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**The Energy Community of Southeast Europe: Finding New Approach for Enhancing
the Regional Cooperation
(an alternative to EU Enlargement?)**

The regional integration process is seen positively by the EU as a way to keep the Balkans on the path of development without making them immediately member states. EC used neo-functionalism and the spill-over effect as guiding principles in this process and it created the Energy Community of Southeast Europe. However, a new approach is needed in order to develop this idea properly and that is the neo neo – functionalism. ECSE's course of development depends on many factors that may or may not have positive spill-over into other areas and with that become the stepping stone of deeper regional integration.

Key words: Energy Community of Southeast Europe, Western Balkans, Neo functionalism

1. Introduction

Torn by the promises made to the countries of the Western Balkans (further in the text WB) that the door to their entrance in the EU is open and the fatigue caused by the enlargement in 2004 combined with the problems of the adoption of the new treaty, left the EU on a crossroad.

Fighting with its own problems the EU was trying to keep the region on the tracks of further development by finding some solution that does not include immediate membership. In this light the "Solomon" solution was something already done in the EU: creating regional community between the old enemies in some highly technical area that connects them. The EU duplicated the old Coal and Steel Community in the Balkans and in 2005 created the Energy Community of Southeast Europe (further in the text ECSE). This is the first legally binding treaty since the beginning of the 1990's between the countries that were at war in that period.

For creating this kind of community, the EU relied on the well known neo-functional method. Although this method has been criticized a lot and eventually thrown away by all influential thinkers (even by its pioneer Ernest B. Haas) still, many in the Commission are guided by it and believe that it can show results if it is implemented in other regions too.

However, not everyone agrees about the effectiveness of neo-functionalism and rightfully so. As every other theory this one too has its flaws and it is especially questionable if it can be applied at the Balkan circumstances.

The paper will evolve within these lines, while discussing in the end the future possible solutions for enhancing the regional cooperation in the Balkans and the implementation of a new theory called neo neo functionalism.

2. The Creation Of The Energy Community Treaty, Its Structure And Duties.

As it was mentioned in the introduction:

“The guiding ideas for the Commission officials involved in designing the institutional set-up were explicitly taken from the early experiences of European integration and referred to the neofunctionalist model of regional integration... Europe, started the initiative for an integration process in a technical sector, and provided for the institutional capacity for possible spill-over into other policy fields. As one Commission official involved argued: “We try to get everybody to agree on a common position and a common way forward...”¹

The signing of the Energy Community Treaty took place in. This Treaty is based on the Thessaloniki Agreement and the Athens Memorandum of Understanding. This memorandum was signed in 2002 and was based on “the principles, which are set out in the Stabilisation and Association process, of cooperation between the European Union and the countries of the region, and of the necessity for co-operation between countries of the region”². With this, the creation of the national energy authority body, national independent regulatory body, transmission system operators and distribution system operators in each country signatory of the Memorandum was set. It was all done with one purpose, to create an integrated regional energy market in which there will be fair competition and fair prices for the customers. The countries that signed this Memorandum also signed the ECSEE and they are:

- EU Member States: Austria, Greece, Hungary, Italy, Slovenia;
- Regional members: Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Macedonia, Romania, Serbia and Montenegro, Turkey, Kosovo;

¹ Renner Stefan *“The Energy Community of Southeast Europe: A neo-functionalist project of regional integration”* European Integration Online Papers, 25.02.2009, page 7 of 21.

² Memorandum of Understanding on the Regional Electricity Market in South East Europe and its Integration into the European Union Internal Electricity Market (“The Athens Memorandum - 2002”), page 2.

- Observers: Moldova.³ (before the creating of ECSEE, observers were also Austria, Hungary, Slovenia and Italy which later, when the Energy Community was created, joined the other regional members. Now only Moldova left as an observer country-author's remark)

The obligations coming from the Treaty are "...to unbundle generation, transmission, and distribution, while establishing independent sector regulators and transmission system operators (TSO's)"⁴ which was supposed to be finished by 2005. How this process will be developing, will be supervised by the organs created and those are:

1. Ministerial Council
2. Permanent High Level Group
3. Energy Community Regulatory Board (ECRB).
4. Fora.
5. Secretariat.

The instant benefits that can come out of this project are: "...increased reliability in electricity supply; lower operating costs; reduced needs for additional capacity investments, especially in generation; improved opportunities for intra- and interregional trade, including peak load by hydro producers in the region; and lower prices for the end-customers."⁵

Going along these lines, how the pace of development is going and what has the neo-functional method got to do with it, will be discussed in the next part.

3. The Role of Neo-Functionalism in the Creation And Development of Ecse.

First an extensive definition of what neo-functionalism represents. It is:

"A theory of regional integration that places major emphasis on the role of non-state actors – especially, the "secretariat" of the regional organization... regional bureaucrats in league with a shifting set of self-organized interests...exploit the inevitable "spill-overs" and "unintended consequences" that occur when states agree to assign some degree of supra-national responsibility... According to this theory, regional integration is an intrinsically sporadic and conflictual process, but one in which, under conditions of democracy and pluralistic representation, national governments will find themselves increasingly entangled in regional

³ BRIEFING NOTES, Energy Community of South Eastern Europe, page 1.

⁴ Kathuria Sanjay, *Western Balkan Integration and the EU, an Agenda for Trade and Growth*, The World Bank, page 101.

⁵ Harry G. Broadman, James Anderson, Constantijn A. Claessens, Randi Ryterman, Stefka Slavova, Maria Vagliasindi, and Gallina A Vincelette, *Building Market Institutions in South Eastern Europe, Comparative Prospects for Investment and and Private Sector Development*, The International Bank for Reconstruction and Development/the World Bank, page 210.

*pressures and end up resolving their conflicts by conceding a wider scope and devolving more authority to the regional organizations they have created..."*⁶

The European Union is known for its customs to exports not only goods and services but also policies. This is called *External Governance* or *Europeanization*⁷. As a highly successful polity and a leading democratic force in the world it is easy to impose its directives in its relations with other non-EU countries that seek for cooperation. That is why on the path to the EU every potential candidate has to adopt the *acquis communautaire* as a most important precondition for becoming a member.

However, the case with the Balkans has been rather complicated. After the promise that the region will not be left out of the enlargement process (Thessaloniki 2003) and after the enlargement fatigue occurred (2004 and 2007), the EU "*first...continues with the pre-accession strategy in a similar mode to that...of...Central and Eastern Europe. Here, however, the Union faces a fundamental commitment deficit without a clear timeframe for a future EU-membership...Secondly...the EU not only offered EU-membership, but insisted on a regional rapprochement of the countries of the former Yugoslavia.*"⁸

Here is where the theory of neo-functionalism comes to stage. Its pioneer is Ernest B. Haas (1958) which upgraded the functionalism of Mitrany (1943). This theory has been the leading one behind the creation of the European Union. It all started with the creation of the European Coal and Steel Community in 1951, where, as known, the old enemies united in a highly technical area with one supranational body overlooking the coal and steel industry. With time the competences spilled over to the other areas (ex. the social and political) and the end result (which by no means will be the final one) is the EU as we have today.

It is clear that the EU is going for the rule "one size fits all" and trying to inflict this theory to the WB with the creation of the Energy Community. What they are hopping to achieve is to start to unite the old enemies in the strictly technical area of the energy production, distribution and policy and hopefully with time "through an

⁶ Schmitter C. Phillipe "*Neo Neo Functionalism*" Wiener, Antje and Thomas Diez, eds. *European Integration Theory*, Oxford: Oxford University Press, July 2002, pages 2 and 3.

⁷ Europeanisation in political science has been referred to very generally as 'becoming more European like'. More specifically than this, it has been defined in a number of ways. One of the earliest conceptualisations of the term is by Ladrech (1994, 69) who defines Europeanisation as 'an incremental process of re-orienting the direction and shape of politics to the extent that EC political and economic dynamics become part of the organizational logic of national politics and policy making.'

⁸ Renner Stefan 2009, page 5 of 21.

increased level of interaction, social interests and loyalties that hitherto have been directed to the national authorities will shift to supranational authority.”⁹

The issues that arise from the implementation of this theory in the Balkans and why it might not be applicable are few but relevant. First, “...the counties of Southeast Europe did not create their own rules for the regulation of their own energy sectors...but committed themselves to adopt the relevant EU legislation.”¹⁰ Second issue is the power that the Energy Community has as such (including the not yet determined obligations of the Secretariat which is imagined to be replica of the EC). By now the ECSE “...is largely concerned with monitoring and supporting the participating parties in implementing the relevant *acquis communautaire* on energy, environment and competition.”¹¹ Thirdly, the issue of not having an established court may well decide the future development of this community. It is widely known the importance that the European court of Justice had on the development of the EU. It “...has been a major influencing factor in making the constitution of the EU more supranational by laying down rules.”¹²

Last but not least is the prevailing nationalism and unresolved issues in the Balkans. The future status of Kosovo and the deteriorating situation in Bosnia, the development of Serbia, the issues that Macedonia has are just a few of the major problems left to be dealt with in the time to come. When the world economic crisis and the enlargement fatigue are added to this then the prospect of the ECSE does not look good as it once did.

Since the neo-functionalism does not have satisfactory answers to the issues mentioned above it is time to contemplate other theories that might have a better explanation of where this regional integration is heading towards. One such theory will be discussed in the next chapter.

4. Neo neo functionalism and its application in the ecse case.

Neo neo functionalism was presented by Philippe C. Schmitter as a correction to the neo-functionalism. This theory does not claim that all regional organizations created will grow into something bigger per se. Its answer to whether “spill-over” into new tasks or level of authority will occur is: it depends! Not that it has to happen or that it will automatically happen. It depends on many conditions that may or may not take place and no one can predict whether they will.

⁹ Hofer D. Stephan 2007, page 4.

¹⁰ Hofer D. Stephan 2007, pages 12 and 13.

¹¹ Renner Stefan 2009, page 14 of 21.

¹² Structure of the EU 2: Institutions of the Supranational Level II,
http://www.dadalos-europe.org/int/grundkurs4/eu-struktur_2.htm

What Schmitter is explaining is that every organization has to pass through two types of cycles:

1. Initiating and
2. Priming.

“During the initiation cycle(s), the probability that a given national actor will push a spillover policy is relatively low...if only because initial insecurity and mistrust of partners is likely to make all negotiators more cautious.. As regional processes begin to have a greater effect, national actors may become more receptive to changing the authority and competences of regional institutions.”¹³

This is the case because every country is reluctant to give up some of its sovereignty and authority at the beginning and transfer it to an organization which can undermine its position at home and with its neighbors.

Following this, there are three possible ways of development of the ECSE:

1. Greater integration;
2. Collapse;
3. Continued dealing with technicalities which has to end up in one of the previously mentioned stadia.

In which way the organization will develop, as it was mentioned before, is not likely predictable. It can exist just for satisfying the technical needs of the countries' signatories or if one of the actors is 'weakly affected by...the development of regional identity...but highly sensitive to perceptions of inequity on comparative rate of return..."¹⁴ the *spill back strategies* will kick in and the organization will collapse. If on the other hand the priming cycles have kicked in “the most likely strategy to prevail...is the ‘spill over’. Herein lays the core dynamic of neo (and neo-neo-) functionalism – namely, that the regional processes...will dispose national actors to resolve their inevitable dissatisfactions by increasing both the level and the scope of common institutions.”¹⁵

However, the efforts to prove that these processes most definitely will occur in the case of the ECSE can satisfy the current climate in the region and the EU but it is most certainly a dangerous ground to walk on. “Only regional integration experiments that make it through the priming cycles are likely to transform themselves into something qualitatively different. They will have exhausted the potentialities inherent in functionally integrating their economies and dedicate more and more of their

¹³ Schmitter C. Phillipe, 2002, pages 31 and 32.

¹⁴ Schmitter C. Phillipe, 2002, page 32.

¹⁵ Schmitter C. Phillipe, 2002, pages 32 and 33.

efforts to functionally integrating their polities.”¹⁶ Since the Energy Community, created in 2005, has not come to the stage of the priming cycles (even though the countries are well acquainted with themselves and are quite similar in cultural, economical and political sense), it is highly questionable if it ever will. The levels of distrust are still high (having in mind the conflicts of the 1990's) and even now the will to join the EU is far bigger than the will to cooperate regionally.

5. Conclusion.

The Energy Community of Southeast Europe has a great potential to reunite the former enemies just like the Coal and Steel Community did for Western Europe. It was made in the 'halls' of the Commission as some sort of a plan B for the delayed accession but with a clear agenda – to keep the Western Balkans on the path of the reforms.

Its institutions are replica of the EU institutions and the main topic is highly technical area which unites the countries in one market which is crucial and where benefits are rather mutual than individual. The ECSE functioning and good governance will soon have positive effects, which will 'spill-over' into other areas directly or indirectly connected.

This was the plan of the EU. However there are some important obstacles that negate its validity in the said case. The facts that there is no court which can push the integration forward with its precedents, like the EU's case, or that the nationalism and ethnic dividedness are still prevailing in the region work against the confirmation of neo-functionalism in this specific case.

For that reason this paper argued that more appropriate theory for explanation of the ECSE would be the neo neo – functionalism which unlike its older version does not state that the regional community would definitely grow into something bigger and would have positive spill over effects on other areas. The main point here is that it all depends! It has to pass first the initiating cycles to come to the priming cycles where countries are well interconnected and then there is a possibility to discuss deeper regional integration. Since the EU is the only highly complex man-made polity out there, the question of whether this community will develop in the same way remains open.

6. Bibliography:

BRIEFING NOTES, . Energy Community of South Eastern Europe.
BRIEFING NOTES, Energy Community of South Eastern Europe.

Schmitter C. Phillipe, 2002, page 33.

- Harry G. Broadman, J. A. Building Market Institutions in South Eastern Europe, *Comparative Prospects for Investment and and Private Sector Development*. The International Bank for Reconstruction and Development/the World Bank. (2002). *Memorandum of Understanding on the Regional Electricity Market in South East Europe and its Integration into the European Union Internal Electricity Market ("The Athens Memorandum - 2002")* .
- Phillipe, S. C. (2002).
- Phillipe, S. C. (2002).
- Phillipe, S. C. (2002).
- Phillipe, S. C. (2002).
- Sanjay, K. *Western Balkan Integration and the EU, an Agenda for Trade and Growth*. The World Bank.
- Schmitter C. Phillipe Wiener, A. a. (July 2002). *Neo Neo Functionalism*. In eds. European Integration Theory (p. 2 and 3). Oxford: Oxford University Press.
- Stefan, R. (2009).
- Stefan, R. (2009). *"The Energy Community of Southeast Europe: A neo-functionalist project of regional integration"*. European Integration Online Papers , 7 of 21.
- Stefan, R. (2009).
- Stephan, H. D. (2007).
- Stephan, H. D. (2007).
- Structure of the EU 2: Institutions of the Supranational Level II*. (n.d.). Retrieved from http://www.dadalos-europe.org/int/grundkurs4/eu-struktur_2.htm
- (2002). *The Athens Memorandum*