

THE EXTERNAL PROMOTION OF HUMAN RIGHTS AND THE ENP:  
SEPARATION, HARMONIZATION, AND DOMINATION

INTRODUCTION

It is fair to say that the external promotion of human rights within Europe, and elsewhere, has been a major focus of the European Union (EU) beyond its humble beginnings as an economic association following the Second World War. Whether working with other intergovernmental organizations (IGOs), or establishing its own accumulated human rights guidelines pronounced in the *acquis communautaire*, the EU has frequently utilized its economic and political powers to promote human rights to its member states, accession countries, and beyond.

The research presented here examines the external promotion of human rights by the EU through a three-stage process of separation, harmonization, and domination. It begins with a historical perspective, examining how the EU initially separated the promotion of human rights issues from political and economic considerations, and documents the EU's reliance on other IGOs for the promotion of human rights in early accession countries. It then moves to examine the EU's promotion of western democratic principles through its work with other IGOs. Here, particular attention is given to the EU's efforts to promote human rights through coordinating and harmonizing efforts with the OSCE, NATO, and the Council of Europe. Finally, this research turns to investigate how the EU's role in the promotion of human rights, particularly within Europe, began to supplant – as opposed to supplement – the human rights efforts of other IGOs. Here, the research

investigates the EU's European Neighborhood Policy (ENP), current, and future strategies regarding the exportation of human rights beyond the EU's formal borders.

Using case studies from Spain, Latvia, Turkey, and Belarus, this research documents the EU's transformation from separation to domination in the realm of human rights promotion. It examines cases in which the EU's external governance efforts in the area of human rights have been successful, and where they have failed. Finally, it examines the potential detrimental effects of EU external governance in non-accession countries such as Belarus.

## SPAIN

The Spanish case of integration was one of the first tests of human rights for the EU. Only with the second period of enlargement of the EU into Southern Europe would democracy come to the forefront as a condition of membership. According to Dimitrova and Pridham, "[t]he accessions of Greece and specially Spain and Portugal are usually cited as the EU's first contribution to democracy promotion, since the authorities in Brussels had indicated certain, albeit vague democratic conditions for membership" (2004, p. 95). Spain, then, warrants a closer investigation.

Spain's first attempt at European integration was limited in scope and depth. In February 1962, Spain applied for association with the EU while still under the dictatorship of Francisco Franco. Membership would have greatly enhanced Spain's economy through trade relations with the rest of the continent. Franco, though, sought to maintain his strict control over Spain and envisioned this association to be

strictly economical, not political. Thus, this application was not for full membership and Franco, who “was very careful not to link democratization into its relations with the Community,” handled this issue very delicately (Erdem, 2005, p. 11). For this reason, Franco, who was embarking on a path of economic reform, was sure not to apply for the CoE, but to the EU (whose focus was on economic development). In fact, the CoE even backed Spain’s attempt at economic association, but disapproved of any political links (Haller, 2006, p. 132). Like other applicant countries, Spain looked to benefit from the EU’s economic package, but sought to avoid political interference from European integration.

Although Spain’s application for association received careful consideration, the EU looked beyond the applicant’s economic interests to political concerns; in doing so, the EU depended on the CoE to oversee democratization. In the Spanish case, the EU opened a loose interpretation of the enlargement clause of the Treaty of Rome. Article 238 of the original 1957 treaty contains vague wording on the nature of enlargement with associate status: “The Community may conclude with a third country, a union of States or an international organisation agreements creating an association embodying reciprocal rights and obligations, joint actions and special procedures” (European Union, 1957, p. "Rome"). The ambiguity of these terms was tested in the first application for enlargement from Britain in July 1961. French President Charles de Gaulle protested the UK’s admission primarily because he believed the UK did not have a sufficiently European orientation (Torreblanca, 2003, p. 9). Debate over the British case revealed more than a need for negotiation, but a formalization of the EU’s admission criteria. The result of this process was the

Birkelbach Report that was filed by the European Parliament in 1962. In a declaration to those states who felt otherwise (Britain), “[t]he report established that accession was not a right of the applicant but, rather, that the Community had the right to demand that applicant states fully commit themselves to honour the economic, political and institutional obligations which membership [into the EU] entailed” (Torreblanca, 2003, p. 10). Although this document was directed at the UK’s application, it had important effects in Southern Europe, specifically Spain who applied for association a mere month after the Report’s release. In this respect, the EU had leverage in requiring democratic practices and respect for human rights beyond the scope of Spain’s economic ambitions. José Torreblanca describes how the process of admission was expanded:

[. . .] [A]s a result of the deliberative debate which followed the British application, and which resulted in the Birkelbach Report, the enlargement *acquis* became structured along two main dimensions: one (regulative) emphasizing the existence of a set of rules of obligations (the *acquis communautaire* [. . .]) which candidates had to accept; a second (normative), specifying the values which the candidates’ political systems had to embody and preserve (democracy and human rights, as defined by the [CoE] and the [ECtHR] [. . .]).  
(2003, p. 13)

The normative requirements that Torreblanca describes prevented both the UK and Spain from being admitted for membership (in Britain’s case) and association (in Spain’s case). More than just an issue of bad timing, Spain’s application for

association came at a time when the EU was reflecting on its role in Europe and the very nature of enlargement. Undoubtedly, Spain would have encountered large problems with its application without the Birkelbach Report. However, Torreblanca points out another critical element of this expansion of the enlargement *acquis*: the reliance on the CoE to evaluate human rights standards. More than informally, the EU recruited the CoE into its enlargement process, which would have more effects on Spain. The EU's strategy of conditionality caused Spain to be denied association.

Despite its first rejection, Spain continued to seek integration into European IGOs. Spain was admitted to the OSCE on June 25, 1973 on its anti-communism merits; however, full integration into European organizations could only begin with the death of its dictator, Franco, in November 1975. By almost all standards, Francoist Spain was not sufficiently democratic or protective of minorities to be allowed into European organizations. Not only did Franco mandate Castilian as the official national language (limiting minority languages like Catalan, Basque and Galician), but he also banned left-wing parties and isolated Spain from foreign trade. To top it off, economic downturns in the early 1970s increased public demand for political change (Erdem, 2005, p. 10). With the death of Franco and an eye toward European IGOs, Spain capitalized on the movement toward democratization. This important milestone certainly caught the attention of the CoE. Bruno Haller, the CoE's former Secretary-General of the Parliamentary Assembly, recalls, "[b]etween 1974 and 1977, the Assembly watched closely as the Franco era drew to an end, and democracy was gradually introduced" (2006, p. 132). Change was certainly in the air: "In September 1976, the Assembly noted that the democratic process in Spain

was now irreversible. It welcomed the amnesty granted by the King [the restored King Juan Carlos I] to political prisoners and exiles. It also stressed the importance of press freedom, political and trade union liberties, and legislation of all the country's political parties" (Haller, 2006, p. 133). Following another milestone, open elections in June 1977 (the first since 1936), Spain was admitted to the CoE on November 24, 1977.

With this presence in Spain, the CoE was able to oversee the development and passage of a new constitution. On six occasions, the CoE met to discuss terms the new government would have to address, chief among them human rights; agreement to these terms strengthened Spain's membership to the CoE (Haller, 2006, p. 132). In a nod to the dedication Spain had to the CoE, Spanish Foreign Minister Marcelino Oreja promised a "joint undertaking by all the parties in the Cortès that the rule of law and ideals enshrined in the ECHR would be fully granted in the new constitution" (Haller, 2006, p. 133). The leading parties negotiated a democratic constitution that passed by referendum on December 6, 1978 (Malefakis, 1982, p. 229). Spain's tremendous reform and new constitution complied with the EU's own modest requests, such as allowing multiple political parties and promoting trade unions (Erdem, 2005, p. 12). Consequently, accession negotiations with the EU opened. The suppression of the attempted military coup in February 1981 and the election of the social-democratic party in 1982 were evidence to many IGOs that Spain had fully adopted democracy (Nagle & Mahr, 1999, p. 237). Finally, the EU admitted Spain in 1986. Spain, with the help of the

CoE, quickly transitioned to a functioning democracy and was integrated into European IGOs.

Spain's process of admission to the CoE and EU reveals the nature of the separation of the two organizations' spheres of influence. In fact, the areas of separate responsibility initially brought both organizations into Spain. Spain looked to economic benefits in seeking out the EU, and the CoE saw an opportunity to assist in democratization in post-Franco Spain. The CoE's strategy of post-accession socialization played a critical role in the development of the Spanish Constitution. On the other hand, EU officials sought democratic reforms, but only as far as adherence to CoE demands. In simple terms, this may seem like an excellently executed and coordinated plan. However, the EU did not have comprehensive expectations in democratization or human rights and deferred responsibility for reform in these areas to the CoE. Deferral falls short of harmonization. The CoE and EU lacked consistent coordination throughout the Spanish case. Only as the EU began to formalize human rights into its area of influence through expansion into Central and Eastern Europe, would deferral become full-scale harmonization.

## LATVIA

After the collapse of the Soviet Empire in 1991, several former satellite countries moved toward admission into European IGOs. The clear expectation for these newly independent countries was a return to liberal democracy, with the help of European organizations. Although the path was arduous, in 2004, eight post-communist republics acceded to the EU. A growing body of literature seeks to

analyze the EU's strategy of democratization in these areas and several theories have been suggested (see Nagle and Mahr, Dimitrova and Pridham, and Pridham). While each country warrants an investigation of how IGOs influence democratization, Latvia stands out as a prime example of the nature of the relationship among European organizations. Latvia also is characteristic of a country that underwent a gradual transition to a liberal democracy to qualify for admission to several organizations.

After reaffirming its independence in early 1991, Latvia sought to affirm its national identity while at the same time embrace European IGOs. The situation in Latvia was especially unstable: "More than fifty years of Soviet occupation, policies of linguistic Russification, and a precarious demographic situation [. . .] generated a broad consensus on the necessity of reasserting national identity" (Muižnieks & Brands Kehris, 2003, p. 30). Before any clear nationalist policy direction could be implemented though, Latvia joined the OSCE in September 1991. In light of its admission to the OSCE, Latvia applied to the CoE in early 1992, but joining proved difficult. The CoE objected to a hurriedly passed citizenship law from October 15, 1991. Nils Muižnieks and Ilze Brands Kehris explain that the law defined Latvian citizens as those who held citizenship before 1940 (before Soviet occupation) and their descendents; immigrants or Russian decedents would have to naturalize, but under harsh quotas and vague naturalization guidelines (2003, p. 32). While this legislation intended to delegitimize the Soviet occupation, it also ignored the large population of Russian minorities that had immigrated to Latvia during that time. Although a member of the OSCE, this law would slow Latvia's admission to the CoE.

Because of Latvia's early admission, the OSCE made initial efforts in pushing the country toward the adoption of a new, more clearly defined citizenship law; however, Latvia's attention was fixed toward the CoE and EU. As the Latvian Saeima debated several drafts of a new legislation regarding citizenship in 1993, the High Commissioner of National Minorities (HCNM) of the OSCE weighed in, suggesting to the government that it should not "adopt too restrictive a policy on naturalization, connecting the citizenship issue directly to democracy" (Muižnieks & Brands Kehris, 2003, pp. 34-35). Latvia responded to the HCNM that a recommendation from the CoE was expected as well (McMahon, 2007, p. 161). Although particularly telling of Latvia's preference to the CoE, it represented a sharp underestimation of institutional coordination that was emerging at this time. This lesson was quickly learned as Latvia set its sights on the EU. The anticipated CoE's recommendations underscored the degree of cooperation among IGOs: "[. . .] the CoE, like the HCNM, took issue with the inclusion of strict naturalization quotas in Latvia's citizenship law. In step with the HCNM's recommendations [. . .] its message to Latvia was that the country would be denied membership in the CoE if changes were not made about its citizenship law [. . .]" (McMahon, 2007, p. 152). A new law was passed in July 1994 among heated debates between extreme nationalists and moderate liberals over the recommendations of the OSCE and CoE. The final reading of the law came short of the full recommendations of the IGOs; "moreover, the final result came only after intense consultations and explicit linkage of adoption of an acceptable law to the coveted membership in the Council of Europe" (Muižnieks & Brands Kehris, 2003, pp. 36-37). But even extreme politicians in the Latvian

government knew that compliance with the CoE demands would be necessary for EU membership:

Inga Reina, Latvia's representative before international human rights organizations, explains that while many tend to overlook the influence of the CoE because its activities are less well-known and its expert opinions are delivered without much fanfare, its effects on Latvian legislation and 'the rules of the game' cannot be exaggerated. [. . .] [I]n time, Latvians realized that by joining the council, they had to accept 'the whole package,' which meant they had to respond regularly to international concerns. (McMahon, 2007, p. 165)

The staunch national agenda was trumped by the desire for EU membership, and that was only possible through admission to the CoE first. On February 10, 1995, Latvia was made a full member of the CoE and membership into the EU was becoming more of a reality. Patrice C. McMahon explains the CoE's decision to admit Latvia:

In spite of its concerns that the citizenship law was still too restrictive and did not fully resolve the problems Latvia's minority population faced, the CoE granted Latvia full membership. That is to say, membership was granted in exchange for the Latvian government's willingness to continue cooperating with the CoE and the [OSCE] in implementing the law and in drafting a separate law on noncitizens.

(2007, p. 162)

The CoE looked to employ its signature strategy of post-accession socialization in the case of Latvia. Furthermore, it asserted its role as the leader in human rights, in front of the EU. The citizenship law can only be viewed as a concession towards garnering EU membership.

The EU, however, did not rely solely upon the efforts of the CoE and required further changes to the citizenship laws in addition to changes to other laws concerning language. For its efforts, Latvia had reason to celebrate and anticipate EU accession: “The EU not only welcomed the fact that the [citizenship] law [of 1994] accepted some of the recommendations of regional organizations [namely the CoE], but claimed that its adoption was ‘a good basis for progress in the integration of ethnic minorities and the development of inter-community relations’” (McMahon, 2007, p. 162). But with the EU’s increasing role in democratization and human rights (as made evident by the Copenhagen Criteria), the law still presented a problem. It still included strict naturalization stipulations, which prevented Russians from gaining citizenship. Even amid skepticism, Latvian officials insisted that the EU would not become involved in the issue and that the law would not prevent Latvia’s admission to the EU (Muižnieks & Brands Kehris, 2003, p. 38). But again, Latvia underestimated European IGOs. “In early April 1997, the director of the EU Commission for External Relations, Hans van den Broek, pointed out the problems with Latvia’s citizenship law, indicating that this was a major issue for the EU. The director explicitly referenced [. . .] the opinions of the CoE” (McMahon, 2007, p. 167). Later that year, the European Commission published a report that confirmed the law was inadequate to address naturalization concerns (Muižnieks &

Brands Kehris, 2003, p. 39). The EU, in step with the CoE and OSCE, made recommendations on amendments to the citizenship law. In a referendum of 1998, Latvian officials grudgingly passed the amendments, seeing them as conditionality to EU membership. But the EU's recommendations extended farther: "While EU attention to the citizenship issue waned after the October 1998 referendum, the EU and its partner organizations became increasingly involved in seeking to influence Latvian language policy" (Muižnieks & Brands Kehris, 2003, p. 43). Soviet policies of Russification elevated Russian as the primary language over Latvian. Post-independence legislation sought to revive Latvian language, by requiring Latvian for many public and private jobs. For the most part, language legislation was eclipsed by citizenship legislation as European IGOs saw the latter as more pressing. The OSCE and CoE only mentioned language reform in passing. However, after 1997, the EU made this more of an issue: "As the date for the anticipated invitation to join EU accession negotiations approached at the end of the [sic] 1999, pressure built to adopt a final version of the language law that would be acceptable to the EU and other European organizations" (Muižnieks & Brands Kehris, 2003, p. 47). Again, Latvia bent to EU wishes by amending the law to the EU standards; the adopted language law was sufficient enough to warrant an invitation to Latvia by the EU for accession negotiations.

In Latvia, the EU actively sought a full-scale cooperative effort with the CoE. By reaffirming its partner's recommendations on policies each organization sought to change, the EU provided backing to the CoE. The Latvian case typifies the 'stick-and-carrot' strategy of harmonization between the CoE and EU. However, the case of

Latvia also shows the beginning of the transition of influence in human rights from the CoE to the EU. While the EU continued to support the CoE's recommendations, the EU sought more comprehensive reform. Muižnieks and Brands Kehris explain why the EU continued to make demands in Latvia: "too little time elapsed between the rhetorical change of position to be able to expect that an internalized normative change would have followed" (2003, p. 50). In other words, the EU could not rely solely on the CoE's reforms to determine if Latvia had made a fundamental change in policy, or just changed its rhetoric to reflect EU demands. More so, the Latvian case comes after the passage of the Copenhagen Criteria and the formalization of human rights as pre-accession conditions. To ensure substantive, lasting democratization reform, the EU made stronger, more defined demands in human rights in Latvia. This heavy-handed approach would mean even more demands would come for the next case study, Turkey.

## TURKEY

With the enlargements of 2004 and 2007, one notable exception to the EU's list of new members was Turkey. Contemporary literature on the Turkish process of admission abounds. The causes for rejection are equally numerous, ranging from economic, to political, to religious, to technical (i.e., Turkey is not actually a part of Europe). The scope of this section, however, is not to uncover the truth behind Turkey's rejection, but to understand the current relationship between the CoE and the EU in light of each organization's presence in Turkey. The CoE has a lingering role within Turkey, but that it is clear the EU has drastically minimized the CoE's

importance among European IGOs. Ultimately, the EU stands to end its long relationship and warrant the CoE useless in the area of democratization and human rights.

Turkey has had an extended history of democratizing and integrating into European IGOs. Even before the prospect of the EU, “Turkey has been a westward-looking country since the late Ottoman era, and its desire for ‘Europeanization’ became more overt after the establishment of the Republic of Turkey in 1923” (Arat & Smith, 2007, p. 2). With this mindset, Turkey established a secular government after the models of Western Europe (Yildiz, 2007, p. 794). With a 99% Muslim population, Turkey has been unique in its respect for religious minorities. One of Turkey’s founding documents, the Treaty of Lausanne, provides many protections of religious minorities (Yildiz, 2007, pp. 795-96). While Turkey may have adopted de jure religious toleration, in reality the country still has high levels of persecution of Christians and other minorities. After World War II, Turkey saw the CoE as the point of entry into Europe. In 1949, Turkey acceded to the CoE and signed the European Convention on Human Rights in 1954. By doing so, Turkey agreed to respect the European Court of Human Rights. Turkey’s continued adherence to the decisions of the ECtHR has indicated its commitment to human rights promotion and has demonstrably affected its legal code (Arat & Smith, 2007, p. 6). Furthermore, Turkey adopted one of its most liberal constitutions in 1961, which gained the praise of the CoE and the EU (Çakmak, 2003, pp. 73-74). In Turkey’s early years, the CoE assisted in moving the country toward democracy.

Despite its membership in the CoE, Turkey encountered difficulty applying to the EU. When Turkey applied for EU association in 1963, the resulting Ankara Agreement was only economic and not political. For the EU, the Agreement would prepare Turkey for economic growth in expectation of eventual membership negotiations. The EU saw this as a nod to Turkey's democratic reforms, unlike Spain's at the same time, but was still hesitant to offer Turkey anything resembling admission. Turkish-European relations hit a low point in the 1980s, however, when a military coup assumed power in Turkey. The junta instituted a less democratic constitution and began a brutal attack against Kurdish insurgency (Çakmak, 2003, pp. 71-74). The situation warranted a freezing of relations with the EU and a suspension of membership from the CoE (Haller, 2006, p. 119). Even after the return of civilian rule in 1983, normalizing relations with the CoE and EU was slow and difficult. The CoE, and the EU more rigorously, made stiff requirements for resuming relations: "abolishing the death penalty, prohibiting torture, ending collective trials, recognizing the right of individuals to apply to the European Court of Human Rights [. . .], and eliminating all laws restricting freedom of thought" (Arat & Smith, 2007, p. 3). Without the time to meet such demands, Turkey's subsequent application to the EU in 1987 was denied, yet membership in the CoE was restored. When talks of eventual membership negotiations circulated in the mid-1990s, Turkey began to adapt to the Copenhagen Criteria. Throughout the 90s, Turkey passed a sweeping number of reforms that included "amendments of the Constitution and laws, as well as enacting new laws, including a new penal code, a new press law, a new law on associations, and a new code of criminal procedure and law on the enforcement of

sentences” in an effort to comply with the Copenhagen Criteria (Arat & Smith, 2007, p. 7). In acknowledgment of those reforms, Turkey was officially raised to candidature for EU membership in 1999.

Rather than fully harmonizing with the CoE in Turkey, the EU questioned its partner, which had made little progress in Turkey since 1983. Further, the EU had passed the Treaty of Amsterdam in 1997, which outlined an active responsibility for the EU in human rights. For these reasons, the EU became heavy-handed in its dealing with Turkey beginning in the late 1990s, while at the same time relying less on the CoE. The CoE and EU have endorsed Joint Programs in Turkey, such as programs to reduce government corruption and training lawyers on ECHR standards. However, the EU has made much stiffer requirements for Turkey than it previously ever had for a candidate. EU reports since 1999 assert Turkey has not fully met the requirements of the Copenhagen Criteria. The Turkish case provides a clear example of the EU’s method of conditionality in the area of human rights.

## BELARUS

It is not surprising, given the political and cultural history of Belarus, that the promotion of human rights in this struggling presidential republic is a study in frustration. Occupied by foreign authorities for centuries, and brutally oppressed by Joseph Stalin and his policy of Sovietization, a political and civic culture capable of supporting, let alone demanding, positive human rights has been slow to develop. In this, our fourth and final case, we investigate Belarus, arguing that the EU, and not

the CoE or the OSCE, has been the dominant IGO in promoting human rights in Belarus.

Unlike Latvia, which quickly looked west for help to democratized its political institutions and liberalized its economy, Belarus looked east to the former Soviet Union. An original member of the Commonwealth of Independent States (CIS), democratic values, culture, and a civic society to support them has been slow to materialize. The Belarus government, which has become increasingly isolated and authoritarian since independence was gained from the Soviet Union in 1991, has done little to indicate a willingness to speak to any IGOs about human rights, let alone made progress toward liberalization. Clearly, in the cases considered here, the Belarus governments record on human rights is far from impressive.

Human rights abuses in Belarus take many forms, and it is the nation's resistance to address human rights that has further isolated it from the west. Belarus is the only European nation-state in which state-sponsored executions are still carried out, and the current government is frequently cited by IGOs, such as the OSCE, the CoE, and the EU, for their support of capital punishment. Belarus has also been called before NGOs, most notably Amnesty International, for a plethora of violations ranging from press intimidation, to state sponsored kidnapping and murder of politicians and media members who opposed President Alexander Lukashenko's dictatorial regime.<sup>1</sup>

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<sup>1</sup> Yuri Zakharenko (former Minister of the Interior, disappeared on 7 May, 1999), Victor Gonchar (former Vice President of the Parliament of Belarus, disappeared on 16 September, 1999), Anatoly Krasovski (businessman disappeared with Mr. Gonchar) and Dmitri Zavadski (cameraman for the Russian TV channel ORT, disappeared on 7 July, 2000.).

A self-described advocate of the "authoritarian style of rule", Lukashenko worked his way through the ranks of the Soviet Army and Communist Party prior to the collapse of the Soviet Union (BBC, 2006).<sup>2</sup> He was elected as Deputy in the Supreme Soviet of the Republic of Belarus in 1990, and remained active in Belarusian politics following the creation of the CIS. In 1993, Lukashenko was elected to serve as the chairman of the anti-corruption committee of the Belarusian parliament, and later that year, headed a corruption investigation that led to accusations of fraud against more than 70 senior government officials. These accusations, while largely unproved, led to the eventual resignation of the sitting Speaker of the Belarusian parliament. The corruption investigation would ultimately lead to the collapse of the conservative parliament, and a new Belarusian constitution in early 1994 establishing the current presidential republic. On 10 May 1994, Lukashenko became the first elected president of Belarus by defeating opponent Vyacheslav Kebich on the second ballot.

Lukashenko's victory in 1994, and his subsequent efforts to consolidate presidential power through constitutional referendums, would lead many IGOs to question the government's commitment to democracy and human rights. In November 1996, Lukashenko orchestrated a constitutional referendum that gave sweeping powers to the executive branch and further crippled the oversight and governing responsibilities of the Belarusian parliament (CoE: Belarus).<sup>3</sup> The EU refused to accept the legitimacy of the referendum, but continue a dialogue with an

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<sup>2</sup> <http://news.bbc.co.uk/2/hi/europe/3882843.stm>

<sup>3</sup> "Belarus: A Referendum under a 'Hardening Dictatorial Regime.'"

<http://assembly.coe.int/ASP/APReaturesManager/defaultArtSiteView.asp?ArtId=362>

increasingly isolated and hostile government. (BBC News, 2004). However, the CoE, citing a host of questionable maneuvers by Lukashenko, suspended the Belarusian parliament's special guest status in January 1997, and froze Belarus' accession process to the CoE. Begun in March 1993, when Belarus applied for CoE membership, the accession process to the CoE remains frozen.

The CoE, and the Parliamentary Assembly of the Council of Europe (PACE), have had little interaction with the Lukashenko government since the accession process was frozen. In 2004, PACE protested an October referendum that year that successfully revised the Belarus constitution to allow for the removal of term limitations on the presidency. In 2006, on the eve of the presidential election that would usher in Lukashenko's third six-year term, PACE issued Resolution 1482, which highlighted Lukashenko's undertaking of "a series of measures to prevent even further any expression of political dissent and obstruct the activities of democratic forces." (PACE: 2006).<sup>4</sup> Amid arguments from PACE, the CoE, the OSCE, and the EU that the elections in 2006 failed to meet OSCE and other IGO's commitments for democratic elections, Lukashenko received a third presidential term after receiving 84.2% of the vote.

Although the CoE would state that the OSCE would state that the Belarusian parliamentary elections in 2008, which gave all 110 seats in parliament to parties loyal to Lukashenko, were also undemocratic, the OSCE continues to engage the Lukashenko regime. In 2003, the OSCE established an office in the capital city of Minsk. Although the stated role for the Minsk office is to represent the OSCE in

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<sup>4</sup> PACE Resolution 1482.

Belarus, the primary responsibility is to “assist the Belarusian government in further promoting institution building, in further consolidating the rule of law, and in developing relations with civil society, in accordance with OSCE principles and commitments.” (OSCE Office in Minsk, 2009.)<sup>5</sup> Coordinating efforts with the OSCE Office for Democratic Institutions and Human Rights (ODIHR), the OSCE Office in Minsk addresses a number of human rights issues. These issues range from ant-trafficking efforts and the creation of gender equality mechanisms, to trial monitoring, and building relationships between the government and civil society. The OSCE Office also assist individual citizens who have complaints regarding alleged human rights violations carried out by the government, addressing these complaints with the relevant Belarusian authorities. (Ibid., 2009). Working through other IGOs (UN, EU) and with non-governmental organizations, such as “La Strada”, the OSCE has actively engaged the Lukashenko regime.<sup>6</sup>

Similar to the preceding case studies, the OSCE’s engagement with Belarus has been conditional, rather than occasional. It has also been increasingly carried out in conjunction with the EU. While OSCE/ODIHR has promoted institution building, the consolidation of the rule of law, and the strengthening (and protection) of civil society, the EU offers the economic “carrot” that is most attractive to the Lukashenko regime and the Belarusian economy. While the Delegation of the European Commission to Belarus was only opened in March 2008, economic relations between Belarus and the EU – and the politics that go with such relations –

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<sup>5</sup> [www.osce.org/minsk/17896.html](http://www.osce.org/minsk/17896.html)

<sup>6</sup> headquartered in Amsterdam, LaStrada International is an NGO focused on addressing the trafficking of persons in Central and Eastern Europe.

date back to the ENP and before. In terms of time and proactive leadership, the EU has dominated the human rights discussion with Belarus during the last several years.

The establishment of economic relations between Belarus and the EU can be traced to the bilateral Trade and Cooperation Agreement (TCA) concluded by the European Community with the Soviet Union in 1989, and subsequently endorsed by Belarus. In 1995, the EU amended the bilateral Partnership and Cooperation Agreement (PCA) with Belarus, but has not ratified the PCA due to “the deterioration of Belarus’ internal political situation.” (European Commission, 2008).<sup>7</sup> Although trade between the EU and Belarus has grown in recent years, the EU has suspended moves towards closer economic partnership with Belarus until the Lukashenko government shows a greater commitment to democracy and civil rights. (Ibid., 2008)

The fact that the EU conditions greater EU-Belarus ties upon the latter’s need to improve human rights is not surprising given the EU’s track record with other Central and Eastern European Countries (CEECs) wishing to benefit from an increased trade relationship with the EU. In November 2006, the European Commission issued the non-paper “What the European Union Could Bring to Belarus”, in which the Commission laid out the benefits of the ENP to the Belarusian people and government. Directly citing “President Lukashenko’s authoritarian regime”, the commission is prevented from “offering Belarus full participation in our

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<sup>7</sup> [http://ec.europa.eu/trade/issues/bilateral/countries/belarus/index\\_en.htm](http://ec.europa.eu/trade/issues/bilateral/countries/belarus/index_en.htm)

neighbourhood policy.” (European Commission: 2006) As a result, no ENP action plan for Belarus exists.

While the EU does not apply trade sanctions against Belarus for its violations of human rights and other issues, it did temporarily withdraw the EU’s generalized system of preferences (GSP) from Belarus in June 2007 due to the country’s failure to significantly improve the protection of core labor rights. This temporary withdrawal of the GSP remains in effect today, as do travel restrictions against four government officials suspected to be involved in the disappearances of four individuals opposed to the Lukashenko government. (See footnote 1 on page 15-16 above.) An EU travel ban against Lukashenko and 35 other senior officials in Lukashenko’s cabinet was temporarily suspended for nine months on March 16, 2009.

In a speech to the Eleventh Annual Minsk Forum in November 2008, Ambassador Hans-Jochen Schmidt, head of the OSCE Office in Minsk, stated that there is increased convergence on the need for a policy of engagement with Belarus by IGOS, rather than a policy of isolation. Schmidt stated: “Simply put, twelve years of isolation have not been productive. (OSCE, 2008)<sup>8</sup> The EU’s willingness to suspend its travel ban against Lukashenko and others in his government, and an unwillingness to implement greater trade restrictions against Belarus, may be a positive sign that Belarus and the EU, as well as Belarus and the OSCE, are learning to better engage one another. Likewise, the Commission’s publication highlighting the ENP instrument for Belarus from 2007 to 2013 highlights the assistance to be

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<sup>8</sup> “Neighbourhood and Security: Perspectives for Belarus in Europe.” Speech given by Ambassador Hans-Jochen Schmidt.

given to Belarus during this period of time. This support, which is supported by the ENP, is intended to support the needs of the population, mitigate the effects of self-isolation of Belarus for its population, while supporting and advancing democratization. (European Commission: 2006)<sup>9</sup>

While it is obvious that Belarus does not fully participate in the ENP, Belarus is covered by the ENP and is eligible to fully participate when human rights issues and election irregularities are removed. In the meantime, the EU will continue to engage the Lukashenko regime hoping to encourage democratic reforms while hoping to dilute Russia's influence of Belarus. Other sanctions against Belarus remain in place, by the EU, including an arms embargo, but recent events and discussions between the EU and Belarus have opened a dialogue that heretofore has not existed. This dialogue is clearly pushing the EU and Belarus to new levels of communication.

It is less clear, however, what the relationship between Belarus and the EU, OSCE, and CoE will look like in the future. Belarus and these IGOs have warmed up considerably to one another in the past two years, but there are few indicators to suggest that the Belarusian government and President Lukashenko are willing to promote human rights within their own borders. Thus, while the EU is clearly dedicated to Belarus, it remains to be seen whether Belarus returns that favor to the EU, OSCE, or the CoE.

## SUMMARY AND CONCLUSIONS

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<sup>9</sup> European Neighbourhood and Partnership Instrument. European Commission, 2006.

While for decades the relationship between the EU and other IGOs involved separate roles, the expansion of the once solely economic organization brought them into closer contact in the promotion of human rights. Recently the EU has consolidated its power and relies less and less on its former partners. “We can argue that as Europe sought further integration—as it moved from the limited concerns of the European Economic Community to resemble a federal system under the rubric of the European Union [. . .] human rights started to play a more important role as the unifying norms.”<sup>10</sup> Now, partner organizations have limited influence compared to the EU; thus, the EU’s domination, although not complete, is measurable.

These changes have been tracked in four case studies. In the case of Spain, the EU relied on the reforms of the other IGOs, namely the CoE, resigning to the fact that both organizations had separate roles. As the EU formalized its admission criteria and as post-communist countries began accession negotiations, the relationship strengthened and cooperation flourished. In Latvia, the EU reinforced the recommendations made by the CoE and OSCE on human rights reforms. The EU, however, insisted upon reforms greater than those of its partners in accordance with its larger-scale process of centralization. For current candidate countries like Turkey, the EU has institutionalized admission criteria to formally include human rights. Although Turkey has made reforms in accordance with international standards, the EU has relied on its own measures for human rights. In effect, other organizations carry minimal influence in human rights, as Turkey’s ambitions are set on the EU. Finally, the EU’s protracted, conditional approach toward cooperation

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<sup>10</sup> Arat and Smith, 4.

with Belarus is reminiscent of its dealings with Turkey; it represents the dominant position the EU holds in external human rights affairs. Although Belarus has not expressed interest in becoming a candidate country nor has the EU developed an effective policy toward the country on human rights, the EU has taken the leadership on pressing the country toward human rights reform amidst the ineffectiveness of other IGOs.

The three-stage process of human rights policy development in the EU—that of separation, harmonization, and domination—provides a basis for understanding a couple of issues. First, it provides a framework for understanding the nature in which human rights policy came from a non-issue for candidate countries to the forefront of the admission process. Second, it addresses accusations that the EU has been more heavy-handed on human rights issues with current candidate and recent accession countries than it has in the past. Third, this process shows how the EU's role in the international community has changed over time, especially in relation to other organizations with similar objectives. Lastly, it can provide the basis for understanding the EU's approach to other policy areas, such as environment, security, and police and judicial matters. This theoretical approach should serve as an outline for understanding larger processes and developments within the EU and the community of international organizations.

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