound reasons why the twenty-seven member states could not resign themselves to not implementing the Treaty of Lisbon.

When analysing the causes of the negative result of the Irish referendum, it should be recalled as a starting point that turning the Constitutional Treaty into the Lisbon Treaty was an extremely risky operation. Basically, the aim was none other than to convince the supporters of integration that Lisbon did not substantially alter the Constitutional Treaty and, at the same time, convince its opponents that it was a sufficiently thorough modification for the French and Dutch to accept it without putting it to a second referendum. This introduced a clearly disturbing element of ambiguity—not to use a stronger term—into the ratification procedures, which was not precisely conducive to the establishment of an in-depth public debate on the contents and real scope of the treaty, particularly in some member states. In the short term, this tactic appeared to work, especially when the French parliament ratified the treaty in February 2008 (3). However, as many observers had predicted, in the referendum held in Ireland on 12 June 2008, with a turnout of 53.1 percent, the treaty was rejected by 53.4 percent of the population compared to 46.6 percent who supported it (4).

The public opinion surveys conducted after the referendum did not take long to conclude that Irish voters had rejected the Lisbon Treaty because they were neither familiar with its content nor understood it (5). The main reasons given by those who admitted having abstained (nearly one out of every two Irish people with the right to vote) were failure to understand the issues it raised, being too busy to vote, and the feeling of not being sufficiently well informed. Of those who voted against it, 42 percent of respondents put their decision down to lack of knowledge and lack of infor-

(2) The seven countries the EU regards as potential member states of the future are Albania, Bosnia-Herzegovina, Croatia, Kosovo, the Former Yugoslav Republic of Macedonia, Montenegro and Serbia.

(3) There were 336 votes in favour and 52 against the Lisbon Treaty and 17 abstentions in the French National Assembly on 7 and 8 February 2008, while the Senate adopted it with 265 in favour, 42 against and 13 abstentions.

(4) See HUGO BRADY, «*Precaución: Irlanda puede guillotinar Lisboa*», ARI No. 56/2008.

(5) European Commission, 'Post-referendum Survey in Ireland', Flash Eurobarometer 245, 18 June 2008, available from http://ec.europa.eu/public_opinion/flash/fl_245_full_en.pdf. See also MILLWARD BROWN IMS, «*Post-Lisbon Treaty referendum research findings. September 2008*».

mation; 13 percent to their fear that Ireland would be dominated by «more powerful nations»; 8 percent thought it «was a bad treaty for Ireland»; and 5 percent said they identified Lisbon with a future «loss of sovereignty». Amazingly, even those who voted in favour felt that the «no» campaign had been the more convincing (6).

Pursuing our analysis a little further, most of those who voted «no» viewed the Lisbon Treaty as a possible threat to Ireland's neutrality in foreign policy matters. Many voters living in rural areas—who are conservative by nature—were also concerned that the Treaty could pave the way for a reform of Ireland's restrictive legislation on abortion (and even for the legalisation of gay marriages). What is more, at a time of economic slowdown and rising unemployment, many citizens feared that the Treaty would increase the tax burden on enterprises, resulting in a loss of foreign investment. Finally, fear that Ireland would lose its commissioner and institutional weight within the EU also played a role. As can be seen, nearly everything would appear to indicate that most voters did not read the text of the Treaty or did not understand what it was about—which is hardly surprising given its considerable complexity. Despite the results, this and other surveys confirmed that Irish citizens' support for the EU continued to be much greater than the European average, even among those who had voted «no» to Lisbon.

Given the difficulties of transforming the Constitutional Treaty into the Lisbon Treaty, the European leaders were quick to dismiss the possibility of reforming it to take into account the sensibilities of the Irish electorate, in view of which the island's authorities realised that what was expected of them (unlike what happened after the French and Dutch «no») was an «Irish solution to a European problem». And so, following complex (albeit discreet) negotiations between the Irish government, the Commission and the French presidency of the EU, the European Council of 11-12 December 2008 promised to issue «the necessary legal guarantees» to respond to the concerns expressed by the Irish people about the scope or exercise of the EU's competences in tax matters; the compatibility of the Treaty with Ireland's traditional policy of neutrality; the null impact of the adoption of the EU's Charter of Fundamental Rights on the provisions of the Irish Constitution with respect to the right to life, education and the family; and the importance the EU attaches to protecting workers' rights and public services as an instrument of social and regional cohesion. However, the most salient

(6) See also RAJ CHARI, «¿Por qué rechazaron los irlandeses el Tratado de Lisboa? Un análisis de los resultados del referéndum», ARI No. 69/2008.

feature was the Council's decision in relation to the future composition of the Commission, as it agreed that, when the Treaty entered into force, one commissioner per member state would be maintained, a possibility already envisaged—thinking very far ahead—in the articles of the Lisbon Treaty (7). (A possible lesson that could be drawn from the Irish referendum is precisely that the EU failed to take sufficiently into account the huge importance the smaller member states attach to their commissioner; according to the rotation set out in the Treaty, one-third of the member states would be deprived of a commissioner of their nationality for a five-year period). In exchange for all this, the Irish government undertook to put the Lisbon Treaty to a second referendum before the mandate of the Barroso Commission expired (on 31 October 2009), raising hopes that it could at last enter into force before the year was out. Whatever the case, it would mean holding the European Parliamentary elections scheduled for 4-7 June 2009 without yet having resolved the constitutional impasse; this could have a negative impact on voter turnout, which has fallen by an average of 17 percentage points since 1979, from 62 to the 45.5 percent recorded in 2004.

THE KOSOVO CRISIS OR THE POLICY OF THE LESSER EVIL

Although the Balkan region has been a source of instability and concern to Europe for well over a decade, it was surprising to note the amount of international tension sparked throughout 2008 by the crisis of Kosovo, a territory with less than two million inhabitants. This territory, 90 percent of whose population was Albanian and 7 percent Serb, had enjoyed a certain amount of political autonomy in accordance with the 1974 constitution of the Federal Republic of Yugoslavia. However, following the death of Tito, President Slobodan Milosevic put an end to this situation in 1988. This gave rise to a brutal campaign of ethnic cleansing carried out by the Serbian military and police forces, resulting in the expulsion of nearly half of Kosovo's Albanian population and the killing of more than five thousand civilians. The action subsequently taken by NATO against Belgrade, which in turn led some 100,000 Kosovo Serbs to flee the territory, gave rise to the adoption of Security Council Resolution 1244 in June 1999 whereby Kosovo was placed under international administration. As time passed, the United Nations Mission for Kosovo (UNMIK) progressively transferred

(7) For a recent defence of the need to keep a commissioner per member state in order to guarantee the Commission's legitimacy and efficiency, see JOHN TEMPLE LANG & EAMONN GALLAGHER, «*Essential steps for the European Union after the 'No' votes in France, the Netherlands and Ireland*», CEPS Policy Brief No. 166, August 2008.

more and more competences to the local authorities and the situation was made official by a constitutional agreement adopted in 2001 without the participation of Belgrade, although the enclave of Mitrovica, inhabited by a Serbian majority, retained a parallel administration. This situation generated growing frustration among the Kosovo Albanian population, triggering an outbreak of violence in March 2004, in which some 50,000 people mobilised against the Serb minority and their cultural and religious symbols. In view of the deterioration of the situation, the UN secretary general recommended stepping up efforts to find a permanent solution to the status of Kosovo, a suggestion that was formally approved by the Security Council in October 2005. The Council also agreed to place negotiations in the hands of a special envoy, former Finnish president Martti Ahtisaari, who was to work closely with a Contact Group formed by France, Germany, Italy, the Russian Federation, the United Kingdom and the United States. It was found almost immediately that, with the exception of Russia, the members of the group considered Kosovo's independence to be inevitable, and Serbia further complicated the situation by adopting a new constitution in September 2006 that failed to provide sufficient guarantees of Kosovo's autonomy, thereby confirming the fears of the Albanian majority. A month later Moscow warned that it would not agree to any formula that was unacceptable to Belgrade.

Following several months of UN-sponsored talks between the representatives of Kosovo and Serbia, in February 2007 Ahtisaari forwarded a proposal that was immediately rejected by Belgrade. Even so, the UN secretary general put it before the Security Council, while adopting the recommendations made by the special envoy on the future status of the territory, according to which «the only viable option for Kosovo is independence, to be supervised for an initial period by the international community». Although the so-called «Ahtisaari plan» did not explicitly mention independence, it envisaged transferring powers from UNMIK to the Kosovo authorities, which would have enabled it to attain the aforementioned status in the not so distant future. At the same time, it envisioned the appointment of an International Civilian Representative who would also be the EU special representative, and the existence of a NATO-led military mission, both with «considerable» competences. Both states thought that the subtle distinction between the plan and Ahtisaari's recommendations would make it possible for the former to be approved even after the rejection of the latter, but this was not the case. Owing chiefly to Russia's head-on opposition, the Security Council was unable to adopt the plan, as a result of which a new round of ne-

gotiations was held between Serbia and the representatives of Kosovo with the intermediation of a troika formed by Washington, Moscow and Brussels. These talks ended in December 2007 without an agreement having been reached (8).

In view of this impasse, a major debate took place on the Kosovo crisis at the European Council of 14 December 2007. The public conclusion reached was that the existing situation was untenable and that the EU should involve itself as fully as possible by setting up an ESDP mission to consolidate the rule of law, as well as the office of the International Civil Representative, which would coordinate the international presence in Kosovo, and by making a financial contribution to help mitigate the extremely serious economic crisis the territory was experiencing. Anticipating a unilateral response from Kosovo to the failure of the negotiations fostered by the troika, the European Council conclusions included a somewhat peculiar observation that «resolving the pending status of Kosovo constitutes a sui generis case that does not set any precedent».

As it had announced in December, on 4 February the EU unanimously agreed to establish the European Rule of Law Mission in Kosovo (EULEX Kosovo), to support the Kosovo institutions, judicial authorities and law enforcement agencies in their «progress towards sustainability and accountability», and to appoint a special representative, Pieter Feith, for the territory. A few days later the French general Yves de Kermabon was appointed as head of the mission, which, after a transitory period of 120 days, was to replace UNMIK, with nearly 2.000 international personnel including police, judges, prosecutors and customs agents from all the member states (except Cyprus), a local corps over a thousand strong and a budget of €205 million for its first 16 months of life, all of which should make it the most important civilian operation of those sponsored to date by the EU's European Security and Defence Policy (ESDP). The fact that these decisions were adopted before the formal declaration of independence suggests that the most influential EU members had already concluded that Kosovo's independence was inevitable, and that the very existence of EULEX would provide some reassurance to the member states harbouring doubts about the legality of this *fait accompli*. The latter agreed to the creation of EULEX provided that its existence did not signify formal recognition of an independent Kosovo.

(8) See in this connection the excellent essay by MARC WELLER, «*Negotiating the final status of Kosovo*», Chaillot Paper no. 114, Institute for Security Studies, Paris, December 2008.

As expected, the Assembly of Kosovo unilaterally declared the territory to be independent on 17 February 2008, quoting for the purpose Ahtisaari's proposal and recommendations Like the European Council text, the declaration described the secession of Kosovo as «a special case arising from Yugoslavia's non-consensual breakup» and «not a precedent for any other situation». As previously warned, at the Security Council meeting of 18 February 2008 this decision was rejected by Serbia and its main ally, Russia, which questioned its legality in international law (while China adopted a more toned down stance), in contrast to the favourable opinion of the representatives of the United States, the United Kingdom, Italy and Belgium. The EU Council hastily met the following day and concluded that the independence of Kosovo was a *sui generis* case which did not call into question the principles of the United Nations Charter or the Helsinki Final Act on sovereignty and territorial integrity. However, when it became apparent that this decision was of concern to a not inconsiderable number of European partners, particularly Spain, Greece, Cyprus, Slovakia, Bulgaria and Romania, it was agreed to allow the member states to decide freely whether or not they recognised the new state of Kosovo. Above all, the EU wished to avoid a repetition of the tricky situation experienced in December 1991 in connection with the recognition of the independence of Croatia and Slovenia, although it did not entirely succeed in doing so. As had occurred in relation to Bosnia, and later at Rambouillet, when the EU proved incapable of speaking with a single voice, it was Washington's intervention that led to the final outcome.

Pristina's unilateral declaration of independence sparked an intense political, academic and media debate on its legality all over the world—and especially in Europe. The objections raised by Serbia and Russia, and backed with varying degrees of enthusiasm by other states, were fairly simple: the secession of Kosovo had not been authorised by Serbia, nor had it been given the go-ahead by the Security Council (which, as we have seen, had not even formally approved the Ahtisaari Plan), in view of which the declaration of independence was contrary to international law. Much of the debate revolved around how to interpret Resolution 1244 of 10 June 1999 whereby the Security Council had ordered Belgrade to withdraw its troops from Kosovo and hand the territory over to the UN. More specifically, while those in favour of secession stressed that Resolution 1244 had established only a transitory regime, «pending a final settlement» (Art. 11a), to facilitate «a political process designed to determine Kosovo's future status» (Article 11e), its opponents underlined that the regime provided for «a substantial self-government for Kosovo, taking full account of [...] the

principles of sovereignty and territorial integrity of the Federal Republic of Yugoslavia» (Annex 1) (9).

Whatever the case, Kosovo's declaration of independence once again highlighted the difficulty of getting twenty-seven states with different geostrategic interests and political cultures to adopt an EU common position on such a controversial issue. For Cyprus, Romania and Slovakia, recognition of the new state would have set a dangerous precedent, in the first case in relation to the Turkish-Cypriot minority and in the other two in relation to the Hungarian population. Greece, for its part, could not fail to show its traditional solidarity with Cyprus, as well as its concern about the possible impact of Kosovo's initiative on the Albanian minority in the neighbouring Macedonia. As for Spain, many foreign analysts attributed the government's position—which for once was unequivocally shared by the leading opposition party—to a comparable fear with respect to Catalonia and the Basque country. Certainly, some nationalist sectors in both autonomous regions interpreted the Kosovo declaration as an incentive to their independence demands, as had occurred in the nineties when the Baltic republics gained their independence. However, another factor that powerfully influenced the adoption of this stance was the deep respect for international law and the UN that characterised both the foreign service and the university community devoted to studying international relations—a feature of Spanish political and academic culture that should be interpreted partly as a reaction to the authoritarian legacy of the Franco regime and the international isolation to which it gave rise (10). A certain role was most likely played—though this would not explain the attitude of the Popular Party—by the wish to underline the contrast between this staunch defence of international law and the attitude of José María Aznar's governments towards the Iraq war. Lastly, a certain amount of irritation was caused—and not only in Spain—by the attitude of the United States and some of the major European powers, which had approved the secessionist option without waiting for the troika-led talks between Belgrade and Pristina to finalise, as this logically took away any incentive for the Kosovars to reach a negotiated settlement.

From the EU's perspective, the unilateral nature of Kosovo's declaration of independence and the fact that it did not have the backing of the

(9) Resolution 1244 (1999) at <http://www.un.org/spanish/docs/comitesanciones/1160/sres1244.pdf>. See in this connection CESÁREO GUTIÉRREZ ESPADA & ROMUALDO BERMEJO GARCÍA, «Kosovo de nuevo: apuntes críticos sobre su declaración de independencia, su constitución y otras reflexiones», Real Instituto Elcano, Documento de Trabajo No. 41/2008.

(10) See BERNARDINO LEÓN, «La posición española sobre Kosovo», Cinco Días, 20 February 2008.

Security Council was a serious hindrance to the implementation of its policies. On the one hand, June 2008 saw the entry into force of Kosovo's new constitution, which made no mention of UNMIK but did refer to Resolution 1244 (1999). EULEX was initially scheduled to take over from UNMIK when the former became operational, but Serbia, with Russia's full support, refused to allow the transfer of powers without the approval of the Security Council. Following a long diplomatic wrestling match, in November 2008 the Security Council at last approved the deployment of EULEX provided that it took place under the umbrella of UNMIK, and showed a neutral stance towards the status of Kosovo. This raised significant doubts about the future efficiency of EULEX—namely, whether it is possible in practice to defend the rule of law and contribute to strengthening the institutions of a particular territory without previously dispelling existing doubts about the legitimacy of the state that claims to represent it. These discrepancies made it necessary to postpone the start of the EU mission's mandate, which was finally implemented on 9 December 2008, its credibility not precisely bolstered by the situation. In practice, in the mainly Serb-inhabited parts of Kosovo north of the river Ibar, the police would continue to act under the supervision of UNMIK, as would also occur with the customs checkpoint at the border between northern Kosovo and Serbia. If it is really UNMIK which guarantees law enforcement in northern Kosovo, what validity can be attributed to the country's new constitution? Against all odds, and much to the consternation of the supporters of independence, the eventual full transfer of UNMIK mandate to EULEX will require the future approval of Belgrade (and of Moscow). All this raises the possibility that what started out as a unilateral declaration of independence could, over time, come to be remembered as a unilateral declaration of dependence (11).

Before the deployment of the EULEX mission, in October 2008 the UN General Assembly agreed—by 7 votes in favour and 6 against, with 74 abstentions—to Serbia's request for an advisory opinion from the International Court of Justice on the legality of the declaration of independence, a motion that commanded the support of several EU member states, among them Spain. Although its ruling will not be binding and could take several years, a decision against Pristina's unilateral action would place the international community—including the UN itself—in a very awkward situation, as Kosovo's independence is probably irreversible, irrespective of its

(11) See JOHANN DEIMEL & ARMANDO GARCÍA SCHMIDT, «Kosovo 2009: Uncertain future», *Spotlight Europe* 2009/01, January 2009, BERTELSMANN STIFTUNG, and DANIEL KORSKI, «Kosovo: Between Kiribati and Kuwait», European Council on Foreign Relations, 16 February 2008.

undoubtedly questionable legality. We may therefore assume that the five member states which have not yet recognised the new state of Kosovo—Spain, Romania, Slovakia, Greece and Cyprus—will be impelled to do so in the not too distant future, as urged by the European Parliament in February 2009 by 424 votes in favour and 133 against, with 24 abstentions. Otherwise, the EU's ability to contribute to a definitive peace in the western Balkans would probably be undermined.

In short, although Kosovo's unilateral declaration of independence may hardly be considered an optimum result, the existing alternatives were no more attractive, as the Serbian authorities never convinced the international community of the seriousness of their convictions of autonomy for Kosovo, and the status of the international protectorate which had existed since 1999 was clearly unviable in the medium term. Even so, although acceptable as a lesser evil, from the EU's perspective the independence of Kosovo—and, in general, the whole process of the dismembering of the former Yugoslavia—amounts to something of a failure, as the proliferation of new states based on ethnic criteria is barely compatible with the yearning for overcoming the old nation-state concept that is supposedly inherent in the European project.

GEORGIA, AUGUST 2008: THE FIVE-DAY WAR

The second territorial conflict that required the EU's intervention in 2008 arose at a certain geographical distance from Kosovo, but sparked questions and debates that bore some relation to the situation there. The Georgian crisis formally erupted on 7 August 2008, when President Mikheil Saakashvili ordered an attack on Tsjinvali, the capital of South Ossetia, supposedly in retaliation for the movements of Russian troops, the magnitude and purposes of which it has not been possible to document reliably. This action in turn triggered a forceful military response from Russia, launched from South Ossetia and also from Abkhazia—a territory where Georgia had committed no aggression—which Moscow justified with the argument of wishing to prevent an imminent Ossetian genocide, even though in order to do so its troops invaded Georgian territory whose sovereignty was not under debate. (Although the Russians initially claimed that Georgia's action had caused over two thousand casualties, the organisation Human Rights Watch placed the number of dead at around two hundred). The fact that Russia destroyed communications between Tbilisi and the west of the country indicates that its intention was to inflict a harsh punishment on Georgia, so that its humiliation would serve as an example

to other unruly neighbours. It should furthermore be remembered that this was the first time Moscow had ordered a military invasion of a sovereign state since it occupied Afghanistan in 1978 (12).

Ever since Georgia's separation from the former Soviet Union in 1991, both South Ossetia and Abkhazia had enjoyed a peculiar de facto independence which had allowed them to develop their own political and economic systems under the protection of the Russian military peacekeeping forces that have been present uninterruptedly in these territories for a decade and a half. The Tbilisi authorities had already taken military action against the secessionists of South Ossetia on various occasions—the most recent in 2004—but Moscow's assistance had always ensured the defeat of these initiatives. Furthermore, the secession of Kosovo could be interpreted as an invitation to South Ossetia and Abkhazia to gain independence. In view of these antecedents, Saakashvili's decision is not easy to explain, although it is no less certain that the speed of Russia's military response suggests that it had been prepared somewhat in advance. If the Georgians thought that the United States would come to their aid given the support the Bush Administration has shown to Georgia's NATO accession in the recent past, they were sorely mistaken. In addition to being busy on other fronts in Iraq and Afghanistan and only months away from the end of his second term in office, the US president was no doubt aware of the need to avoid any confrontation with Russia that might endanger Russia's collaboration in relation to containment of the Iranian nuclear threat. Furthermore, it is possible that NATO's refusal to provide Georgia with a *Membership Action Plan* (MAP), expressed at the Bucharest summit in April 2008, influenced President Saakashvili, particularly bearing in mind Angela Merkel's comments that the Alliance could not take in a state with unresolved territorial conflicts.

Be this as it may, since both Russia and the USA seats on the UN Security Council, making it impossible for the organisation to take any measures, the initiative was soon taken up by the French president, Nicolas Sarkozy, who, as luck would have it, had held the six-month EU presidency since the previous month. The French president got Russia and Georgia to agree to a ceasefire on 12 August based on a six-point plan, and the following day an emergency meeting of the EU foreign ministers authorised the Commission and Javier Solana to study the political and

(12) See SVANTE E. CORNELL, JOHANNA POPJANESVSKI & NIKLAS NILSSON, «*Russia's war in Georgia: causes and implications for Georgia and the world*», Central Asia – Caucasus Institute & Silk Road Studies Program, Policy Paper, August 2008.

economic measures required to ensure its feasibility. The peace plan envisaged the withdrawal of both armies to the positions they had occupied before the outbreak of the war, although the Russians were authorised to remain in the occupied areas—supposedly for peacekeeping purposes—until an «international mechanism» was created to take over. Both parties also undertook to take part in any international talks on the future security and stability of South Ossetia and Abkhazia. Although this clause did not explicitly mention the legal status of these territories, the fact that Russia agreed to participate in negotiations of this kind amounted to recognition that the issue was negotiable.

As was only to be expected, the text was not to the liking of all the member states, and it was not long before serious differences of opinion within the EU surfaced, as had occurred in relation to Kosovo. In this case they drove a wedge between the «hardliners» (the United Kingdom, Sweden and the ten Central and East European partners) who wanted a forceful response to Russia's aggression, and the «soft liners» (headed by France and Germany) who showed themselves to be more compliant. Some observers were quick to establish comparisons with the crisis the invasion of Iraq triggered in the EU, but the situation was very different. Above all, Washington considered that Georgia belonged to the EU's «back yard», and during her visit to Tbilisi on 12 August, far from encouraging them to adopt a belligerent attitude towards Russia, the Secretary of State, Condoleezza Rice, urged the Georgians to accept the ceasefire negotiated by Sarkozy. (After all, Georgia had joined the EU's European Neighbourhood Policy in November 2006). On this occasion the «hardliners» were less numerous than in 2003 (as Spain, Italy and Portugal had gone over to the other side) and also less influential (owing mainly to the United Kingdom's loss of prominence and the rather ambivalent attitude of states like Hungary and Slovenia, and even more so Bulgaria and Romania, which showed themselves to be much less belligerent than Poland). Lastly, on this occasion the «soft liners» were able to join forces around a sounder position than before, which furthermore did not seek confrontation with Washington (13).

Sarkozy was fully conscious that these divisions could seriously dent the EU's credibility and called a special European Council meeting for 1 September—the first of this kind since that of 17 February 2003, at which the EU's leaders failed in their attempt to establish a common position

(13) PETER LUDLOW, «*The EU and the Georgian crisis. The making of the French Presidency*». Eurocomment, Briefing Note. Vol. 6, No. 3, September 2008, pp. 1-6.

on Iraq—to analyse all aspects of the Georgia conflict. Although some of the «soft liners» did not believe calling such a meeting was justified, Russian's provocative decision to unilaterally recognise the independence of South Ossetia and Abkhazia on 26 August, its refusal to withdraw its troops and the belligerent declarations made by the Russian president, Dmitri Medvedev, shortly afterwards, appeared to prove the French president right. It is rather ironic that one of the arguments used by Russia to justify this recognition was the fact that South Ossetia and Abkhazia had not been able to participate fully in Georgia's political system, something that Moscow had striven to prevent at all costs. The Russians also argued in favour of the self-determination of these territories based on the fact that their populations had been assaulted militarily by the Georgian forces, a position that should have led them to view the demands of the Kosovo separatists more favourably (14).

Despite the objections of some leaders—such as the president of Lithuania, who would have preferred the EU to impose some sort of sanction on Russia—the conclusions proposed to the European Council by the French presidency were approved without much difficulty. The text condemned both Russia's military invasion and the subsequent political recognition of South Ossetia and Abkhazia, announced the calling-off of the negotiations that had been held with a view to renewing the Partnership and Cooperation Agreement between Russia and the EU, at least until Russia withdrew its troops, and promised a closer relationship with Tbilisi in order to establish a free-trade area as soon as possible. However, although it recognised Georgia's right to decide freely on its foreign policy, it also recognised Russia's right to guarantee its own security, provided that it respected the sovereignty and territorial integrity of its neighbours. Accompanied by Solana and the president of the Commission, José Manuel Barroso, Sarkozy made these conclusions known to the Russian president, Medvedev, during a long, tense meeting held in Moscow on 8 September. As a result, Russia agreed to withdraw its troops from the areas of Georgia that had been under the control of the Tbilisi government within a week, as well as the supposed peacekeeping forces occupying the so-called «buffer zone» by 10 October, provided that a (civilian) international observer force capable of taking its place—to which the EU would contribute at least 200 personnel—had been deployed at the beginning of that month, as subsequently occurred. This might be considered an example of successful

(14) EKATERINA STEPANOVA, «*South Ossetia and Abkhazia: placing the conflict in context*», SIPRI Policy Brief, November 2008.

Community diplomacy, as before the meeting the Russian foreign minister had announced that he would only agree to the deployment of observers from the OSCE, to which Russia also belongs, and which was already present in South Ossetia before the invasion. (However, the Russian government did not take long to clarify that, in its opinion, this international contingent could only operate in the buffer zone and not in South Ossetia or Abkhazia, despite the fact that Solana had insinuated that they could do so throughout the entire territory Georgia regarded as its own). Following the evacuation of the buffer zone, with respect to South Ossetia and Abkhazia the Russians undertook to return to the positions they had occupied up until 7 August. This proved to be a problem—among other reasons because, after recognising the independence of these territories, Moscow had promised to deploy a 7,600-strong force in them, much larger than the existing one before the summer invasion. Despite the doubts it may have harboured about the feasibility of the agreement, Georgia agreed to withdraw its troops to their barracks by 1 October. Surprisingly, the EU representatives undertook to guarantee that the Tbilisi government would in future refrain from using force in relation to the dispute, despite the doubts in Brussels and other capitals as to the reliability of President Saakashvili. Indeed, those who later objected that the EU had admitted its weakness by failing to demand that its observers' right to operate freely in the territories under dispute be clearly established were not far wrong. However, it is evident that Russia would never have accepted this demand as a precondition, and the EU would have had to choose between considering the negotiations settled and accepting an explicit exclusion that would have amounted to a *de facto* recognition of these provinces (15).

The agreement reached also encompassed the proposal included in the August ceasefire of organising an international conference to debate the security and stability of South Ossetia and Abkhazia, although without prejudice to the result of the negotiations on the future status of these territories. The conference, which was held in Geneva in November 2008 under the aegis of the UN, OSCE and EU a month later than initially scheduled, served above all to adopt certain decisions on the refugees and civilians displaced by the conflict, although it was also agreed to set up a committee to study the causes of the summer outbreak. A few weeks earlier, in

(15) According to Eurobarometer 70, published in December 2008, 26 percent of respondents thought that the EU had played the most important role in the cessation of hostilities in Georgia, a contribution that only 12 percent attributed to the UN, and 9 percent to both the US and NATO. However, 35 percent had no opinion on this, Spain being the member state where lack of knowledge was the greatest (57 percent).

October, the international community sponsored a donor conference. The participants pledged to contribute \$4.5 billion in donations and loans for the reconstruction of Georgia, of which \$763 million would be provided by the United States and \$863 million by the Commission and EU member states. Finally, in December 2008, after a meeting of the EU-Georgia cooperation council established under the umbrella of the European Neighbourhood Policy, Brussels announced the imminent opening of negotiations to facilitate the granting of visas and other measures designed to speed up the signing of a free-trade agreement between the parties.

The Georgia conflict of August 2008 was highly revealing of the complexity of the current international system. On the one hand, by unilaterally recognising the independence of South Ossetia and Abkhazia when the memory of its irate rejection of the secession of Kosovo was still fresh, Russia showed that its attachment to international law was, to say the least, as selective and motivated by self interest as that of the states it had criticised for recognising Pristina. At the same time, in its desire to prove that, contrary to the claims of the promoters of Kosovo's secession, the latter could not be considered *sui generis* or unrepeatable, Moscow may have fallen into the trap of a self-fulfilling prophecy, as recognition of these territories could fuel secessionist movements in some territories belonging to the Russian Federation, such as North Ossetia and Chechnya. In this connection, it is most telling that no other state—except Nicaragua—has seconded Moscow in its recognition of South Ossetia and Abkhazia. China could hardly have done so, for example, given the situation of Taiwan, Xingjian and Tibet.

Irrespective of the responsibility that can be attributed to Saaskashvili for the events of summer 2008, it is likely that Georgia has permanently lost control over one-fifth of the territory it traditionally considered its own, and over the 200,000 people who currently inhabit it. However, the most striking feature of the conflict is not that Russia was prepared to deploy its troops in the two territories under dispute—which, after all, had considered themselves to be independent for over a decade—but that it did not hesitate to invade the rest of Georgia and destroy much of its armed forces, even though it was relatively quick to pull out of the defeated country. Moscow acted without warning, totally unconcerned by the international reaction it might trigger, and made barely any effort to justify its actions. Some experts have deduced from the above that this crisis will be remembered as a turning point in the emergence of a new post-Soviet Russian imperialism and as a decisive landmark in the history of post-1989 international relations. However, it may be more prudent and realistic to conclude that

from now on Russia will not hesitate to use force to protect what it perceives to be its traditional sphere of influence, especially the areas where the United States intended to take advantage of its political and economic difficulties during the immediate post-Cold-War period to undermine its presence, as in the Caucasus (16). This explains, for example, Russia's bombing of air force bases such as Senaki and Murelli, and ports such as Poti, which Washington had identified as installations of special strategic value. Nor should we ignore the economic impact of the crisis and its geostrategic reading: among other consequences, Russia's actions in South Ossetia caused an interruption in the use of the Baku-Tbilisi-Ceyhan oil pipeline that crosses the territory, forcing Azerbaijan—which has had serious difficulties in its relations with Moscow recently—to drastically reduce its crude oil production.

UKRAINE: PRIVILEGED NEIGHBOUR OR ACCESSION CANDIDATE?

The invasion of Georgia by Russian troops was followed with particular interest (and apprehension) in Ukraine, the state that has suffered the most from the resurgence of Russian militarist nationalism in recent years. Owing to its size, population, economic potential and geostrategic importance, Ukraine has become a very special partner for the European Union. Back in 1994, Kiev and Brussels signed a Partnership and Cooperation Agreement which entered into force in 1998, and laid the foundations a bilateral relationship that was enhanced following the Orange Revolution of 2004. A year later, in February 2005, Ukraine joined the EU's Neighbourhood Policy by signing a three-year joint action plan, which it was agreed to extend for a further year in March 2008. However, the invasion of Georgia spurred the member states to raise the status of their relations with Kiev, and at the annual bilateral meeting in September 2008 the EU offered Ukraine a future Association Agreement in a formal declaration recognising it to be «a European country which shares, with the EU countries, a common history and values». The fact that Brussels opted for an Association Agreement—as the agreements signed in the 1990s with the Central and East European countries that joined the EU in 2004 were called—went down very well with Kiev, even though it is equally true that the member states have not yet formally decided whether Ukraine will become a full-fledged partner one day. (In practice, the association agreement, which could be signed in the second half

(16) See CHARLES KING, «*The Five-Day War. Managing Moscow after the Georgia crisis*», in *Foreign Affairs*, vol. 87, no. 6, November/December 2008, pp. 2-11.

of 2009, will be a «deep» free-trade agreement granting Ukrainian products almost unlimited access to the European internal market). Once again, at the September summit divergent stances within the EU as to its future eastward enlargement prevented the adoption of a more ambitious position: whereas the United Kingdom, Sweden and the Central and East European countries would have liked to offer Ukraine a more explicit accession «perspective», Germany, Italy, the Benelux countries and Spain were more wary, owing at least in part to their desire to avoid problems with Moscow (17).

Indeed, the announcement of this Association Agreement did not prevent the Russian authorities from ordering Gazprom to interrupt gas supplies to Ukraine for over a week in early January 2009, as had occurred in January 2006, on the pretext of failure to make certain payments and irregularities on the part of Kiev, leading to serious problems of supply in some member states, particularly Slovakia and Bulgaria. However, on this occasion the EU mediated successfully between Moscow and Kiev, as a result of which supplies were re-established relatively quickly. In the view of the majority of the Ukrainian population at least, the EU fittingly played its role of guarantor of the rule of law and legal certainty—no mean achievement given the level of corruption that characterises Ukraine’s political and economic life.

In its ongoing effort to strengthen its influence in the region, the EU has progressively updated its eastern Neighbourhood Policy every so often, though it has yet to come up with a fully satisfactory response. The most recent expression of this effort was the Eastern partnership presented by the European Commission in December 2008, based on a proposal by Poland and Sweden and designed for Ukraine, Moldova, Belarus, Armenia, Azerbaijan and Georgia. The underlying purpose of this proposal is none other than to speed up these eastern neighbours’ convergence with the Union member states, minimising the barriers that currently hinder the free movement of goods and people, and considerably increasing Brussels’ economic assistance to these states. Actually this eastern partnership would not have much of an effect on the situation of Ukraine, whose imminent Partnership Agreement will enable it to develop a privileged relationship with the EU. Nonetheless, it might help convince the Ukrainian public opinion—and the Russian elites—that full accession for Ukraine is not a pipe dream. In fact this is the dilemma which the EU has faced for years, and should endeavour to settle as soon as possible: if it makes Kiev a more explicit accession offer,

(17) TOMAS VALASEK, «*Why Ukraine matters to Europe*», Centre for European Reform essays, December 2008.

granting it potential candidate status, Ukraine's (and the EU's) relations with Russia could take a turn for the worse; if it does not, the Ukrainian population, currently very much in favour of future accession, will conclude that they are doomed to remain under the shadow of Moscow indefinitely. After all, experience shows that the promise of EU accession continues to be the best incentive for the social, economic and political reforms that a state like Ukraine still needs to implement. Therefore, perhaps the time has come to differentiate more clearly between the possible beneficiaries of the EU's future eastward enlargements and states that will have to settle for the status of mere neighbours, if possible reasonably stable and friendly ones.

EUROPEAN UNION – RUSSIA RELATIONS: TOWARDS A THIRD WAY?

The Kosovo conflict, the Georgia war and the almost structural tension between Kiev and Moscow may be considered a serious challenge to an EU that claims to seek to move beyond old paradigms such as the balance of power, spheres of influence and the use of military force, and to replace them with the instruments of regional negotiation, multilateral negotiation and the rule of law. The most important lesson the EU ought to learn from these conflicts is that it is of little use to stay out of problems with the vain hope that time will sort them out: «frozen conflicts» are actually never what their name implies. For fear of irking Russia, the EU was extraordinarily reluctant to involve itself directly in Georgia's problems: in 2005, when Moscow put an end to an OSCE mission that was monitoring its border with Georgia, Tbilisi asked the EU to replace it with a mission of its own, to which Brussels responded by sending a dozen experts on border control systems. Granted, Georgia's membership of the European Neighbourhood Policy in 2006 brought with it a few tangible benefits. But Brussels did nothing to involve itself in peacekeeping operations that Moscow managed at its own convenience, despite the OSCE's repeated warnings about the deterioration of the situation and growing militarisation of the area. When the war erupted, the EU found itself facing a tricky dilemma: it could not ignore the fact that Russia had invaded a neighbour, but it required Moscow's cooperation to stabilise the region, which made a merely punitive reaction unfeasible. This raises the question of whether the EU will be capable of finding an intermediate solution allowing Russia to join a long-term project of democratisation and regional stabilisation.

In the immediate post-Cold War period Russia did not pose major difficulties to the foreign policy of the EU, which had no problem joining forc-

es around a project that sought the democratisation, modernisation and westernisation of the former Soviet colossus. However, the combination of Vladimir Putin's advent to power and a substantial rise in the price of oil and gas brought about the downfall of this project, for which the EU has not been capable of finding a replacement. Throughout 2008, doubts about the compatibility of Russia's political system with the values championed by the EU did not cease to grow, and Russia's action in Kosovo, the Caucasus, Ukraine and Moldova put Brussels' influence in those regions to the test. In the opinion of some authors, the current danger lies not so much in the fact that Russia is hindering the EU's energy policy or blocking its initiatives in the UN Security Council, but in its aims to establish itself as an alternative ideological pole to that which Brussels wishes to embody.

What is paradoxical about the case is that EU-Russia relations are clearly asymmetrical given the demographic, economic and military superiority of the former: the EU's population is three and a half times Russia's; its economic weight is fifteen times larger (Russia's GDP is barely higher than that of Belgium and the Netherlands together); and its military expenditure is seven times greater. This asymmetry is particular evident in the field of trade: the EU purchases 56 percent of Russian exports and sells Russia 44 percent of its imports, whereas Russia's purchases account for only 6 percent of the EU's exports and Russia's sales amount to only 10 percent of the EU's foreign purchases. Contrary to what is generally thought, the EU's global energy dependence on Russia, although undoubtedly important, has diminished in recent years: Russian gas accounted for 75 percent of the EU's gas imports in 1995, but for only 30 percent in 2008, and dependence on Russian oil is even less. The level of dependence varies enormously from some member states to others: whereas 80 percent of the gas Bulgaria consumes is Russian, Spain imports its gas from other geographical areas. At any rate, the relationship between energy dependence and political positioning is more complex than it might seem. Roughly speaking, in Central and Eastern Europe the energy markets are small and not very diversified, whereas in Western Europe they are larger and also more diversified. The paradox is that Moscow grants preferential treatment to the two biggest purchasers of Russian gas, Germany and Italy, which are less dependent in relative terms but owing to their size account for 50 percent of the Russian gas imported by the EU; in contrast, Russia can afford to be more demanding with the member states of Central and Eastern Europe, which are captive clients and whose gas purchases account for a very modest proportion of the total. Therefore Russia's power to drive a wedge between EU member states would be considerably weakened

if they did more to progress towards a genuine integrated gas market in Europe, which would provide the most vulnerable partners with greater security (18).

In any event, the degree of the EU member states' energy dependence on Russia is just one of many factors that may help explain their attitude to the policies emanating from Moscow and the EU's difficulties in adopting a common position. An interesting study published by the European Council on Foreign Relations attempted to simplify the enormously complex bilateral relations of the 27 EU partners with Russia based on the existence of five possible different attitudes towards the country. According to this classification, Cyprus and Greece, whose proximity to Moscow occasionally leads them to veto community initiatives that Russia could consider detrimental, fall into the category of *Trojan horses*; France, Italy, Germany and Spain, who supposedly enjoy a «special relationship» with Russia, are its *strategic partners*; Austria, Belgium, Bulgaria, Finland, Hungary, Luxembourg, Malta, Portugal, Slovakia and Slovenia, who enjoy close business relations, might be considered *friendly pragmatists*; the Czech Republic, Denmark, Estonia, Ireland, Latvia, the Netherlands, Romania, Sweden and the United Kingdom, who also value their business relations, though this does not make them any less demanding in areas such as human rights, would belong to the group of *frosty pragmatists*; and lastly, Poland and Lithuania, who have developed an overtly hostile attitude towards Moscow and are also willing to use their veto, constitute the *new cold warriors*. (19)

According to the authors of this study, these five European attitudes towards Russia could be plotted along a continuum, at one extreme of which are those who view the country as a down-at-heel authoritarian and imperial power that can therefore be considered structurally revisionist, while at the other we find those who maintain that it is a state that is still undergoing democratisation and can be influenced positively by the EU. According to this scheme, the former are in favour of a policy of «soft containment» that involves excluding Russia from the G8, expanding NATO to take in Georgia and Ukraine as soon as possible, building missile shields and protecting the European energy sector from Russian investment. The problem this vision poses is that, even leaving aside the energy dependence of some EU states, it would not address the need to count on Russia when it comes to

(18) See PIERRE NOËL, «*Beyond dependence: how to deal with Russian gas*», Policy Brief, European Council on Foreign Relations, November 2008.

(19) MARK LEONARD & NICO POPESCU, *A power audit of EU-Russia relations*, European Council on Foreign Relations, November 2007.

resolving other major transnational problems such as climate change and nuclear proliferation. The latter, in contrast, favour Russia's «creeping integration» into the European political, economic and cultural sphere, through increasingly close interdependence. However, this strategy presupposes the existence of certain shared values (democracy; rule of law; multilateralism) or the possibility of sharing them in the not too distant future, something that may not be very realistic. One of the biggest immediate challenges to the EU's foreign policy is therefore defining an intermediate position, a «third way» in relations with Russia, based on a minimum European common denominator that has so far been glaringly absent.

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The year 2008 appeared to prove right those who had warned that, far from progressing towards a neo-Kantian and postmodern new international order, we would witness a certain «return of history» that could give rise to a situation characterised by the existence of conflicts and rivalries between states, motivated, as in the olden days, by the pursuit of resources, power and prestige, which would considerably hinder the redefinition of institutions of global governance—both economic and political—that are clearly becoming increasingly overwhelmed by events. This situation poses an even bigger challenge to the European Union than it does to conventional international actors, as it not only questions to an extent the philosophy that inspired the Union's founding and underpins its current and future development, but undermines its methodology, its influence and its capacity for manoeuvre beyond its frontiers. Although the ratification of the Lisbon Treaty will not cause these problems to vanish as if by magic, it is to be hoped that it will at least allow the EU to operate with greater coherence and credibility as a global actor.