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***Black Sea Synergy, stability, rule of law and the Treaty of Lisbon***

**Abstract**

*This study provides a brief overview of the aspects of the Black Sea Synergy, which are related to security, stability, endorsement of democratic principles and compliance with fundamental rights and examines how these particular areas of interest might be affected after the entry into force of the Treaty of Lisbon. Special emphasis is given on the provisions of this source of primary law, which introduce major changes in the fields of external relations and human rights protection. It is pointed out that the key innovations established by the Reform Treaty might have a positive impact on EU's relations with Black Sea Countries, as they will render the Union's external policies more coherent, visible, humanitarian and effective.*

**1. Introduction**

The Black Sea region<sup>1</sup> is a distinct geographical area rich in natural resources and strategically located at the junction of Europe, Central Asia and the Middle East. Due to the fact that this region is an expanding market with great development potential and an important hub for energy and transport flows, but at the same time an area of unresolved frozen conflicts, of many environmental problems and insufficient border controls, the European Union<sup>2</sup> has made major efforts to stimulate democratic and economic reforms, to project stability and to support development in this area through wide-ranging cooperation programmes<sup>3</sup>. More precisely, three EU policies have been put into effect in this context: the preaccession process in the case of Turkey, the European Neighborhood Policy<sup>4</sup> in the case of Armenia, Azerbaijan, Georgia, Moldova, Ukraine and the Strategic Partnership in the case of the Russian Federation<sup>5</sup>. Moreover, the EC has contributed to various sectoral initiatives of regional relevance.

In addition to these policies, the European Commission put forward in 2007 an inclusive complementary initiative, which would focus political attention at the regional level and invigorate ongoing cooperation processes. The primary task of this initiative, which is called Black Sea Synergy, is the development of cooperation

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<sup>1</sup> The Black Sea region includes Greece, Bulgaria, Romania and Moldova in the west, Ukraine and Russia in the north, Georgia, Armenia and Azerbaijan in the east and Turkey in the south. Though Armenia, Azerbaijan, Moldova and Greece are not littoral states, due to history, proximity and close ties, they are considered as natural regional actors.

<sup>2</sup> Also referred to as EU.

<sup>3</sup> See further S. Cornell at al., *The Wider Black Sea Region: An Emerging Hub in European Security*, 2006, available at : <http://www.isdp.eu/files/publications/srp/06/sc06widerblack.pdf>.

<sup>4</sup> Also referred to as ENP.

<sup>5</sup> It should be noted that Greece, Bulgaria and Romania are not covered by these policies, as they are already member states of the European Union.

within the Black Sea region and also between the region as a whole and the European Union<sup>6</sup>. This regional cooperation initiative is based on the common interests of the EU and the Black Sea region and takes into account the results of consultations with all Black Sea states<sup>7</sup>.

The main cooperation areas of the Black Sea Synergy include sectors which reflect common priorities of the cooperating parties. More precisely, the fields of cooperation, in the context of which the European Commission has formulated a number of short and medium term tasks<sup>8</sup> are: democracy, respect for human rights and good governance, managing movement and improving security, addressing "frozen conflicts", energy, transport, environment, maritime policy, fisheries, trade, research and education networks, science and technology, employment and social affairs, as well as regional development.

This article focuses on the thematic sectors which refer to democratic values, compliance to human rights standards, improvement of security and dealing with frozen conflicts, because of their particular importance. The major significance of these issues is related to the fact that political stability and observance of the rule of law are essential prerequisites for the establishment of cooperation in other fields, such as trade, economic development and environmental protection<sup>9</sup>.

The central question is the impact of the new provisions of the Treaty of Lisbon, which relate to EU external relations and human rights, on the above - mentioned areas of cooperation of the Black Sea Synergy. More precisely, it will be examined whether the recently established norms of primary EU law, regarding the more democratic character of the European Union and the enhancement of its role on the international scene, will render the implementation of the Black Sea Synergy more efficient and effective.

## 2. The implementation of the political and social aspects of the Black Sea Synergy

According to the Report of the European Commission on the first year of implementation of the Black Sea Synergy<sup>10</sup>, most of the tasks which were formulated in the 2007 Communication regarding the creation of the Synergy have started being implemented.

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<sup>6</sup> For an overview see F. Tassinari, A Synergy for Black Sea regional Cooperation: Guidelines for a European Union Initiative, Brussels, Centre for European Policy Studies, 2006, available at <http://www.ceps.eu/ceps/download/1178>.

<sup>7</sup> Communication from the Commission to the Council and the European Parliament, "Black Sea Synergy - a New Regional Cooperation Initiative", COM 2007 (160) final, adopted 11. 04. 2007.

<sup>8</sup> Op. cit. supra Chapters 3 and 4.

<sup>9</sup> See Joint Statement of the Ministers of Foreign Affairs of the countries of the European Union and of the wider Black Sea area of 28.2.2008, available at: [www.osce.org/item/29949.html](http://www.osce.org/item/29949.html), according to which participants agreed that "*protracted conflicts impede cooperation activities*" and *emphasized the need for their earliest peaceful settlement on the basis of the norms and principles of international law*".

<sup>10</sup> Communication from the Commission to the Council and the European Parliament, "Report on the first year of implementation of the Black Sea Synergy", COM 2008 (391) final, adopted 19. 06. 2008.

## 2.1. Democracy, respect for human rights and good governance

In particular, when it comes to democracy, respect for human rights and good governance, the principal aim of the EU was to ensure that the standards of human rights and democracy, which have been set by the Council of Europe and by the Organization for Security and Cooperation in Europe, are being met by all Black Sea states. The EU would have the task to support the regional organizations, which have in recent years undertaken commitments to developing effective democratic institutions, promoting good governance and the rule of law, by means of sharing experience on measures to promote and uphold human rights and democracy, providing training and exchange programmes and stimulating a regional dialogue with civil society<sup>11</sup>.

There has been an attempt to achieve this aim through the organization of a series of Black Sea Synergy civil society seminars on human rights issues, which took place in May 2008 in the Republic of Moldova. This event included recommendations to governments concerning freedom of expression<sup>12</sup> and presented standards on freedom of expression in a civil society perspective<sup>13</sup>. Participants were mainly government officials and members of civil society from the Black Sea countries.

Nevertheless, despite of the various attempts to systematize and upgrade the system of human rights protection in the Black Sea region, questions pertaining to human rights infringements, incompliance with rule of law, absence of media freedom and non-transparent economic governance have not been solved yet<sup>14</sup>. The main reason behind this problematic situation is the challenging international normative and the political environment of this geographical area, which constitute a significant constraint for the national human rights policies.

The citizens of this region, oftentimes underrepresented by governing regimes in their respective homelands, are increasingly turning away from their domestic courts and attempting to seek justice before supranational adjudicatory mechanisms. As the recent jurisprudence of the European Court of Human Rights (ECHR) reveals, Black Sea countries are often found to violate the European Convention of Human Rights<sup>15</sup>. Therefore, the respective national authorities need to improve the human

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<sup>11</sup> Op. cit supra, COM 2007 (160) final, par. 3.1.

<sup>12</sup> Op. cit supra, COM 2008 (391) final, par. 2.9.

<sup>13</sup> See further Opinion of the European Economic and Social Committee on the 'Setting up civil society organisations networks in the Black Sea region', (2009/C 27/29), OJ C 27, 3.2. 2009, p. 144.

<sup>14</sup> See further K. Liuhto, Political risk for foreign firms in the Western CIS An analysis on Belarus, Moldova, Russia and Ukraine, Pan-European Institute 18/2009, p. 87 – 88 available at:[http://www.tse.fi/FI/yksikot/erillislaitokset/pei/Documents/Julkaisut/liuhto\\_heikkila\\_laaksonen\\_1809\\_web.pdf#page=78](http://www.tse.fi/FI/yksikot/erillislaitokset/pei/Documents/Julkaisut/liuhto_heikkila_laaksonen_1809_web.pdf#page=78).

<sup>15</sup> See among other cases, *Penev v. Bulgaria* (application no. 20494/04), judgment of the ECHR of 7.1.2010, in the context of which the court found a violation of the right to a fair trial, because the accused had been denied the opportunity to defend himself against modified charges. *Petyo Petkov v. Bulgaria* (application no. 32130/03), judgment of the ECHR of 7.1.2010, in the context of which the Court found a violation of articles 3, 5 par. 1 and 3, 6 par. 2, 13 of the European Convention on Human Rights and of article 1 of Protocol n. 1 because of irregularities in the trial and detention of a man accused of a sulphuric acid attack and subsequently acquitted. *Al-Agha v. Romania* (application no. 40933/02), judgment of the ECHR of 12.1.2010, according to which deprivation of liberty of a foreign national pending deportation and conditions of his detention were found to breach Articles 3,

rights safeguards offered to their people, under the constant support of the European Union.

## **2.2. Improvement of border management and fight against organized cross-border crime**

Another issue of serious concern which attracted the attention of the European Union in the framework of the Black Sea Synergy was the improvement of border management and customs cooperation at regional level, given that it would increase security and help to fight organized cross-border crime, such as trafficking in human beings, arms and drugs and it would contribute to preventing and managing irregular migration. According to the European Commission successful examples, such as the EU Border Assistance Mission for Moldova and Ukraine, showed that these means could also contribute to the resolution of conflicts.

Moreover, due to the fact that important illegal migration routes run through the Black Sea region, the Commission had planned to present a Communication applying the Global Approach to Migration to eastern and south-eastern neighbors, including new initiatives on better migration managing and tackling illegal migration. Furthermore, in this context the Commission had underlined the importance of encouraging the countries in the region to develop further practical co-operation on countering cross-border crime in general, by channeling experience from other similar initiatives in South-Eastern Europe and the Baltic area. The logic behind this was that further intensified regional cooperation would enhance the performance of national law enforcement, in particular in the fight against corruption and organized crime. In order to achieve this goal Black Sea regional actors could usefully develop best practices, introduce common standards for saving and exchanging information, establish early warning systems relating to trans-national crime and develop training schemes<sup>16</sup>, based on the experience and activities of the South-East European Cooperation Initiative Regional Centre for Combating Trans-border Crime<sup>17</sup>, as well as of the Black Sea Border Coordination and Information Centre<sup>18</sup>.

According to the Commission's Report on the implementation of the Black Sea Synergy, some of the abovementioned goals were indeed fulfilled. More specifically, the European Council adopted on June 2007 Conclusions on the Global Approach to Migration, which endorsed a number of priority actions, including the

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5 par. 1, 4 and 5 of the European Convention. *Sâmbata Bihor Greek Catholic Parish v. Romania* (application no. 48107/99), judgment of the ECHR of 12.1.2010, in the context of which hindrance of a uniate church's access to court in a dispute with the orthodox church was found to constitute a violation of Article 6 § 1 and 14 of the European Convention. *Mikayil Mammadov v Azerbaijan* (application no. 4762/05), judgment of the ECHR of 17.12.2009, on the basis of which ineffective investigation into state's responsibility for suicide death constituted a violation of Article 2 of the European Convention, *Kalender v. Turkey* (application no. 4314/02), judgment of the ECHR of 15.12.2009, in the context of which the Court found a violation of Articles 2 and 6 par. 1 of the European Convention, because authorities failed to take measures to protect the lives of railway accident victims. The judgments of the ECHR are available on the website <http://www.echr.coe.int>.

<sup>16</sup> Op. cit supra, COM 2007 (160) final, par. 3.2.

<sup>17</sup> This Centre is based in Bucharest and has several Black Sea states as members or observers.

<sup>18</sup> This Centre, which is based in Burgas, provides information about illegal activities in the Black Sea region and fosters the exchange of information among coastguards.

*establishment of a Cooperation Platform on Migration in the Black Sea region.* In April 2008 the EU decided to create this platform, bringing together Member States, EU agencies, countries bordering the Black Sea and regional organizations. The aim of this platform is to provide for a focused and strengthened migration dialogue and for improving practical cooperation between Member States and the countries in the region, as well as between those countries themselves.

Moreover, the Commission is co-funding two projects against trafficking in human beings through labor market based measures and police measures respectively<sup>19</sup>.

In practice, however, the abovementioned problems are still not resolved, because as one commentator correctly points out, although "at the official level there are enough proclamations, communications, agreements on cooperation in the Black Sea region, de facto most of the projects are still on the paper or their implementation is retarded by the inability to overcome risks that exist in the area"<sup>20</sup>. Some of the problems that continue to afflict this area include transborder organized crime, illegal migration, smuggling, illicit arms trade, augmentation of terrorist attacks, threats to the safety and security of navigation, as well as drugs trafficking and trafficking in human beings. Relevant in this respect is the case of *Rantsev v. Cyprus and Russia*, in the context of which the European Court of Human Rights delivered a landmark judgment for the repression of human trafficking in a case concerning the suspicious death of a 20-year old Russian woman in Cyprus<sup>21</sup>.

### 2.3. "Frozen conflicts"

Concerning the resolution of "frozen conflicts" in the Black Sea region, the Commission had considered necessary a more active EU role through increased political involvement in ongoing efforts to address the conflicts, which took place in Transnistria, Abkhazia, South Ossetia and Nagorno-Karabakh. It had also proposed that the EU should enhance its participation and that it should promote confidence-building measures in the regions affected, including cooperation programmes specifically designed to bring the otherwise divided parties together. The European institution was of the opinion that the Black Sea Synergy could offer one means of addressing the overall climate by tackling the underlying issues of governance and lack of economic development, lack of social cohesion, of security and of stability<sup>22</sup>.

According to the European Commission, the achievements in this field are satisfactory, because this institution has continued to advocate an active EU role in addressing the underlying causes of the conflicts, in the Black Sea regional framework. Moreover, attention has been paid to promoting confidence-building

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<sup>19</sup> Op. cit supra, COM 2008 (391) final, par. 2.5.

<sup>20</sup> See H. Shelest, "Threats to the National and European Security in the Black Sea region: Comparison of the Black Sea Synergy and Reality", Presentation on the General Assembly of the CPMR Balkan and Black Sea Commission (BBSRC) held in Odessa, 11 June 2009, available at [www.balkansblacksea.org/.../108\\_presentation\\_hanna\\_shelest.pdf](http://www.balkansblacksea.org/.../108_presentation_hanna_shelest.pdf).

<sup>21</sup> See *Rantsev v. Cyprus and Russia* (application no. 25965/04), judgment of ECHR of 7.2010, available at: <http://www.echr.coe.int>.

<sup>22</sup> Op. cit supra, COM 2007 (160) final, par. 3.3.

measures also in wider regional context, including cooperation programmes specifically designed to bring the otherwise divided parties together<sup>23</sup>.

Nevertheless, the position of the Commission can be put into question, because, as it appears in practice the Black Sea Synergy does not seem to be effective enough for the time being. In particular, the Black Sea region still faces important threats and "frozen conflicts", which lead to an increase in the amount of the refugees and temporary displaced people in the conflicting regions<sup>24</sup>.

The existence of the aforementioned menaces in the Black Sea region proves that the EU policy in this geographic area needs to become more coherent, effective and result-oriented. This necessity for improvement might be satisfied more easily if the European institutions rely on the new provisions of the Treaty of Lisbon, which enrich the international role of the European Union, enhance human rights protection and promote democratic principles.

### 3. The Treaty of Lisbon

The Treaty of Lisbon, initially known as the Reform Treaty, was signed by the member states of the European Union (EU) on 13 December 2007, and entered into force after a long and complex ratification process<sup>25</sup>, on 1 December 2009. This Treaty implements many of the reforms included in the European Constitution<sup>26</sup> and introduces prominent changes in the structure and nature of the European Union<sup>27</sup>, as

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<sup>23</sup> Op. cit supra, COM 2008 (391) final, par. 2.10.

<sup>24</sup> See H. Shelest, "Threats to the National and European Security in the Black Sea region: Comparison of the Black Sea Synergy and Reality", op. cit. supra., who underlines that "August events in Georgia and January 2009 gas crisis in Russian –Ukrainian relations demonstrated that the European Union was not ready to face those threats that exist in the region.

<sup>25</sup> This Treaty was originally intended to have been ratified by all member states by the end of 2008. However, this timetable failed, due to the initial rejection of the Treaty in 2008 by the Irish electorate. It finally entered into force after a positive second referendum in Ireland in 2009. See on this, M. Carbone From Paris to Dublin [on-line]: domestic politics and the Treaty of Lisbon, *Journal of Contemporary European Research* 2009, v. 5, n. 1, p. 43-60, F. Chaltiel, *Le Traité de Lisbonne peut-il entrer en vigueur ? Revue du Marché Commun et de l'Union européenne* 2009, n. 525, p. 77-82 and F. Chaltiel, *Le Traité de Lisbonne : de l'élaboration à la signature et la structure, Les Petites affiches* 2008, v. 397, n. 7, p. 5-9.

<sup>26</sup> It should be noted that negotiations to modify EU institutions began in 2001, resulting first in the European Constitution, which failed due to the failed referendums in France and Holland in 2005. After some modifications the Lisbon Treaty was proposed as an amendment of the existing Treaties. For a comparative view of the two Treaties see Organization open Europe, *The Lisbon Treaty and the European Constitution: A side - by - side comparison*, 2008, available online at: <http://www.openeurope.org.uk/research/comparative.pdf>. See also C. Reh, *The Lisbon Treaty : de-constitutionalizing the European Union*, *Journal of Common Market Studies* 2009, v. 47, n. 3, p. 625-650 and A. Berramdane, *Le traité de Lisbonne et le retour des Etats*, *La semaine juridique. Edition générale* 2008, v. 82, n. 9-10, p. 23-28, who points out that the Reform Treaty is very similar to the Constitutional Treaty in substance.

<sup>27</sup> For a discussion of the major changes brought about by the Treaty of Lisbon see F. Chaltiel, *L'Europe écrit une nouvelle page de son histoire : nouvelle Commission, nouveau traité –*

it eliminates the pillar system, alters the structure of the EU's institutions<sup>28</sup> and amends the Treaty on European Union (TEU) and the Treaty establishing the European Community (TEC), which is renamed to Treaty on the Functioning of the European Union (TFEU). The main aim of this Treaty is to reinforce the democratic principles, to promote the EU's core values and to provide the Union with the legal framework and tools necessary to meet future challenges<sup>29</sup>.

Moreover, this text of primary law brings about significant changes in the fields of energy policy<sup>30</sup>, environmental policy and climate change<sup>31</sup>, public health, civil protection, research, space, territorial cohesion, commercial policy, humanitarian aid, tourism and administrative cooperation, external relations and human rights protection. This article, however, will focus on the novel provisions of the Reform Treaty, which are related to the last two fields of action and which need to be further examined.

### 3.1. The Treaty of Lisbon and EU's external relations

In an attempt to offer greater consistency, the Lisbon Treaty adapts the EU's institutional structures into a new architecture for foreign affairs<sup>32</sup>. Under the previous legislative regime, the EU's external action was exercised by a multiplicity of actors, which tended to dilute the establishment of common and coordinated practice. The Lisbon Treaty endeavors to overcome this lack of coherence and effectiveness by reorganizing the institutional framework.

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perspectives, *Revue du Marché commun et de l'Union européenne* 2009, n. 532, p. 561-563, P. Costanzo, *Il Trattato di Lisbona (Condurre l'Europa nel XXI secolo)*, *Diritto pubblico comparato ed europeo* 2008, n. 1, p. 45-170 and B. Angel - F. Chaltiel-Terral, *Quelle Europe après le Traité de Lisbonne ?*, Bruylant, Bruxelles, 2008. See also, C. Tobler (ed.), *The Lisbon Treaty*, Europa Institute, Leiden University, Law Faculty, The Netherlands, 2008, available at <http://media.leidenuniv.nl/legacy/lisbon-treaty-summaries.pdf>.

<sup>28</sup> See J. Duch Guillot, *El Tratado de Lisboa y los cambios en la organización institucional de la Unión Europea*, *Cuadernos Europeos de Deusto* 2009, n. 40, p. 51-62 and C. Egenhofer - S. Kurpas - Louise van Schaik, *The ever-changing Union : an introduction to the history, institutions and decision-making processes of the European Union*, Brussels : Centre for European Policy Studies, 2009, available at: <http://www.ceps.eu/node/1613>.

<sup>29</sup> See A. Chilosi, *Perspectives of the ENP, and perspectives of the EU : neighbourhood, enlargement and unanimity*, *Aussenwirtschaft* 2009, v. 64, n. 3, p. 253-268 for a criticism regarding the fact that the permanence of the requirement of unanimity vote for the most important decisions, such as future enlargement, might lead to disruptive strategic behaviour in the EU.

<sup>30</sup> S. Fischer, *Energie- und Klimapolitik im Vertrag von Lissabon : Legitimationserweiterung für wachsende Herausforderungen*, *Integration* 2009, v. 32, n. 1, p. 50 – 62.

<sup>31</sup> For a critical analysis see D. Benson – A. Jordan, *A grand bargain or an "incomplete contract"? : European Union environmental policy after the Lisbon Treaty*, *European energy and environmental law review* 2008, v. 17, n. 5, p. 280-290.

<sup>32</sup> For an overview see J. L., Castro Ruano, *Las nuevas capacidades de la UE en materia de política exterior en el Tratado de Lisboa*, *Unión Europea Aranzadi* 2009, v. 35, n. 10, p. 17-24. For a critical discussion see W. Horsley, *A Treaty too far*, *The World today* 2009, v. 65, n. 10, p. 18-21.

Firstly, it inaugurates the position of a permanent President within the European Council, who is elected by qualified majority voting for a period of two and a half years - renewable once<sup>33</sup>. According to the Treaty this new post aims to improve the visibility and stability in 'the preparation and the continuity of the work of the European Council' and 'the external representation of the union on the Common Foreign Security Policy issues'<sup>34</sup>. As the creation of this position will respond to the lack of continuity in EU'S external action inherent within the six-month rotating presidency system it is possible that it will render the relations between the Black Sea states and the Union more stable.

Secondly, the new Treaty creates the position of a High Representative for Foreign Affairs and Security Policy, who will act in accordance with a Council mandate and be responsible for harmonizing and coordinating the EU's external action between the Commission and Council<sup>35</sup>. Since the High Representative will combine the roles of the former High Representative for Common Foreign and Security Policy in the Council and the Commissioner for External Relations in the Commission, he will become a significant figure with enhanced representative and participatory roles<sup>36</sup>, who might facilitate cooperation between the EU on the one hand and the Black Sea countries on the other hand.

Moreover, a new European External Action Service, composed of officials from the Council, Commission and diplomatic services of Member States, will provide back up and support to the High Representative<sup>37</sup>. Due to the complex composition of this Service EU's external affairs will be streamlined, enabling the improvement of cooperation in the context of the Black Sea Synergy as well.

This cooperation will also be facilitated, because, on the basis of the Lisbon Treaty, the European Union acquires for the first time a single legal personality<sup>38</sup>, which will enable it to become more effective on the world stage and a more visible partner for third countries and international organizations.

Additionally, progress in European Security and Defense Policy will preserve special decision-making arrangements but also pave the way towards reinforced cooperation amongst a smaller group of Member States<sup>39</sup>.

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<sup>33</sup> Article 9B par. 5 of Treaty of Lisbon.

<sup>34</sup> Article 9B par. 6 of Treaty of Lisbon.

<sup>35</sup> The High Representative is appointed by the European Council, with the agreement of the President of the Commission and the consent of the European Parliament. See article 9E par. 4 of Treaty of Lisbon.

<sup>36</sup> His activities are set out in articles 9E par. 2, 3 and 13a par. 2 of the Treaty of Lisbon. See further S. Dagand, *The impact of the Lisbon Treaty on CFSP and ESDP*, European Security Review Number 37, March 2008, available at: [http://www.isis-europe.org/pdf/2008\\_artrel\\_150\\_esr37tol-mar08.pdf](http://www.isis-europe.org/pdf/2008_artrel_150_esr37tol-mar08.pdf).

<sup>37</sup> Article 13a par. 3 of Treaty of Lisbon.

<sup>38</sup> Article 46A of Treaty of Lisbon. It should be noted however that the use of its legal personality will be restricted only to those competences that the Member States have specifically conferred to the Union. See Declaration 24 in the Lisbon Treaty, which clarifies that the Fact that the "European Union has a legal personality will not in any way authorize the Union to legislate or to act beyond the competences conferred upon it by the Member States in the Treaty".

<sup>39</sup> For an overview see G. Combarieu, *Aspects sécurité et défense du Traité modificatif de Lisbonne*, *Défense nationale et sécurité collective* 2008, v. 64, n. 3, p. 69-77. See also F. Chaltiel, *Le Traité de Lisbonne : la politique étrangère et de défense*, *Les Petites affiches* 2008, v. 397, n. 83, p. 3-13 and S.



Thus, the Treaty of Lisbon provides the European Union with new external policy tools, which might contribute to the promotion of European principles and values worldwide<sup>40</sup>, while respecting the particular interests of the cooperating States and partners, including the members of the Black Sea Synergy<sup>41</sup>. This tendency is also reflected in article 2 par. 5 of the Treaty of Lisbon, which stipulates that *"in its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among people, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter"*. The practical application of this article in the context of the Black Sea Synergy is considered essential, because it might guarantee the reestablishment of stability and security and ensure compliance with human rights in this sensitive region.

*Another provision which could lead to the same results is Article 7a of the Lisbon Treaty, which prescribes that "the Union shall develop a special relationship with neighboring countries, aiming to establish an area of prosperity and good neighborliness, founded on the values of the Union and characterized by close and peaceful relations based on cooperation" and specifies that for these purposes "the Union may conclude specific agreements with the countries concerned. These agreements may contain reciprocal rights and obligations as well as the possibility of undertaking activities jointly. Their implementation shall be the subject of periodic consultation"*.

*Of particular importance is also article 10 A of the Lisbon Treaty, which states that "the Union's action on the international scene shall be guided by the principles that have inspired its own creation, development and enlargement and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law". Moreover, par. 2 of this article underlines that "the Union shall define and pursue common policies and actions, and shall work for a high degree of cooperation in all fields of international relations, in order to: (a) safeguard its values, fundamental interests, security, independence and integrity (b) consolidate and support democracy, the rule of law, human rights and the principles of international law (c) preserve peace, prevent conflicts and strengthen international security, in accordance with the purposes and principles of*

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Biscop, Permanent structured cooperation and the future of the ESDP : transformation and integration, *European Foreign Affairs Review* 2008, v. 13, n. 4, p. 431-448.

<sup>40</sup> See P. Koutrakos, Primary law and policy in EU external relations : moving away from the big picture, *European Law Review* 2008, v. 33, n. 5, October, p. 666-686, who has been critical of this view. For a discussion about the impact on the European Neighborhood Policy in particular see K. Y. Nikolov (ed.), *The European Neighbourhood Policy : time to deliver*, Bulgarian European Community Studies Association (BECSA) ; in co-operation with Trans-European Policy Studies Association (TEPSA), Brussels, 2008.

<sup>41</sup> See at the website of the European Union: [http://europa.eu/lisbon\\_treaty/glance/index\\_en.htm](http://europa.eu/lisbon_treaty/glance/index_en.htm).

*the United Nations Charter, with the principles of the Helsinki Final Act and with the aims of the Charter of Paris, including those relating to external borders (d) foster the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty (e) encourage the integration of all countries into the world economy, including through the progressive abolition of restrictions on international trade (f) help develop international measures to preserve and improve the quality of the environment and the sustainable management of global natural resources, in order to ensure sustainable development (g) assist populations, countries and regions confronting natural or man-made disasters and (h) promote an international system based on stronger multilateral cooperation and good global governance".*

In order to fulfill the aforementioned objectives in the context of the Black Sea Synergy, the European Union will be obliged to intensify its cooperation with this regional scheme. More precisely, it will have to increase the level of political and financial support offered to the countries of the Black Sea region and to specify further the allocation and the distribution of the resources. The enhancement of the tools and mechanisms of cooperation is deemed necessary, in order to comply with the new requirements which apply to EU's external relations according to the Treaty of Lisbon.

### **3.2. The Treaty of Lisbon, human rights and democratic values**

Additional key innovations which are established by the Treaty of Lisbon and which might affect the external relations of the EU with the Black Sea Synergy can be found in the field of human rights. More precisely, article 1a of the new Treaty specifies that *"the Union is founded on the values<sup>42</sup> of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, nondiscrimination, tolerance, justice, solidarity and equality between women and men prevail".*

Moreover, the new Treaty confers the Union an extended capacity to act on freedom, security and justice<sup>43</sup>, which brings direct benefits in terms of the Union's ability to fight crime and terrorism<sup>44</sup> and to cooperate with international organizations or regional schemes, like the Black Sea Synergy, in this field.

Another important provision of the new Treaty which might eliminate the critical discussion about the level of human right protection within the European Union<sup>45</sup> is article 6 of the Treaty of Lisbon. According to par. 1 of this provision the

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<sup>42</sup> For a critical discussion of the abstract meaning of these values see P. Leino – R. Petrov, Between 'Common Values' and Competing Universals—The Promotion of the EU's Common Values through the European Neighbourhood Policy, *European Law Journal* 2009, v. 15, n. 5, p. 654 – 671.

<sup>43</sup> See article 2 of the Treaty of Lisbon.

<sup>44</sup> For a profound analysis of the development of European level efforts at crime control see E. Baker – C. Harding, From past imperfect to future perfect? : A longitudinal study of the Third Pillar, *European Law Review* 2009, v. 34, n. 1, p. 25-54.

<sup>45</sup> See indicatively A. Albi, Ironies in human rights protection in the EU: Pre – Accession conditionality and post – accession conundrums, *European Law Journal* 2009, v. 15, n. 1, p. 46 – 69, W. Sadurski, Accession's democracy dividend: The impact of EU enlargement upon democracy in the new

Charter of Fundamental Rights of the European Union acquires the *same legal value as the Treaties and all the rights, freedoms and principles which are set out in this legal text are recognized by the Union.*

Furthermore, the Reform Treaty reinforces the system of human right protection by providing that *"the Union shall accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms" and by recognizing that "fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, shall constitute general principles of the Union's law"*<sup>46</sup>.

The democratic principles of the new Treaty are also echoed in Article 8, which states that *"in all its activities, the Union shall observe the principle of the equality of its citizens, who shall receive equal attention from its institutions, bodies, offices and agencies" and in Article 8 A, which stipulates that "the functioning of the Union shall be founded on representative democracy"*.

On the basis of the aforementioned articles, the democratic values, principles<sup>47</sup> and objectives on which the Union is built will be reinforced and the human rights protection system will be enhanced. Thus, it is possible that this new multilevel system of guarantees might result in the minimization or even elimination of human rights infringements both within the European Union and within the European legal order, which encompasses the Black Sea region.

#### 4. Conclusions

The approach presented above leads to several conclusions regarding the impact of the Treaty of Lisbon on the Black Sea region.

First of all, it demonstrates that the strategic position of this geographical area is of particular importance for the EU, which endeavors to serve its interests in this field through the cooperation mechanism of the Black Sea Synergy. Apart from the provisions of economic and commercial nature, this Synergy contains essential provisions of political and social character, such as the task of restoring peace, stability and security in this region and of ensuring the effective protection of human rights and democratic principles. Nevertheless, the continuous presence of conflicts,

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member states of Central and Eastern Europe, *European Law Journal*, 2004, v. 10, n. 4, p. 371 – 401, A. Berramdane, *Considérations sur les perspectives de protection des droits fondamentaux dans l'Union européenne*, *Revue du Droit de l'Union européenne* 2009, n. 3, p. 441-459 and J. Barcz et. al., *Fundamental rights protection in the European Union*, Warszawa, Wydawnictwo, C. H. Beck, 2009.

<sup>46</sup> See also Protocol No 8 is annexed to the Treaties relating to Art. 6(2) TEU on the accession of the Union to the ECHR, OJ 2007 C 306/155.

<sup>47</sup> See U. Draetta, *The democratic principles of the European Union in the Treaty of Lisbon*, *The Federalist : a political review* 2008, v. 50, n. 2, p. 110-125. See also L. S. Rossi, *How fundamental are fundamental principles? : Primacy and fundamental rights after Lisbon*, *Yearbook of European Law* 2009, v. 27, p. 65-87 and C. Hilson, *Rights and principles in EU law : a distinction without foundation?* *Maastricht journal of European and Comparative Law* 2008, v. 15, n. 2, p. 193-215.

tensions and human rights violations in this area proves that this instrument of regional cooperation has not been effective enough in practice.

As mentioned above, however, the deficits and discrepancies of the political aspects of the Black Sea Synergy might be overcome, after the entry into force of the Treaty of Lisbon. The institutional changes introduced by the new Treaty in the domain of external relations, may render cooperation between the Union and international organizations and schemes, including the Black Sea Synergy, more efficient and transparent, as they provide for a more coherent EU external action.

A dynamic response to the current deficits can also be given on the basis of the new provisions of the Reform Treaty, which relate to the protection of human rights and which provide the Union with the mandate to root its foreign policy in positive values. In other words, the new provisions of primary law which recognize the binding force of the Charter of Fundamental Rights and grant the legal basis for the accession of the European Union to the European Convention of Human Rights guarantee that the EU's external policy will be driven by a desire to ensure peace, stability, solidarity and rule of law. Moreover, the clear reference of this Treaty to the democratic principles and values of the EU ensures that these shared values will continue to shape EU's cooperation both within and beyond its borders<sup>48</sup>.

In light of the arguments presented above, it can be shown that the new Treaty holds enormous potential for a more coherent Union in the international stage, but the realization of this scope depends also on the willingness of its member states and institutions to promote the endorsement of a humanitarian external policy. The novel changes of the Lisbon Treaty regarding EU's general principles and objectives, competences, institutions and policy procedures may have a significant bearing on future relations with third parties and with the Black Sea Synergy in particular, only if they are properly interpreted and applied. Therefore, it rests upon the European Institutions to make proper use of the innovative rules of the Lisbon Treaty, with the aim of bringing significant positive developments in the quality of governance within the different countries of the Black Sea region, thus contributing to the overall prosperity, stability and security in the area.

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<sup>48</sup> See Eurostep Briefing N. 43, The Lisbon Treaty's provisions on external relations: Institutional reforms and the place for development, October 2009 available at: <http://www.eurostep.org/wcm/dmdocuments/BP%2043%20EAS.pdf>