Contents

Foreword — 10-year Anniversary of RJEA ............................................................... 5

Remarks on the Future of the European Union: Domestic and Global Challenges Ahead ..................................................................................................................... 7
András Inotai

Strategic Thinking in the EU – Aspiration or Reality? .................................... 12
Oana Mocanu, Mihai Sebe, Gabriela Andreica

Ukraine, the European Union and the Democracy Question ....................... 18
Geoffrey Pridham

Small States as “Contributing Nations” to the EU’s Normative Power:
the Case of Slovenia ............................................................................................ 34
Rok Zupančič, Miha Hribernik

The Europeanization of Romanian Foreign Policy: Mitigating European
and National ‘Misfits’ in the International Criminal Court
and Kosovo Cases ............................................................................................ 50
Mircea Micu

Assessing European Union’s Development Policy:
Building the Bridge Between Rhetoric and Deeds ....................................... 66
Nikolay Karamalakov

Formal Rules Versus an Economic Approach in Dealing with Cartels:
the Need for More Coherence in European Competition Law ................. 92
Radu Muşetescu, Andreas Stamate

Book Review: The Dynamics of Change in EU Governance ......................... 103
Raluca Oprescu
Foreword – 10-year Anniversary of RJEA

On the occasion of the ten-year anniversary of the Romanian Journal of European Affairs (RJEA), we would like to express our thanks to you, our readers, for being alongside us since the early days of our journal.

Issued on a quarterly basis, the journal has focussed on EU debates and it has gradually gained popularity and scientific recognition in the fields of political and social sciences and European studies. This publication could not be what it is today without its initial team, the founding Director – Mr. Niculae Idu, former Director General of the European Institute of Romania, now Head of the Representation of the European Commission in Romania, Mr. Jacques Pelkmans – Jan Tinbergen Chair for European Economics, Director of European Economic Studies at College of Europe, Bruges and Associate Senior Fellow CEPS, Brussels. Special thanks to the first Editor-in-Chief, Mr. Lucian Branea, Executive Secretary of Epsilon III Association, whose project and concept of a Romanian journal covering the area of European affairs turned into the appearance of RJEA as the first Romanian publication focussed on European integration. Also, a warm Thank you! to the current Director of the journal, Ms. Gabriela Drăgan, Director General of the EIR, to all the members of the Editorial Board, to its dedicated scientific reviewers and to all the editors who have focused their work to constantly improve this journal during the past ten years.

Yet a publication would be nothing without its authors and therefore we would like to thank and congratulate the people who have delivered interesting papers for the 40 issues of the Journal, their articles (over 200) turning RJEA into a scientific instrument available to the worldwide academic area.

In the current period of economic turmoil, any journal needs to have, apart from its dedicated human resources and passionate authors, access to financial resources. Therefore we appreciate the confidence we were invested in by individual buyers and subscribers to the journal, either legal or natural persons. Their financial efforts help to keep RJEA alive and further stimulate its continuous upgrading in order to provide a state-of-art scientific journal.

The recognition of the positive role of RJEA within the European studies research area has also been confirmed by its acceptance into various specialized scientific databases, such as: ProQuest, SCOPUS, EBSCO, DOAJ, Index Copernicus, HeinOnline etc.

The ten-year anniversary of RJEA represents not only a celebration, but also a time of reflection on the journal’s future and goal. We are committed to enter, step by step, into the league of major journal players and this requires an extra effort and dedication from us all. Therefore we are currently in a rebranding process, not only in shape and graphic presentation, but most importantly on the content, a process
that will have as ultimate end the creation of a new and better journal regarding its scientific stature and usefulness.

Currently, we are heading towards a regional scientific environment where every national journal is important in itself. In these times of economic downturn, both the state authorities and the scientific actors should raise the standards in order to face up the challenges ahead. The area of European studies is becoming a major research area that might help us be better prepared for the future and may serve as a mirror for our own fears and hopes, dilemmas and solutions.

Having in mind the invitation for you to write articles in the years to come, we thank once again all our contributors for their support and we hope that our journal was and will continue to be a useful instrument for the academia and the public administration dealing with EU affairs.

Oana Mocanu
Editor-in-Chief
Remarks on the Future of the European Union: Domestic and Global Challenges Ahead

András Inotai*

Abstract: This paper** highlights the main consequences that the crisis has put on the European Union, regarding four major areas: financial, macroeconomic, social and mental-ideological. Also, it aims to tackle some key challenges for the European Union: the revival of international trade; the prevention of the rise of protectionism on the global scale; the need to find a solution to the dilemma between continued stimulus and financial consolidation in general, and between the ambitious goals of the Europe 2020 project and the current fiscal restrictions; the growth of public support across Europe for a financial consolidation strategy based on cutting spending; the impact of the financial and macroeconomic crisis on several sectors; and the deficiencies of the „European construction“ indicated by the global crisis. Furthermore, it proposes four main questions for which EU has to provide clear answers in order to become a real global player. The questions concern the „European identity“, the „European values“, the EU strategy paper establishing its mission for the next period and the importance of a strong leadership implementing the strategy. In the end, the most important challenge seems to be how the EU can remain a global economic actor and become a more influential political player in the network of rapidly changing international power relations.

Keywords: European Union, crisis, challenges, sustainable growth, strategy, G-20, European integration.

Although the European Union (EU) was not the main source of the global financial and economic crisis, as one of the leading economic players, it was fundamentally affected by the immediate and longer-term consequences of the crisis. Similarly, it is expected that it would play an important role in how to get out of the crisis (not yet clear, whether a passive or an active one).

The crisis consisted and still keeps on consisting of four major stages that are interacting but following each other with a certain time lag: financial, macroeconomic, social and mental-ideological. While the banking leg of the financial crisis seems to be under control at the end of 2010, there remain several open issues whether international financial markets can be stabilized or at least calmed down, and whether macroeconomic decline

* András Inotai is the Director General of the Institute for World Economics, Budapest and Professor at the College of Europe [Bruges and Natolin (Warsaw)] since 1993. He is Doctor of Economic Science (German Habilitation) on Host Country Behaviour towards Foreign Direct Investment (1991). Ph.D. on Andean Integration in 1977. Visiting professor at Columbia University, New York, 2002. Author of books and articles on regional integration, EC/EU relations, international direct capital flows, international competitiveness of the CMEA countries, the EC ‘92 Program and Eastern Europe, the European Union’s Eastern Enlargement. E-mail: ainotai@vki.hu
Dr. Inotai is also a Member of the Editorial Board of the Romanian Journal of European Affairs since 2001.
** This paper represents the speech of Prof. Dr. Inotai to the festive ceremony of doctor honoris causa award on September 16th, 2011 at Tallinn University of Technology.
András Inotai

bottomed out or it may return in some form as the consequence of managing the costs of crisis management. Adverse social developments focusing on unemployment, rising poverty, income differentiation, welfare loss, etc. just started to manifest themselves, when, at least in some parts of the OECD, including the EU, first but still unconvincing signs of recovery can be identified. The likely challenges of the ideological and leadership crisis related to the deep-rooted (protracted, still hidden) consequences of the crisis and to the future of shaping socio-economic strategies and returning to a renewed “balance” between economic, political, social, cultural and environmental issues on the one hand, and between national, EU-level and global governance, on the other, are mostly still ahead of us.

The fundaments of a sustainable growth that, at the same time would be able to successfully manage the costs of crisis management, remain weak and unpredictable, both in Europe and in the USA. In a positive case, a double-dip can be avoided but it would not automatically lead to sustainable and higher growth but, particularly and most probably in Europe, to a sluggish growth with continuing signs of stagnation (or even deterioration) in selected areas of the economy and the labour market. In the next paragraphs some of the key challenges will be shortly dealt with.

First: to be sure, an encouraging sign is the revival of international trade. Following a deep decline in 2009, international trade measured on figures submitted by the G-20 group recovered by 10 per cent that does not yet fully compensate the size of decline in 2009, but can be considered as a strong support to overall rebound. Beyond this favourable but short-term impact, this trend has two more important and longer-term messages. First, it seems to prove that the export-oriented development pattern of many countries, although highly vulnerable in crisis, should and must not be replaced by a high-cost and “adventurous” attempt to turn fundamentally to domestic markets. This particularly holds for the new member countries (with partial exception of Poland) that are all export-oriented economies. During the crisis, some politicians, not without demagogic and populist instincts, have underlined that the crisis had rejected the reasons for export-oriented growth and a (re)turn to the domestic market has to be given priority to. In addition, production patterns based on export-oriented growth that proved to be more vulnerable in the crisis (electronics, cars, machinery, telecommunication devices) have to be re-examined and changed (whatever its impact on technological development, integration into global production and service networks may have been, and, more importantly, without offering any suitable alternative for competitive production specialization). Moreover, the well-known duality between highly competitive international companies and lagging behind domestic small- and medium-sized firms has to be overcome, fundamentally by restricting (or even forbidding) the activities of foreign companies. Fortunately, the rapid recovery of international trade has robustly refused this demagogy, yet without drawing the necessary lessons by some politicians in the new member countries.

Second, and connected to the previous statement, the rise of protectionism on the global scale could be prevented, despite the fact that multilateral negotiations in the Doha Round were paralyzed and the pressure to protect selected domestic industries (and jobs) is unlikely to be weakened for unemployment is expected to keep on rising despite the bottoming-out of GDP decline. This however should not hide the growing gap between intensive and evident inward-looking attitude of large part of the population and the
deeply-rooted incorporation of the respective national economies in global economic and financial business activities. While, fortunately, political leaders and key business representatives could avoid any sinking into national trade protectionism, large part of the population is not aware of this linkage but still nurtures the illusion of „getting rid of negative external influences”.

*Third*, it is an open question how the EU (and the member countries) will be able to solve the dilemma between continued stimulus and financial consolidation in general, and between the ambitious goals of the Europe 2020 project and the current fiscal restrictions. No member country seems to have a large fiscal manoeuvring room, let alone the Mediterranean members and Ireland in the Euro zone and the United Kingdom outside the Euro area. Most likely the next years, probably covering the first half of the EU 2020 strategy, will be characterized by the tasks of „management of the costs of crisis management”. Of course, some countries may be able to make progress in some areas of the EU 2020 objectives, but a general breakthrough can hardly be expected. It is more likely that, for social and political reasons, the tight fiscal consolidation plans will be watered down. This would lead to even less structural change and no meaningful improvement of competitiveness (particularly in those member countries, where global competitiveness had been a missing factor of economic development over one or even more decades).

*Fourth*: an ambiguous, partly encouraging, partly risky sign of the development of public opinion has to be mentioned. Indeed, although rarely observed in the past, one can observe growing public support across Europe for a financial consolidation strategy based on cutting spending. According to the latest opinion poll conducted by the Financial Times and Harris, the majority of citizens in the five largest countries of the EU oppose any rise in the national budget deficit. Fiscal consolidation (even conservatism) seems to be on the agenda not only in political and economic decision-making circles but in a growing section of the societies as well. This may create more elbow-room for the spending cuts (and partly also for structural reforms) of governments, if they are able to come up with convincing arguments why cuts, including in the social welfare net, are unavoidable. In addition, suggestions where deficits could be cut should not undermine longer-term factors of competitiveness. Sectors with the lowest level of cuts should include healthcare and education, while much higher cuts have been proposed in defence and in aid to developing countries. In sum, most European citizens start to understand that stable or increasing social benefits cannot be enjoyed without additional economic growth. The risky factor is the future of EU-wide solidarity and the priority of regional and cross-country cohesion, including the catching-up process of less developed members. In fact, the decade-long catching-up process, at least in statistical terms and most visible in the Baltic countries, has been dramatically stopped or even reversed by the crisis. Some new member countries find themselves suddenly at the level they started the catching-up process more than a decade ago (Baltics), while others have already been stagnating on a 62-65 per cent level of EU per capita average for years (Hungary). At the moment, the EU does not have any strategy to regenerate the catching-up process by a more supportive common budget. Just the opposite, fighting between net contributing and net beneficiary countries has already started concerning the shaping of the next seven-year financial framework between 2014 and 2020. The evident need for a fiscal
transfer union within the Euro zone and the running fiscal consolidation programs of most member countries would certainly not make budget bargaining easier.

**Fifth:** the financial and macroeconomic (and not less importantly, the unfolding social) crisis has a relevant generational impact in three areas. First, it has made clear (or will make it clear very soon) that, based on conventional incomes, the decades-long social welfare system cannot be financed in the future. It certainly does not mean the abolition of the current system, but serious cuts and structural shifts seem to be unavoidable. Second, the pressing requirement of global competitiveness has already created a double (or disrupted) labour market, with one part fully adjusted or adjustable to the rules of international competitiveness, but with another one lacking skill, personal capacity and attitude to become part of the „competitive world”. In order to avoid a dramatic marginalization of this growing share of the society, certainly not only for economic/fiscal but also for first-priority domestic security reasons, new employment strategies outside the competitive labour market have to be urgently shaped. Third, the crisis had clearly shown the limits to an „early-born consumer society” in most of the new member countries, but also in some Mediterranean economies as well. How to deal with the multiple challenge of sudden collapse of consumption (and „social well-being”), the generation of domestic demand for additional and sustainable growth, cooperation between foreign and domestic firms, as well as the manageability of social tensions without giving room to extremist trends is probably the most important and still open issue at least in some countries of the European integration.

**Sixth:** the global crisis pointed to several deficiencies of the „European construction” (mainly regarding the Euro zone, institutions and the slowness and ambiguity of the Community-level decision-making process). As a consequence, the EU has to give more attention to intra-EU issues and work on the better functioning of internal mechanisms (particularly that of the EMU). On the other hand, the crisis – both with its risks and chances – found the European integration unprepared to develop and submit for international discussion its own global strategy for the 21st century. Although EU member states are still overrepresented in most international institutions, including the G-20, their impact remained from very low to ignorable. At the same time, the Commission was not able and entitled to speak on behalf of the member countries, because each of them (at least the largest ones) wanted to keep their „national independence” and act according to its „sovereign status” in a world globalizing at a dramatic speed and creating a new quality of international relations.

While focusing on the financial sector’s sustainability, drawing up the EU 2020 project and, as a result of the finally ratified Lisbon Agenda, working on future responsibilities within the EU bureaucracy, little attention and energy were paid to the necessity of elaborating a global strategy for the EU, with particular regard to the unfolding G-20 cooperation in general, and the very special G-2 contacts between the USA and China, in particular. As a result, and despite the continuous emphasis on „multilateralism”, the EU is threatened to be (self-) excluded from the emerging basic fora that are expected to shape the future of the international system. The underlying reason is by far not only the lack of intra-EU coordination and a common position in various areas of the international arena but, more importantly, the still surviving „supremacy” and self-complacency feeling and attitude of selected (mainly ex-colonialist) EU member states. As a consequence, we
Remarks on the Future of the European Union: Domestic and Global Challenges Ahead

do not know about any EU-level project or proposal concerning the long-term role of
the IMF or the EU’s active role in and genuine contribution to the post-crisis new world
order. Although the traditional “teachers’ role” to some emerging countries (mainly China)
started to change as a result of recognizing rapidly shifting geopolitical and economic
realities, old reflexes are hard to die (such as “hidden protectionism” widely practised
during the crisis not in form of trade barriers but in the context of state subsidies, stronger
rules to control immigration, increasing nationalism, etc.).

If the EU wanted to become a real global player, both by keeping its current economic
influence and enhance its political weight in the new world order, it has to give clear
answers to four key questions, both for intra-EU communication as well as for global
purposes.

First: it has to define what is “European identity” (exempted from colonialist and
semi-colonialist reminiscences and prejudices that still seem to dominate the behaviour
of politicians and the attitude of large part of the public opinion).

Second: a widespread and in-depth opinion poll should be started about the (so-called)
“European values”. Do they exist, and if yes, which are these values (in a positive, future-
oriented sense and not just by telling that “we are different”).

Third, and most importantly: the EU that, from the beginning of its foundation, was
understood not only as an economic, but also as a political community (finalité politique),
has to identify and communicate its expectations, priorities and potential role in the
international system of the 21st century. For this purpose, reference made to historical
documents does not suffice (in fact, in many times it does not matter at all any more).
What the EU urgently needs is a strategy paper on its “mission” for the longer period
ahead of us. There is no doubt that such a “mission paper” could be filled with highly
relevant and challenging contents (from soft power over environment and migration up
to international aid, regional development and global solidarity).

Fourth: this strategy should be implemented by a strong leadership that could represent
the EU as a really global player and not a “soft and uncertain amalgam” (mixture) of
mutually rivalling national efforts that regularly tend to weaken the basis for representing,
protecting and implementing common interests.

The global financial, macroeconomic and social crisis had a serious impact on the
European integration. Probably the most serious one following the break-up of the post-
war „order” in Europe 20 years ago. It is broadly recognized that the European integration
always needs internal and (mostly) external shocks for its further development (deepening).
In this context, one could not have imagined a stronger external shock than the impact of
the current crisis on the future development of the EU. In effect, short-term and immediate
challenges seem to have been managed appropriately, although by far not always in the
best interest of strengthening the integration process. However, some challenges that may
substantially influence the future of the „European construction” remain unanswered. But
let’s be optimistic… However, the biggest challenge is global: how can the EU remain a
global economic and become a more influential political player in the network of rapidly
changing international power relations. It is probably the most urgent and, for its survival
not a less important, literally „vital” task of the EU to tackle this issue. All other EU
policies, from internal market through EMU to enlargement have to be „subordinated” to
this challenge.
Strategic Thinking in the EU – Aspiration or Reality?

Oana Mocanu, Mihai Sebe, Gabriela Andreica*

Abstract**: The aim of this paper is to show the most important points of view presented by high officials and representatives of the academic milieu from European countries on the occasion of the EPIN conference regarding the Strategic Thinking in the EU, held in Bucharest on September 30th, 2011. There were proposed to the audience several topics related to macro-regional strategies such as: Danube Strategy and Baltic Sea Strategy, the Europe 2020 Strategy and some key points on strategic thinking in EU foreign policy. The conference consisted of three sessions in which speakers stressed out the main topics of the day. The first session outlined the main aspects regarding the Baltic Sea Strategy and the Danube Strategy. The Europe 2020 Strategy was the central point of the second session of the conference, and in the last session, the speakers highlighted some important aspects on the strategic thinking in EU Foreign Policy. The series of speeches was completed by a Conclusions session in which the most important results of the debate were brought to the attention. Also, it left open for further discussion the need for the strategic thinking of the EU to become a reality.

**Keywords:** European Union, macro-regional strategy, Europe 2020, crisis, Euro-zone, EU foreign policy, cooperation.

At the end of September 2011 the European Institute of Romania, together with CEPS -Brussels organized the conference “Strategic Thinking in the EU”, under the aegis of the European Policy Institutes Network (EPIN). Benefiting from the support of the Representation of the European Commission, the conference gathered high officials and representatives of the academic milieu from European countries. The conference proposed to the audience (public administration, diplomatic representatives, academia, NGOs, media) topics related to the macro-regional strategies: Danube Strategy and Baltic Sea Strategy, the evolution and results of the Europe 2020 Strategy and several key points on strategic thinking in EU foreign policy.

* Oana Mocanu is the Editor-in-Chief of the Romanian Journal of European Affairs (RJEA) and project coordinator within the Communication and Marketing Unit, European Institute of Romania. PhD in International Business and Economics - the Academy of Economic Studies in Bucharest. E-mail: oana.mocanu@ier.ro
Mihai Sebe is associated editor of the RJEA and project coordinator in the Studies and Analyses Unit. PhD candidate in Political Sciences, University of Bucharest. E-mail: mihai.sebe@ier.ro
Gabriela Andreica is project coordinator in the Studies and Analyses Unit. E-mail: Gabriela.andreica@ier.ro

** This paper reflects the Summary Report on the EPIN Conference “Strategic Thinking in the EU”, organized by the European Institute of Romania (EIR) and the Centre for European Policy Studies (CEPS - Brussels), with the support of the Representation of the European Commission in Romania, in Bucharest on 30th September 2011. The purpose of this paper is to make know the EPIN conference discussions among the RJEA readers, the members of the European Policy Institutes Network (EPIN) and other potential contributors to the journal.
This event was one of the series of EPIN conferences focused on increasing the awareness of the national initiatives in the European context and of the cooperation actions in delivering prompt answers to hot topics and dilemmas present at EU institutional level. The European Policy Institutes Network gathers 32 think-tanks and research institutes from all over Europe, dealing with debates and analysis of contemporary European topics.

Quoting the speech of the President of the European Commission (addressing to the European Parliament on September 28th), Niculae Idu, the Head of the Representation of the European Commission in Romania, reviewed some of the special topics on European agenda: the dilemmas on the future of the euro-zone, the perspectives of the Single Market, the situation in Greece, emphasizing the need for increased credibility for the euro and for the European project in general, the need for further changes in the Treaty, the increased role of the financial sector and the constant target of economic strengthening (growth and jobs). The Commission will present a proposal for a single, coherent framework to deepen economic coordination and integration. In its actions, EU should maintain fairness, inclusiveness and solidarity and in relation to EU actions in the world, it will be crucial for the EU to maintain its commitment (Eastern Partnership and relations to the Southern neighbours, etc.). In conclusion, it was stated that the present crisis will be a “test of willingness to act together”. “Intergovernmental cooperation is not enough to get us out of this crisis”. The need to enhance the role of EU institutions becomes thus crucial.

**Macro-regional strategies**, the Baltic Sea Strategy and the Danube Strategy, were the central point of the first session of the conference. The moderator, Agnes Nicolescu, Head of Studies and Analysis Unit with the European Institute of Romania, introduced the topic of the session by raising the issue of the existence of a possible rift between focused regional cooperation and the larger EU institutionalized policy framework.

The Deputy Director of the Centre for European Studies, Lund University, Rikard Bengtsson, concentrated his presentation on the Baltic Sea Strategy, its opportunities and challenges. Originally a parliamentary initiative, set up in October 2009, the Baltic Sea Strategy was built around four pillars: environment, prosperity and economic development, accessibility and attractiveness, safety and security. Although the scope is very broad, gathering 15 priority areas, the idea of the strategy is about coordination.

Based on no new legislation, no new institutional arrangements and no new specific funding, the framework of the Baltic Sea Strategy is about improving EU regional policy in a distinct area and complementing the existing EU policies. The most important achievements of this strategy are the new projects developed in the shipping, transport and energy sectors and the consolidated network that came out of this enhanced coordination process. The funds allocated belong to the structural funds for the Baltic Sea, from the territorial cooperation share. The implementation is focusing on a regional perspective, rather than on internal and external policy developments.

Among the main challenges this strategy encounters at present, one can mention the political challenge (efforts to be made to keep the political attention to the Baltic Area, given the new shift of focus onto the Danube Strategy), the governance challenge (to be more focused rather than too broad, given the leadership vacuum), the external dependence challenge (arrangements to be made for interactions with Russia).
Miheia Diculescu - Blebea, Director of EU Strategies and Policies Direction, Romanian Ministry for Foreign Affairs, concentrated upon the Danube Strategy, a macro-regional strategy, as a re-launch of the EU cohesion policy. Underlining the potential role in Romania’s economic development, the macro-regional strategies can represent a proper answer to the new economic crisis reality. The Danube Strategy, a Romanian-Austrian initiative, is to determine the redefinition of the regional cooperation concept, at the same time focussing on developing the transport, environment, energy security sectors.

Danube Strategy involves different countries, either EU member states, candidate states, or non-EU countries. Despite the heterogeneous character of the strategy, a positive impact could be the accelerated pace to align the non-member EU states to the European standards. Given the development potential of the Danube area, this project could become one of the most important territorial development initiatives in EU. The key areas of the strategy need common platforms (among central and local authorities, private sector and civil society) for concrete projects. The inter-ministerial working group, the national forum for Danube Strategy implementation envisage concrete project launch, with added value for the citizens.

In the conclusions part, the moderator drew attention to the law enforcement challenges and to the different degrees of integration in the Danube region and the possible negative impact on the further development of the strategy. The specificities of both the Baltic and Danube regions will at the same time determine the specific policies to be implemented in the two cases.

During the discussions at the end of the session, participants have highlighted the execution difficulties, the governance issues, the sharing of the responsibilities for more implemented projects, but also the way the regional approach can help in negotiating the multi-annual financial framework for 2014-2020. The Polish Ambassador in Romania compared the degree of cooperation among the states in the Baltic Sea Area to the cooperation in the Danube region. The longer history of cooperation in different fields seems to favour the Baltic Sea Area, so the Danube countries will have to do their best to strengthen the initiative.

Almut Möller, Head of Program at the German Council on Foreign Relations, started off the second session (Europe 2020 Strategy. One year on) with several remarks on the initial success of the Lisbon Strategy and its enthusiastic welcoming, as well as its failure, which has resulted in the current Europe 2020 Strategy being relatively ignored. At the same time, comments have been made on the current economic crisis and its effect of undermining the survival of the Europe 2020 Strategy.

For Valentin Lazea, Chief Economist at the National Bank of Romania, the situation in Europe is clouded by the problem of the fiscal sustainability of euro area sovereigns, a fact which has negative consequences such as: a shift from long-term/strategic thinking to short-term/tactical thinking questioning some provisions of the Lisbon Treaty and finally a reluctance to finance a larger European budget. The European Financial Stability Fund will probably need larger contributions, as well as a new mandate, in order to be able to purchase bonds of troubled states. Also, issuing joint euro bonds is probably not feasible in the near future, because it would entail the re-opening of the European treaties and it would spread moral hazard by helping troubled states avoid painful reforms. Despite this tense environment, some progress has been achieved in promoting a more competitive Europe, especially through the first European Semester and the Single Market Act.
In May 2010, the European Commission has issued a paper on the main five structural bottlenecks to growth at the national level for Romania. Some of them have already been addressed, as follows: reducing the high general government structural deficit and ensuring long-term sustainability of public finances; ensuring a well functioning and stable financial sector and further improving the functioning of the labour market. Meanwhile, a series of issues remained unsolved, such as the strengthening of the efficiency, effectiveness and independence of the public administration, including the absorption capacity of EU structural funds and the problem of ensuring a stronger contribution of the education system. As regards the Europe 2020 Strategy, Romania sent its national targets in April this year but no assessment of the progress has been made so far.

George Pagoulatos, Professor of European Politics & Economy at Athens University of Economics and Senior Fellow with ELIAMEP, identified what he considers to be three major effects of the debt crisis: the poisoning of the European economy, the hijacking of financial resources and the undermining of strategic decisions in favour of tactical ones. The expanding crisis of the Greece debts and its inability to provide long lasting solutions affect the Euro zone.

Whereas the United States got rid of their public debts accumulated during World War Two with the help of economic growth, Europe is unable to do the same thing because it is an economy based upon services, has an aging society and the costs of cleaning up the environment are much too high. The European economy is caught in stagnation, while the Euro zone periphery is forced to adopt austerity measures which aggravate the crisis. The only solution for the periphery would be to ensure an export-based growth, a situation that depends on the international climate. The main problem of Europe 2020 Strategy is that it does not represent a European policy but the sum of national economies’ priorities. The European Commission cannot force the reluctant governments to apply reforms. However, the Europe 2020 Strategy represents the best thing we can have in the given circumstances.

The effort to raise taxes in a shrinking economy is a counterproductive one, as there is a limit of tax augmentation. There is yet large room for manoeuvre as regards expanding the taxation basis. An increased attention should be given to the fiscal paradises, which were too long tolerated. The Economic and Monetary Union consists mainly of rules, rules whose observance cannot be enforced. Since the European Union did not use the good times in order to alleviate the public debt, better fiscal surveillance is needed. In case of high public debts, the prevailing idea should be to tax fiscal transactions and temporary nationalize the banks.

Matthias Oel, Special Adviser of the President of the European Council H. van Rompuy, remarked that the Europe 2020 Strategy continues to be relevant as there is no other way to exit the crisis. The main political question of today is: how can we overcome the crisis? Another challenge of the political class consists in convincing people of the necessity to take the crisis exit measures and identify the right equilibrium solution between austerity and economic stimulus. These two should be combined, and a series of measures such as increasing the retirement age and the acceleration of jobs creation should be adopted in Europe. Among the measures adopted by the European Union with this purpose, the speaker mentioned the package of six legislative initiatives adopted by the European Parliament this autumn as regards the budget area. The Lisbon Strategy partially failed.
due to the high number of targets and the absence of national responsibility. Europe 2020 Strategy wants to compensate this by establishing a limited number of targets tailored at a national level. This Strategy must be put into context, an important element being the Euro Plus Pact that completes and at the same time represents a step forward in relation to the Europe 2020 Strategy. Thus, the European Union intends to create a new instrument for growth and competitiveness.

Piotr Maciej Kaczynski, Research Fellow with the Centre for European Policy Studies (CEPS), the moderator of the third session (Strategic thinking in EU Foreign Policy), emphasized two major tasks of the foreign policy of the European Union, namely the global economic governance and the strategic relations with USA, Canada and with the EU neighbours.

Thomas Renard, Research Fellow with EGMONT Royal Institute for International Relations, underlined the peculiarities of the global context, the rise of new emerging powers in a world which is less and less European, marked by interconnectedness. Until recently, the motto of the EU referred to a global Europe, but this would come to an end, as we know now this is not possible. The speaker raised the question whether there is a crisis in the strategic thinking of the EU. For him, the answer to this question is no, in the sense that if the answer were to be affirmative, this would suppose that there is or there was a strategic thinking of the EU. Instead, there were and there still are a lot of strategies within the European Union. What is lacking is the interconnectedness between these thematic strategies and an overall strategic vision. The speaker emphasized the importance of strategic partnerships and identified as a serious problem the ill-conceived strategic thinking.

Liliana Popescu, Associate Professor with the National School of Political and Administrative Studies in Bucharest, addressed the question whether the EU is a unitary actor with unitary thinking. Her answer is that the EU did not develop a strategic thinking, but has instead adopted by default, over the last decades, a certain approach to its external policy, namely the liberal internationalism. Mrs. Popescu defined strategic thinking from the perspective of a unique opportunity to create value for the EU, mainly through economic means. What is needed at the level of the EU is the analysis of what is going on in the world in order to evaluate afterwards if individual member states are more effective as such or whether it is necessary to have more than a Res Publica.

Jordi Vaquer, Director of the Barcelona Centre for International Affairs, insisted upon the European Neighbourhood Policy (ENP), a long-term project which hopefully will have some good results. The European Union tried to apply a strategic thinking to the ENP and one can consider that there is a strategic thinking behind this policy. The main challenge facing the ENP is that it basically covers many different regions and that its relevance is undermined by the fact that countries like Turkey or Russia are absent from this policy. At the same time, the EU could have a greater impact in Northern Africa, rather than in the Middle East.

Antonio Missiroli, Head of the European Dialogue Section with the Bureau of European Policy Advisers (BEPA), considered that a strategy could be a blueprint for action, a doctrine, and guidance for action and raised the question whether the EU indeed had effective strategies. The answer to that question is ambivalent, as the European Union has strategies that were not defined as such, for instance the four freedoms. In order for
the EU to have a strategy, all 27 Member States need to define their common interests. The speaker concluded his speech by saying that if we do not get together, we might face absolute decline.

Several questions were raised concerning the need for a strategy, the lack of leadership and vision linked to the lack of strategic thinking, the need to integrate the capabilities of the existing institutions (think tanks) and those of the emerging global powers, as well as the need for a public strategy.

During the Conclusions session, the three moderators of the conference drew up on some of the most important points made: Agnes Nicolescu underlined that both the Baltic and the Danube strategies deal with groups of countries trying to cooperate in a context of serious structural deficiencies. Almut Möller emphasized that even in serious stress, there has been some progress and improvement of the economic instruments and Piotr Maciej Kaczyński ended the conference underlining the importance of all the EU actors to act together in order to have “more Europe”.

Given the discussions upon the strategic documents drafted by the EU institutions and the steps of their practical implementation, there is also a visible need for the strategic thinking of the EU to cross the bridge from aspiration to reality.

This event will certainly be followed next year by several other seminars and conferences, dealing with fresh and hot topics on the EU agenda. The European Policy Institutes Network is firmly committed in bringing EU’s evolution closer both to the specialist and to the general audience.

In-depth analysis on some key aspects of EU strategic thinking is further developed in a series of interviews (granted to the staff of the European Institute of Romania) with EPIN representatives and EU officials, published in EIR Newsletter, available online at http://www.ier.ro/index.php/site/form_newsletter.
Ukraine, the European Union and the Democracy Question

Geoffrey Pridham*

Abstract: Recent political developments in Ukraine call into question its democratisation process. For this reason, it is important to consider EU relations with that country as offering a possible protection against full democratic inversion. Two problems are considered: the continuity of EU policy towards Kyiv; and, the scope for EU influence in furthering democratic standards. In the light of patterns since the Orange Revolution in 2004, the political outlook for EU/Ukraine relations appears unpromising.

Keywords: Orange Revolution, democracy, European Neighbourhood Policy (ENP), membership, Eastern Partnership, Ukraine.

Recent political developments in Ukraine increasingly suggest a case of democratic inversion, whereby regime change in favour of a new democracy is checked then redirected towards some non-democratic model, though not necessarily reverting to the previous type of authoritarian regime. There are some significant other examples of this particular tendency in post-Communist Europe, including Belarus under Lukashenka and of course Russia under Putin. Such inversion has usually occurred in former Soviet republics, suggesting a commonality of more difficult Communist legacy problems for democratisation compared with those states in East-Central Europe (ECE) that have joined the EU and achieved democratic consolidation. Ukraine may be turning into another such example, although the international jury is still officially out on this matter. But that country has differed from Belarus and Russia in that it has advanced along the path of European integration as the frontrunner within the framework of the European Neighbourhood Policy (ENP) and the Eastern Partnership, both EU programmes aimed at developing closer links with Eastern European countries outside the EU’s borders following the enlargements to post-Communist countries in 2004 and 2007. One dimension of those programmes has been the furtherance of democratic standards in the countries concerned.

In its Freedom in the World rankings for 2011, Freedom House downgraded Ukraine from “free” to “partly free”, a significant change as until then Ukraine had been the only non-Baltic former Soviet republic to enjoy the category of being “free”. The recently published report by Freedom House on the state of democracy and human rights in Ukraine (April 2011) summarised the main international concerns:

- a number of actions and developments since Yanukovych became president suggest that the country is heading away from a democratic consolidation. Concentration of power, selective prosecutions of political opponents, a more intrusive SBU [Security Service of

* Geoffrey Pridham is Emeritus Professor and Senior Research Fellow at Bristol University, UK. He has for long worked on problems of democratic transition and consolidation in post-Communist states and especially on the influence of the EU on democratic standards there through its political conditionality and enlargement policy, with special reference to Slovakia, Latvia and Romania. E-mail: g.pridham@bristol.ac.uk
Ukraine, the European Union and the Democracy Question

Ukraine], the absence of checks and balances and the politicisation of the judicial process are the main concerns observers cite... At the same time, it would be premature to write off Ukraine as a hopeless cause’ (Freedom House, 2011: ii and 17).

Similarly, the European Commission’s country report on Ukraine for 2010 concluded a month later that ‘as regards the political domain, there are fewer positive signs’, indicating that ‘Ukraine has experienced a deterioration of respect for fundamental freedoms notably as regards the freedom of the media, freedom of assembly and democratic standards’ (European Commission, 2011: 3).

If this new political tendency since Yanukovych’s replacement of Yushchenko as President in February 2010 is confirmed in the future, it would represent a further redirection in Ukraine’s non-linear even zigzag course in regime change since the end of the Soviet Union, two decades ago. Yushchenko’s own election as President at the time of the Orange Revolution in 2004 represented a dramatic attempt to restart democratisation following the hybrid regime (i.e. semi-authoritarian) practices under his predecessor Kuchma; but now, some of the latter’s forms of repression have reappeared.

Given the EU’s evolving relationship with Ukraine, especially from the Orange Revolution and Ukraine’s own repeated aim to join the EU, it has to be asked in the light of these regime change redirections whether EU policy towards that country has changed significantly – a relevant question in the light of the ENP’s and the Eastern Partnership’s requirement of democratic standards. Furthermore, what scope has there been for the EU to promote those standards in Ukraine and does it have any chance of influencing current political developments there in favour of a renewed democratisation trajectory?

EU Policy towards Ukraine since the Orange Revolution: Change or Continuity?

Under President Kuchma, relations with the EU developed with a Partnership and Cooperation Agreement in 1994, ratified finally in 1998, from which time Kyiv expressed an interest in EU membership. However, the Kuchma regime’s lack of democratic credentials blocked any such ambition while revealing its own limited understanding of EU affairs. Kuchma’s impatience with Brussels’ unforthcoming ‘signal’ about Ukraine’s future relationship with the EU, together with his worsening relations with the West following the murder of the opposition journalist Hryhorij Gongadze in 2000, led to his re-emphasising links with Russia and abandoning the idea of EU membership. As it was, the country’s democratic deficiencies under President Kuchma allowed Brussels to avoid any futuristic decisions about that country’s relationship with the EU; but the Orange Revolution forced Ukraine abruptly onto the EU’s agenda. Ukraine’s international visibility rose dramatically with that event because of the euphoria induced abroad following the electoral defeat of the old-order elite under Kuchma, with Yanukovych as their presidential candidate by the reformists led by Viktor Yushchenko and Yulia Tymoshenko. A report at the time by the Brussels-based Centre for European Policy Studies predicted that this revolution would have ‘profound consequences’ for Europe and for the EU’s relationship with Ukraine.¹ In hindsight, this statement occasions however much scepticism.

The Orange Revolution and Yushchenko’s election as President certainly led to a revival of Kyiv’s EU hopes; but an unrealistic optimism ensued, particularly as the new President pushed for membership prospects doggedly once in office. He was determined on this count to break with the negative trends of the late Kuchma years. With great enthusiasm he launched an initiative pointing towards EU membership as the top priority now that the Orange Revolution presented a “different Ukraine” with new democratic credentials, pressing for entry talks starting in three years’ time; and there followed a flurry of visits by him to Brussels and EU national capitals. Despite the EU’s cautious approach, already evident soon afterwards, Yushchenko continued to press for a target date for full membership (at one point in February 2005 claiming that Ukraine could join by 2011) as this would strengthen his domestic position for introducing the political reforms. Yushchenko publicly expected ‘analogous steps’ from the EU after democratic changes in his country and, later, emphasised that Ukraine was guided by “European parliamentarism” asserting that the forthcoming elections (those of September 2007) could be ‘a celebration of Ukrainian democracy and our determination to pursue a European path’.3

During the period since the Orange Revolution the EU has struggled to develop a new relationship with Kyiv while working within the restrictions set by its own policy under the ENP. It is important, therefore, to examine its policy in this period as it has a bearing on the question of political change and political reforms. In doing so, account must be taken both of its general policy lines and particular factors influencing its approach to Ukraine.

ENP countries are in a different situation from accession and association states, not least because emphatically they have no “membership perspective”. EU political impacts are obviously less intensive since these countries are much less ‘locked into’ the integration process without any real deadline or escalator pressure. Ukraine is now unique among these countries in moving towards association status, this being a reluctant concession from Brussels but still without a “membership perspective”. That is because the Eastern Partnership repeats the ENP’s exclusion of this perspective while moving cautiously along the path of further engagement with integration questions. These countries were therefore in a different category for Brussels behind the Western Balkan countries which were now the focus of a difficult further enlargement for quite some foreseeable time.

The ENP group have been less politically advanced than even the Western Balkan countries in terms of democratic standards for they embraced a wide spread of countries (from the South and East Mediterranean as well as the Caucasus and a few European ex-Soviet republics), many of which could hardly be called democratic. As one interim evaluation of political reforms under the ENP concluded, most countries showed extensive human rights abuses, no democracy and were poor. There were some signs of worsening here over the previous decade so that, compared to the 2004 EU entrants as they were in 1993, the ENP countries were at much lower starting points of democratic development (Kelley 2006, pp. 41-44). Even taking the six ex-Soviet republics embraced by the later Eastern Partnership policy (Ukraine, Moldova, Azerbaijan, Armenia, Georgia and Belarus), the same point could be made though with some differentiation between them: Ukraine and Georgia were obviously more advanced than Azerbaijan and Belarus both of which evidenced hardly any political reform. Hence,

---

these particular countries had a long way to progress before they could be taken seriously on political grounds as having eventual membership prospects. They had in common a Soviet past involving a greater degree and depth of Communist experience than ECE and even the Balkan countries, with negative consequences for the functioning of the state, the potential for developing autonomous political organisations and of course for political culture. Ukraine perhaps along with Georgia was the only “frontrunner” in this small group but that made little difference when its official scope for moving up some integration escalator was strictly limited by ENP policy restrictions. Ukraine in particular felt frustrated by being categorised in this way and apparently held back by politically less developed countries.

However, there was an inherent ambiguity with the ENP which drew on enlargement policy up to that time, its own policy thinking having been formulated by former DG Enlargement staff transferred to the ENP unit in DG External Relations.4 While the ENP was introduced as ‘not an enlargement policy’ by the External Relations Commissioner5, it nevertheless resembled that policy in certain respects. This was reflected in the use of progress reports to monitor performance over reforms set out in the action plans (which were modelled on the association agreements used for the 2004 accessions), in the choice of specific political reforms as well as in the rhetoric about underpinning post-Communist democratisation and generally in the strategic use of conditionality and socialisation approaches, such as in the adoption of incentives in the former instance and of political dialogue and engagement with domestic actors in the latter (Kelley 2006, pp. 30-34). The ENP was for this reason described (even by Commission officials) as variously ‘a diluted version of enlargement policy’ or simply as ‘enlargement light’.

During 2008-09, the Eastern Partnership came into being following an initiative from Poland and Sweden to upgrade relations with the Eastern neighbour countries, thus responding to Ukraine’s objection to being bracketed with non-European countries that were less developed politically and economically. The crisis in August 2008 over Russia’s invasion of Georgia significantly speeded up this new initiative overcoming the resistance of certain key member states like France and Germany.6 While aiming at a ‘more ambitious partnership’ with them and promising to ‘go beyond ENP’, it nevertheless replicated many of the latter’s features including bilateral and multilateral arrangements and the continuing exclusion of a “membership perspective”. New points included more involvement of civil society such as in monitoring the action plans and the possibility of association agreements including free trade; but generally the Eastern Partnership was seen as not overcoming the ENP’s main weakness which was the limited credibility of incentives for political change (Boonstra and Shapovalova 2010, p. 12).

Nevertheless, the new Partnership was officially presented as offering ‘a substantial upgrading of the level of political engagement’ and ‘more intensive assistance’ with these countries’ reform efforts.7 As to the demand for political reforms, ‘the principle of the ENP will be maintained: how far we go in relations with each country will continue to depend on

---

4 The ENP was initially managed under DG Enlargement until the change of European Commission late 2004 when it was transferred to DG External Relations (Wissels, op.cit).
6 Author interview with Nozar Bobitski, First Secretary for Political Affairs, Ukraine’s Mission to the EU, in Brussels, November 2008.
the progress made by the partners in their reform and modernisation efforts’. Therefore, there was an element of actual conditionality present although not so highlighted as in enlargement policy. For instance, association agreements were possible but only on the following condition: `a sufficient level of progress in terms of democracy, the rule of law and human rights and in particular evidence that the electoral legislative framework and practice are in compliance with international standards, and full cooperation with the Council of Europe, OSCE/ODIHR and UN human rights bodies will be a precondition for starting negotiations and for deepening relations thereafter’ (European Commission 2008, section 3.1). Such association agreements would take the question of political reforms a stage further because of their legally binding nature (unlike with the ENP’s action plans) and the promise of enhanced monitoring thus creating a somewhat greater pressure for implementation although one well short of enlargement policy. In the case of Ukraine’s planned association agreement, mechanisms from other EU association agreements were adopted such as benchmarking, monitoring and evaluation procedures and the focus would be on precise, demand-driven priorities for political reform in place of the rather general nature of the ENP’s progress reports on the action plans (Shapovalova 2010, p. 70). This agreement thus represented a further narrowing of the gap between the original ENP and the EU’s enlargement policy.

But the gulf between Kyiv’s high expectations under Yushchenko and Brussels’ cautious approach towards Ukraine remained throughout this decade. The virtual co-timing of the EU’s ENP agreement with Kyiv and the beginning of the Orange Revolution meant the EU was reluctant to renegotiate its terms. This cautious line also avoided any re-categorisation of Ukraine in relation to other post-Communist states. From the time of Ukraine’s independence in 1991 Brussels has included Ukraine alongside other ex-Soviet republics (the so-called Newly Independent States) and therefore separate from its Western neighbours, the ECE countries (Solonenko 2009, p. 711). This categorisation remained long after the Orange Revolution and became a source of official resentment in Kyiv, as when Hryhorij Nemyria, later deputy prime minister for European integration and at that time working in the Prime Minister’s office, remarked acidly in 2005: `Ukraine has occupied a firmly peripheral place in the mental map of the EU bureaucracy’ since that `succumbed’ to “Ukraine fatigue” in Brussels which had set in under Kuchma; and, as a result, `the European political mainstream, in general, became comfortably reconciled to the increasing institutionalisation of Ukraine’s peripheral status as a country “muddling through” on the margins of Europe’ (Nemyria 2005, p. 57).

Various key reasons motivated the EU’s refusal to place Ukraine in a more encouraging category, most of them familiar to Brussels watchers though not all declared publicly by the Commission; but their relative importance has varied over time somewhat. Three were voiced in the EU’s weekly newspaper soon after the Orange Revolution: the problem of ‘enlargement fatigue’, the desire to avoid a “Turkey syndrome” (meaning a much delayed and lengthy accession process causing frustration on both sides as well as a concern about the country’s size and its impact on the ‘depth’ of European integration) and a wish not to upset Russia (where, in policy circles, sentiments about the former Soviet relationship with Ukraine were still rather influential). Statements from the Commission were from the beginning of the Orange Revolution dismissive about an important breakthrough about Ukraine’s future EU prospects.

---

9 European Voice, 10 March 2005.
as in the guarded statements at this time of the new External Relations Commissioner Benita Ferrero-Waldner. This cautious line was repeated more colourfully by Commission President Jose Manuel Barroso in autumn 2006, when he said that reception into the EU’s `living room for the time being is out of the question’ but `a heated waiting room’ had to be set up where one may stay for one or two decades, with `an open door to the drawing room’ for `firstly, Ukraine is not ready; secondly, we are not ready’.10

Brussels’ reservations were firmly maintained through the rest of this recent decade, as underlined by author interviews with Commission officials in 2007-08. One member of the EU Delegation to Ukraine acknowledged that officially only `enlargement fatigue’ was given as the main reason but admitted that the other reasons suggested to him – a tougher enlargement policy over standards since 2004, the priority here to the Western Balkans, the large size of Ukraine and the Russia factor – were all important.11 An official of the Commission in Brussels elaborated on one of these reasons saying that `the EU already has a lot on its plate with the Western Balkans and Turkey’ and speculated on the awkward problem of `how to cope with the situation if Ukraine overtakes Turkey’.12 Meanwhile, a senior member of Ukraine’s Foreign Ministry responsible for European policy granted at this same time that `the EU cannot easily absorb the new member states’ but added that domestic conditions played a significant part, confessing that the `young age of Ukrainian democracy’ was a factor, implying a certain political immaturity, for `we ourselves give excuses to EU politicians’ and `our politicians [need to be] a bit more wise’.13

He was also aware that the EU had `problems in reaching consensus’. In fact, the cautious EU policy approach towards Ukraine and ambiguities in ENP policy owed much to differences within the EU itself at two levels. Firstly, there were wide differences among the member states over how far to take the relationship with Ukraine following the Orange Revolution. As a Commission official noted, the `twenty-seven member states have different viewpoints on Ukraine’, with Germany `having an eye on the budget’ and France and the Netherlands plagued by `enlargement fatigue’ (a term much employed by Commission staff at this time in the relevant directorates-general).14 Some differences were marked with the new member states from post-Communist Europe noticeably more sympathetic, including some conceding a “membership perspective”, than the so-called old member states (i.e. those that had joined up to and including 1995). Among the former, Poland stood out because of that country’s geographical and historical closeness to Ukraine, combined with a desire to secure a stable pro-West eastern flank; and to some extent this also applied to Lithuania. On the other side there were member states like Germany and France, influenced by giving a priority to relations with Russia and decidedly against any flexibility with even a hint of future membership. While there were some differences of emphasis and degree of sympathy among both groups (e.g. the UK was less rigidly opposed than some old member states to developing a new relationship with Ukraine), these divisions between the member states have persisted up to the present.

---

10 Frankfurter Allgemeine Zeitung, 30 October 2006.
11 Author interview with a political officer of the EU Delegation to Ukraine, in Kiev, September 2007.
13 Author interview with Vadym Triukhan, Deputy Director-General, DG for the European Union, Ministry of Foreign Affairs, in Kiev, September 2007.
They have reappeared during negotiations over the association agreement, with key old member states disputing the title and definitely against a “membership perspective” being attached. Concurrent difficulties with Romania and Bulgaria over precisely issues of political conditionality both before and after their admission to the EU in January 2007 only strengthened resistance to movement over a “membership perspective” elsewhere. Indeed, some member states like Germany had been opposed to these two Eastern Balkan states joining at this stage.

Secondly, there were distinctive differences among the main EU institutions with the European Parliament by far the most positive about a new relationship with Ukraine, including eventual membership subject to appropriate conditions. Within weeks of the Orange Revolution, the EP passed a resolution on 13 January 2005 by a great majority of 467 to 19 in favour of ‘other forms of association’ apart from the ENP, giving ‘a clear European perspective’ for Ukraine ‘possibly leading ultimately to the country’s accession to the EU’ (Wilson 2005, p. 191). During the period since then the EP has remained the most forward source of pressure among the EU institutions for giving more active support to democratisation in Ukraine with some differences of emphasis among the main political groups (there were at the same time demands for more progress in that country over such issues as human rights and fighting corruption). With the move towards an association agreement, the EP recommended to the Council that it include in the long term ‘the attainment of EU membership’ as well as the abolition of the visa regime and increased financial assistance (Shapovalova 2010, p. 67).

Somewhat by contrast, the Council of Ministers and the Commission remained as a rule limited in their responses to developments since the Orange Revolution. While the EP advocated EU initiatives to encourage and stimulate Ukrainian democratisation, the two executive institutions adopted the opposite logic that the ball lay in Ukraine’s court. As Javier Solana, the EU’s foreign policy representative, remarked at the EU/Ukraine summit in September 2007, the deepening of the relationship with the EU ‘remains dependent on the quality of Ukraine’s democracy and reforms’. That summit ended with a joint statement that further movement towards democratic consolidation would reinforce ties with Ukraine and that there was a need to improve the business and investment climate through progress on the rule of law, judicial reform and the fight against corruption. Sometimes impatience was voiced as when Commission President Barroso urged Ukraine in autumn 2005 to push ahead with reforms rather than talking about membership, and then in late 2009 he revealed Brussels’ frustration with Kyiv when he commented: ‘it often seems that commitments on reform are only partially implemented and words are not always accompanied by action’ (ICPS, 2009: 4).

It was clear from the beginning after the Orange Revolution that any loosening of member state attitudes, especially the old ones, would only occur if Ukraine’s performance over the required political reforms proved unexpectedly impressive. A Stefan Batory Foundation study in spring 2005 remarked with some prescience but more optimism than was justified by later developments: ‘If Ukraine were to introduce significant reforms, a change in sentiment towards Ukraine in several member states could be expected in 2006’ (Stefan Batory Foundation 2005, p. 32).

18 RFE/RL Newsline, 7 October 2005.
Ukraine, the European Union and the Democracy Question

The general problem that soon came to dominate Kyiv’s relations with the EU was domestic instability. By late 2005 an additional reason for Brussels’ caution – Ukraine’s own internal political divisions at the top, by now more visible – was often quoted. Commission statements about Ukrainian affairs underlined at intervals how important it was for this to be resolved before the reform process could be continued and hence relations with the EU ‘deepened’. Government crises and collapses caused some concern, one of these occurring just before an EU/Ukraine summit (in September 2008), because they were seen in Brussels as hindering or undermining reforms. In spring 2007, a major political crisis erupted in Kyiv with the collapse of government business and the President’s controversial decree dissolving the parliament, the legality of which was disputed by his domestic opponents. The EU put excessive pressure on Ukrainian politicians to settle their differences and re-establish political stability, with Barroso calling for a solution ‘in full respect for the principles of democracy and the rule of law’.

The issue that highlighted this domestic instability at home and especially abroad was the bitter antagonism that developed between the two Orange Revolution leaders, Yushchenko and Tymoshenko, especially when they respectively held the offices of President and Prime Minister (during 2005 and from 2007-10). According to a close observer of this power struggle, it was a clash of personalities but also of outlooks: Yushchenko was seen as liberal, very pro-EU and pro-NATO, as well as interested in wider questions like religion, history and identity questions, while Tymoshenko was regarded as more pragmatic, open to making deals with anybody, a good administrator and able to talk with Putin unlike Yushchenko. The EU took a firm decision, however, not to intervene over this power struggle; furthermore, Kyiv did not request such mediation.

This persistent instability and the failure of the Orange Revolution leaders to build on their success of ejecting the Kuchma government in late 2004 led to a cooling of EU attitudes towards Ukraine and a growing “Ukraine fatigue” in Brussels. This created an image problem for the country which undoubtedly affected any willingness on the part of the EU to give Ukraine the benefit of the doubt and to consider seriously a new future for that country in Europe. This problem was stated quite bluntly by the Kyiv-based International Centre for Policy Studies (ICPS) in 2010:

‘Ukraine mainly elicits distrust, fatigue, disappointment and irritation... [a] feature of national politics that leaves Europeans less than interested in cooperating with Ukraine is the country’s nigh total failure to come through on its commitments, including some of the simplest... All this makes it difficult for Brussels to take any statement coming from Kyiv seriously, let alone spend time and money on an unreliable, uncommitted partner... So, two of the greatest threats to Ukraine’s relations with the EU are the irresponsibility of its politicians, who seem unable to respect their commitments, and political chaos within the country’ (ICPS, 2010, p. 42).

---

21 Author interview with Oleh Rybachuk, Yushchenko’s former chief of staff and Deputy Prime Minister for European Affairs 2004-05 in the Tymoshenko Government, in Bratislava, September 2009.
Clearly, then, what has happened since the Orange Revolution has been an increasing gulf between the stated and real ambitions of government leaders to join the EU eventually and the reluctance of EU policy makers – with some committed exceptions – to make any move in that direction.

Nevertheless, negotiations went ahead for a new agreement to replace the Partnership and Cooperation Agreement (PCA) of 1998 which lapsed in 2008; but without any “membership perspective”. Then, a new development had occurred in Kiev with the election of Yanukovych as President in early 2010. As the year progressed, infractions of democratic standards aroused growing concern in EU circles and these were openly expressed in the European Parliament.23

While this new trend did not disrupt the management of detailed integration affairs between Brussels and Kyiv, it did however call into question for the first time since the Orange Revolution the process towards democratic consolidation which was the ultimate aim of the EU-required political reforms. And clearly it effectively shelved for the foreseeable future any talk of long-term membership of the EU.

Altogether, it could be said that EU policy towards Ukraine from 2004 showed much more continuity than change. No radical departure was ever envisaged and the continuing and firm insistence on excluding a “membership perspective” was the best proof of this. Any change was slowly incremental and somewhat reluctant in various quarters although enough initiative was taken to keep relations moving along, as in the construction of the Eastern Partnership under which an association agreement was possible. In other words, new directions in the course of Ukraine’s regime change had no immediate or indeed powerful impact on the EU’s policy towards that country. That policy insisted that any breakthrough in relations would have to come from real democratic progress but that was not sufficiently forthcoming or convincing for Brussels.

Relations with the EU and the Prospects of Democratic Standards

Given the EU’s restricted if fairly consistent approach towards Ukraine since 2004, what scope has there been for Brussels to influence Kyiv over that country’s democratic development? It has to be said at once that any such scope was inevitably limited since the deliberate and rigid exclusion of a “membership perspective” substantially weakened the EU’s leverage in driving political reforms in ENP countries. According to a European Commission, officially involved in formulating the ENP, the EU had little leverage over the New Neighbours concerning political conditionality for the Copenhagen criteria could not be applied and membership was not being offered so that Brussels fell back on referring to relevant conventions signed by these countries such as those of the Council of Europe.24 The 2004 enlargement process, just then concluded, had demonstrated that accession countries from East-Central Europe had been willing to go quite some way to satisfy Brussels over European political standards for the sake of acquiring EU membership, which held enormous prestige in these post-Communist countries. However, there were problems in implementation especially over difficult issues like judicial reform, fighting corruption and, to come extent, improving human and minority rights due to intrinsic

difficulties in bringing about change, the relative brevity of time allowed during accession and some resistance from governing elites where their party and material interests were challenged (Pridham, 2005). Such problems should be kept in mind when comparing with countries that had no “membership perspective”.

The absence of this has been for Kyiv a major factor governing relations with the EU, as regularly voiced by government leaders and officials in this period. According to an official of the EU delegation in Kyiv, asked whether the implementation of the action plan was weakened by the lack of this “perspective”: ‘Yes, Ukraine regards everything from the point of view of membership; I get the message from government officials that Ukraine would be more assiduous concerning political conditionality’. The Director of the EU Department in the Foreign Ministry answered volubly when asked the same question: ‘Absolutely, if you are in the accession process, you have a big real incentive; because you have the membership perspective... some reforms are painful’. He said this despite the point being made that Ukraine had in substantial terms advanced significantly in its engagement with practical integration matters. While political will to meet political standards seemed to be affected, various domestic conditions had also to be taken into account in this context.

Ukraine’s political elite has generally been criticised both for its disunited position on aspects of post-Communist regime change. Such disunity extended to a lack of real consensus on the constitutional rules of the democratic game and was reflected in an elite political culture which had not yet come to embrace the values of tolerance and compromise (Solonenko 2009, pp. 720-21). To a large extent educated in Soviet institutions, the political class revealed a strong continuity with little generational turnover although some younger figures did emerge in the years after the Orange Revolution, which event encouraged some new policy thinking and a more assertive attitude in favour of democratisation. But such cases of “reconstructed” adjustments to a democratisation trend have not been widespread in Ukrainian politics.

It followed that achieving elite consensus on the political reforms demanded by Brussels would be difficult. Evidence of European socialisation was weak in terms of an element of commitment to reforms penetrating elite mentalities. While there was an official agreement on the broad lines of European policy, a Kyiv policy institute commented rather pointedly on the problems of elite understanding of European integration:

‘What exactly European integration means is poorly understood in Ukraine – not just by ordinary voters but also, unfortunately, by those who are supposed to organise, direct and promote the process. That 90% of the homework is actually internal has long been clear. Yet most of Ukraine’s politicians think that European integration can be speeded up simply through negotiations with Eurocrats... However, the recipe for successful integration – actual internal reform – is more complicated’ (ICPS 2010, p. 41).

Such weak understanding of integration matters had been sometimes present in accession countries at an early stage of their dealing with EU affairs, but at least they developed a solid understanding albeit one confined to a small group of crucial policy-makers with policy learning during membership negotiations. Combined with division at the centre of European policy making in Kyiv, this weakness of policy understanding did pose a basic problem for

25 Author interview with official of the EU Delegation to Ukraine, in Kiev, September 2007.
26 Author interview with Pavlo Klimkin, Director of EU Department, Ukrainian Ministry of Foreign Affairs, in Kiev, April 2008.
pushing through necessary reforms. Reformers who did emerge after 2004 in government or administration circles found themselves rather isolated domestically. Generally, political elites preferred to ignore or evade the EU’s top-down demands on reforms (Gawrich, Melnykovska and Schweikert 2010, p. 1221), instead prioritising immediate political and economic benefits which rather worked against change, as a policy institute noted: `Generally speaking, there is consensus among Ukraine’s leading political forces that EU integration is a strategic choice for the country; yet very few politicians are ready to give up their local interests for the sake of better rules of the game for all, based on European standards’ (ICPS 2009, p. 4). For this reason, on the EU side, it was often found that engagement with Ukraine’s political class `has proved expensive and mostly fruitless’.27

Another domestic factor which affected Kyiv’s response to Brussels’ political demands especially over implementation was the condition of the state administration. This was largely unreformed from Soviet times and hardly capable of interacting efficiently with Brussels because of quite different working methods and ethos. Serious tension arose in the face of repeated EU pressures for change, all the more as frequent governmental instability meant that implementation of the action plan under the ENP became a devolved responsibility for bureaucratic rather than political actors in Kyiv (Wolczuk 2007, p. 19). According to a recent report by the ICPS, `Ukraine has made one huge step towards political and economic liberalisation, but the other foot is stuck in the 1970s, in unreformed Soviet public institutions’ (ICPS 2010a, p. 1). The scale of domestic change required in post-Soviet states was distinctly larger than in the ECE countries in the 1990s and that their weaker state capacity meant greater obstacles for enacting EU conditionality (Wolczuk 2007, p. 4).

Changes required for both managing EU relations and implementing conditionality measures included the professionalization of and much improved efficiency in the national administration, better coordination between different ministries to manage Brussels’ cross-sectoral demands but also a certain cultural change among bureaucratic personnel, where generational turnover was likely to help. It was made clear in Ukraine’s case that basic change was necessary; but this has been very slow in coming. In April 2010, an ICPS report emphasized that changes introduced by the new association agreement `will require the entire state machine to perform at a fundamentally new level’ (ICPS 2010b, p. 1). There was an urgent need for assistance in coping with the vast amount and the detailed technical side of EU affairs; and there were complaints in Kyiv that the EU was not forthcoming with `the kind of advice, conditions and requirements’ necessary in this respect (ICPS 2010c, p. 3). Adverse comparisons were made with accession states that received far more such technical assistance.

As it was, the programme of political reforms required by Brussels was fairly ambitious drawing directly on the requirements of enlargement policy. They were based on the ENP’s “shared values” and covered broadly liberty, democracy, respect for human rights and fundamental freedoms and the rule of law.28 More specifically, they included `strengthening democracy and the rule of law, the reform of the judiciary and the fight against corruption and organised crime, respect for human rights and fundamental freedoms, including freedom of the media and expression, rights of minorities and children, gender equality, trade union rights

---

27 European Voice, 18 February 2010.
and other core labour standards and the fight against the practice of torture and the prevention of ill treatment’ (European Commission 2004, p. 13). Altogether, these “values” represented a selective agenda for democratic consolidation in ENP countries; but this lacked the rigorous approach of an enlargement conditionality policy as well as the decisive push that came from real accession prospects.

The ENP certainly saw itself as aiming to promote democracy (after its own fashion) and as targeting unstable post-Communist states that were struggling with democratic consolidation; but in fact, the term “democracy” was used hesitantly in official statements on the ENP and this objective was not seen as being prioritised among the different policy goals as it was in enlargement policy (notably in opening and concluding membership negotiations). Furthermore, there was a certain permissive attitude over the satisfaction of the political reforms in that the terminology used was that of “cooperation” rather than the imposition of standards usual with countries that had acquired candidate status. The most vocal criticism of this restrained approach of the Commission came from the European Parliament which in a resolution on the ENP in January 2006 admonished the Commission and urged it to ‘operate a vigorous policy of support for democratic forces’ in neighbouring states; while individual MEPs have criticised the Commission for placing too little emphasis on political reform.

It should be pointed out, notwithstanding all the above-mentioned restrictions on the EU’s scope for promoting democratic standards in Ukraine, that on some occasions Kyiv has in fact delivered some results, notably over the fair and free conduct of the 2006 parliamentary elections which convinced Brussels over opening negotiations on a further agreement with Ukraine – an obvious case of an incentive working. Moreover, the development of media freedom was by and large a success story after the Orange Revolution. In late 2006, the Commission was able to report positive steps towards respect for media freedom (European Commission 2006, p. 5); and in April 2008, the Commission was yet more upbeat:

`The citizens of Ukraine enjoy wide-ranging pluralism in both electronic and print media. At the same time, a few outstanding issues still need to be addressed. Further progress is needed with regard to the introduction of a public service broadcaster and the development of pluralism in the regional and local media’ (European Commission 2008a, p. 5).

The new technology has developed slowly since the Orange Revolution; and by the start of this current decade the political elites had as a whole learned to become rather adept at using this medium. It should be pointed out, nevertheless, that the media have at times become sucked unhealthily into the intense political rivalry between top political leaders.

Much legislation was passed on the specifics of the political reforms even if not followed by real action. Altogether, the variable performance over different reforms does not absolutely prove the argument about the absence of a “membership perspective”, although Ukraine has defaulted on the key areas of judicial reform and fighting corruption. In the former case, successive Commission reports acknowledged the adoption of measures, usually involving technical and procedural changes, but they fell well short of basic reform leading to real judicial independence. On fighting corruption, there was a similar story with formal change (including

31 REFE/RL report, 8 February 2010.
a national anti-corruption strategy) rather than real change which overrode underlying political resistance and confronted the rootedness of the problem. From 2009, there were several signs that the corruption problem was in fact worsening. In July 2010 the Helsinki group pronounced that corruption was on the rise turning Ukraine into a “feudal state” and was especially problematic in local politics. Early that year, an opinion survey recorded mounting public dissatisfaction over the country’s direction; and a belief that corruption was spiralling out of control was central to this feeling. It is evident that the incentive to embrace political change for the sake of consolidating liberal democracy has remained weak on essentials, despite the limited upgrading of the relationship with the EU through the Eastern Partnership and a more qualitative advance in Ukraine’s case towards a new association agreement. During the half decade after the Orange Revolution Ukraine had under EU pressure made a few real and also some formal changes favouring democratisation but these hardly amounted to much deepening of democratic values. Accordingly, the country remained vulnerable to a systemic inversion which challenged these.

The EU and the Democracy Question under Yanukovych

Initial EU reactions to Yanukovych’s election as President in February 2010 were guardedly positive since the election was conducted properly according to international standards. Memories recalled that his previous campaign for the same position in autumn 2004 had been hedged with fraudulent practices; but meanwhile free and fair elections had become the new practice in Ukraine. There was official approval in EU circles, as voiced by the EU’s foreign policy representative and even by the European Parliament President. One media source noted philosophically that ‘Yushchenko became that rare breed of leader in the post-Soviet space – a president who leaves office because he loses an election, not because he is forced out or is disqualified from running again because of the constitution’. However, the press in some West European countries dwelt on the “defeat” Yanukovych’s victory represented for the Orange Revolution; and reference was made to Yanukovych’s more amenable approach to Russia compared with Yushchenko.

So reactions were really mixed and were prepared to wait on events. There was some hope in the EU that the perennial instability problem that had undermined the effectiveness of the Orange Revolution leaders (and was a repeated complaint in successive Commission reports over the previous years) would now be resolved. That was an argument which supporters of Yanukovych, who had just appointed a compliant prime minister, pushed in Brussels. A year later, the Freedom House report noted this with one major reservation:

“The president and his defenders credibly argue that this centralisation of power is necessary if the administration is to have any chance to govern Ukraine effectively and pursue long-overdue economic reforms. While the discipline of Yanukovych’s government is a welcome change to some, representing a departure from the paralysing and endless bickering of the Yushchenko-Tymoshenko period, it has also revealed authoritarian tendencies”. (Freedom House, 2011: ii)

34 RFE/RL report, 12 March 2010.
By this time, there was evidence of decisions taken to make government more efficient and reduce the chaos of before. These included a radical reduction in the total of government agencies, different economic and social reform initiatives, a flurry of legislative activity and a series of anti-corruption investigations; while progress was registered in negotiations with the EU over the association agreement as well as settling some long-standing bilateral issues with the USA (Freedom House, 2011: 17).

There was another reason for relief in the EU as Yanukovych differed markedly from Yushchenko in not persistently pressing for accession prospects. A perceptible difference of tone and style as well as incentive in Yanukovych’s public declarations on European policy had been evident during his tenure as prime minister in 2006-07. He had emphasised the importance of “practical integration”, meaning concrete steps and agreements, as distinct from what he sarcastically called the “the illness of Euro-Romanticism” of Yushchenko. His visits to Brussels invariably focussed on economic relations like energy cooperation and securing access to the European market rather than the longer-term question of EU membership, while government sources argued that compliance with EU standards would be based in the absence of the “membership perspective” on a cost-benefits analysis approach (Wolczuk, 2007: 12). Yanukovych’s statements on European integration were also noted for their absence of a firm link with democratisation rhetoric that characterised those of Yushchenko. The deeper meaning of this last difference became clearer once Yanukovych became President in 2010 and various retrograde steps were taken with regard to democratic standards.

For, on the political level, the waiting on events did not take long. Measures were taken pointing in an authoritarian direction. These included a strengthening of presidential powers (which admittedly solved the institutional conflict problem), revised electoral rules in favour of the new ruling elite that was seen as ‘inconsistent with a country aspiring to EU membership’, cases brought against opposition leaders who were in the previous government for abuse of power and bribery as well as threats to media freedom and attacks on journalists. As the recent Freedom House report concluded, ‘there is no question that President Yanukovych has consolidated power at the expense of democratic development’ (Freedom House, 2011: ii). Official reactions in EU circles have differed and have been so far expressed mildly (such as in the statement from the EU-Ukraine summit, November 2010), although a visit by the Polish and Swedish Foreign Ministers in mid-November ended with a warning about maintaining political pluralism. Clearly, the EU is biding its time before embracing any new policy line towards Ukraine.

A question that must surely arise in the near future is the question of the association agreement and the democratic standards required under the Eastern Partnership. Kyiv’s new record on the EU’s political standards now seemed problematic. The Commission report for 2010 reported no progress in fighting corruption while a deteriorating situation as regards human rights, fundamental freedoms and the rule of law was observed (European Commission, 2011: 5-6). As to judicial reform, the lack of substantial change so far meant that Yanukovych faced no serious obstacle as newly elected President to his seeking to strengthen control over the judicial system by giving his office the power over the hiring and firing of judges. The most

---

35 The Observer, 22 August 2010.
visible action taken in this area was to initiate proceedings against former high officials in the previous government, including the former prime minister Tymoshenko (and Yanukovych’s main rival in the 2010 presidential election) who was accused of fraudulent dealings while in office. She has achieved much publicity about her case which has become something of an international cause celebre. In early August 2011, the EU finally issued a firm warning about her arrest which was ‘a cause for concern about the state of rule in Ukraine. We reiterate previous statements that we and other colleagues have made on the high standards we expect from a country aspiring to political association with the EU. We urge Ukraine to uphold the principles and common values that form the core of the Eastern Partnership’. Nevertheless, the association agreement was due to be finalised at the end of 2011.

Conclusion

The outlook for Ukraine’s further democratic development must be considered sobering, all the more given the disappointing record of the Orange Revolution – which, it has to be said, gave Yanukovych his big opportunity for a return to power. The few gains of the five years that followed that revolution concerning the media and elections have now been challenged; and the prospects for the EU in influencing let alone in reversing the worrying developments of the past year and a half appear unpromising. There remains whatever leverage is offered over concluding the association agreement; but so far the EU has played it cautiously about what to do not least as it appears divided here (as it has essentially always been over relations with Ukraine). Some have called for stalling negotiations with Kyiv until democratic regression ceases; but, it has also been reported, ‘EU diplomats insist bringing Ukraine “inside the tent” of economic integration will give greater scope to lean on Yanukovych to improve his human rights record’. Apparently, Tymoshenko is of the same view: ‘Ukraine needs to be saved; if the EU pushes Ukraine away now and leaves it one-on-one with this regime, our country will be thrown back several decades’. This was the old strategic quandary for European organisations in dealing with reluctant democracies, except that enlargement policy with its considerably greater leverage had taken a firm line about meeting political conditions before negotiations ended.

It is significant that remedies offered for reviving Ukraine’s democratic prospects have been longer-term, avoiding the EU’s present dilemma. They include the greater involvement of civil society and the outside encouragement of NGOs (which is highlighted by the Eastern Partnership) as well as placing hope in the socialisation effects of the greater engagement of Ukrainian authorities in the business of European integration. These are indeed important developments that could eventually promote democratic consideration. But, meanwhile, the EU is faced with a questionable political development in Ukraine where early decisions are required. Meanwhile, further indicators about the course of events are expected including the conduct of the parliamentary elections scheduled for November 2012 (Freedom House, 2011: 7-8). Whether electoral disapproval for Yanukovych might appear then is presently a vain hope; and meanwhile some mistrust has entered EU/Ukraine relations.

---

38 Joint statement by EU High Representative Catherine Ashton and Commissioner Štefan Füle on the arrest of Yulia Tymoshenko in Ukraine, Brussels, 5 August 2011.
REFERENCES

- International Centre for Policy Studies (ICPS) (2009), *Kyiv, Inside Ukraine*, no. 3, December
- ICPS (2010), *A New Foreign Policy for Ukraine: Expert Perspectives* (Kiev, International Centre for Policy Studies)
- ICPS (2010a) *EU Standards of Democratic Governing – The Only Way to Desovietize Public Administration in Ukraine*, (Kiev, International Centre for Policy Studies) European Focus no. 4
- ICPS (2010b) *The EU-Ukraine Association Agreement: From Imitation to Results* (Kiev, International Centre for Policy Studies) Policy Brief, April
- ICPS (2010c) *Six Ukrainian Myths* (Kiev, International Centre for Policy Studies), European Focus no. 11
Small States as “Contributing Nations” to the EU’s Normative Power: the Case of Slovenia

Rok Zupančič, Miha Hribernik*

Abstract: How can small states contribute to the overall normative power of the European Union (EU)? In this article we assess how much Slovenia, a small EU Member State with limited financial and human resources, contributes to this normative power. We do this by analysing its foreign policy, which consists of three main guiding principles: internationalism, the desire to solve all outstanding issues with its neighbour Croatia, and an attempt to present itself as a bridge between the EU and the Western Balkans. We discover that, while these principles exist on paper, they are often not consistently carried out in practice, which is a symptom of the still-ongoing reorientation of the country’s foreign policy, after successfully joining the EU and the North Atlantic Treaty Organization (NATO) in 2004. Slovenian decision makers all too often remain reactive, and prefer to support the initiatives of others. When the country does act on its own initiative, its actions can be seen as too individualistic and uncoordinated, both within its own borders, and with its EU partners, as was the case when Slovenia launched the so-called Brdo Process, aimed at promoting cooperation between countries of former Yugoslavia. The conduct of Slovenian foreign policy is, all too often left, to the initiative and ingenuity of individuals, and such an uncoordinated approach hinders Slovenian efforts to become a normative power and to increase its influence in the Western Balkans. Finally, we argue that Slovenia’s Presidency of the EU Council in 2008 was a unique opportunity to contribute to the EU’s normative power. Slovenia managed to accomplish this only in part; despite the fact that the Presidency was an organisational success, most of its goals was too broadly defined and lacked ambition.

Keywords: Slovenia, normative power, small state, Presidency, foreign policy, Western Balkans, Croatia, Hungary

Introduction

Slovenia joined the EU and NATO on 1 May 2004. It had thus accomplished its two primary foreign policy goals which it had been pursuing since becoming independent in 1991. It now had to position itself within a community of 25 states, and to define a new set of goals for its foreign policy. Finding a new raison d’être for a foreign policy apparatus that was intensively focused on two goals for a decade and half, would be a challenge for any state. For one that is a young democracy, as well as a small state with limited financial and human resources, it was even more so. Due to these constraints, Slovenia has to rely on soft rather than hard power, and attempt to contribute what it can to the EU’s joint normative power as it lacks

* Rok Zupančič is a PhD candidate and Research Assistant at the University of Ljubljana (Faculty of Social Sciences; Department of Defence Studies). E-mail: rok.zupancic@fdv.uni-lj.si

Miha Hribernik holds a BA in International Relations from the University of Ljubljana and will pursue a Master of Science in International Security at the University of Bristol in October 2011. E-mail: miha.hribernik1@gmail.com

34
both the economic as well as population base to pursue extensive unilateral policies towards third states. To what extent did Slovenia’s post-2004 reorientation succeed and what are its current foreign policy priorities? Is it leading by example or simply following in the footsteps of other EU members? What is the scope of the EU’s actual normative power, and to what extent does Slovenia contribute to it? How did Slovenia tackle the ultimate chance for a small state’s contribution to the EU’s normative power – the 6 month Council of the EU (EU Council) Presidency – when compared with that of a neighbouring small state, Hungary? The goal of this article will be to answer these questions.

The article is divided into seven parts and proceeds as follows: (1) in the first part we will briefly discuss the concept of small states, and outline some of their characteristics; (2) in the second part we will elaborate the idea of whether the EU is a strong normative power and if it is enough, in the current state of international relations, for that particular international organization to be a normative power only; (3) in the third part we will analyse what principles and values are present in and how much do they guide the foreign policy of Slovenia; (4) in the fourth part, we will discuss how Slovenia views the relation between EU foreign policy (with particular emphasis on the promotion of Human Rights and Democracy) and its own geographical areas of interest; (5) in the fifth part we will try to answer the question whether Slovenia considers human security as being an essential component of its security policy; (6) in the sixth part we will analyse and compare the goals of the EU Council Presidency of Slovenia with those of a neighbouring small state, Hungary; (7) in the conclusion, we will sum up the findings and assess the current contribution of Slovenia to the normative power of the EU.1

Characteristics of small states

There is no single definition of a small state. Lacking agreed-upon criteria such as the size of territory, population and economy has forced authors to come up with more or less creative definitions. One approach among many might be to simply view any country that is not a middle or great power as a small state (Neumann and Gstöhl 2006, 7). However, that is not to say that a small state cannot be a power of sorts in its own right. Neumann and Gstöhl (2006, 8) warn that the distinction between small and great does not quite coincide with the distinction between strong and weak. We agree with their assessment and believe that, countries such as Switzerland, the Nordic countries, and the small but oil-rich Gulf States prove that even countries commonly regarded as small can have an impact on world affairs. Be it from a large and strong banking sector, through championing human rights and social equality, to a lucky endowment with raw materials, small states can effectively carve a niche for themselves within which their influence can be much bigger than simply what their territory or population size might predict. We discuss Slovenia’s situation in this regard later on in the article.

1 According to Colin Gray (in Bučar 2001, 145), the expert of international relations can perform different roles: (1) an innovator who warns about new problems and suggests solutions; (2) an expert who answers specific questions; (3) a promoter of official polices; (4) an advisor who is helping in the decision-making process; (5) a “catalyst” trying to break the reluctance of the bureaucratic apparatus; (6) an institution for legitimization of certain policies; (7) a good-willed critic; (8) an advocatus diaboli (defender of the opposing side); (9) a pure scientist trying to contribute to the development of the discipline. The authors of this article would definitely not attempt to legitimize certain policies of the government of Slovenia, while the other roles would blend to some extent.
Regarding a small state’s behaviour within the EU, Thorhalsson (2006, 218) notes a difference in how small and large EU Member States view the issues concerning the Common Agricultural Policy (CAP) and the Regional Policy, as well as how they interact with the European Commission (EC). Furthermore, there are differences in the negotiation tactics employed within the Council of Ministers, the European Council and in bilateral negotiations with the EC. The reason for these differences lies in the small states’ lack of staff, expertise and other resources to follow all negotiations. This leads to two outcomes; small states become reactive in many areas, but proactive in those areas they perceive as very important. In this case their small administration can actually become an asset, as it tends to be more flexible than that of larger countries.

However, all advantages of being a small state aside; such a country will likely remain at the mercy of the system level – other, larger countries (often its neighbours) will, in all likelihood, set “the rules of the game”, and a small state will have no choice but work within such a defined system, and to do what it can, despite its size and potential unfavourable geographic position. Some examples within the EU include Luxembourg, situated between France and Germany, and Austria’s past position between the Western and Eastern Blocs (Hey 2003, 186–7). Slovenia too faces an unfavourable position, geographically, located at the crossroads of Romanic, Germanic, Slavic and Ugro-Finnic cultures. In the 20th century alone, the present-day Slovenian territory in part, or in its entirety, formed a part of, or was occupied by Austria-Hungary, the State of Slovenes, Croats and Serbs, the Kingdom of Serbs, Croats and Slovenes (later renamed the Kingdom of Yugoslavia), Italy, Germany, Hungary, socialist Yugoslavia, and independent Slovenia. Perhaps this, more than any previous example, proves just how much a small state is at the mercy of a system which it can hardly influence.

We do not intend to venture deep into the semantics of what a small state is, and what such a state can and cannot do; however, we would like to point out three things that should be kept in mind: differences between large and small states do exist; however small does not necessarily mean weak; and that small states are deeply dependent on the system.

The EU as a “force for good”

What makes Europe a particularly intriguing case for analysis is the fusion of cosmopolitan ideas of universal rights with an emerging institutional capacity to protect those rights (Dunne 2008, 13). In the current state of international relations within the EU, a great deal of its member countries sees the Union as an important framework where their national interests can be pursued. However, most of the countries believe it may be wiser not to step fully in the European pond and yield the authority completely to Brussels, but to retain a defined set of powers for themselves. The history of the European continent has been imbued with bloody atrocities and wars between nations. This historical experience is markedly different from that of the United States of America, for example. Therefore, Europe is still far from becoming a centralized and unified power that could be called “the United States of Europe”.

One of the pressing questions that seemed to have remained unanswered for quite a long time is whether it is enough for the EU to have its influence relying on soft power only. If we paraphrase the saying “Speak softly and carry a big stick; you will go far”, that became popular with Theodore Roosevelt at the beginning of the 20th century (although he had claimed the phrase to be of West African origin!), the EU has been aware of the necessity of also developing
robust capacities in order to be a credible player in the international arena. As Dunne (2008, 14) argues, the civilian narrative power remains important in the self-understanding of EU’s role. However, such stance of implying a uniquely non-military identity can be perceived as being unprepared to stand up for what European citizens believes.

A broad consensus has emerged among the Member States concerning EU’s distinctive role in international politics, eschewing traditional power politics and acting as “a force for good in the world.” Not only politicians, but also members of academia follow the saying that the EU is “an ethical power,” although one can find serious arguments speaking in favour of it “not-being-such-an-ethical power.” However, as Hyde-Price (2008, 29) argues, if Member States wish the EU to become a serious international actor, they should ensure that, on the major issues of the day, it acts as a “calculator not a crusader.” In other words, the EU should craft its foreign and security policy on the basis of common interests of its Member States, rather than to pursue normative or “ethical” crusades. It is interesting to see that questions on the “soft and/or hard power capacities of the EU” are not new. Francois Duchene argued in 1972 that the then European Community was a civilian power, and that, given the change in the nature of international politics and the declining utility of hard power capabilities, it was well positioned to become a major international actor.

It is apparent that the EU serves three primary purposes for its Member States, at least in the realist perspective of world politics, argues Hyde-Price (2008, 31). First and foremost, it functions as an instrument for the collective economic interests of those states in the context of the global economy. Second, the EU serves as an instrument for collectively shaping the regional milieu (the Balkans, European Neighbourhood Policy etc.). Finally, the EU has come to serve as the institutional repository of second-order normative concerns of EU Member States. These include human rights, abolition of the death penalty, democracy promotion, environmental protection and tackling poverty in the developing world.

However, international relations should not be perceived as a black or white scenario. EU does not need to accept a binary explanation – usually supported by its fierce critics – according to whom the EU should either become a good old fashioned proto-superpower, or retreat to “Eutopia.” It should find a new path, not based on the binary choice to be either a hard or a soft power. The appeals to the EU that it should quickly define its role in world affairs.

---

2 First, the EU does not officially recognize Hamas although it has won the parliamentary elections in Gaza, and is, therefore, not willing to negotiate with that political organization. Second, “an average cow” in the EU receives a subsidy of a 2.2$ a day – more than what 1.2 billion of the world’s poorest people live on each day (some experts have suggested that if the EU acted “ethically,” to bring about genuine reform of the CAP, more than 140 million people could be lifted out of poverty). Third, the Common Strategy of the EU on Russia was agreed more than a decade ago (in 1999) – although strong on declaratory principles of common action vis-à-vis the Russian Federation, the major powers pursued their own policies towards Moscow, regardless of the concerns of Poland and the three Baltic states, and have shown little willingness to subordinate their national interests to CFSP. Fourth, as regards Iran, the negotiations of the EU Troika over its uranium enrichment programme have been fruitless, although there is a common stance that Tehran should not develop nuclear weapons. It is interesting what Robert Cooper has argued, saying “when dealing with more old-fashioned kind of states outside the postmodern limits, Europeans need to revert to the rougher methods of an earlier era.” In other words, in the jungle one must use the laws of the jungle.

3 Eutopia is a homophone of utopia, which expresses the idea of a perfect human existence. Rarely used outside of academic circles, this word combines the Greek prefix eu meaning good, happy, or pleasing, with the Greek suffix topia, describing a place or localized region. In 1516, Thomas More paired this word with different one, outopia, meaning “no place,” to coin a fresh term, utopia. While More’s term is used to describe one of any number of idealistic, fictional political systems, eutopia simply refers to a place of happiness (Wisegeek.com 2011).
affairs, if it wants to continue its existence in the era of other emerging powers (i.e. China, Brazil etc.), is problematic for at least two reasons: first, if the EU institutions (mainly the EC and the European Parliament) try to force member countries into further integration and/or military build-up of common military capabilities, the reluctance of the countries to work “for Europe” may emerge; second, a quick reaction to such distressed calls would mean that the EU, which strongly promotes cooperation, actually sees world affairs as a competition (a zero-sum game) and, in practice, cannot blend aspects of realism with idealism (and thus, is afraid of competition).

**Guiding principles of Slovenian foreign policy and its orientation towards the Balkans**

What can a small country, contributing less than 0.5 percent to the EU population, and producing 0.3% of the EU GDP, do in the current state of affairs? With a professional army consisting of about 7 thousand soldiers, who are mostly being deployed to NATO-led operations, it is difficult to rely on other than soft power instruments. Soft power seems to be the most important instrument for small countries, such as Slovenia, since there are certain niches in the framework of the EU that can be filled up by such states.

Principles that are followed by states in international relations are indispensably connected with specifics of a certain state and also with the international environment the state exists in. We argue that three main principles, originating from above mentioned demographic and economic circumstances, as well as from some other presumptions (geographic, historic, cultural etc.); have recently been guiding Slovenian foreign policy. These principles are: 1) internationalism; 2) the resolution of outstanding issues with Croatia and 3), an aspiration of becoming the bridge/facilitator between the EU and the Balkans/South-Eastern Europe.

**I. Internationalism**

Although rarely stated directly, internationalism is embedded in the framework of Slovenian foreign policy thinking, in *lexis* (what is written and said about it), as well as in *praxis* (what it means in terms of everyday action, from policies to tactics on the ground) to some extent. However, there are also some limitations the politicians or experts talking about internationalism need to be aware of. What Hyde-Price argues for the EU can be said also for Slovenia: that the concept of the EU, as an ethical or normative power, tends to rest on the assumption that there are cosmopolitan norms and values that transcend the particularistic claims of discrete political communities (Hyde-Price 2008, 33). Such an approach can be seen as hegemonic towards the others, with the EU claiming that “it knows how to cure the diseases of the others”, or “what is good for the EU is also good for the world as a whole.”

---

4 With internationalism we mean especially emphasized support for multilateral action anywhere in the world.

5 As H. E. Carr notes (in Hyde-Price, 2008, 33-4), clothing one’s “own interest in the guise of a universal interest for the purpose of imposing it on the rest of the world is nothing new.” Theories of social morality are always the product of a dominant group which identifies itself with the community as a whole, and which has facilities denied to subordinate groups or individuals for imposing its view of life on the community. The concept of internationalism (or cosmopolitanism) is a special form of the doctrine of the harmony of interests.
With the new president of Slovenia, Dr. Danilo Türk, internationalism became embedded in Slovenian foreign policy thinking on the top political level. Internationalism, especially the necessity of human rights protection, is reflected in his speeches, as well as in continuous support for multilateral action in the framework of international organizations. Additionally, those ministers that are inherently connected with international affairs, such as the Minister of Foreign Affairs and the Minister of Defence, strongly support international endeavours in volatile regions such as Afghanistan, Kosovo etc. In praxis, internationalism can be seen from the engagement of Slovenian troops abroad, official development aid and also from individual “internationalistic” actions of certain officials that are highly praised by a majority of Slovenians. Among these two are worthy of a specific mention. The first are the unilateral endeavours of former president Dr. Janez Drnovšek, in 2006, to broker a peace treaty between the government of Sudan and the Darfur Rebels. The second is the medical treatment of Palestinian children, wounded during the Israeli offensive on Gaza in 2009. This action was triggered and sponsored by President Türk.

II. Solving outstanding issues with Croatia

Almost two decades after the break-up of Yugoslavia, several issues between Slovenia and Croatia remain unresolved. The most important of these is the problem of the border between both states, which historically had not been clearly defined along its entire length. Several attempts were made by all Slovenian governments after 1991 to settle the dispute, as well as by various joint commissions, international facilitators (including some EU officials – e.g. the then Commissioner for Enlargement, Olli Rehn), but none of the attempts have been successful. The current Slovenian and Croatian governments have, at least on the media level, improved bilateral relations, and decided that the border issue would be settled by international arbitrage. From an outsider’s point of view, such an approach could seem wise, but one has to note that, if the Slovenian Foreign Minister says that 90 percent of his time has been devoted to solving the issue with Croatia, one would guess that Croatia is either a strong country, dangerous to the national interests of Slovenia, or that the problem needs to be solved urgently, with no possibility of postponing it to a later time, when emotions would not be as strained as they are now. Although regularly in the news since 1991, the perennial disputes with Croatia began gaining in frequency after 2004, especially after 22 September of that year, when a severe incident took place at one of the disputed border crossings. This and similar disputes leading all the way up to the arbitrage agreement of 2010 certainly add weight to the aforementioned Foreign Minister’s statement.

---

6 As an expert of international law, Dr. Türk worked in the office of Secretary-General of the United Nations (UN) Kofi Annan as Assistant Secretary-General for Political Affairs.
8 The dispute is about a few square kilometres of land along the Slovenian-Croatian border and about the partition of the Gulf of Piran on the Adriatic coast, which provides Slovenia with access to international waters.
9 Several members of the Slovenian People’s Party (SLS), including its President, Janez Podobnik, were detained by Croatian police while visiting the home of Joško Joras, a Slovenian who lives on disputed territory claimed by both countries. The arrests took place after a brief physical altercation that was caught on television cameras, and caused a stir in Slovenian domestic politics. It also lead to a proliferation of anti-Croatian rhetoric, however many believed the incident was merely a carefully orchestrated provocation by SLS.
It would be interesting to count how many times the Slovenian-Croatian dispute featured prominently in media headlines in the last few years. This preoccupation with Croatia undoubtedly dominates the general discussion about foreign policy and, therefore, puts aside the necessity of engagement in “other-than-Croatia” international affairs. It could be argued that, after the two major goals of joining the EU and NATO were achieved, solving the border dispute with Croatia was the Foreign Ministry’s first large challenge in the post-2004 period.

**III. Slovenia as a potential bridge between the EU and the Balkans/South-Eastern Europe**

From a security point of view, the main geographical areas of interest for Slovenia have been the Balkans and South-Eastern Europe in general. From an economic point of view, the region has also been a priority, especially due to the reputation of Slovenia in the countries of ex-Yugoslavia.\(^\text{10}\)

However, Slovenia began seriously thinking about the Balkans/South-Eastern Europe only recently, two decades after becoming an independent state (it does not mean that previously there were no attempts to define the policy towards the region, but the attempts were uncoordinated and inconsistent, fluctuating with changes of governments). This serious “thinking” had culminated in 2010, when Slovenia adopted the so-called *Directives of the Republic Slovenia towards the Western Balkans*.\(^\text{11}\) Although, for the time being, the document is more *lexis* than *praxis*, it has to be noted that it is the very first approach for a coordinated strategy of Slovenian economic, political and other subjects towards the region. The important aspects of the document are: a) a call to enable visa-free travel regime for all the countries in the region;\(^\text{12}\) b) scholarships and other education opportunities for the young people of the region; c) other incentives, such as promotion of human rights, democracy, the rule of law etc. In order to help achieve these goals, the position of national coordinator for the Western Balkans would be institutionalized within the Ministry of Foreign Affairs. The Western Balkans issue is also defined as a priority area in the National Security Strategy of the Republic of Slovenia.\(^\text{13}\)

Although it has to be said that Slovenian foreign policy towards the Balkans/South-Eastern Europe has become slightly more consistent recently, some critics do argue that Slovenia is acting too independently, without coordinating with other EU countries. One clear example was the conference on the Western Balkans at Brdo, organized by the Slovenian government in March 2010, which was not as successful as it could have been. The conference was a kick-start of the so-called Brdo Process, aiming at interconnecting the region on all possible levels of cooperation.

---

\(^\text{10}\) This reputation is generally regarded as positive, although there were occasional calls to boycott Slovenian products in the past. These usually coincided with bilateral tensions, especially between Slovenia and Croatia, as well as Serbia and Bosnia and Herzegovina (see [http://www.economist.com/node/10753142?Story_ID=E1_TDSVPTQN](http://www.economist.com/node/10753142?Story_ID=E1_TDSVPTQN), accessed on 23 June 2011).


\(^\text{12}\) An especially positive role was played by a Slovenian Member of the European Parliament, Tanja Fajon, who had been struggling for the implementation of a visa free travel regime for Serbians, Macedonians and Montenegrins even before 1 January 2010. In 2010 she has also actively worked on enabling visa-free travel regimes for citizens of Bosnia and Herzegovina and Albania.

The majority of the region’s leaders took part at the conference.\(^{14}\)

Obviously, the EU does not see Slovenia as the main bridge from the EU to the Balkans. Just on the eve of the conference the President of the European Council (EC) Herman Van Rompuy and the Foreign Minister of Spain (who at that time presided the EC), Miguel Angel Moratinos, cancelled their participation. Such a message from Brussels can be seen as a signal to Slovenia to coordinate more, and not to act on its own. Another grey spot on the conference was probably too ambitious and unrealistic of a desire of the Slovenian government to have the highest political representatives of Serbia and Kosovo seated at one table. In the end, the Serbian representatives did not come to the conference.\(^{15}\)

**How does Slovenia view the relation between EU foreign policy (with particular emphasis on promotion of human rights and democracy) and its own geographical areas of interest?**

In our opinion the bulk of EU’s normative power lies in its reputation for being an advocate of human rights and democracy (as well as human security, which we expand on later in the article). A small state like Slovenia can therefore contribute most to said normative power by aligning its foreign policy to help promoting human rights, as well as the spread of democracy, both in its vicinity, as well as further afield. Regarding the commonality of the principles and values of the EU and Slovenia, a brief analysis of the speeches of the representatives of the Slovenian authorities and the core legal acts, such as the Constitution of the Republic of Slovenia, the National Security Strategy etc. shows that, *de jure*, there is no big deviation between Slovenian and European principles and values.

Due to the proximity of Slovenia to the Balkans/South-Eastern Europe, the country is very interested in having a stable neighbourhood. On the declaratory level, Slovenia fully supports the integration of the Balkan countries into the EU.\(^{16}\) This is fully consistent with the official position of the EU. After becoming a Member State, Slovenia began to apply the Common Foreign and Security Policy, which essentially involves the promotion and protection of human rights. The EU implements this policy in compliance with the EU Guidelines (which deal with areas such as the death penalty, torture, children’s rights, the participation of children in armed conflict, human rights advocates; guidelines on violence against women are being drafted), in dialogue and consultation with third countries, by integrating human rights into other foreign policy segments and through active engagement in international forums, particularly the Human Rights Council and the UN General Assembly Third Committee.

During its EU Council Presidency in the first half of 2008, Slovenia chaired the EU Working Party on Human Rights (COHOM) and coordinated the implementation of the extensive EU Human Rights Policy agenda. Slovenia has established dialogue and consultations with two additional subjects of international relations (the African Union and Turkmenistan).

---

14 Prime Minister (PM) of Bosnia and Herzegovina Nikola Spirić, PM of Albania Sali Berisha, PM of Macedonia Nikola Gruevski, PM of Montenegro Milo Đukanović, PM of Kosovo Hashim Thaci.

15 Some Slovenian initiatives – on the Western Balkans and otherwise – have met with more approval. One example is the appointment of a Special Rapporteur for Bosnia and Herzegovina by PM Pahor which was welcomed by both the High Representative/EU Special Representative for Bosnia and Herzegovina, Valentin Inzko, and by the High Representative for Foreign Affairs and Security Policy, Catherine Ashton.

16 However, Slovenia has been conditioning its support for Croatia with the necessity to set the conditions for the resolution of the border problem for some months, using its position of power as a member country *vis-à-vis* the country aspiring for membership.
However, it has to be noted that during the first years of independence (in the 1990’s), Slovenia mostly relied on hard power instruments in relation to the Balkans (military instruments, such as peacekeepers, and economic instruments), although the troops were sent to the Balkans “in the name of human rights protection.” Slovenia has only recently started to rely on instruments of soft power vis-à-vis the Balkans.

According to the key priorities of the Ministry of Foreign Affairs, the issue of children’s rights (both violence against children and children in armed conflict) will remain the focus of Slovenia’s activities. A comprehensive approach addressing the human rights issue in close connection with the development and security policies should be followed.

Despite the existence of a certain policy towards the region that is perceived as the most important for Slovenia regarding the aspects of stability and integration, it has to be noted that Slovenia does not have real ambitions that go further than the immediate neighbourhood, for example Africa, the Caucasus, the Middle East or Central Asia. In that respect, Slovenia usually “jumps on the bandwagon” and joins the initiatives of certain EU countries or the EU as a whole, without having concrete policies of its own towards distant areas. For example, in November 2010 President Türk emphasized the need for more ambition in Slovenia’s foreign policy, and the need to become more involved outside the Balkans, but, at the same time, three out of four areas he believes Slovenia should focus on, still remain in the geographic proximity: Central and Eastern Europe, the Balkans and the Mediterranean. He also stressed the need for increased efforts within international institutions (Türk 2010).

That is not to say that in the mid-to long-term, Slovenia will not look further afield and develop an active policy to solidify its often sporadic internationalism. Perhaps economic necessity will ultimately prove to be the cause of such a shift. In order to attract foreign investment to help Slovenia’s ailing economy, in 2010 and 2011 Prime Minister Pahor travelled to – among other places – China and India, while President Türk visited Qatar and Kuwait. Their efforts have met with mixed success, but managed to secure at least one strategic partnership, that between the struggling Slovenian national carrier Adria Airways and Air India.

Does Slovenia consider human security as being an essential component of its security policy?

The concept of human security has steadily gained recognition in recent years, and we predict it will represent an increasingly large role in the EU’s normative power in the coming years. Human security as a concept is only slowly gaining grounds in Slovenia. However,

---

17 First troops of the Slovenian Armed Forces were sent to Albania in 1997 as part of operation ALBA, in the framework of the OSCE operation there. A few months later they began taking part in the SFOR (later EUFOR) operation in Bosnia and Herzegovina, and in Kosovo in 2004. In 2010, the majority of foreign-deployed troops were in Kosovo (about 400). The main reason why Slovenia contributed with military force first, and only later with soft power instruments, were mainly two: first, it is easier to deploy troops, because one does not need to have a clearly defined strategy, which Slovenia still lacks (this may seem illogical, but if a country does not have its own area/sector of responsibility, it “only” trains and equips its troops that later work in the contingent of the leading nation); and second, the soldiers were already at disposal within the framework of the Slovenian Armed Forces, while Slovenia did not have enough experts and diplomats who could pursue proper policies towards the region.

18 It cannot be much different with a very limited (human) resources at the Ministry of Foreign Affairs. For example, at the Africa Section of the Ministry, only three people were employed in 2009.

19 In 2009 alone, Slovenia’s Gross Domestic Product dropped by 7.8%.
Small States as “Contributing Nations” to the EU’s Normative Power: the Case of Slovenia

despite not being present in *lexis*, it does not mean human security is not embodied in very practical and concrete initiatives/actions taken by Slovenian political representatives. Thus, in the following years, it would be wise to highlight the necessity of human security in legal documents, as well as to materialize the concept in practice.

If we first look at the core legal acts of Slovenian foreign policy, it is very obvious that human security is not explicitly mentioned in them. That applies for all three core documents: Law on Foreign Relations (2003),\(^\text{20}\) the Declaration on Foreign Policy of Slovenia (1999)\(^\text{21}\) and the aforementioned National Security Strategy of the Republic of Slovenia (2010). All the documents favour a *realpolitik* orientation of foreign policy/national security.

Slovenia has been a member of the Human Security Network (HSN) ever since it was launched at the margins of the UN General Assembly meeting in 1998.\(^\text{22}\) In praxis, human security is strongly favoured by the Slovenian President, Dr. Türk, who uses every opportunity to promote it, and also occasionally promotes activities that are more related to human security than to a realistic concept of security (providing for the medical treatment of Palestinian children, mentioned in the previous chapter).\(^\text{23}\) The necessity of providing for human security is occasionally mentioned also by the Foreign Minister and the Minister of Defence.

Slovenian political leaders are aware that human security is the buzzword in international relations, though, except the experts and bureaucrats who are explicitly dealing with it as a part of their work, or the political leaders who have wider knowledge of international relations (such as the President, the Defence Minister and the Foreign Minister), the concept as such does not lead foreign policy thinking. We may conclude this part by saying that: for Slovenian foreign policy “human security, in the troubled regions, is important, but it is much more legitimate if some national interests are connected to it.”

**Small states compared: the objectives of the EU Presidencies of Slovenia and Hungary\(^\text{24}\)**

**I. The Slovenian Presidency**

Slovenia assumed the Presidency of the EU Council in the first half of 2008, the first of the ten states which joined the EU in 2004. The domestic public perceived this as recognition by the EU of the country’s economic and political progress since 1991, as well as a reward for being a constructive Member State. For the first time in history, Slovenia had the opportunity to influence the system level, as well as to represent a community with a population of 500 million people. The Presidency was one of the biggest organizational undertakings in the

---


\(^{22}\) The HSN was established as an informal group of countries, on the initiative of Canada and Norway, with the goal of encouraging the resolution of international issues that present an immediate threat to human security.

\(^{23}\) For example, at the 64th Session of the UN General Assembly he said it is necessary “…to think about the fate of human rights …/ this protocol will give the individuals an additional and potentially significant instruments of implementation of rights.” Besides that, he also urged the strengthening of the *Responsibility to Protect* the concept.

\(^{24}\) Few would argue that Slovenia is not a small state, but in the case of Hungary such a label is perhaps less clear-cut. Despite this, we feel that both countries have enough in common and are subjected to most of the constraints and limitations that small states face (such as dependence on the system and limited resources), that a comparative analysis of their respective EU Council Presidencies is valid and justified.
country’s history, and probably strained its resources – financial and human – considerably. It ended up costing over 62 million euro and required the participation of more than 3,000 people, 245 of which were students, called in to assist (Slovenian Presidency of the EU 2008a).

An analysis of the programme of the Presidency reveals it to be fairly vague in most parts. An exception to the rule in this case is the goal of the successful ratification process of the Lisbon Treaty, which the Slovenian Presidency considered its number one priority. The other four goals were: decisive action to tackle the issue of energy and climate change; further implementation of the Lisbon Strategy; continued EU enlargement and strengthened cooperation with countries in the EU’s Southern and Eastern neighbourhood and supporting intercultural dialogue (Slovenian Presidency of the EU 2008b, 2–4).

As one of the three guidelines of Slovenia’s foreign policy, some emphasis was put on the area of the Western Balkans, but it is interesting to note that it was not defined as a top priority of its 6-month Presidency. However, the programme still encouraged the need for this region to join the EU (Slovenian Presidency of the EU 2008b, 5–6). Slovenia also supported the enlargement of the Schengen area, which coincided with the planned abolition of border controls at EU airports in March 2008. Slovenia, at that time a member of the Euro area for one year, also supported the further expansion of this zone. Apart from its support for the Lisbon Strategy, a strengthened role of education and improving the research infrastructure, the Slovene Presidency also vowed to continue with the implementation of the GALILEO satellite navigation system (Slovenian Presidency of the EU 2008b, 6–8). In addition, the Presidency focused on diverse areas, such as easing the access to financing for small and medium-sized enterprises, deepening market integration, strengthening market regulation, the further development of information and communication technologies, to name a few (Slovenian Presidency of the EU 2008b, 9–10).

The programme also recognized the increasing difficulties connected with an ageing population and recommended flexicurity as the answer. Other needs addressed were the need to provide equal opportunities in the workplace, to boost youth employment, to create a new integrated climate and energy policy, to ensure a secure, sustainable and competitive energy supply, to guarantee food safety, to evaluate the readiness of Switzerland to join Schengen, to enhance cooperation on security issues and in the fight against terrorism, among others (Slovenian Presidency of the EU 2008b, 10–15). The last two pages of the programme (15 and 16) expand on the need to enhance the external role of the EU in the area of security, development and economic relations in EU’s neighbourhood, but also further afield, e.g. in Central Asia. One of the goals stated here is also the establishment of a Euro-Mediterranean University, to be located in the Slovenian coastal town of Piran.

II. The Hungarian Presidency

When Hungary assumed the Presidency of the EU Council on 1 January 2011, the situation in Europe had changed dramatically since early 2008, when the economic crisis was barely looming on the horizon.

---

Therefore, the Hungarian Presidency Programme\textsuperscript{26} mainly focused on dealing with the consequence of the crisis and its aftermath. It defined four priority areas: promoting economic growth by strengthening the economic governance and concentrating on job creation and social inclusion; strengthening of EU’s common policies by finding ways of making them more efficient and competitive, but at the same time preserving their underlying fundamental values; bringing Europe closer to its citizens and continuing the expansion process in a responsible and credible manner (Hungarian Presidency of the Council of the EU 2011, 5).

The first of these areas, ensuring growth, jobs and social inclusion, seemed to be a definite priority, including the realization of the Europe 2020 Strategy. This goal was elaborated upon in more detail, including the stated need for more student mobility, the need for innovation and a Digital Europe, as well as initiatives such as the Platform against Poverty and Resource Efficient Europe. The questions of demographic trends, financial sustainability, unemployment and the implementation of the Single Market Act were also addressed. The Presidency also vowed to pay special attention to Roma people integration and child poverty (Hungarian Presidency of the Council of the EU 2011, 6–8).

As the Lisbon Treaty was already in force during the Presidency, the programme also promised to exploit the opportunities offered by the new policies introduced by the Treaty, as well as to make existing policies more modern and efficient. The latter especially included a discussion on the future of the CAP and the EU’s energy policy. Hungary also planned to boost the protection of fundamental rights of European citizens, as well as to help expedite Romanian and Bulgarian accession to the Schengen Agreement, and to work towards expanding the EU in the future: to Turkey, Iceland and especially to Croatia and the rest of the Western Balkans (Hungarian Presidency of the Council of the EU 2011, 9–14). On the last three pages (14 to 16) Hungary pledged to foster both the Eastern and Euro-Mediterranean Partnerships and to help the newly established European External Action Service, which began its work in 2011. Finally, it mentioned the need to do more in assisting developing countries and to drawing up further plans to help countries achieve the UN Millennium Development Goals.

III. Presidencies compared

As mentioned earlier, the Slovenian Programme set the successful ratification of the Lisbon Treaty as its main priority. In this it was ultimately unsuccessful, as the Treaty entered into force on 1 December 2009. The other goals of the Presidency were perhaps broader in scope and “safer” in content. The lists of the objectives of both Presidencies are exactly 16 pages longs. However, the programme of Hungary is 57 pages long altogether, as it also operationalizes its Presidency programme in more detail. In our opinion this presents an important difference in the programmes of both countries – by not going into too much detail, Slovenia had ensured itself more room to manoeuvre, as well as less space for criticism in case of failure. For example, the goal of expanding the Schengen area was a guaranteed success, as it was scheduled to expand to airports in March 2008 even before the Presidency began, and would have probably taken place whether it was a Presidency goal or not.

At least not explicitly Slovenia did not appear to include many of its own foreign policy goals, except the need for EU expansion into the Balkans, into its programme. We believe that one of the reasons for this was the simple fact that, at the time, Slovenia lacked clearly defined, specific foreign policy goals, as it had not yet managed to find a new raison d'être for its Ministry of Foreign Affairs. Despite having the three guiding principles mentioned earlier, they are not operationalized sufficiently and could not be translated properly into Presidency goals. Slovenia therefore chose to focus on – in our opinion – unproblematic, widely acceptable and achievable objectives for its 6-month term. However, on the normative front three goals – those of climate change/energy security, strengthening cooperation with third countries and the fostering of intercultural dialogue – definitely represent an attempt towards contributing to EU’s soft power. Through them, Slovenia presented itself as being aware of pressing contemporary issues and contributed to the EU by increasing its influence in its surrounding regions, while the last goal served as a reminder that the EU values dialogue between cultures and religions. Additionally, the sub-goal of establishing a Euro-Mediterranean University in Piran was accomplished successfully.

Due to the difficult economic situation within the EU by the time it assumed its Presidency, Hungary had to prioritize areas related to economic growth and recovery. Considering the different circumstances, when compared to three years earlier, this shift in focus is understandable. Both countries supported the expansion of both the Schengen area as well as the EU as a whole, and the strengthening of cooperation with third countries. They both addressed other similar issues as well, such as youth (un)employment, health care, climate change and energy security. We could say that apart from e.g. their main priorities, both programmes are similar in many regards, with the major difference being Hungary’s more detailed operationalization of its goals. Both states managed to include at least some issues which could be seen as being of national interest – apart from Slovenia’s efforts regarding the Western Balkans, Hungary’s programme repeated several times the need for Roma people integration.

**Conclusion**

The challenge for the European small state of 2011 remains the same as always: to do as much as it can with what little it has. Despite the fact that Slovenia passed the age of adolescence only recently, there are certain achievements it should be proud of: its non-permanent membership in the UN Security Council, the organization of a high-level meeting between Presidents of the United States and Russia, Bush and Putin, in 2001, Chairmanship of the Organisation for Security and Cooperation in Europe in 2005, Presidency of the EU Council in 2008, its Presidency of the Council of Europe in 2009, and last but not least, its current candidacy for another two year term as a non-permanent member of the Security Council. However, a legitimate question remains: to what extent did it manage to behave as a normative power?

Slovenia’s Presidency of the EU Council in the first half of 2008 was an ideal opportunity for the country to greatly contribute to EU’s normative power. Despite the smooth conduct of the Presidency and almost universal praise for Slovenian diplomacy during that period, the country missed a unique opportunity to truly “place itself on the map” by introducing a far-reaching agenda. Its main goal, the ratification of the Lisbon Treaty, could not be achieved for reasons outside of Slovenia’s control as the lengthy national ratification processes ensured the Treaty would not enter into force for almost two years after Slovenia’s Presidency began. The
other four goals, that were broader and more general in scope, produced some results, but the question of how much they contributed to Slovenia’s reputation as a soft/normative power, or to the soft/normative power of the EU as a whole, remains.

However, as a small country with limited financial and human resources, Slovenia cannot act on its own, if it wants to become a credible partner in international relations. In the first decade after independence, its foreign policy could be described as “jumping-on-the train policy,” meaning that there were no real initiatives coming from Ljubljana. Instead of having its own initiative(s), Slovenia rather joined the actions taken by certain states and/or international organizations.

We argue that Slovenia should strengthen its role in the framework of the EU on the fields where it can fill niches, and omit unnecessary spending of energy/resources on issues where other countries can contribute better. Why, for example, are the Nordic countries nowadays seen as credible and benevolent contributors in the field of conflict resolution? And Slovenia is not? As they have decisively pursued a consistent foreign policy vis-à-vis the countries in their neighbourhood. Slovenia (as well as other small states) should follow that example, but of course, should not forget to take local specifics into consideration, and pay attention to areas where it can do the most. Indeed, the Balkans seems like a “natural” area for Slovenian activities, and Slovenian authorities are aware of that. That is positive, indeed, but as mentioned in the article, Slovenian action in the framework of the Brdo Process was seen as uncoordinated by Brussels, therefore it did not have the success it could have had. Similar criticism was levelled towards the attempts to mediate a peace treaty between Sudan and the Darfur Rebels. Slovenian decision makers usually prefer to follow the footsteps of other countries, but when unilateral initiative is undertaken, it is often criticised as being too unilateral.

To achieve foreign policy success and be a credible provider of normative power to neighbouring regions, it is urgent that Slovenia coins not only long-term strategy on what it wants to achieve there, but also to intertwine the activities and work of existing institutions, such as research institutes, universities and think-tanks etc. with political (decision-making) institutions on all levels, as well as with business, which is an important factor of “presence” of a country in a foreign state. Such a well-developed foreign policy would stand a better chance of being proactive, instead of reactive, as it is often the case at present.

Only when that is achieved can the real potential of a certain country’s normative power is accomplished. At the moment, there are some positive initiatives from the Slovenian side in terms of normative power, especially in the Balkans. If they were being coordinated firstly within Slovenian institutions (political, business, research), and then at EU level, the success would be much higher than it is currently. However, for the time being, a certain amount of friction between the EU and Slovenia persists, as demonstrated by the strong reactions of Prime Minister Pahor and Foreign Minister Žbogar when no Slovenian diplomats were invited into the European External Action Service in mid-2011. Žbogar even claimed the time had come for serious talks on the representation of Slovenian officials in European institutions.

Slovenia’s guiding principles in international affairs, those of internationalism, solving outstanding issues with Croatia, and establishing itself as a bridge between the EU and the Western Balkans present a solid foundation for a post-2004 raison d’être for its foreign policy. However, this should be a policy that is not only well structured on paper, but also consistently executed in practice, rather than one that is all too often left to the goodwill, initiative and ingenuity of individual officials and diplomats.
References


The Europeanization of Romanian Foreign Policy: Mitigating European and National ‘Misfits’ in the International Criminal Court and Kosovo Cases

Mircea Micu*

Abstract**: This article aims to tackle some of the challenges posed to the Europeanization research agenda and to examine the usefulness of the Europeanization approach to the study of national foreign policy (selecting Romania as a test case). It proposes a research design that lays emphasis on pinpointing and mitigating the ‘misfit’ between EU and national levels, and on the role of the ‘political vulnerability’ stemming from the EU conditionality imposed on candidate countries and from different perceptions of threat. The two case studies chosen refer to EU-Romanian disagreements over the International Criminal Court’s jurisdiction and Kosovo’s unilateral declaration of independence.

**Keywords**: Europeanization, Romanian foreign policy, political vulnerability, International Criminal Court, Kosovo.

**PRELIMINARY THEORETICAL CONSIDERATIONS**

This paper makes the case for the use of an integrated model for the study of the Europeanization of public policy¹ in assessing the EU impact on national foreign policies (including those of new member states and candidate countries).

First, it assumes that the ‘goodness of fit’ argument, according to which the degree of ‘(mis)fit’ between EU and domestic levels determines the intensity of adaptation pressures on domestic structures and policies, is the key to understanding the Europeanization process (Börzel 1999; Cowles, Caporaso and Risse 2001).

Despite adaptation pressures at work, change at the domestic level is not assumed as automatic and, when it occurs, it is considered to take different forms in individual countries due to the presence of domestic intervening variables (Radaelli 2003; Börzel and Risse 2003). EU-induced change is believed to follow the ‘logic of consequentialism’ and/or the ‘logic of appropriateness’ advocated by March and Olsen (1984, 1989, 1998), which combine explanations rooted in rationalist and sociological institutionalisms.

With regard to Börzel’s ‘downloading/uploading’ argument, and Radaelli’s concerns over confusing Europeanization with EU policy formation and integration, Bulmer and Burch

---

have argued that, while the emphasis on the ‘top-down’ impact of the EU in national arenas still remains, adaptation is also the result of the necessity to ensure effective input into EU policy-making. They build on Radaelli’s definition and describe Europeanization as ‘a set of processes through which the EU political, social and economic dynamics interact with the logic of domestic discourse, identities, political structures and public policies’. That is to say that, besides a ‘reception’ dimension of Europeanization, whereby domestic institutions have to ‘find suitable ways of processing EU business’, there is also a ‘projection’ dimension, in which domestic institutions have to adapt their procedures in order to be able to make an effective contribution to those EU dynamics (Bulmer and Burch 2000, 2002, 2005).

There is another approach to Europeanization which implies horizontal, intra-European developments that may trigger change in domestic realms. Interaction and socialisation between member states, in a framework of European institution-building and policy-making (which may not necessarily lead to the strengthening of the EU system of governance), have the potential of reverberating in national arenas as well. One of the EU’s principles, united in diversity, acknowledges and defends the many differences between member states. However, over time, within processes of interaction, socialisation and learning these differences may be attenuated, even in the absence of a clear systemic ‘misfit’ generated by the EU. The organisational literature draws attention to the “ability to detect and correct errors [or less effective institutional setups] and thereby improve the functioning of an organisation” (Olsen and Peters 1996: 4), which reflects “a position that is comparable with the ‘misfit’ starting-point common in the Europeanization literature” (Bulmer 2007: 54). In other words, through interaction at the European level that does not necessarily aim at producing an EU institution or policy, some participants assimilate more effective organisational methods from other, better performing, participants in order to improve their performance in European-imbued domestic policy areas.

Second, the Europeanization concept may be applied to the study of national foreign policy, despite the ‘unique’ nature of foreign policy decision-making at the EU level.

There are reasons to believe that the 40-year European foreign policy co-operation has produced ‘formal and informal rules, procedures, policy paradigms, styles, “ways of doing things”, shared beliefs and norms’ (elements of Radaelli’s definition of Europeanization (2003: 30)), which to a greater or lesser extent, may generate adaptation pressures and induce change in national arenas. This has been made possible by the ‘embedded character’ of foreign policy co-operation, which, for various reasons, drove participating countries into a form of “inter-governmentalism [that] in theory [may] not erode sovereignty, [but] in practice, over time, has ties that bind” (Hill and Wallace 1996: 10).

The deepening and widening of the European foreign and security policy, especially since the establishment of CFSP, has formalised the political obligation of EU member states to coordinate their national foreign policies and has consolidated the ‘reflex condition’ and the body of policy decisions and orientations of the EU to the extent to which a “form of symbiosis [has been created] in which states are increasingly reliant upon the efficiency of the collective policy process” rendering each member state the ‘hostage’ of its peers (Tonra 2001: 3-4).

This paper proposes a conceptualisation of mechanisms of Europeanization of national foreign policy in line with Vaquer i Fanés’s definition of Europeanization as “a process of foreign policy change at the national level originated by adaptation pressures and new opportunities
generated by the European integration process" (2001: 5). According to this proposal, the downloading/reception dimension of Europeanization of national foreign policy is shaped by the presence of various ‘models’ of foreign policy co-operation at the European level: a) consolidated or well-established ‘models’ (especially those regarding formal and informal rules, styles, ‘ways of doing things’ and norms), which can generate high adaptation pressures, in case of a ‘misfit’; and b) ‘weaker’ models (EU policy guidelines, positions, declarations), which generate adaptation pressures of lower intensity.

Furthermore, following Bulmer’s and Burch’s logic, the uploading/projection dimension of the Europeanization of national foreign policy implies that, in order to ‘upload’ national preferences to the European level and to take advantage of the opportunity structure created by the EU, a participating country needs to be institutionally ‘fit’ with the (strong or weak) EU ‘models’ that the co-operation in the foreign policy sphere have already produced.

Third, Europeanization patterns may differ in the case of candidate countries due to the power asymmetry which characterises the EU-candidate countries relationship. In this particular instance, the presence of strong or weak EU ‘models’ render vertical and horizontal mechanisms of Europeanization in the foreign policy domain even more relevant.

In this context, the paper introduces an intervening variable termed ‘political vulnerability’ - inspired from Schmidt’s ‘economic vulnerability’, which among other intervening variables, explains the mechanism of domestic economic adjustment, whereby countries in a relative weak position in relation to the EU tend to give in to adaptation pressures more easily, as the choice of inertia cannot be afforded (Schmidt 2002: 898).

One version of ‘political vulnerability’ concerning the Europeanization of EU candidate countries has been revealed by Grabbe (2003: 318) who notes that such states face additional EU constraints, generated by a relationship of ‘obvious interdependence and power asymmetry’. It is argued that accession is beneficial for both the EU and candidate countries (in terms of trade, market expansion, security, etc.), but that the latter are in a rather ‘vulnerable’ position given their economic and institutional shortcomings and the accession criteria imposed on them. As a consequence, an easier process of Europeanization may be facilitated, because, in this context, adaptation pressures may carry a different, enhanced weight.

Another form of ‘political vulnerability’ stems from the different ways in which EU member states (and candidate countries) perceive and tackle security threats due to the relative weakness of the EU in the area of collective defence and the European East-West mismatch over defining and addressing Europe’s security challenges (Edwards 2006).

---

2 It is assumed that foreign policy developments are also a reflection of, and gateway to, the domestic domains of Europeanization (as defined by Radaelli 2003: 35), so that the study of EU-national policy ‘misfits’ is not an end in itself, but a way in which more meaningful ‘misfits’ between domestic (political and cognitive-normative structures) and EU levels are revealed.

3 It has been shown before that candidate countries, as well, were subjected to similar EU adaptational pressures as current member states (Grabbe 2003).

4 The argument has been empirically tested in a study on the Europeanization of Turkish foreign policy by Eryilmaz (2007).
FRAMEWORK OF ANALYSIS

Challenges to the Europeanization research design

In order to address some of the methodological concerns surrounding the Europeanization theorising attempts, this paper proposes a research design that makes it possible to track the Europeanization process starting from the ‘misfit’ between the domestic and EU levels.

Firstly, the ‘goodness of fit’ argument does not only provide a sound basis for the theorising of Europeanization, but, at the same time, can inform methodology and guide the Europeanization research design in the desired direction, that of demonstrating the EU causal significance. The ‘goodness of fit’ represents a derivative of the European-level factor, as long as a ‘(mis)fit’ can only occur between an EU legal obligation, incentive, ‘model’, etc. and elements of the domestic structures. By pinpointing the EU-domestic ‘misfit’, the EU-driven causality becomes obvious. The European-level factor is the explanatory variable that triggers the Europeanization process and that activates (or not) other explanatory variables (intervening/facilitating variables). In horizontal processes of socialisation (lesson-drawing and social learning), it is the European-related epistemic community that first reveals the existence of a difference between the organisational performances of participating actors/countries (a softer version of ‘misfit’).

Secondly, this approach can show how the Europeanization process is activated even if change at the domestic level has not yet occurred. It can show what domestic elements experienced an EU-induced change, what elements were under pressure to change and/or what elements could not have changed in spite of the pressure to do so.

Thirdly, concerning the Europeanization’s endogeneity problem, King, Keohane and Verba (1994) have suggested the breakdown of the independent variable into its exogenous and endogenous components. It is argued that the exogenous/independent component of the EU variable is the actual accomplishment of integration (through an EU legal obligation, incentive, ‘model’, etc.), which is less likely to be reversed or challenged by the changing domestic structures of member states, while the ongoing European integration process per se is the endogenous/dependent component, which is constantly fuelled by the interacting interests and ideas of EU members and institutions.

The Europeanization of Romanian foreign policy: two case studies

The concept of Europeanization (based on the introductory assumptions) will be tested in two situations in which observable EU-domestic policy ‘misfits’ touched upon some of the core objectives of Romanian foreign policy: disagreements over the International Criminal Court’s

---

5 Causal heterogeneity (Haverland 2007), endogeneity (Caporaso 2007) and ‘bottom-up’ research designing (Börzel 2002, Radaelli 2003).

6 The ‘goodness of fit’ model asserts that European integration leads to adaptational pressures, which are mediated by domestic factors, and finally to outcomes (Cowles, Caporaso and Risse 2001). In this model, all variables are endogenous “since every variable is a function of some or all other variables in the model” (Caporaso 2007: 27). Thus, it has been argued that the model is closed-looped, given that the analysis terminates with the domestic adjustments and does not continue with the impact of these changes on European integration.
jurisdiction and Kosovo’s declaration of independence. The research model (proposed above) starts with the presentation of the observable foreign policy content ‘misfit’. It then moves on to analysing the domestic/external sources of the national foreign policy output and the rationale behind the EU (or the majority of the EU member states’) policy. The existing EU ‘model’ or ‘centre of gravity’, if firmly established, may generate high adaptation pressures; if present in a weaker form, may set off adaptation pressures of lower intensity. These pressures target directly the national foreign policy content, and indirectly the domains of Europeanization in which the real ‘misfit’ may be found. In this way, it is assumed that an ‘unfit’ policy output would lead the way to pinning down the real ‘misfit’ between the EU level and the domestic political structures, policy-making procedures and/or normative-cognitive structures.

Attention will then be given to the intervening variables that may facilitate or hinder domestic change, and which can explain the likelihood and direction of Europeanization. It may be possible for change to occur with regard to the policy output, but not with regard to the domestic level where the ‘hub of the problem’ may be located, in which case Europeanization is just artificial. The selection of the two case studies takes into consideration Romania’s foreign policy priorities (areas in which ‘misfits’ are more likely to occur) and the need for the variation of explanations (that should involve different vertical and horizontal Europeanization mechanisms).

Once more, the aim of this paper is not to pass definite verdicts on the degree of Europeanization of Romanian foreign policy, but merely to suggest ways in which the Europeanization of national foreign policy could be studied (starting from EU-national ‘misfits’), while also giving some insights into the making of the Romanian foreign policy in the EU context.

EU-ROMANIAN ‘MISFIT’ IN THE INTERNATIONAL CRIMINAL COURT CASE

In August 2002, Romania rushed into becoming the first country to sign a bilateral agreement with the US aimed at granting American subjects immunity from International Criminal Court (ICC) jurisdiction under Article 98 of the Rome Statute. Romania’s decision to support the US in a matter that was highly controversial in Europe was less motivated by the fear of losing American military and economic aid (as required by the Nethercutt Amendment to the Foreign Appropriations Bill of 2004) and more by US backing for securing Romania’s path towards NATO accession (the country’s immediate strategic interest), which was under consideration at that time.

The choice for Romania as a test case is due to the scarcity of systematic analysis of Romanian foreign policy. The two case studies represent major events in Romania’s foreign policy and satisfy the methodology’s prerequisite of obvious EU-national ‘misfit’. Given Romania’s new member state status and its more extensive exposure to the EU during accession years, most cases, including the two herein, are expected to fall in the ‘downloading/reception’ dimension of Europeanization. The ‘uploading/projection’ dimension of Europeanization in the Romanian case will be tested in a separate paper.

The sequencing of policy decisions and actions is based on the information obtained from elite interviews and the analysis of public discourses. For reasons of confidentiality, the names of the 14 top officials and scholars interviewed between April-June 2008 will not be revealed. Their affiliation is as follows: Romanian officials - interviewees 1, 4, 5, 6, 9, 10, 13, 14; European officials - interviewees 2, 3, 7, 11, 12; academics - interviewee 8.
Top Romanian officials were aware that their country’s decision to support the US in its ICC endeavour might have generated dissatisfaction among EU member states (Interviewees 1 & 9). However, criticism was perceived as an accepted and acceptable price for achieving Romania’s NATO objective. Romania’s move generated the expected positive impact on US perceptions and attitudes towards NATO enlargement, but Romania had seriously underestimated the EU’s reaction.

EU officials called Romania’s decision a regrettable act, “a slap on the face of EU member states”; a candidate country like Romania was expected to participate in the elaboration of a common EU position towards the US request to waive ICC jurisdiction over its subjects (Interviewee 11). As the European Commission’s spokesperson put it: “we regret this decision of Romania ... and we deplore that a candidate country to the EU has not waited until the European Union has established its position” (Associated Press, 8 August 2002).

Furthermore, it was implied that Romania’s gesture might have affected the country’s prospect for EU membership, though the EU never formally specified so. Besides the enormous dissatisfaction with Romania’s decision, several EU member states responded in a manner that a key Romanian senior diplomat likened to a “shock” or “political isolation” comparable with the treatment meted out to Austria in 2000, after the People’s Party agreed to form a governing coalition with Haider’s Freedom Party. Other Romanian interviewees, however, downplayed the magnitude of EU’s reaction (Interviewees 1, 5, 6 & 9).

Romania asserted that its bilateral agreement with the US in the ICC matter, which no EU member state had ever seen (Interviewee 11), was consistent with UNSC Resolution 1422, which EU members fully endorsed. Romanian officials confided that “we were forced to choose between a long-term philosophical European problem and a practical and immediate one for the American side”. It was admitted that Bucharest “should have contacted top European officials” prior to the signing of the agreement (Interviewee 1).

Romania’s bilateral agreement with the US determined the EU to urge other candidate countries approached by the US to refrain from following Romania’s example (Washington Post, 13 August 2002). In September 2002, the EU reached a common position which allowed member and candidate states to enter into Article 98 agreements with the US, but only with regard to immunity for US diplomats, military personnel and extradited persons, excluding other categories of US subjects (Council 2002).

In an attempt to accommodate the US requirements, Romania promised to ratify the agreement, facilitating this way greater US leverage on other countries (especially from Central and Eastern Europe). In reality, however, in order to also accommodate EU concerns, Romania has never put the bilateral agreement on the Parliament’s agenda. Thus, the government carefully managed to delay the several deadlines suggested by the US until Romania became a formal NATO member in 2004, a moment when its ratification was no longer required or necessary.

* In an attempt to appease US concerns over the safety of its missions abroad, the UN Security Council passed Resolution 1422 in July 2002 asking the ICC to refrain from starting or proceeding with an investigation or prosecution of personnel from any state, not party to the Rome Statute, involved in UN-authorised operations.
Pinpointing two ‘misfits’ in relation to EU norms and guidelines

Firstly, the consultation norm had been strengthened and unchallenged since the beginning of European foreign policy co-operation. In practice, this norm represented the duty of participating countries “to consult with each other before adopting final positions of their own so that policies of their partners would not catch them by surprise” and so that “the development of a communauté de vue on what constitutes European interests can be facilitated” (Smith 2000: 615-6). The consolidation of this norm corresponded to the formation of an undisputed EU ‘model’ which made it difficult for any dissenting member to resist adaptation pressures stemming from the “force of attraction of the EU centre of gravity” (Radaelli 2003: 42). EU member states and institutions expected that this basic rule should be also applicable to countries that wished to join the EU, as seen in the Romanian case, where the significant ‘misfit’ between the EU ‘model’ and national practices was unambiguously revealed.

Before making the controversial ICC decision, top Romanian officials were convinced that the national prerogatives of EU member states in the foreign policy area took precedence over the norms and practices that the decades-long EU foreign and security co-operation had generated. Furthermore, in their opinion, the CFSP requirement to consult before making a foreign policy decision applied only to member states and not to candidate countries (Interviewee 1).

Though Romania agreed to implement all previous CFSP decisions, this was largely because none of them affected vital national interests (Interviewee 9). It was therefore understood in government that foreign policy matters of vital interest could be kept away from the EU agenda to the extent that not even communication and consultation with member states on a certain topic was necessary (Interviewee 1). This interpretation of CFSP principles may also have been encouraged by the little emphasis placed on foreign policy prerequisites during accession negotiation talks with Romania. Chapter 27, focusing on the fulfilment of CFSP requirements, was provisionally closed in the same month that it had been opened (June 2000) in a manner that resembled a mere formality (Interviewees 3 & 7).

But it is also worth mentioning that Brussels-exposed Romanian officials had recommended, from the very beginning, that Bucharest should not seal the ICC deal with the US (Interviewee 9). This suggests that élite socialisation with EU norms, procedures and practices achieved by Romania, until that point, was not significant enough to make a difference at the domestic level, or at least, not beyond the awareness and reasoning that this advice had generated.

Secondly, another EU ‘model’ that triggered a ‘framing’ mechanism of Europeanization\(^{10}\) was represented by the Council policy guidelines issued in September 2002, which were meant to be taken into consideration by non-NATO EU member states and candidate countries when approached by the US to enter into bilateral ICC agreements (Council 2002).

These guidelines were not mandatory, but were supposed to be followed by the countries in question in good faith. The ‘misfit’ between these recommended guidelines and the US-Romanian bilateral agreement was exposed by the European Commission’s 2002 progress report on Romania:

Romania has ratified the Rome Statute establishing the ICC. In August 2002, Romania signed a bilateral agreement with the USA on the non-surrender of each others’ nationals

\(^{10}\) One of the soft framing mechanisms of horizontal Europeanization, as referred by Radaelli (2003: 43), is triggered by minimalist directives and non-compulsory regulations.
to the ICC. Regrettably, this decision was taken without adequate prior consultation with the EU. It does not comply with the guiding principles laid down by the Council on 30 September 2002 (Commission 2002).

**Two complementary ‘logics’ and the role of ‘political vulnerability’**

First, Romania seemed to have learnt the importance that EU member states attached to the consultation norm to the extent that such a situation was to be avoided in the future. This was achieved after the appreciation on the Romanian side that communication and consultation did not represent an obligation always to agree with the view of the majority of countries participating in foreign policy co-operation, but instead, it represented a commitment to share information for a better understanding of each other’s national positions and for fostering the development of common views on what should constitute European interests (Interviewees 4, 5, 6 & 9).

In Romanian quarters, the need to share information became clear and to consult before making foreign policy decisions was thought to be appropriate. However, in this particular instance, it is difficult to draw a conclusion on the degree of internalisation of the consultation norm. In this case, there is not enough evidence to suggest that the outcome of Europeanization was either transformation or absorption, a ‘thicker form of learning’ or ‘simple learning’ (differentiation suggested by Radaelli 2003: 38-40). More similar cases have to be analysed in order to be able to conclude that the change produced internally represented a discontinuity with past practices, as opposed to mere accommodation.

In normal circumstances (in the case of EU member states), the ‘logic of appropriateness’ may well suffice or be dominant in explaining the accommodation or adjustment of national foreign policy in order for the EU and domestic levels to ‘fit’ with each other, especially with regard to an issue like the consultation norm. But, in Romania’s case, an intervening variable (its candidate country status) played a role in rendering a second logic (of ‘consequentialism’) also significant. For a ‘politically vulnerable’ candidate country like Romania, the internalisation of the consultation norm might also have taken place through coercion (rather than mimetism), at stake being the EU membership itself. It has been shown that Romanian élites were convinced of the ‘appropriateness’ of the consultation norm, but they also admitted that by not behaving in a ‘European manner’, Romania might have run the risk of losing EU membership. Thus,

---

11 The four possible outcomes of Europeanization identified by Börzel (1999), Cowles, Caporaso and Risse (2001), Héritier (2001) and Héritier and Knill (2001), which cover both the extent (or magnitude) of change and its direction are retrenchment, inertia, absorption and transformation.

12 Héritier (2001) defines absorption as the process of accommodating non-fundamental policy demands without altering the core of domestic structures and policies. In contrast with absorption, transformation implies a fundamental, paradigmatic, ‘third-order’ change that affects the core of the Europeanization domains (Hall 1993).

13 This is a vertical mechanism of Europeanization that stems from a case of ‘positive’ integration, in which the EU imposes a model of domestic change (coercion), which states are bound to implement with little room for manoeuvre (Knill and Lehmkuhl 2002). This can also be applied to candidate countries in the process of EU enlargement. Adaptational pressures are not only generated by binding ‘models’, but also by the ‘models’ upheld by a critical mass of member states. These member states confront the remaining dissenting countries with “the force of attraction of the EU’s ‘centre of gravity’”, influencing them to adopt the majority’s model (mimetism) (Knill and Lehmkuhl 2002; DiMaggio and Powell 1991, Radaelli 2003: 42).
it is implied that, on this occasion, appropriateness and consequentialism mattered in a complementary manner.

Second, the EU policy guidelines on the ICC caused Romania serious policy problems, which led in the end to a policy shift. This shift was rather awkward because Romania did not adjust its agreement with the US in line with the EU guidelines, but, instead, never ratified it in Parliament. Romania tried to buy time to appease both the EU and the US: Europeans were told that it would take some time to re-negotiate the bilateral agreement with the US (in order not to endanger Romania’s NATO accession), while the Americans were told that it would take some time to ratify it, in order to persuade the Europeans that Romania did not weaken the ICC enterprise (and furthermore to avoid any change of mind in EU member states regarding Romania’s accession to the EU) (Interviewees 1, 5 & 9).

The ‘logic of consequentialism’ might have been more relevant in this latter instance as it seems to have worked in two divergent ways, since Romania also needed the US support to secure a more immediate objective than EU accession: NATO accession. Romania’s craftily-managed delay in decision-making led in the end to securing NATO accession, moment after which, the object of ‘misfit’ between EU and domestic levels swiftly disappeared.

EU-ROMANIAN ‘MISFIT’ IN THE KOSOVO CASE

Kosovo’s unilateral declaration of independence of February 2008 threw Romania in the camp of the very few EU member states that officially and explicitly rejected the state recognition. Romania’s main argument was that the recognition of Kosovo’s independence, against Serbia’s will, ran counter to the principles of international law and created a dangerous precedent that could be followed by other break-away regions in Eastern Europe and the Caucasus (e.g. Băsescu 2007). At the same time, however, Romania pledged not to block EU initiatives on Kosovo and called for the integration of Serbia into the Euro-Atlantic structures.

The most salient threats to Romania’s own sovereignty and territorial integrity were thought to be the implications of Kosovo’s independence for the secessionist prospect of Hungarian-dominated parts of Romania and of other regions in Romania’s neighbourhood (e.g. Transnistria, Ossetia, Abkhazia). Romania strongly defended its position challenging thus the position of a vast majority of EU member states. Most states that have recognised Kosovo’s independence declared that their action was an exception to international law principles and that no other recognition would take place.

Given this, the best scenario for Romanian officials (Interviewee 4) was one in which Serbia came to terms with the irreversibility of Kosovo’s new status and made the choice of becoming a member of the Euro-Atlantic community. The longer it took for Serbia to concede defeat over Kosovo, the harder it would be for Romania to deal with the policy complications generated in the EU context.

Such a complication has arisen with the establishment of the EU presence in Kosovo through EULEX, a ‘technical’ mission approved on February 4th, 2008 by the Council of the EU. This mission was supposed to assist and support Kosovar authorities in the rule of law

---

14 This position has not changed after the publication of the International Court of Justice’s opinion on Kosovo, which rendered its unilateral declaration of independence not in breach of international law (ICJ Advisory Opinion No.141 of 22 July 2010).
field (mainly on police, judiciary and customs matters). Though not all EU member states have recognised Kosovo’s independence15, the EULEX mission was seen by many as a state-building endeavour strengthening the newly self-proclaimed state of Kosovo.

While Spain declared that it would neither recognise Kosovo nor contribute to the EULEX mission due to its ambiguous legal status, Romania, despite its opposition to recognition, decided to pledge almost 10% (the largest contribution) of the international personnel involved in this mission. Romania was clearly torn between its desire, on the one hand, to contribute to regional stability and the consolidation of EU’s common foreign policy co-operation, and, on the other hand, what it saw as its obligation to defend principles of international law and vital national interests (Interviewee 10). The legality of EULEX became a policy issue for Romania because, from an international law perspective, it might have ended up recognising Kosovo de facto (as party in state-building missions), cancelling thus its de jure ‘persistent objection’ to Kosovo’s independence cultivated over the years (Interviewee 8).

In June 2008, however, the UN Secretary General, used his prerogatives granted by UNSC Resolution 1244 of 1999 to put forward a proposal for the reconfiguration of UN presence in Kosovo, implying that EULEX would function within the UN framework. Formally placing EULEX under the UN umbrella was exactly what Romania needed in order to resolve its divergent concerns, at least temporarily.

The ‘misfit’: sovereign vs. ‘ethical’ foreign policy or different readings of international law?

The ‘misfit’ in this situation was not just a simple clash of policy choices at EU and domestic levels, but rather a conflict between a self-interested national foreign policy, which prioritised the sovereign rights of states, and an evolving ‘ethical’ EU foreign policy that favoured the universal rights of individuals. Sjursen brought this difference to surface in an attempt to reassess the concept of the EU as a ‘normative power’ which promotes norms and values rather than interests, acknowledging that “there is a potential tension in the EU’s external policy between its emphasis on multilateralism, which rests on external sovereignty, and on human rights, as core principles in its foreign policy orientation” (2006: 249). In line with Honneth’s argument (1997: 167), that in modern times civil societies play a more independent role in international affairs and that the ‘moral obligations of universalism’ are no longer a burden for individuals or states, Sjursen claims that a truly ‘normative’ EU will push for the transformation of international power politics towards a ‘cosmopolitan’ law of people (2006: 247).

This ‘normative’ EU ‘model’, calling for an ‘ethical’ foreign policy in which universally accepted human rights should be superior to the rights of sovereign states, was also applied in a previous episode involving Kosovo, which triggered the 1999 NATO campaign against Serbia. Attempts were made to reconcile international law with the universal rights of people by proposing a new doctrine of humanitarian intervention. Legalising the use of force for cases of human rights abuses has never materialised given the complexity of such an endeavour. Instead, for reasons of expediency, the countries participating in the Kosovo intervention preferred to justify their actions through the existing body of international law and the re-interpretation of UN Security Council resolutions (Interviewee 8; Gray 2006: 594-7).

15 22 out of 27 as of April 2011.
The same sort of legalistic re-interpretation (of Resolution 1244) has been used to justify the recognition of Kosovo’s independence by a vast majority of EU member states. Countries, which recognised Kosovo’s independence, were not successful in convincing Romania of the superiority of their moral, ‘ethical’ justification over the self-interested rationale behind Romania’s opposition (Interviewee 5).

The arguments deployed to justify EU’s EULEX mission to Kosovo were the same as those used to justify Kosovo’s recognition (Council 2008). From whatever angle the Kosovo recognition was looked at, either moral or legal, the ‘misfit’ between the EU and Romanian domestic level was obvious.

Since a majority of EU member states supported the notion of an ‘ethical’ foreign policy towards Kosovo, and the legality of Kosovo’s independence, the emerging EU critical mass or ‘centre of gravity’, generated adaptation pressures forcing dissenting member states to mimic the behaviour of the majority.

Though it may well be argued that the recognition of Kosovo’s self-proclaimed status is illegal under international law (Interviewee 8), it would be difficult to demonstrate that Romania’s defence of well-established principles of international law was free of self-interest. Romania, which may have felt vulnerable to internal and external secessionist attempts, viewed Kosovo’s independence as a dangerous precedent for its own and others’ sovereignty. The association with Spain, Slovakia, Greece and Cyprus (the other non-recognising EU countries) in this regard was not accidental.

The persistence of security-related ‘political vulnerability’ and the consequences of inertia

Romanian officials acknowledged that pressures to recognise Kosovo’s new status were stronger prior to the actual declaration of independence in February 2008. Thereafter, the Kosovo’s recognition issue has shied away from Romania’s bilateral agenda with the independence-recognising EU member states (Interviewee 5).

However, adaptation pressures have not disappeared completely. The invisible force of attraction generated by the EU foreign policy engrenage was still evident, especially in situations like EULEX, which implied an EU presence in a status-ambiguous Kosovo. Representatives of other EU countries were confident that undecided EU member states and other non-EU states would eventually end up recognising Kosovo16. There was also an expectation, on the part of the EU recognising states, that this dynamics would be enough to put pressure on Romania, without the need to engage in further bilateral discussions on the morality or legality implied by this recognition (Interviewee 12).

The ‘logic of appropriateness’ in this case functioned only to the extent to which there was unanimous agreement that the Kosovar population needed the support of the international community. The ‘logic’ stopped functioning when the discussion turned to deciding the means to achieve this objective. Lack of consensus on this matter generated an awkward situation, in which those member states recognising Kosovo perceived EULEX as an instrument for consolidating the newly-born state of Kosovo, while Romania read it as an instrument for

16 Nevertheless, the number of recognising states between July 2008 and April 2011 only increased to 75 (representing 39% of the 192 UN member states). Furthermore, it seems that the impact of the ICJ Advisory Opinion on Kosovo’s declaration of independence on the non-recognising states has not been dramatic.
The Europeanization of Romanian Foreign Policy: Mitigating European and National ‘Misfits’ in the International Criminal Court and Kosovo Cases

stabilising the state of Serbia, which included Kosovo (Interviewee 5).

Romania fully supported the idea of EULEX being under the UN umbrella. The neutral-status proposal for the re-organisation of the international presence in Kosovo, put forward by the UN Secretary General, helped Romania mitigate its inner conflict between legal concerns and desire to achieve stability in Kosovo (Interviewees 9 & 14). The ‘misfit’ between EU and domestic levels has been so great that a profound policy change is not likely to take place in the short and medium term, period in which other policy problems, similar to the EULEX dilemma, may occur.

The ‘logic of consequentialism’ implied that the cost of recognising Kosovo and of moving towards a predominantly ‘ethical’ foreign policy was too high and harmful to vital interests. Romania’s non-recognition was justified by the ‘boomerang effect’ that such a move might have triggered in Transnistria’s case (Băsescu 2007). Romanian officials tried to dismiss the argument that Romania’s opposition was motivated by a fear of secessionist attempts on its own territory:

[Foreign Minister Cioroianu:] We strongly insisted that, when we were talking about the necessity of not transforming Kosovo into a precedent, we were not referring to Transylvania...that was not the idea. Our main concern is the way in which the unilateral declaration of independence of Kosovo may affect other regions, such as Transnistria, which interests us directly (Cotidianul, 27 September 2007).

These concerns, it has been argued, would never materialise, because Kosovo is a sui generis case and no similar recognition would take place in Romania’s vicinity (Interviewees 2 & 13). Countries that have already recognised Kosovo’s independence did not consider that their vital interests were at stake and did not share Romania’s fears concerning the threats that the recognition might have created or enhanced. As a result, the existing ‘misfit’ seemed to be reinforced by the different ways in which threats have been constructed at the EU and domestic levels, and by Romania’s self-induced sense of security-related ‘political vulnerability’ in relation to the risks which secessionist attempts might have posed to its and other’s territorial integrity.

The outcome of this Europeanization attempt seems to be a sort of inertia17, as the rationale used by the vast majority of EU member states for the recognition of Kosovo was not internalised by Romania. Instead, Romania had to face the (EU-induced) policy problems that its non-recognition of Kosovo had generated.

In the Kosovo situation, the source of ‘misfit’ was not the institutional capacity to produce change (even if there were few veto players - president, government and parliament - they all showed unbreakable unity over the matter). The source lay at the normative-cognitive level, which is more difficult to influence and where change occurs over a longer period of time. It is argued that change leading to recognising Kosovo’s independence, if it ever occurred, may have also been traced at the level of public discourses. Discourses usually preface a shift in traditional policy paradigms and preferences (Schmidt 2002; Radaelli 2003), and may even signal a change in the perception of Romania’s ‘self’ in the European and wider context. So

---

17 Radaelli (2003: 37) describes inertia as a “situation of lack of change [which] may simply happen when a country finds that the EU political architectures, choices, models, or policy are too dissimilar to domestic practice [and which] may take the forms of lags, delays [...] and sheer resistance to EU-induced change “.
far there has been no indication of shifting public discourses. Discourses justifying Romania’s position on Kosovo’s status have been unvarying for the past three years or so, before and after Kosovo’s declaration of independence (Interviewees 5 & 10).

CONCLUDING REMARKS

The aim of this paper was to test the methodological utility of the Europeanization research toolkit in the study of national foreign policy, while also providing some insight in the making of Romanian foreign policy. It attempted to identify the ‘misfit’ between EU and domestic levels in two Romanian case studies, to pinpoint the national elements targeted by adaptation pressures, to detect the direction and magnitude of domestic change, when it occurred, and to explain domestic change using the logics of ‘appropriateness’ and ‘consequentialism’ and the informing capacity of the relevant intervening variables.

The ICC case study has shown the importance of well-established EU ‘models’ in the area of foreign policy co-operation, such as the consultation norm, and the expectation, on the part of EU member states, that these models be internalised by candidate countries as well. Not only were these models seen as ‘appropriate’, but the refusal to adopt them, might have endangered EU membership. Furthermore, even ‘weaker’ EU ‘models’, such as policy guidelines, carried more weight in relation with ‘politically vulnerable’ countries than in relation with existing member states. Another observation has been the fact that serious EU/US divergences posed a challenge to the Europeanization of the Romanian foreign policy, which seemed to favour the US over the EU on security matters.

In the second Kosovo case study, the ‘misfit’ between EU and domestic levels was more difficult to define, but the adaptation pressures were obvious. It was not clear if the ‘misfit’ represented a dichotomy between an ‘ethical’ EU foreign policy, based on the moral pre-eminence of human rights, and a self-interested Romanian foreign policy, based on the defence of sovereign rights, or between two different readings of international law. In this case, adaptation pressures generated from a powerful EU ‘centre of gravity’ targeted fundamental elements of cognitive-normative structures (norms, paradigms, legacies, discourses). Romania’s inertia and impossibility to mitigate this ‘misfit’ stirred (and will most likely continue to do so) policy problems in other areas (as shown in the EULEX case).

The paper put forward the concept of ‘political vulnerability’ in connection with two factors that may facilitate or hinder Europeanization processes: the candidate country status and different perceptions of threat. Nevertheless, its full significance depends on further research into countries which may also be ‘politically vulnerable’ such as small-sized countries and countries in need to perform side-payments or to exchange support across EU policy areas.
REFERENCES

- Eryilmaz, B. (2007) Europeanization of Turkish Foreign Policy: Cyprus Case, Paper given to the conference on Global and Regional Governance - European Perspectives and Beyond, University of Wroclaw, Poland, 24-26 May
The Europeanization of Romanian Foreign Policy: Mitigating European and National ‘Misfits’ in the International Criminal Court and Kosovo Cases

Assessing European Union’s Development Policy: Building the Bridge Between Rhetoric and Deeds

Nikolay Karamalakov*

Abstract: This paper covers the topic of European Union (EU)’s development policy, focusing exclusively on the actions taken by the European institutions. It is argued here that despite the official rhetoric of the Union to support primarily least-developed states, development aid is distributed predominantly to states where the EU has geopolitical/colonial/trade interests, and major shares of aid are actually granted to advanced countries, rather than for poverty alleviation. This contribution analyses the strengths and weaknesses of this policy considering the current global challenges and which countries are entitled to bigger shares of development aid and why. The focus of this article is placed on the inconsistent guiding logic behind aid allocation in the EU. Furthermore, the thesis outlines a new ‘pro-poor’ approach that would align the implementation of the policy with the existing commitments. The main conclusion is that if the Union does not shift its actions towards poorer states as officially promised, it will undermine its aspirations for global actorness.

Keywords: European development policy, allocated sums, shifting aid priorities, ‘pro-poor’ approach

Introduction

EU and its Member States (MS) are considered the major providers of development aid in the world, amounting up to 65% of the total volume of Official Development Assistance (ODA) on yearly basis, or nearly €60 billion in 2010 (OECD, 2011; European Commission (EC), 2010). In general, these substantial financial resources focus on principles such as strengthening democracy and eradicating poverty, which are found throughout both the political and technical documentation of aid provision. For the period 2007 – 2013 the Union has committed €146.5 billion for development, humanitarian and cooperation aid (Gavas 2009) with the main efforts of the EU’s policy extending to economic and trade relations, better political dialogue and common strategies for coping with the challenges of today – poverty and famine among the most important, thus trying to meet the 8 challenges of the Millennium Development Goals (MDG).

Behind the rhetoric of the fundamental EU documents (TFEU, the Consensus on Development), one encounters difficulties when analysing aid effectiveness due to vague objectives and undefined target indicators regarding the expected effect of the financed projects, as well as an unclear picture of the accountability of the committed financial

---

* Nikolay Karamalakov has a Master of European Studies on Transnational and Global perspectives from the Catholic University of Leuven (Belgium) and is currently a MSc student at the University of Maastricht. 
E-mail: nkaramalakov@yahoo.com

resources. Despite the political message, that the allocated external aid targets people from the
developing countries as end beneficiaries, and despite there is evident positive effect through
national and local incentives, the EC is exercising a selective strategy. As a result this paper
sets out to reveal that EU institutions, in stark contradiction with their own official objectives,
are granting the bigger share of the ODA support to better developed countries, rather than to
the least-developed ones. Therefore, this contribution will dwell upon the reasons why the EU
is distributing aid in this manner, and it will furthermore give a possible solution to the core
problem – the conflict between ‘rhetoric’ and ‘actual deeds’.

The aim of this analysis will be achieved by presenting the guiding political rhetoric behind
the distribution of official development assistance of the European Union institutions in respect
of eradicating poverty in the least-developed countries in the 21st century and by outlining the
most troublesome aspects of the development policy which may hinder its overall effectiveness
with the special focus being on the weak link between EU’s political commitments and the
logic of aid allocation in which developing countries are supported. On this basis we would
then propose a new approach for disbursing financial aid that would increase the operational
capacity of the development policy. As a result, the thesis will provide additional points to the
debate that the EU development policy is in need of change now in order to strengthen the
Union’s global presence, and make it an example of how other donor organisations should
follow their commitments and support the developing countries.

1. The importance of analysing EU’s development policy

The core of this paper analyses the development aid issue and, in order not to confuse
it with humanitarian aid (which is not to be discussed hereafter), a working definition of the
term is necessary. For the purposes of the following chapters ‘development aid’ and ‘official
development assistance’ are considered as public financing from a particular state or multilateral
donor organisation towards another such (usually poorer) state or organisation, with the
objective of inducing long-term growth and diminishing poverty (OECD 2008; Rosenkranz
2011). It is considered in the sphere of international relations that EU “is today recognised as
a global partner” (EuropeAid, 2009: 5) due to its commitments towards the Third World, its
importance as trade partner and its political presence through mediation and peace-keeping.
The Union is collaborating with 160 states and regional organisations, and the effectiveness in
every aspect of its external actions is valuable for the overall success of the European foreign
policy. Therefore, having in mind that the “EU is the principal source of development aid
worldwide” (EuropeAid, 2009: 7) it is necessary to analyse the way in which this is achieved,
and to dwell upon the subject whether: while the EU is a global actor (especially in development
aid), it is at the same time consistent in its policy and effective in its actorness?

One of the major debates in EU development policy (World Bank 1998; Mkandawire 2005;
Lockwood 2005) which is leading for this contribution is whether aid should be distributed
according to the universalism or selectivism theory. According to Mkandawire, in the last
20 years there has been a shift from universal support for developing countries (every state
deserves its share), towards a new set of instruments that endorse the ‘targeting’ principle:
aid is rather given to the more needy states and/or to the more deserving ones, and this is a
“cost-effective and results-oriented strategy for donors” (Hulme and Chhotray, 2009: 4). There
is also another official EU explanation on why certain states are patronised and this is the
comparative advantage of the Union in certain regions/states; thus the European development aid is in principle targeted at countries where Union’s actions would have larger added-value (European Consensus on Development).

On a global scale development policy today is a mixture of both theories since even the MDGs are on one hand covering developing states in general (universalism) but with a special focus put on the least-developed ones (targeting). It is the choice of the donor state or organisation in which way it would support the Third World according to its financial situation and political commitments. The European Union institutionalised support is also placed between the two theories but with a clear inclination towards selectivism, since aid is allocated preferentially to certain regions and developing states. Thus, if we accept the idea of Hulme and Chhotray, and take into consideration the economic crisis in the EU, along with the ongoing debates on effectiveness of development aid, it seems that targeting EU aid is still an appropriate approach today, but the main fault in the system is to whom are financial resources targeted? This will be discussed in this thesis hereafter.

It is important also to stress on the importance of the internal consistency between the priorities of EU’s development policy and the actions that are carried out in reality. The priorities are set in the legal basis of development aid - Title III of the TFEU and it is the Article 208.1 of the TFEU that gives the policy’s main goal: “Union development cooperation policy shall have as its primary objective the reduction and, in the long run, the eradication of poverty”. The importance of discussing poverty abolition (and not democratic development for instance) is furthermore enhanced by the finding that the EU has not been successful in achieving this primary goal. This statement is combined with the commitments of the EU in the European Consensus on Development were the group of ‘least-developed countries (LDCs)’ is prioritised and the importance of the MDG is incorporated as fundamental basis for the development policy (The European Consensus on Development, 2006: 1).

There is, however, one issue that is to be regarded as the core of the ‘effectiveness-debate’, being the primary source of the inconsistency in the policy: the evident mismatch between the declared support for least-developing countries (as presented above) and the actual states that receive the larger bulk sums in development assistance. In times of financial crisis, and when austerity measures are implemented throughout the MS, it is reasonable to ask for what purpose are these financial resources on development aid actually spent: is it for eradicating extreme poverty or for pursuing EU’s implied economic and political interests such as trade preferences and security?

2. EU Development policy: present and future challenges

2.1. Analysing strengths and weaknesses

EU development policy is a shared competence between the MS and the EC, which handles the administrative part through the Directorate-General EuropeAid Development and Cooperation (DG DevCo). The importance of the EU’s development policy is a subject of

---

2 As Weiland argues: “the policy of cooperation has not achieved its objectives. In the poorest countries in particular, the situation has not only did not improved, but has worsened. Trade preferences and commodity price-stabilisation programmes have helped very few countries: most ACP countries are poorer than ever” (1998, 10).

3 “The EU will continue to prioritise support to the least-developed and other low-income countries” Official Journal, 2006/C 46/01.
debate ever since the Union expanded its scope further than the African continent (Holland, 2002). There have been some important improvements in the system of development aid, especially after the reforms of 2000 that have lead to better European coordination through the clarification of policy instruments and principles. This has been done through the elaboration of political strategies such as the development policy statement (EC, 2000a) which was initially presented in 2000. 5 years later it was revised in the Consensus on development where the ‘rhetoric’ of the EU that has been leading in the past was entangled with political will, in order to support the South through more regional-based actions.

Better coordination with partner-states was made possible through the creation of the EuropeAid office (now part of the DG DevCo) which together with the delegations of the EU and DG External Relations became accountable for the preparation, implementation and evaluation of the projects and initiatives of the EU. These changes led to better organised strategy papers and dialogue with local actors, but the fragmentation of responsibilities is still valid to some extent, since the creation of the European External Action Service is not complete and the way in which it will take leading role in the external relations of the EU is a question for the future. This is of primary importance for the functioning of the whole system of EU institutionalised development and cooperation support, since it is related to the whole EU foreign policy if we take Hettne’s (2010: 16) notion that “[e]xternal action depends on internal cohesiveness”. In other words, the EU is yet to prove that it has a global role because of the incoherence between rhetoric, objectives and deeds not only in the development policy but also when international crisis arise (The Iraq war being here the prime example and the Arab spring the latest).

2.2. Overshadowing poverty?

A decade ago the main question in the international development policy would have been ‘how much to give’, while nowadays the debate is more concerning ‘how effective is aid’ (Open Europe, 2007), and this contribution is aligned to these current debates, since it is questioned here not the size of aid, but rather the main constraints that impedes its consistency. One of the most commonly expressed opinions is that EU objectives are still not clear and far from focusing on poverty issues, while activities and instruments are dispersed (Dearden, 2008). As Dearden argues in his article, the EC has failed to take full advantage of its financial contributions and market power in order to champion the whole process of aid support offered by national and private donors. What made this difficult was the “lacking transparency and accountability, as a result of the complexity of [EC’s] aid programmes, its many economic and political objectives, and its own management structure” (Dearden 2008: 2). Transparency is underlined again as primary policy problem by EC officials (Brussels, 25 May 2011), along with poor donor coordination. Nevertheless, it is not the number of instruments that provokes inefficiency, since the beneficiaries tend not to pay much importance to the financial instrument itself, but rather on the amount of aid allocated, and its purpose, thus concentrating on the actual results of the projects, rather than on the bureaucratic system that manages the assistance. It is therefore necessary that the EU first re-affirms the objectives which the Union will pursue through the various instruments and, as a following step, to review the consistency of the system.

As the latest AidWatch report (2011) shows, the leading concern in today’s development policy rests on the fact that the EU institutions and MS are becoming less concerned about aid effectiveness and the amounts of aid distributed; instead, issues such as security, commerce and
migration are leading in the policy-making. This position was reconfirmed after interviewing EC officials⁴, according to whom the EU is supporting the follow-up activities after the Arab revolutions with finances that are unused by other countries, thus resources intended for meeting MDGs are now diverted towards democratic state-building in better developed states. It is then plausible to think that if it were not the new threat for security in the neighbourhood realm; the Union would probably have had these resources redistributed for additional support of the MDG achievement. In summary, the unwillingness of the Union to provide additional money for Tunis and Egypt (due to financial constraints as discussed above), instead of using already allocated sums for developing states demonstrates how geopolitics actually supersedes commitments, which is in fact the primary threat for EU development policy today.

3. Righteous finances?

3.1. The possibility of reforming EU development policy

The currently ongoing review of the policy is foreseen to find ways to enhance the impact of the policy in order to “speed up progress towards the MDGs” in the developing countries, and to find “new opportunities to reduce poverty” (EC, 2010b: 4). It has been around these moments of development policy revision (as in 2000, 2004/2007 and currently 2010/2011) that the consultations among scholars, politicians and experts dwell upon two main issues: (1) EU aid programming/institutional architecture, subject to growing criticism since the 1990s (Dearden, 2008); (2) whether the European development and foreign policy is privileging the neighbourhood states – Eastern and South-Eastern Europe, together with the Mediterranean countries, and therefore neglecting poverty reduction in underdeveloped states.

On the first problem, the reassessment of the policy is needed, not only because of the unsolved until today problems concerning effectiveness and transparency discussed in the previous chapter, but also due to the new threats that have taken shape in the last few years, and two are the most evident: the financial crisis⁵ and the growing influence of other actors in the developing world, such as Brazil and China (EUobserver, 2011). This contribution will focus on the latter problem – how countries are being prioritised when development aid is being distributed. It was the Cotonou Agreement that proposed aid to be distributed according to the needs of the ACP countries and their willingness to fulfil the conditions set out by the EU. This notion was transferred in the external relations with the other countries and regions in order to provide a consistent approach of the EU towards the South, and it is deemed as implicitly present in the financial mechanisms of the Union’s development policy, since the more active the partner country is, the better the communication with the EU and the more problem-focused EU initiatives in the region, or at least this has been the objective of the reforms that have been carried out in the policy.

Poverty reduction and the meeting of the 8 MDGs were, however, underlined as the leading objectives of the Union in the major reform of 2000 (EC 2000a; EC 2000b) and once more explicitly stated five years later in the Consensus on Development. Today we see that the poverty eradication principle is overshadowed by the geopolitical interests of the MS, channelled via the EU institutions, as expressed in the interviews with the EC officials: “In this

⁴ The interviews with 5 officials were held in May 2011.
⁵ See Copestake, 2010; Gore, 2010.
case, it is possible that Member States’ economic interests or cultural/historical rights could have an impact on the definition of priority countries and sectors.” In shorter terms, as Maxwell and Engel discuss it, “Critics point to the high share of development cooperation which is spent on the ‘ring of friends’. […] Critics question the EU’s record in terms of the share of aid reserved for the poorer countries arguing that it is substantially worse than that of the individual EU member states” (2003: 7).

Thus the question is: how does the EU live up to these commitments, when it is sharing aid among 160 partner states? Keeping high level or even increasing expenditures on the ‘ring of friends’ by itself is not an ‘anti-developing countries policy’, as long as the general direction of helping poorer states in an adequate way is kept. In other words the EC has successfully built a connection between development aid and the main goals of the foreign policy – trade and security, which is ever more evident from the fact that “larger proportion of EU aid inevitably goes to medium income countries – particularly those near the EU” (Open Europe 2007: 2).

3.2. Sidelining least-developed countries

This analysis looks at the monetary side of aid allocation and the main finding of this work is that there is clear inconsistency between the countries that receive the major share of the EU development aid, and the countries that are with lowest GDP per capita, hence those that the Union should be supporting if it is to achieve the goals it has set itself in Article 208 of TFEU. In other words, when distributing financial support, the EU is focusing more on the political aspect of the relations with this country, rather than whether that particular state is in need of support for handling problems of primary importance, such as cross-national famine and poverty.

Graph 1: Percentage of total ODA disbursements to least developed and low income countries as share

![Graph 1: Percentage of total ODA disbursements to least developed and low income countries as share](http://stats.oecd.org/index.aspx; ‘EU Institutions’ is as comprised by the OECD DAC, managed by the European Commission)
Graph 1 presents the fluctuations in the shares of the development budget managed by the EC, allocated for poor countries on a yearly basis. It becomes evident that aid is usually in the margin between 35% and 40%, and there is no clear trend towards raising the share of commitments for LDCs as would be expected after the adoption of the MDGs and the Consensus on Development. Therefore several comments could be made: (1) the larger share of the ODA is allocated for better developed states; (2) little prioritisation is given to the poorest states; (3) although the Union’s rhetoric after 2005, there has been no surge in the shares for LDCs and LICs. In other words, despite the official position of the Union, there has been no evident suspension of the ‘ring of friends’ practice.

Graph 2 gives an interesting juxtaposition of developing states in relation to their United Nations Development Programme’s Human Development Index (HDI), and the amount of aid per capita that the same state receives for 2003. Here it is not important what are the states in particular, but rather the principle guiding the EU in allocating sums, and it turns out, as argued previously, that there is a distortion in the system, since well advanced countries (with higher HDI) are receiving the largest per capita aid. Thus, EU aid is not primarily targeting least developed states, despite its rhetoric. In the contrary situation, where coherence between commitments and deeds is present, the graph would have presented the majority of aid going to lower HDI states, therefore placing more states closer to the vertical axis, and, further away from the horizontal one, unlike the presented graph below.

Graph 2: Correlation between HDI and EU aid per capita ($) in 2003

Source: Open Europe 2007: 20

---

6 The striking fact Open Europe cites in its 2007 report is that the EU aid amount allocated for low income countries has diminished from 63% in 1990 to 32% in 2007.

7 Open Europe goes further in the analysis: according to the 2011 report, 19% on average of the EU aid is allocated to the group of upper middle income countries, while the OECD DAC group average is of about 9%.
The importance of geographical proximity and colonial ties in development policy is once more presented in Graph 3, from which we learn that the EU spent, in the analysed period, an average of $11 per capita on European states, which is 2.7 times more than the average $4 spent on North Africa and Sub-Saharan Africa, and there is even a larger cleavage, if compared to the $1 per capita for South America. Moreover, the graph raises the question of why would the Pacific islands receive the second average per capita aid, and how does this relate to the ideas of effectiveness of aid distribution and poverty-driven development policy of the EU. A possible answer may be again the colonial relations, but, at the same time, the graph opposes the common opinion that the EU is handing more money to advanced countries and less to poorer ones due to the different value of the same amount of money in the different states. Otherwise this will mean that living standards in Oceania are close to the ones in developing European countries. Furthermore, the graph also shows that the EU is not streaming bigger support toward poorer Sub-Saharan Africa compared to North Africa, despite the fact the latter having a GNI per capita 2.5 times higher than the former (Open Europe 2011).

Graph 3: EU aid per capita 2000 – 2009

![Graph 3: EU aid per capita 2000 – 2009](http://stats.oecd.org/index.aspx)

*Source: Open Europe, 2011: 7*

When territorial disbursement of EU aid is discussed, there is one basic argument that must be underlined, despite the main view of the MS and the European institutions that they are supporting Third World countries according to the ‘global commitment of the Union’, and not basing aid on self-centred economic and political interests: development assistance is in fact the result of the interaction of interests and the willingness to follow international agenda (MDGs) in order to enhance Europe’s global presence. Grimm (2010: 43) expresses the same notion: “Thus, which area drives EU relations with a particular region depends upon both the specific challenges for the EU in the region and the power play in Brussels among different sets of actors in different policy areas.”
3.3. Is EU ODA for the poor? 2009 ODA from EU institutions

Annex II presents the list of countries that, according to the World Bank classification, are the least-developed countries, and, therefore, are the states that should be targeted when allocating aid, if the EU is consistent. The following Annex presents the top states (32 in total) that have been attributed a total of ODA from the EU institutions of more than $100 million in 2009 (the last year with OECD statistics available), and the table has been expanded with ODA for the same states, for 2007 and 2008, in order to give an overview of the 3 first years of the current financial framework 2007 – 2013.

By matching the states in both lists, we see that there are only 15 least-developed countries included in the top ODA beneficiaries list. It is true that, for political reasons, ODA commitments from the EU towards some states (i.e. Liberia and Eritrea) have been low or halted until democracy and security have been completely restored, but the main opinion stays – the Union is providing development assistance for countries that are poor, but, at the same time, it is focusing aid towards the neighbourhood states which are advanced in their development and to those with which there have been political engagements taken, including former colonies with important political and economic relations. Therefore, poorer countries are not targeted in the efforts of the EU to support poverty reduction despite this being underlined in the TFEU and the Consensus on development, and this ever more evident if we take a look at the top 10 ODA beneficiaries in the last 3 years in Annex IV: only 4 of them (Afghanistan, DR Congo, Ethiopia and Mozambique) are countries considered as low-income, while the other states are valuable political partners (Palestine and Egypt), former colonies (Morocco) and mainly neighbouring European states (Turkey and Serbia).

The table in Annex I presents more detailed information (HDI, population, GNI per capita) on the top beneficiaries in 2009 of ODA from the EU institutions in order to present what share of the ODA and investigate for the driving logic in the development policy of the EU institutions. From the top 10 countries there is one high income country – Turkey, 4 upper middle income states – Palestine, Serbia and Morocco, while Mozambique and DR Congo are the only low-income states. The first conclusion to be made is that richer countries are benefiting from their geographic proximity to the EU and the political influence of the Union in these regions, thus being stimulated with substantial development assistance. To prove this we could take two states – Egypt and Mozambique, which receive equal total share of ODA from EU institutions ($ 204.68 million or 1.52% of net total for developing countries), however, at the same time, Mozambique is one of the poorest countries in the world, having a 2009 GNI per capita of more than 6 times less than Egypt. Moreover, this example is evidence that through the applied selectivism in aid allocation, the EU has securitised aid, since Egypt is a valuable partner in immigration handling, and is consequently granted higher amount of aid.

The second conclusion is that the EU has neglected its official commitments toward the developing world and in particular – to the least developed states since there is little, if any, poverty focusing of the policy since the top recipients are not predominantly the poorest countries and even those that are at the top of the table receive less on a per capita basis.

---

8 Obviously there has not been a great change since the 2005 Oxfam report, where it is noted that “Over the past decade, the European Commission has prioritised regional security above global poverty reduction, allocating greater shares of aid to neighbouring Mediterranean and Eastern European countries.” (2005: 48). The slight change is the shift from Eastern Europe toward the Western Balkans and Turkey as accession state.
than much more advanced states as Turkey and Serbia. Moreover, if we take into account the position expressed by the Concord group, EU enlargement and neighbourhood funds have increased substantially in comparison to the budgets allocated for developing states: “Between 2004 and 2008 aid to Europe increased by 135% in constant terms, while aid to the world’s least developed countries only grew by 35%” (Concord 2010: 18).

The clash between privileged states and really poor ones is demonstrated in a simple case-study, outlined in Table 1, below. The three countries of Croatia, Liberia and Central African Republic have two things in common: they are financed by the EU under the development policy mechanisms and have a population of around 4 million people. The disparities are much bigger – Croatia, with a GNI per capita of $16,248 and ranked currently 51 in the UNDP HDI, is granted twice as much aid per person through the EU institutions than Liberia, a country ranked 162 in the HDI classification and with GNI per capita 52 times less than Croatia’s. The same could be said for the Central African Republic (CAR) – ranked 158 in HDI and with GNI per capita of just $739 (22 times less than Croatia) and yet receiving almost 2.5 times less aid per capita.

Table 1: Cross-referencing data for year 2009 for Croatia, Liberia and CAR

<table>
<thead>
<tr>
<th></th>
<th>Population 2009 (millions)</th>
<th>HDI 2009</th>
<th>GNI per capita 2009 ($)</th>
<th>Total ODA from EU inst. 2009 (millions $)</th>
<th>Aid per capita 2009 ($)</th>
<th>% of total EU inst. ODA for 2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>Croatia</td>
<td>4,4</td>
<td>0,765</td>
<td>16,248</td>
<td>129,94</td>
<td>29,53</td>
<td>0,97</td>
</tr>
<tr>
<td>Liberia</td>
<td>4</td>
<td>0,294</td>
<td>313</td>
<td>59,54</td>
<td>14,89</td>
<td>0,44</td>
</tr>
<tr>
<td>Central African Republic</td>
<td>4,5</td>
<td>0,311</td>
<td>739</td>
<td>54,69</td>
<td>12,15</td>
<td>0,40</td>
</tr>
</tbody>
</table>

Sources: Population Reference Bureau (2009), UNDP (2010), OECD DAC online database

Of course, more examples like the one above could be given following the same logic of comparison. It is true that one dollar in Liberia could do more than one in Croatia, but the latter is not among the least developed states, hence, it should be asked whether the EU when practicing selectivism, is applying a logic that is coherent with its own official commitments. The obvious answer is that this is not the case today, and poor countries are sidelined, while closer neighbours are targeted with larger shares of ODA. The reason for the answer is that states are in this privileged position due to the political interest of the EU MS for fostering strategic partnerships and encourage further democratic processes. Grimm explains it as follows: “The relatively high levels of aid to European and Mediterranean countries – not among the world’s poorest nations – cannot be explained by an emphasis on poverty reduction but are rather a function of foreign policy interest in neighbouring regions” (2010: 55). To sum up, we could say that the EU development policy is still depending on who exactly the partner country is, especially when it comes to financing projects. Moreover, there is a certain possibility that, if this policy-making based on differentiation among states, build on who is ‘valuable’ and who is simply a partner, would certainly lead to a bigger cleavage between the two groups, and may present a bigger threat for the development policy of the Union in general.
Hettne and al. (2010) theorise that as long as the counterpart of the EU in bilateral relations is with strong “actorship” and stance towards the EU positions, the fewer conditionalities are presented by the Union and the more EU is open to dialogue. This same notion could be transposed in the cases discussed above – the larger the political stake of a region/state for the MS, the more EU aid is disbursed for that region/state. Moreover, one of the leading political interests today is security; the above mentioned tables prove that aid is being securitised by the EU as a result of making security interests leading for the MS, especially after the growing terrorist threat since 9/11, since when the EU is trying in every way to prevent from happening larger military conflicts in its neighbourhood region. The same is valid for partners where it has clear economic interests that are guarded through promising bigger aid shares, for example to North-African states and the Palestine region, in order to encourage reforms and good governance practices for a more peaceful state-building process, and this is, in fact, a righteous cause, in principle, for spending EU financial resources. However, the ODA numbers show that exactly these problems receive the largest share of the allocated sums. Moreover, security issues are part of the Union’s foreign policy, but this is not the primary objective, as stated in the official commitments of the Union. The EU is challenging security threats from the outside, rather than following its ‘point 1’ in its agenda, as set in the last ten years – eradication of poverty. Instead, aid is becoming linked to the conditionality of security, which hinders the focus on poverty of EU aid and, more importantly, it is coming into contradiction with the TFEU.

3.4. Hypothetically giving the most to the least developed

Graph 1a below presents how the states given in Annex I are situated between HDI and per capita aid, while graph 1b shows HDI – Total ODA commitments from EU institutions, therefore both analysing whether larger shares of aid go to lower HDI. As analysed previously in graph 2, there is no clear indication that the EU institutions are considering the level of development when distributing aid, since the majority of countries have their HDI lower than 0.5 and they tend to receive not more than the advanced richer countries with HDI above 0.5, considering total ODA and not more than $20 per capita. Thus, the graph is proving once more that, in general, the EU is targeting its financial assistance not to the least developed countries, according to the fundamental priorities of its development policy, rather political and security interests.

9 AidWatch presents aid securitisation in the following way: “the blending of defence and development objectives and the allocation of aid according to perceived security threats and challenges, rather than according to poverty eradication goals” (2011: 8).
Graph 1a: Correlation between HDI and EU aid per capita ($) in 2009 of top 30\textsuperscript{10} recipients

Sources: Annex I, Population Reference Bureau (2009), UNDP (2010), OECD DAC online database

Graph 1b: Correlation between HDI and EU institutions total ODA ($) in 2009 of top 30 recipients

Sources: Annex I, Population Reference Bureau (2009), UNDP (2010), OECD DAC online database

\textsuperscript{10} The states analysed are 30 since the Palestinian administrative area and Kosovo are not given HDI for 2009.
Graphs 2a and 2b, although hypothetical, are also based on Annex I table by building on a new hypothesis: how would graph 1a and 1b look like if the countries with lowest HDI were to receive in the year 2009 the highest allocated sums per capita and total ODA guided by the principle ‘the poorest receives the largest share’\textsuperscript{11}? This hypothesis is to show if there was more coherence between rhetoric and actions in the EU in the realm of development policy and how the policy would eventually look like? It is obvious that the lower the HDI is, the greater the total ODA and the per capita aid from the EU institutions, and, of course, this is an ideal situation.

Graph 2a: Hypothetical correlation between HDI and EU aid per capita ($) in 2009 of top 30 recipients

![Graph 2a: Hypothetical correlation between HDI and EU aid per capita ($) in 2009 of top 30 recipients](image)

Sources: Annex I, Table 5a (Annex IV), Population Reference Bureau (2009), UNDP (2010), OECD DAC online database

This chapter has proven that EU’s development support is applied through the selectivism theory and also that the targeted countries are predominantly not the least developed ones, as to be expected from the official engagements of the Union toward the Third World. It is true that the EC, guided by economic and political interests, has not completely neglected the poorest states in the world, since they are supported even if there is no trade interest fact stated in the interviews with the EC officials. In this respect, what is striking as a conclusion from the EC officials interviews is that they were convinced that the EU is supporting poor countries, despite the (public) data provided in this study, which tends to prove the opposite,\textsuperscript{11}

\textsuperscript{11} The two corresponding new hypothetical tables are given in Annex IV. There are no particular states given, since here the general principle of providing larger shares to the poorest is tested, and existing ODA and HDI levels are taken as example.
Graph 2b: Hypothetical correlation between HDI and EU institutions total ODA ($) in 2009 of top 30 recipients

Sources: Annex I, Table 5b (Annex IV), Population Reference Bureau (2009), UNDP (2010), OECD DAC online database

and probably due to never-ending EU reports on that it is effectively supporting poor states (EC, 2010a). It is, at the same time, true that aid has been dominantly distributed to the ‘ring of friends’ due to geographical proximity and security reasons. The evident incoherence in EU’s approach towards its own policy and its partner countries hinders its predictability and overall effectiveness and, therefore, a new logic to the system of development assistance distribution needs to be applied.

4. A new approach?

4.1. Coherence through better aid targeting

Having tackled the targeting aid issue in the previous sections, nowadays the main problem could be generalised in the following fashion: least-developed countries, that are to be encouraged according to the EU’s official engagements, and, thus, are to receive the majority of aid, are replaced by closer partners of the Union, which seem to be of higher political and/or economic interest for the MS (Hettne et al., 2010), or, with old colonial links still being important, transforming EU development policy into a matter of geopolitics by front-lining self-interests (AidWatch, 2011). All this leads to incoherence between commitments and actions, therefore the poorer population of the targeted states are in a better position than the poorer in the disadvantaged countries from an economic point of view. There is a clear inequality between the access of aid between developed and less developed states as a result of the policy implementation of the EU, focused on targeting aid through its ‘comparative advantage’.

12 It is generally expected that due to the centralisation of administration power and better coordination of aid programmes, combined with a more ‘politically neutral’ stance towards the partners, the EU development agenda and tools for its implementation are much more effective and transparent than of the MS (Dearden, 2008).
principle, in certain world regions, thus creating an imbalanced stance towards developing countries, which is a potential threat for the overall position of the EU as a global actor, leading to loss of political presence in the Third World.

In order to amend this problem a new approach of distributing financial aid is necessary to be adopted at the EU institutions level, that approach would be in line with the official position of the Union toward development and poverty eradication and, at the same time, be adequate to the global actorness of the EU. This is possible by simply producing a new system in which the Union does in fact live up to its rhetoric and supports primarily (but not exclusively) least developed states. The theoretical idea of focusing aid distribution on low-income states departs not only from the TFEU and the Consensus, but also from think-tank centres such as CIDSE (2005), which argues that the Commission should refocus aid distribution accordingly to the states where there is a greatest need for achieving the MDG, in particular to halve the population of living in total poverty people.

The background of the new approach is set in the following principles:
1. the EU commitments toward the poor Third World countries, as discussed above;
2. the EU cohesion policy, based on the implicit principle that EU financial assistance cannot cover every objective in every targeted country, therefore there should be prioritisation of the needs in the involved states set out in the financial frameworks;
3. the entrenched prioritisation of neighbourhood states, in the policy programming and implementation;
4. the basic (economic) assumption – resources are limited and demand is growing.

In short terms, the EU should strategise its financial resources by elaborating new short financial perspectives for limited amount of countries by providing the major financial aid to projects in certain countries (the most needed projects and initiatives will come first), while the rest of the supported countries will still be provided with resources for basic needs such as food security and will be in a period of preparation of technical and legal requirements for carrying out large-scale projects themselves when their state’s tour de table is according to the financial perspectives. What is argued in this section is not necessarily an increase in the European budget, in order to fuel the policy with financial means for more actions in the Third World13, although it may contribute to the overall performance of the policy, but the development “is not only related to the amount of aid” as has been suggested in an interview with one EC official.

Suggesting more pro-poor activities and reassessing aid toward middle- and high-income states is not a new concept (Van Reisen, 2002), since in the last decade there have been several publications with this theme (Mihálik, 2010). This new approach is however based on improving today’s programming and implementation of development assistance so that poverty-targeting becomes the leading principle which would be carried out by distributing the main shares of the EU aid in order to list of the least-developed states and not according to the economic and political interests that are related to the ‘ring of friends’, fact that is evident now. In this paper, the proposed logic of aid distribution will have the following aspects:
1. the least-developed countries will be prioritised as main recipients of EU aid while other more developed ones will also be supported, rather in a supportive manner through co-financing projects;

13 Moreover, as Mavrotas discusses the issue: “unless aid is better targeted, scaling up aid is unlikely to have the desired effects” (2009: 3).
2. the countries to be supported will be previously assessed on their development level on the basis of third-party analysis (World Bank, UNDP, OECD), in order to combine the existing indicators of poverty and growth, and produce a list of least development states;

3. the next step would be to group states beginning with the ones in greater need of assistance, therefore the ‘least of the least developed’ states, and this will be done in order to give priority to these states when distributing aid through channelling the EU support to them in a limited window of time – 2 to 3 years; therefore the Union will concentrate on a particular number of states, for a particular period of time, so that aid is not dispersed to 120+ states, and producing limited results in every state, but rather the opposite: through streaming finances toward particular states, the Union could possibly set higher performance indicators to be achieved in the end of the period and, actually, induce evident changes in the supported states;

4. the grouped states will be assessed using the methodology set in the strategy papers in a state-by-state manner, and every such paper will highlight the most urgent needs of the particular state that need to be confronted in order to alleviate poverty; the idea of grouping states is that, while the projects are implemented in a particular group, the following ones, to be supported preferentially in the upcoming period(s), are being prepared for this time with technical documentation and analysis in order that, once the window is opened, they would start immediately carrying out the provisioned activities;

5. more advanced countries will not be sidelined or left out completely in this system, since they will be supported by the EU, as currently, but with a strengthened sense of co-financing of the activities, thus stressing on the importance of local government participation and commitment.

In principle, the proposed above new logic of distributing aid is tending to target EU money towards poverty eradication through better selection of states and project preparation, and, focusing more on education and infrastructure, in line with the fundamental priorities of the Union.

4.2. Opportunities and pitfalls

There are several positive aspects of this new approach that need highlighting. First of all, it is the fact that it aligns the actions of the EU to its fundamental development policy documents, such as the TFEU and the Consensus, by simply placing least-developed states in the centre of distribution of aid. In this manner the Union has the chances of building the bridge between rhetoric and deeds. Moreover, in order not to experience the pitfall as described by Sen (1995), and not to be completely in the realm of the targeting development theory, the EU’s partner-countries today will continuously be supported, but the volume of the financing will depend on their development level and the specific time period table of state groups. The time window itself is a response to the apprehension expressed by Keen (1992) on the ‘paradox of targeting’, since the increased aid will be offered in a short period and, therefore, this will not undermine the local administrations ability and willingness for follow-up activities and sustainable new initiatives.

Nowadays, thanks to the tradition of elaborating strategy papers as guidelines for the development projects in the partner countries, local governments are not sidelined in the
programming process,\textsuperscript{14} and the new presented here approach is to enhance their active role in the programming and, therefore, rely on their willingness to achieve the provisioned reforms. Moreover, development strategies should be formulated with the support of the civil society organizations and with stronger parliaments, resulting in consistency between national goals of beneficiaries and objectives of the donor. No aid distribution policy would be effective if there is no strong commitment by national actors to utilise it according to current needs, and in various directions since, as one interviewee from the EC noted, poverty alleviation is a complex term that should be tackled through actions in particular fields such as education and health.

It is not without importance how countries would be classified. As Molenaers and Nijs argue, “selectivity can take shape at the level of country selection, volume allocation and/or the choice of aid modalities” (2009: 563). The problem here, as put in the Molenaers and Nijs article is whether donors are “handing a blank cheque to a non-committed government” (2009: 566), or in other words, if financial support is given to poor underdeveloped governments with deep institutional problems and lack of expertise in handling large amounts of aid, there is a chance that development aid would become ineffective once more. In order to safeguard the correct implementation of resources, it will be of significant value that the EU institutions play a leading role in these states during the initial assessment and programming periods. If it is concluded that these countries would not be able to handle extensive finances and/or are currently governed by a non-democratic/rule, then it would be the responsibility of the EU to either waive aid for the particular state, or set up managing authorities (executive agencies) to overlook the disbursement of aid in general on-ground.

A further critique of this new approach may be that it will be just patronising other countries, than the ones today, and that there will be no real shift in the EU policy. Such notion, however, is ill-founded, since the EU has, in the first place, given priority to least developed states and the proposed above approach in aid distribution is nothing far from this official rhetoric. Secondly, as currently is the system, no partner country would be completely sidelined from EU aid, and better developed states will still be offered grants for co-financing projects. Moreover, it will be eventually a task for the European institutions to prepare and propose a system of classification of the group of ‘least developed states,’ should it be decided that existing such classifications (i.e. World Bank) are not suitable for the necessities of the Union\textsuperscript{15}. In summary, the proposed new logic of the disbursing aid is intended to support the people of these poor states that are actually promised better support from the European institutions, but are not sufficiently targeted in the implementation of the development policy.

**Conclusion**

The EU development policy is a tool of the Union’s foreign policy and it is valuable since it is used in the international relations with basically every outside partner of the EU. Moreover, it is one of the most recognisable features of the Union’s aspiration of becoming a global political actor. From this analysis it becomes more evident that the Union is preferentially supporting reconstruction of countries that are in its neighbourhood realm, but, at the same time, they are well ahead in their development, compared to the much poorer states in other parts of the world, which seemingly are sidelined when aid is allocated. Obviously there is still

\textsuperscript{14} See Killick (1998) and the World Bank (1998).

\textsuperscript{15} There has been a global discussion on whether the LDC grouping is in principle justified. See UNGA (2010).
need of a translator from rhetoric to actions in the EU development policy, since the Union’s institutions are targeting aid basing it on geopolitical interests and relations with former colonial regions, therefore overlooking the fundamental commitments set in the TFEU and Consensus on development. While it is agreed that the EU is a global actor in foreign aid, it needs to overcome the conflict between promises and interests in order to become the global leader in the world development.

The problem of the development policy of the EU institutions, as given in this work, is not that it is supportive toward former colonies or that it strengthens economic and political interests; it is the dominating focus on these particular aspects, rather than poverty-tackling in the least developed countries, that is hindering the overall functioning of the system. As it has been argued above, the ODA financing in the last decade has been oriented mainly towards actually industrialised/developed states, but with the current ongoing debates on the future reforms in the policy it seems possible that a new logic in the aid allocation could be implemented. One such has been presented here: that would align the actions of the EU institutions with the provisions of the official documents and, at the same time, stay trustworthy for its advanced partners. Furthermore, what the EU would need to elaborate through discussions with internal actors (MS, NGOs, institutions) and with developing states is a new road-map for a more effective and coherent development policy that is to be implemented in the new financial perspective at the latest.

In conclusion, it should be underlined once more that EU development aid as it is written in the TFEU is intended for what it has been promised – to help people in the Third World least developed countries to overcome poverty, thus preferential treatment dictated by security and trade interests is contradictory. Future analysis and research would prove whether the here proposed new approach, or other such, has successfully responded to this core problem for the European foreign policy.

Acknowledgements

The author would like to express his acknowledgements to Galina Karamalakova for her ideas thorough the research and co-authoring when preparing the first drafts. Moreover, his gratitude goes to the 5 officials at the European Commission who devoted some of their time for comments and interviews for this paper. Furthermore, our gratitude goes to Dr. Kolja Raube at the University of Leuven for his mentorship and guidance.

---

16 Galina Karamalakova is currently working at the European Commission – DG DevCo. This paper concerns strictly and only her personal views and in no way should be regarded as position of the institution or department she is working with. E-mail: gkaramalakova@gmail.com
References

- EuropeAid (2009), ‘The EU and development aid: a longstanding resolution’
• Joint statement by the Council and the representatives of the governments of the Member States meeting within the Council, the European Parliament and the Commission on European Union Development Policy: ‘The European Consensus on Development’, Official Journal of the European Union, 2006/C 46/01
• Mihálik, J. (2010), ‘Least but not Last. Least Developed Countries in Official Development Assistance of Visegrad Four Countries’, European Commission/Czech Republic Development cooperation
Annex I

Table 2: Cross-referencing data for year 2009

<table>
<thead>
<tr>
<th>Country</th>
<th>Population 2009 (millions)</th>
<th>HDI 2009</th>
<th>GNI per capita 2009 ($)</th>
<th>Total ODA from EU inst. 2009 (millions $)</th>
<th>Aid per capita 2009 ($)</th>
<th>% of total EU inst. ODA for 2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>Turkey</td>
<td>74,8</td>
<td>0,67</td>
<td>12 771</td>
<td>786,95</td>
<td>10,52</td>
<td>5,85</td>
</tr>
<tr>
<td>Palestinian adm, areas</td>
<td>3,9</td>
<td>n/a</td>
<td>4 460</td>
<td>538,32</td>
<td>138,03</td>
<td>4,00</td>
</tr>
<tr>
<td>Afghanistan</td>
<td>28,4</td>
<td>0,34</td>
<td>1 332</td>
<td>395,36</td>
<td>13,92</td>
<td>2,94</td>
</tr>
<tr>
<td>Kosovo</td>
<td>2,2</td>
<td>n/a</td>
<td>2 500</td>
<td>315,91</td>
<td>143,60</td>
<td>2,35</td>
</tr>
<tr>
<td>Serbia</td>
<td>7,3</td>
<td>0,733</td>
<td>10 198</td>
<td>292,94</td>
<td>40,13</td>
<td>2,18</td>
</tr>
<tr>
<td>Morocco</td>
<td>31,5</td>
<td>0,562</td>
<td>4 490</td>
<td>282,39</td>
<td>8,96</td>
<td>2,10</td>
</tr>
<tr>
<td>Congo, Dem, Rep,</td>
<td>68,7</td>
<td>0,23</td>
<td>283</td>
<td>232,76</td>
<td>3,39</td>
<td>1,73</td>
</tr>
<tr>
<td>Sudan</td>
<td>42,3</td>
<td>0,375</td>
<td>1 981</td>
<td>225,81</td>
<td>5,34</td>
<td>1,68</td>
</tr>
<tr>
<td>Egypt</td>
<td>78,6</td>
<td>0,614</td>
<td>5 681</td>
<td>204,68</td>
<td>2,60</td>
<td>1,52</td>
</tr>
<tr>
<td>Mozambique</td>
<td>22</td>
<td>0,28</td>
<td>813</td>
<td>204,68</td>
<td>9,30</td>
<td>1,52</td>
</tr>
<tr>
<td>Ethiopia</td>
<td>82,8</td>
<td>0,32</td>
<td>943</td>
<td>202,47</td>
<td>2,45</td>
<td>1,51</td>
</tr>
<tr>
<td>Ukraine</td>
<td>46</td>
<td>0,706</td>
<td>6 229</td>
<td>177,02</td>
<td>3,85</td>
<td>1,32</td>
</tr>
<tr>
<td>Georgia</td>
<td>4,6</td>
<td>0,695</td>
<td>4 777</td>
<td>167,70</td>
<td>36,46</td>
<td>1,25</td>
</tr>
<tr>
<td>Ghana</td>
<td>23,8</td>
<td>0,463</td>
<td>1 350</td>
<td>166,88</td>
<td>7,01</td>
<td>1,24</td>
</tr>
<tr>
<td>Burkina Faso</td>
<td>15,8</td>
<td>0,30</td>
<td>1 182</td>
<td>165,43</td>
<td>10,47</td>
<td>1,23</td>
</tr>
<tr>
<td>South Africa</td>
<td>50,7</td>
<td>0,594</td>
<td>9 603</td>
<td>153,32</td>
<td>3,02</td>
<td>1,14</td>
</tr>
<tr>
<td>Zambia</td>
<td>12,6</td>
<td>0,387</td>
<td>1 299</td>
<td>152,35</td>
<td>12,09</td>
<td>1,13</td>
</tr>
<tr>
<td>Benin</td>
<td>8,9</td>
<td>0,432</td>
<td>1 483</td>
<td>146,64</td>
<td>16,48</td>
<td>1,09</td>
</tr>
<tr>
<td>Tanzania</td>
<td>43,7</td>
<td>0,392</td>
<td>1 283</td>
<td>138,40</td>
<td>3,17</td>
<td>1,03</td>
</tr>
<tr>
<td>Bangladesh</td>
<td>162,2</td>
<td>0,463</td>
<td>1 523</td>
<td>131,87</td>
<td>0,81</td>
<td>0,98</td>
</tr>
<tr>
<td>Burundi</td>
<td>8,3</td>
<td>0,28</td>
<td>392</td>
<td>131,05</td>
<td>15,79</td>
<td>0,97</td>
</tr>
<tr>
<td>Croatia</td>
<td>4,4</td>
<td>0,765</td>
<td>16 248</td>
<td>129,94</td>
<td>29,53</td>
<td>0,97</td>
</tr>
<tr>
<td>Uganda</td>
<td>30,7</td>
<td>0,416</td>
<td>1 193</td>
<td>128,04</td>
<td>4,17</td>
<td>0,95</td>
</tr>
<tr>
<td>Chad</td>
<td>10,3</td>
<td>0,29</td>
<td>1 040</td>
<td>118,97</td>
<td>11,55</td>
<td>0,88</td>
</tr>
</tbody>
</table>
### Annex II

#### Table 3: GNI per capita (current US$) of the low-income countries (according to the WB categorisation)

<table>
<thead>
<tr>
<th>Country</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>Burundi</td>
<td>120</td>
<td>140</td>
<td>150</td>
</tr>
<tr>
<td>Congo, Dem. Rep.</td>
<td>140</td>
<td>150</td>
<td>160</td>
</tr>
<tr>
<td>Liberia</td>
<td>150</td>
<td>170</td>
<td>160</td>
</tr>
<tr>
<td>Malawi</td>
<td>230</td>
<td>260</td>
<td>290</td>
</tr>
<tr>
<td>Afghanistan</td>
<td>320</td>
<td>310</td>
<td>n/a</td>
</tr>
<tr>
<td>Eritrea</td>
<td>270</td>
<td>280</td>
<td>320</td>
</tr>
<tr>
<td>Ethiopia</td>
<td>220</td>
<td>280</td>
<td>330</td>
</tr>
<tr>
<td>Niger</td>
<td>280</td>
<td>330</td>
<td>340</td>
</tr>
<tr>
<td>Sierra Leone</td>
<td>280</td>
<td>320</td>
<td>340</td>
</tr>
<tr>
<td>Zimbabwe</td>
<td>390</td>
<td>320</td>
<td>360</td>
</tr>
<tr>
<td>Guinea</td>
<td>320</td>
<td>340</td>
<td>370</td>
</tr>
<tr>
<td>Madagascar</td>
<td>340</td>
<td>410</td>
<td>430</td>
</tr>
<tr>
<td>Gambia, The</td>
<td>330</td>
<td>400</td>
<td>440</td>
</tr>
<tr>
<td>Mozambique</td>
<td>340</td>
<td>380</td>
<td>440</td>
</tr>
<tr>
<td>Nepal</td>
<td>350</td>
<td>400</td>
<td>440</td>
</tr>
<tr>
<td>Togo</td>
<td>380</td>
<td>410</td>
<td>440</td>
</tr>
<tr>
<td>Country</td>
<td>2007</td>
<td>2008</td>
<td>2009</td>
</tr>
<tr>
<td>-----------------------</td>
<td>------</td>
<td>------</td>
<td>------</td>
</tr>
<tr>
<td>Central African Republic</td>
<td>380</td>
<td>410</td>
<td>450</td>
</tr>
<tr>
<td>Uganda</td>
<td>370</td>
<td>420</td>
<td>460</td>
</tr>
<tr>
<td>Rwanda</td>
<td>360</td>
<td>440</td>
<td>490</td>
</tr>
<tr>
<td>Tanzania</td>
<td>410</td>
<td>460</td>
<td>500</td>
</tr>
<tr>
<td>Burkina Faso</td>
<td>430</td>
<td>480</td>
<td>510</td>
</tr>
<tr>
<td>Guinea-Bissau</td>
<td>420</td>
<td>460</td>
<td>510</td>
</tr>
<tr>
<td>Bangladesh</td>
<td>480</td>
<td>520</td>
<td>580</td>
</tr>
<tr>
<td>Chad</td>
<td>490</td>
<td>540</td>
<td>600</td>
</tr>
<tr>
<td>Cambodia</td>
<td>560</td>
<td>630</td>
<td>650</td>
</tr>
<tr>
<td>Mali</td>
<td>530</td>
<td>610</td>
<td>680</td>
</tr>
<tr>
<td>Tajikistan</td>
<td>460</td>
<td>600</td>
<td>700</td>
</tr>
<tr>
<td>Benin</td>
<td>610</td>
<td>700</td>
<td>750</td>
</tr>
<tr>
<td>Kenya</td>
<td>660</td>
<td>730</td>
<td>760</td>
</tr>
<tr>
<td>Comoros</td>
<td>690</td>
<td>750</td>
<td>810</td>
</tr>
<tr>
<td>Kyrgyz Republic</td>
<td>620</td>
<td>790</td>
<td>870</td>
</tr>
<tr>
<td>Lao PDR</td>
<td>610</td>
<td>750</td>
<td>880</td>
</tr>
<tr>
<td>Solomon Islands</td>
<td>1020</td>
<td>1050</td>
<td>910</td>
</tr>
<tr>
<td>Zambia</td>
<td>740</td>
<td>950</td>
<td>960</td>
</tr>
<tr>
<td>Lesotho</td>
<td>960</td>
<td>1010</td>
<td>980</td>
</tr>
<tr>
<td>Mauritania</td>
<td>810</td>
<td>980</td>
<td>990</td>
</tr>
</tbody>
</table>

## Annex III

Table 4: EU Institutions ODA commitments (top 32 countries, in millions US$, current prices)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Total ODA</td>
<td>543.84</td>
<td>467</td>
<td>434.63</td>
<td>3.29</td>
</tr>
<tr>
<td>% of total</td>
<td>5.85</td>
<td>4.65</td>
<td>3.10</td>
<td>0.44</td>
</tr>
<tr>
<td>Total ODA</td>
<td>540.94</td>
<td>465</td>
<td>663.10</td>
<td>5.02</td>
</tr>
<tr>
<td>% of total</td>
<td>5.85</td>
<td>4.65</td>
<td>3.10</td>
<td>0.44</td>
</tr>
<tr>
<td>Total ODA</td>
<td>307.46</td>
<td>264</td>
<td>349.31</td>
<td>2.65</td>
</tr>
<tr>
<td>% of total</td>
<td>3.15</td>
<td>2.57</td>
<td>3.05</td>
<td>0.39</td>
</tr>
<tr>
<td>Total ODA</td>
<td>1765.42</td>
<td>218</td>
<td>292.94</td>
<td>23.5</td>
</tr>
<tr>
<td>% of total</td>
<td>83.04</td>
<td>2.18</td>
<td>2.23</td>
<td>0.29</td>
</tr>
<tr>
<td>Turkey</td>
<td>543.84</td>
<td>467</td>
<td>434.63</td>
<td>3.29</td>
</tr>
<tr>
<td>% of total</td>
<td>5.85</td>
<td>4.65</td>
<td>3.10</td>
<td>0.44</td>
</tr>
<tr>
<td>Total ODA</td>
<td>540.94</td>
<td>465</td>
<td>663.10</td>
<td>5.02</td>
</tr>
<tr>
<td>% of total</td>
<td>5.85</td>
<td>4.65</td>
<td>3.10</td>
<td>0.44</td>
</tr>
<tr>
<td>Total ODA</td>
<td>307.46</td>
<td>264</td>
<td>349.31</td>
<td>2.65</td>
</tr>
<tr>
<td>% of total</td>
<td>3.15</td>
<td>2.57</td>
<td>3.05</td>
<td>0.39</td>
</tr>
<tr>
<td>Total ODA</td>
<td>1765.42</td>
<td>218</td>
<td>292.94</td>
<td>23.5</td>
</tr>
<tr>
<td>% of total</td>
<td>83.04</td>
<td>2.18</td>
<td>2.23</td>
<td>0.29</td>
</tr>
<tr>
<td>Palestinian adm. Areas</td>
<td>540.94</td>
<td>465</td>
<td>663.10</td>
<td>5.02</td>
</tr>
<tr>
<td>% of total</td>
<td>5.85</td>
<td>4.65</td>
<td>3.10</td>
<td>0.44</td>
</tr>
<tr>
<td>Total ODA</td>
<td>307.46</td>
<td>264</td>
<td>349.31</td>
<td>2.65</td>
</tr>
<tr>
<td>% of total</td>
<td>3.15</td>
<td>2.57</td>
<td>3.05</td>
<td>0.39</td>
</tr>
<tr>
<td>Total ODA</td>
<td>1765.42</td>
<td>218</td>
<td>292.94</td>
<td>23.5</td>
</tr>
<tr>
<td>% of total</td>
<td>83.04</td>
<td>2.18</td>
<td>2.23</td>
<td>0.29</td>
</tr>
<tr>
<td>Afghanistan</td>
<td>307.46</td>
<td>264</td>
<td>349.31</td>
<td>2.65</td>
</tr>
<tr>
<td>% of total</td>
<td>3.15</td>
<td>2.57</td>
<td>3.05</td>
<td>0.39</td>
</tr>
<tr>
<td>Total ODA</td>
<td>1765.42</td>
<td>218</td>
<td>292.94</td>
<td>23.5</td>
</tr>
<tr>
<td>% of total</td>
<td>83.04</td>
<td>2.18</td>
<td>2.23</td>
<td>0.29</td>
</tr>
<tr>
<td>Kosovo</td>
<td>271.08</td>
<td>2.42</td>
<td>2.42</td>
<td>0.19</td>
</tr>
<tr>
<td>% of total</td>
<td>3.15</td>
<td>2.57</td>
<td>3.05</td>
<td>0.39</td>
</tr>
<tr>
<td>Total ODA</td>
<td>1765.42</td>
<td>218</td>
<td>292.94</td>
<td>23.5</td>
</tr>
<tr>
<td>% of total</td>
<td>83.04</td>
<td>2.18</td>
<td>2.23</td>
<td>0.29</td>
</tr>
<tr>
<td>Somalia</td>
<td>271.08</td>
<td>2.42</td>
<td>2.42</td>
<td>0.19</td>
</tr>
<tr>
<td>% of total</td>
<td>3.15</td>
<td>2.57</td>
<td>3.05</td>
<td>0.39</td>
</tr>
<tr>
<td>Total ODA</td>
<td>1765.42</td>
<td>218</td>
<td>292.94</td>
<td>23.5</td>
</tr>
<tr>
<td>% of total</td>
<td>83.04</td>
<td>2.18</td>
<td>2.23</td>
<td>0.29</td>
</tr>
<tr>
<td>Morocco</td>
<td>271.08</td>
<td>2.42</td>
<td>2.42</td>
<td>0.19</td>
</tr>
<tr>
<td>% of total</td>
<td>3.15</td>
<td>2.57</td>
<td>3.05</td>
<td>0.39</td>
</tr>
<tr>
<td>Total ODA</td>
<td>1765.42</td>
<td>218</td>
<td>292.94</td>
<td>23.5</td>
</tr>
<tr>
<td>% of total</td>
<td>83.04</td>
<td>2.18</td>
<td>2.23</td>
<td>0.29</td>
</tr>
<tr>
<td>Congo, Dem. Rep.</td>
<td>271.08</td>
<td>2.42</td>
<td>2.42</td>
<td>0.19</td>
</tr>
<tr>
<td>% of total</td>
<td>3.15</td>
<td>2.57</td>
<td>3.05</td>
<td>0.39</td>
</tr>
<tr>
<td>Total ODA</td>
<td>1765.42</td>
<td>218</td>
<td>292.94</td>
<td>23.5</td>
</tr>
<tr>
<td>% of total</td>
<td>83.04</td>
<td>2.18</td>
<td>2.23</td>
<td>0.29</td>
</tr>
<tr>
<td>Sudan</td>
<td>271.08</td>
<td>2.42</td>
<td>2.42</td>
<td>0.19</td>
</tr>
<tr>
<td>% of total</td>
<td>3.15</td>
<td>2.57</td>
<td>3.05</td>
<td>0.39</td>
</tr>
<tr>
<td>Total ODA</td>
<td>1765.42</td>
<td>218</td>
<td>292.94</td>
<td>23.5</td>
</tr>
<tr>
<td>% of total</td>
<td>83.04</td>
<td>2.18</td>
<td>2.23</td>
<td>0.29</td>
</tr>
<tr>
<td>Egypt</td>
<td>271.08</td>
<td>2.42</td>
<td>2.42</td>
<td>0.19</td>
</tr>
<tr>
<td>% of total</td>
<td>3.15</td>
<td>2.57</td>
<td>3.05</td>
<td>0.39</td>
</tr>
<tr>
<td>Total ODA</td>
<td>1765.42</td>
<td>218</td>
<td>292.94</td>
<td>23.5</td>
</tr>
<tr>
<td>% of total</td>
<td>83.04</td>
<td>2.18</td>
<td>2.23</td>
<td>0.29</td>
</tr>
<tr>
<td>Mozambique</td>
<td>271.08</td>
<td>2.42</td>
<td>2.42</td>
<td>0.19</td>
</tr>
<tr>
<td>% of total</td>
<td>3.15</td>
<td>2.57</td>
<td>3.05</td>
<td>0.39</td>
</tr>
<tr>
<td>Total ODA</td>
<td>1765.42</td>
<td>218</td>
<td>292.94</td>
<td>23.5</td>
</tr>
<tr>
<td>% of total</td>
<td>83.04</td>
<td>2.18</td>
<td>2.23</td>
<td>0.29</td>
</tr>
<tr>
<td>Ethiopia</td>
<td>271.08</td>
<td>2.42</td>
<td>2.42</td>
<td>0.19</td>
</tr>
<tr>
<td>% of total</td>
<td>3.15</td>
<td>2.57</td>
<td>3.05</td>
<td>0.39</td>
</tr>
<tr>
<td>Total ODA</td>
<td>1765.42</td>
<td>218</td>
<td>292.94</td>
<td>23.5</td>
</tr>
<tr>
<td>% of total</td>
<td>83.04</td>
<td>2.18</td>
<td>2.23</td>
<td>0.29</td>
</tr>
<tr>
<td>Ukraine</td>
<td>271.08</td>
<td>2.42</td>
<td>2.42</td>
<td>0.19</td>
</tr>
<tr>
<td>% of total</td>
<td>3.15</td>
<td>2.57</td>
<td>3.05</td>
<td>0.39</td>
</tr>
<tr>
<td>Total ODA</td>
<td>1765.42</td>
<td>218</td>
<td>292.94</td>
<td>23.5</td>
</tr>
<tr>
<td>% of total</td>
<td>83.04</td>
<td>2.18</td>
<td>2.23</td>
<td>0.29</td>
</tr>
<tr>
<td>Georgia</td>
<td>271.08</td>
<td>2.42</td>
<td>2.42</td>
<td>0.19</td>
</tr>
<tr>
<td>% of total</td>
<td>3.15</td>
<td>2.57</td>
<td>3.05</td>
<td>0.39</td>
</tr>
<tr>
<td>Total ODA</td>
<td>1765.42</td>
<td>218</td>
<td>292.94</td>
<td>23.5</td>
</tr>
<tr>
<td>% of total</td>
<td>83.04</td>
<td>2.18</td>
<td>2.23</td>
<td>0.29</td>
</tr>
<tr>
<td>Burkina Faso</td>
<td>271.08</td>
<td>2.42</td>
<td>2.42</td>
<td>0.19</td>
</tr>
<tr>
<td>% of total</td>
<td>3.15</td>
<td>2.57</td>
<td>3.05</td>
<td>0.39</td>
</tr>
<tr>
<td>Total ODA</td>
<td>1765.42</td>
<td>218</td>
<td>292.94</td>
<td>23.5</td>
</tr>
<tr>
<td>% of total</td>
<td>83.04</td>
<td>2.18</td>
<td>2.23</td>
<td>0.29</td>
</tr>
<tr>
<td>South Africa</td>
<td>271.08</td>
<td>2.42</td>
<td>2.42</td>
<td>0.19</td>
</tr>
<tr>
<td>% of total</td>
<td>3.15</td>
<td>2.57</td>
<td>3.05</td>
<td>0.39</td>
</tr>
<tr>
<td>Total ODA</td>
<td>1765.42</td>
<td>218</td>
<td>292.94</td>
<td>23.5</td>
</tr>
<tr>
<td>% of total</td>
<td>83.04</td>
<td>2.18</td>
<td>2.23</td>
<td>0.29</td>
</tr>
<tr>
<td>Zambia</td>
<td>271.08</td>
<td>2.42</td>
<td>2.42</td>
<td>0.19</td>
</tr>
<tr>
<td>% of total</td>
<td>3.15</td>
<td>2.57</td>
<td>3.05</td>
<td>0.39</td>
</tr>
<tr>
<td>Total ODA</td>
<td>1765.42</td>
<td>218</td>
<td>292.94</td>
<td>23.5</td>
</tr>
<tr>
<td>% of total</td>
<td>83.04</td>
<td>2.18</td>
<td>2.23</td>
<td>0.29</td>
</tr>
<tr>
<td>Benin</td>
<td>271.08</td>
<td>2.42</td>
<td>2.42</td>
<td>0.19</td>
</tr>
<tr>
<td>% of total</td>
<td>3.15</td>
<td>2.57</td>
<td>3.05</td>
<td>0.39</td>
</tr>
<tr>
<td>Total ODA</td>
<td>1765.42</td>
<td>218</td>
<td>292.94</td>
<td>23.5</td>
</tr>
<tr>
<td>% of total</td>
<td>83.04</td>
<td>2.18</td>
<td>2.23</td>
<td>0.29</td>
</tr>
<tr>
<td>Tanzania</td>
<td>271.08</td>
<td>2.42</td>
<td>2.42</td>
<td>0.19</td>
</tr>
<tr>
<td>% of total</td>
<td>3.15</td>
<td>2.57</td>
<td>3.05</td>
<td>0.39</td>
</tr>
<tr>
<td>Total ODA</td>
<td>1765.42</td>
<td>218</td>
<td>292.94</td>
<td>23.5</td>
</tr>
<tr>
<td>% of total</td>
<td>83.04</td>
<td>2.18</td>
<td>2.23</td>
<td>0.29</td>
</tr>
<tr>
<td>------------------</td>
<td>------------</td>
<td>------------</td>
<td>------------</td>
<td>-----------</td>
</tr>
<tr>
<td></td>
<td>Total ODA</td>
<td>% of total</td>
<td>Total ODA</td>
<td>% of total</td>
</tr>
<tr>
<td>Bangladesh</td>
<td>101,45</td>
<td>0,87</td>
<td>194,48</td>
<td>1,47</td>
</tr>
<tr>
<td>Burundi</td>
<td>121,71</td>
<td>1,05</td>
<td>84,86</td>
<td>0,64</td>
</tr>
<tr>
<td>Croatia</td>
<td>100,87</td>
<td>0,87</td>
<td>181,13</td>
<td>1,37</td>
</tr>
<tr>
<td>Uganda</td>
<td>116,35</td>
<td>1,00</td>
<td>258,89</td>
<td>1,96</td>
</tr>
<tr>
<td>Chad</td>
<td>75,20</td>
<td>0,65</td>
<td>148,05</td>
<td>1,12</td>
</tr>
<tr>
<td>Indonesia</td>
<td>132,64</td>
<td>1,14</td>
<td>54,51</td>
<td>0,41</td>
</tr>
<tr>
<td>Sierra Leone</td>
<td>72,03</td>
<td>0,62</td>
<td>44,16</td>
<td>0,33</td>
</tr>
<tr>
<td>Tunisia</td>
<td>130,11</td>
<td>1,12</td>
<td>82,96</td>
<td>0,63</td>
</tr>
<tr>
<td>Moldova</td>
<td>66,26</td>
<td>0,57</td>
<td>81,86</td>
<td>0,62</td>
</tr>
<tr>
<td>Jamaica</td>
<td>39,49</td>
<td>0,34</td>
<td>80,75</td>
<td>0,61</td>
</tr>
<tr>
<td>Rwanda</td>
<td>78,52</td>
<td>0,67</td>
<td>105,71</td>
<td>0,80</td>
</tr>
<tr>
<td>Haiti</td>
<td>97,48</td>
<td>0,84</td>
<td>117,50</td>
<td>0,89</td>
</tr>
<tr>
<td>Mali</td>
<td>178,66</td>
<td>1,54</td>
<td>149,34</td>
<td>1,13</td>
</tr>
<tr>
<td>Total EU Institutions ODA</td>
<td>11634,15</td>
<td>100,00</td>
<td>13197,00</td>
<td>100,00</td>
</tr>
</tbody>
</table>

Annex IV

Table 5a: Hypothetical correlation between HDI and EU aid per capita ($) in 2009 of top 30 recipients

<table>
<thead>
<tr>
<th>Aid per capita 2009</th>
<th>HDI 2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>40,13</td>
<td>0,23</td>
</tr>
<tr>
<td>39,22</td>
<td>0,28</td>
</tr>
<tr>
<td>36,46</td>
<td>0,28</td>
</tr>
<tr>
<td>29,53</td>
<td>0,29</td>
</tr>
<tr>
<td>25,91</td>
<td>0,30</td>
</tr>
<tr>
<td>19,11</td>
<td>0,31</td>
</tr>
<tr>
<td>16,48</td>
<td>0,31</td>
</tr>
<tr>
<td>15,79</td>
<td>0,32</td>
</tr>
<tr>
<td>13,92</td>
<td>0,34</td>
</tr>
<tr>
<td>12,09</td>
<td>0,375</td>
</tr>
<tr>
<td>11,55</td>
<td>0,379</td>
</tr>
<tr>
<td>11,16</td>
<td>0,387</td>
</tr>
<tr>
<td>10,56</td>
<td>0,392</td>
</tr>
<tr>
<td>10,52</td>
<td>0,410</td>
</tr>
<tr>
<td>10,47</td>
<td>0,416</td>
</tr>
<tr>
<td>10,39</td>
<td>0,432</td>
</tr>
<tr>
<td>9,3</td>
<td>0,463</td>
</tr>
<tr>
<td>8,96</td>
<td>0,463</td>
</tr>
<tr>
<td>7,82</td>
<td>0,562</td>
</tr>
<tr>
<td>7,01</td>
<td>0,593</td>
</tr>
<tr>
<td>5,34</td>
<td>0,594</td>
</tr>
<tr>
<td>4,17</td>
<td>0,614</td>
</tr>
<tr>
<td>3,85</td>
<td>0,620</td>
</tr>
<tr>
<td>3,39</td>
<td>0,67</td>
</tr>
<tr>
<td>3,17</td>
<td>0,677</td>
</tr>
<tr>
<td>3,02</td>
<td>0,686</td>
</tr>
<tr>
<td>2,6</td>
<td>0,695</td>
</tr>
<tr>
<td>2,45</td>
<td>0,706</td>
</tr>
<tr>
<td>0,81</td>
<td>0,733</td>
</tr>
<tr>
<td>0,46</td>
<td>0,765</td>
</tr>
</tbody>
</table>

Table 5b: Hypothetical correlation between HDI and EU institutions total ODA ($) in 2009 of top 30 recipients

<table>
<thead>
<tr>
<th>Total ODA 2009</th>
<th>HDI 2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>786,95</td>
<td>0,23</td>
</tr>
<tr>
<td>395,36</td>
<td>0,28</td>
</tr>
<tr>
<td>292,94</td>
<td>0,28</td>
</tr>
<tr>
<td>282,39</td>
<td>0,29</td>
</tr>
<tr>
<td>232,76</td>
<td>0,30</td>
</tr>
<tr>
<td>225,81</td>
<td>0,31</td>
</tr>
<tr>
<td>204,68</td>
<td>0,31</td>
</tr>
<tr>
<td>204,68</td>
<td>0,32</td>
</tr>
<tr>
<td>202,47</td>
<td>0,34</td>
</tr>
<tr>
<td>177,02</td>
<td>0,375</td>
</tr>
<tr>
<td>167,70</td>
<td>0,379</td>
</tr>
<tr>
<td>166,88</td>
<td>0,387</td>
</tr>
<tr>
<td>165,43</td>
<td>0,392</td>
</tr>
<tr>
<td>153,32</td>
<td>0,410</td>
</tr>
<tr>
<td>152,35</td>
<td>0,416</td>
</tr>
<tr>
<td>146,64</td>
<td>0,432</td>
</tr>
<tr>
<td>138,40</td>
<td>0,463</td>
</tr>
<tr>
<td>131,87</td>
<td>0,463</td>
</tr>
<tr>
<td>131,05</td>
<td>0,562</td>
</tr>
<tr>
<td>129,94</td>
<td>0,593</td>
</tr>
<tr>
<td>128,04</td>
<td>0,594</td>
</tr>
<tr>
<td>118,97</td>
<td>0,614</td>
</tr>
<tr>
<td>113,13</td>
<td>0,620</td>
</tr>
<tr>
<td>108,93</td>
<td>0,67</td>
</tr>
<tr>
<td>108,09</td>
<td>0,677</td>
</tr>
<tr>
<td>106,22</td>
<td>0,686</td>
</tr>
<tr>
<td>105,90</td>
<td>0,695</td>
</tr>
<tr>
<td>104,51</td>
<td>0,706</td>
</tr>
<tr>
<td>102,67</td>
<td>0,733</td>
</tr>
<tr>
<td>101,72</td>
<td>0,765</td>
</tr>
</tbody>
</table>
Formal Rules Versus an Economic Approach in Dealing with Cartels: the Need for More Coherence in European Competition Law

Radu Muşetescu, Andreas Stamate*

Abstract**: Cartelizing is today among the most hunted business conduct in the world. Competition authorities from the countries where these statutes were adopted embrace the wisdom that such agreements between competitors are unquestionably anti-competitive. As opposed to other business practices, cartel agreements seem to offer an undeniable proof of intent that confers comfort for those who are investigating and prosecuting them. A cartel is today qualified as per se illegal. No further proof is needed but the formal agreement and the shared intentions. They are, at least until now, the only business practice that has lead, in certain jurisdictions, to jail terms and criminal record for individuals who were engaged in their negotiation and implementation. However, cartels are business practices that do not fundamentally aggress against any property right. From a public policy perspective, the harsh attitude towards cartels is lacking a theoretical coherence. Today, when competition policies all over the world and especially in the European Union are gradually transiting towards a more economic approach to evaluating the welfare effects of business practices, reassessing cartels is a critical imperative in the effort for a more coherent and reasonable public policy.

**Keywords**: competition policy, cartels, per se rules, economic approach

**JEL Code**: D43, D6

A cartel is an agreement among direct competitors to prevent or restrict competition. It is a horizontal agreement defined, from a legal perspective, in the Treaty of the European Union. It is the article 101 (former article 81), dealing with a larger specter of agreements between undertakings: „The following shall be prohibited as incompatible with the internal market: all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the internal market, and in particular those which:

(a) directly or indirectly fix purchase or selling prices or any other trading conditions;
(b) limit or control production, markets, technical development, or investment;
(c) share markets or sources of supply;

* Radu Muşetescu is PhD, Associate Professor with the International Business and Economics Department, Academy of Economic Studies, Bucharest. E-mail: radu.musetescu@rei.ase.ro
Andreas Stamate is PhD candidate, Teaching Assistant with the International Business and Economics Department, Academy of Economic Studies, Bucharest.

** Acknowledgement: this work was co-financed from the European Social Fund through Sectoral Operational Program Human Resources Development 2007 – 2013, project number POSDRU / 1,5 / S / 59184 “Performance and Excellence in postdoctoral research in Romanian economics science domain”.
Formal Rules Versus an Economic Approach in Dealing with Cartels: the Need for More Coherence in European Competition Law

(d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
(e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts”.

The term “cartel” is however used exclusively for horizontal (as opposed to vertical) agreements, referring to agreements between producers which are qualified as being in a competitive position towards each other. In other words, they sell the same product. It should also be noted that, historically, the term was used for a formal written agreement – for example, a contract (the origin of the term comes from the Italian “carta”). It was a commercial practice that, for a period, was even enforceable like any other contract in some legal systems. But for the majority of time, a cartel has remained nothing but an informal agreement between businessmen whose observance was guaranteed by nothing but the promise of the other party.

A core difference between the types of agreements that are qualified as cartels lies in the difference between such practices on the free market as opposed to a hampered market. In the first instance, cartels have proved to be a short-lived practice that may attempt to solve some immediate dilemma for producers but cannot solve their strategic position. They are, in consequence, notoriously unstable and prone to cheating. In the second instance, due to the difference in the legal environment, cartels may be more successful due to state-erected barriers. They may be even means for reaching objectives of public policy. They are more efficient on long term in reaching their objectives.

Why cartels are anti-competitive: the common wisdom

Cartels are qualified as the most harmful anti-competitive business practice by the quasi-totality of competition law in countries where it has been adopted. They were called the “leading bête noire of monopoly policy” (Baumol, 1992, p. 129). The Organization for Economic Cooperation and Development, which plays a leading role in promoting competition policy around the world, argued that “hard core cartels are the most egregious violations of competition law” (OECD, 1998). In consequence, a great understatement would be that “the rule against price fixing is the least controversial prohibition in competition law” (Kaplow, 2011, p. 343).

The impact of cartels on economic efficiency and consumer welfare seems to be also one of self-supporting statements in economics and public policy. The common argument is that “a successful cartel raises price above the competitive level and reduces output ... a cartel shelters its members from full exposure to market forces, reducing pressures on them to control costs and to innovate. All of these effects harm efficiency in a market economy” (OECD, 2003, p. 8).

But such an absolute wisdom may default on several plans. First of all, it is not so “value free” as it pretends to be. It implicitly assumes an equilibrium approach to economic analysis, where, among other things, competitive prices and output can be ex ante identified with certainty. It adopts a narrow perspective on competition by eliminating stealth competition, that is, the potential for outside producers to enter an industry as soon as profitability has significantly increased. Last but not least, it ignores the powerful instrument that consumers have at their disposal, which is boycott. But even accepting a perspective based on common wisdom – both from a theoretical and legal dimension – the toughness of public policy towards cartels is not so unquestionable.
The formal approach versus the “rule of reason” in cartel prohibition

The prohibition of cartels in competition law is near absolute. Like other forms of business conduct which are qualified as extremely sensitive from a competitive point of view, the simple involvement in such a practice leads to the enforcement of the rule. This is called the per se approach or the formal approach to the enforcement of competition law.

Obviously, the substance of the enterprise of law in general is centered on the formal approach in the sense that individual members of a society have to know ex ante, at any moment, what is legal and what is illegal. Formalism is a way of eliminating the legal uncertainty related to the ex post interpretation of the social conduct. Individuals will adjust their behavior in consequence of such formal rules. But, on the other hand, it makes a lot of difference whether the rules are good (and legitimate, based on a correct theory of justice) or bad (or illegitimate, based on a wrong theory of justice). Besides formalism, there is always a necessity of realism in law enforcement in general. There are instances when the individual conduct seems to be breaking the formal rules but however it remains a natural and well-intentioned, non-invasive, behavior. In competition law, such realism has taken the name of the “rule of reason”.

The wisdom of the enforcement of a “rule of reason” in competition law comes from the philosophy that competition law is economics-oriented. And obviously, utilitarian considerations come into play. In other words, formal rules could be waived in case the economic impact becomes positive, when the gains outweigh the costs. Competition authorities have to balance the positive and the negative impact of a business practice that qualifies prima facie as anti-competitive. The rule of reason becomes even more important when it deals with bad rules as compared with the situation when it deals with good rules.

While the per se rules are ex ante known by market participants, the economic approach to competition policy – because it attempts to take into consideration “effects” – cannot be but an ex post intervention. In the words of a European consultant whose position is endorsed by the European Commission, “an effects-based analysis takes fully into consideration the fact that many business practices may have different effects in different circumstances: distorting competition in some cases and promoting efficiencies and innovation in others. This implies that competition authorities will need to identify a competitive harm, and assess the extent to which such a negative effect on consumers is potentially outweighed by efficiency gains” (EAGCP, 2005, p. 2-3).

As several observers noted, the debate of the economic approach versus the formal approach is only a temporary one as there is an objective impossibility of comparing ex ante rules with ex post decisions. So the economic approach has to be embodied, at some point, in the formal rules: “From this law and economics perspective, competition policy should consist mainly of (more or less differentiated) rules and should only rarely rely on case-by-case analysis. Therefore the main task of a “more economic approach” is to use economics for the formulation of appropriate competition rules” (Christiansen and Weber, 2006, p. 215).

Towards an economic approach in competition policy

The transition from a rules-based competition policy towards an effects-based competition policy has been a gradual process that occurred first in the United States of America. It culminated with the modification of the 1968 Merger Guidelines (which abandoned the traditional, static,
market structure approach) and with the rejection, in 2007, of the century’s long prohibition against the Resale Price Maintenance (which promoted intra-brand competition and prevented the control by the producer of the final prices listed by its independent distributors). The same process was also initiated, arguably at a slower pace, in the European Union. As some commentators argued, “economics is on the ascendancy in European competition policy. In the past two decades economics has featured increasingly in policy discourse and in the official documents, notices and guidelines of both European Union institutions and Member States” (Decker, 2009, p. XXI). In the same vein, “in recent decades, courts and commentators have increasingly embraced the view that competition law should be grounded in economic substance rather than formalistic distinctions” (Kaplow, 2011, p. 6).

But this significant process of transition in competition policy, which occurred in many areas of its operation, seems not to have touched the policy towards cartels. In fact, more resources and energy are allocated by competition authorities all over the world towards identifying and combating these agreements. The stance of competition authorities is uncompromising. Some officials estimated that any industrial sector experience cartel operation and, despite the apparently high number of cartels „discovered” in the last two decades, only 10% of cartels are brought to surface. In other words, suspicions that the entire fabric of the present day market economies are in fact controlled by cartels surface. Whether this is a sign of ethical failure from part of the vast majority of businessmen who engage in such practices or a sign that the policy is deeply flawed is a discussion itself.

The special case of cartels

This account suggests that cartels are of special interest for competition law enforcement. To be sure, cartels remain the only business practice forbidden by competition law for which courts have awarded jail terms, at least in U.S.A. Moreover, the fines received by cartel members are among the highest received by firms for anti-competitive conduct. So we witness maybe the most uncompromising policy towards a business practice which resembles few „economic crimes”.

Economics could be an explanation for such an attitude. But a strong factor in the harsh treatment of cartels could also consist in the practical easiness to prosecute a cartel as opposed to other business practices such as a merger or a single conduct. In order to identify a cartel, prosecutors use investigative techniques they can easily import from other criminal areas such as organized crime. The material proofs of a cartel are easy to amass, from documents (like flight tickets, hotel vouchers, personal notebooks) to audio and video recordings, including electronic communication. This is not the case of an abuse of a dominant position or a merger occurring on an oligopolistic market where proofs are not „hard evidence”. So, in a certain sense, the special place of cartels can be the result of an institutional bias and of the practical easiness of enforcement. Lawyers and law enforcers are more confident when dealing with material evidence than with competing theories of monopolization.

What seems to be even more paradoxical with regards the current perspective on cartels and the potential for a more economic approach is that the legal provisions are already included, at least in the European Union, in the basic legislation. For the moment, it is only a narrow path followed by competition authorities for allowing some types of state-enforced cartels (like, for example, shipping cartels or the so-called “crisis” cartels). Article 101 of the TEU states also that
the law should not pursue an agreement (and it does not exclude a horizontal one): “which contributes to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which does not:

(a) impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives;
(b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question”.

A proper interpretation of such a provision, coupled with an attempt to hold a more coherent view across different policy areas of the competition policy, could lead to a more reasonable approach to cartels. The difference in enforcement between cartels and other business practices qualified as illegal under competition law raises a problem of consistency and coherence of the competition policy.

The fundamental approach: the good rules of cartel regulation

The fundamental critique of the cartel policy comes from a property rights perspective. According to the traditional perspective on the definition of property rights, a cartel cannot constitute an aggression against the property rights of third parties. The common decision of two independent producers to limit their output or increase their listed price in coordination does not invade the property of their potential consumers. The latter will buy only if their personal welfare is increased, from an ex ante perspective. In other words, if consumers really perceive that they are “abused” by producers, they can exit the business relationships and boycott the would-be offenders.

The idea that the price which is willingly paid by the consumer – which remains finally a market price – is somehow the manifestation of an abuse of market power got through coordination by the members of the cartel makes very similar appeals to the idea of trade as an objective exchange of equal values. The critique of such a perspective has a long and respectable tradition in economics.

Moreover, the alleged special position of cartels among the business practices is just a wrong perspective on business conduct and entrepreneurship in general. Several economists argued, for example, that “an industry-wide merger is, in effect, a permanent cartel, a permanent combination and fusion ... in many cases, a cartel can be considered as simply a tentative step in the direction of permanent merger. And a merger and the original formation of a corporation do not, as we have seen, essentially differ. The former is an adaptation of the size and number of firms in an industry to new conditions or is the correction of a previous error in forecasting. The latter is a de novo attempt to adapt to present and future market conditions” (Rothbard, 1962, p. 644). Such an opinion would suggest that making a difference between a cartel and a merger is a basic error. It is a result of arbitrarily differentiation that comes primarily from a legal perspective and has nothing to do with the economic substance of the phenomenon.

Benjamin Tucker, a XIX century commentator, argued further “that the right to cooperate is as unquestionable as the right to compete; that the right to compete involves the right to refrain from competition; that co-operation is often a method of competition, and that competition is always, in the larger view, a method of co-operation” (Tucker, 1899).
Formal Rules Versus an Economic Approach in Dealing with Cartels: the Need for More Coherence in European Competition Law

Such position attacks the fundamental base of the contemporary cartel policy. We argue that, in addition, competition policy as embodied in the legislation and in the enforcement is incoherent in its attitude towards cartels. Even if its philosophy ignores the property rights approach, the need for a more coherent approach is obvious.

Are today’s per se rules ignorant of economics?

According to the property rights perspective, cartels should not be outlawed. The present-day illegal character of these agreements is obviously the embodiment of an economic perspective which argues that a transfer of welfare between parties to an exchange – even if done under a free mutual agreement – constitutes an act of abuse. So, in a certain sense, what are today considered to be formal rules are in fact by themselves the embodiment of an economic approach to such agreements – that is, an approach diametrically opposed to the traditional legal one. The choice between a per se approach and an economic one is, in fact, a choice between bad rules and an efficient approach. The difference consists not in nature but in the degree of reasonableness.

It is very significant to point that the original Sherman Act adopted in 1890 in the United States of America did not explicitly spell the terms “cartel” or “horizontal agreement”: “Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal”. The most relevant anti-competitive business practice for American authorities was, at that time, the trust. It also remained for the first decades of the operation of competition law the core challenge for competition authorities. Cartels become, in fact, an important issue in competition policy only after World War II and especially after the emergence of the European Economic Community. In fact, for significant periods of time in the interwar period, cartels were initiated and enforced by public authorities themselves.

What is challenging for the present-day policy towards cartels in all developed countries is that, even if we adopt the core philosophy of competition law and we let aside the property rights approach, the strict focus on the formal rules is untenable. Especially today, when competition policy is gradually adopting an economic approach towards anti-competitive practices, the tough stance on cartels should be changed.

Cartels that create consumer welfare

The economic approach to competition policy leads to a policy that fundamentally adopts an ex post stance on welfare analysis. Its opposition to per se rules is exactly an opposition to an ex ante approach that does not discriminate between different welfare effects of the same business practice. The big challenge, from such a perspective, is whether there may be cartels that increase consumer welfare. In such cases, the stance of competition policy towards cartels is in manifest opposition to its stance towards other competition areas such as vertical agreements, merger control and so on.

At least three types of cartels that do not generate a loss in consumer welfare can be thought of:

a. the cartels that commit an entrepreneurial error;
b. the irrelevant cartels;
c. the cartels with at least a cheater.
In the first case, the members of a cartel remain subject to the dynamics of the outside market (and especially consumers). They cannot eliminate risk from their decision and their price fixing or production limiting has to be confronted by the rest of market participants. Even if cartels decide to increase prices (it is commonly agreed that the increase in price due to cartel activity lies somewhere between 10 and 15%), demand may experience a stronger than expected showing in a particular case. In consequence, the competitive price could, in fact, have increased more than 15%. This means that even a cartel “succeeds” in increasing the price of its output with 15%, the price targeted by cartel members may remain under the competitive price. In this case, the common entrepreneurial judgment of the cartel members may be proved, ex post, wrong. In fact, no analysis occasioned by cartel decisions seems to seriously take into consideration the possibility of a competitive increase in competitive price that could be parallel to the cartel’s price.

In the second case, the irrelevant cartels are those agreements in which cartel members adhere to a particular scheme but nobody implements it. In other words, the participants to a cartel meeting may just look for a market research as regards the prices of their competitors. The formal decision to cooperate is not enough for a group of producers to successfully operate a cartel. In fact, in the vast majority of cases prosecuted by competition authorities, this is exactly the most frequent defense. While easy to adopt, it cannot be ex ante ruled out. Or, from a formal perspective, the proof of the success of the cartel is not needed, today, for a successful decision (from the perspective of public authorities).

The third case may deal with a potential cartel which experience cheaters. It is the case when a cartel agreement may be used by a cartel member as a dissimulation of his intention to dramatically compete the other members. While the cartel agreement may involve a significant increase in price, that particular producer may choose to offer discounts and rebates that decrease his price below the listed price by other members and also under the competitive level. In fact, any industry that experiences significant changes in market shares may also experience a cheater who undermines the cartel in order to gain market share. Moreover, an outside producer that succeeds in keeping its pre-cartel price and gaining market share may in fact generate a welfare transfer to consumers, according even to mainstream analysis.

The adoption of a dynamic perspective in the evaluation of the anti-competitive or pro-competitive business practices may raise even more challenges to the contemporary indiscriminate attitude towards cartels. A cartel may:
- emerge after a price war, when market prices fell under the competitive prices;
- be followed by a price war.

Such a perspective means that competition authorities have to analyze not only the period when the cartel succeeds to operate but also the period preceding it (or succeeding it). In other words, the period selected for a welfare analysis can make a difference between loss and increase in consumer welfare. The cartel prices from a certain period may be preceded in another period by under-competitive prices.

Is price transparency anticompetitive?

The definition of a cartel in contemporary public policy has expanded not only to formal agreements that are implemented by producers that take part to such an agreement, but also to the simple exchange of information regarding the future endeavor on the market. In other
Formal Rules Versus an Economic Approach in Dealing with Cartels: the Need for More Coherence in European Competition Law

words, if, at an industry forum, some participants talk about their intention to keep their prices stable for the next half a year is undoubtedly a proof of the existence of a cartel for competition law enforcers. Paradoxically, a core characteristic of the perfect competition – that is, price transparency – is not highly regarded by competition authorities. According to their view, such statements are an open invitation to at least collusion and they may constitute evidence of a market failure.

But blackboard economics argues exactly the opposite. Price transparency and awareness of the relative prices in an industry is a core characteristic of equilibrium. In consequence, the fight against such price transparency among competitors is, in fact, a fight against, paradoxically, perfect competition. It means that competition authorities could in some instances fight for a competitive market failure instead of an oligopolistic market success. For example, when producers ignore each other planned production and prices they may confront each other with excess production and a dramatic and unsustainable change in market structure. The lack of such information transfer may promote an inefficient allocation of resources in the industry.

Rate of return and competition

Such an economic analysis of the impact of a cartel on consumer welfare must be also paired with another approach, largely ignored till now in competitive analysis. According to the logic of an economic approach to competition policy, anti-competitive conduct must be materialized somehow in gains by producers who are ready to engage in it. In other words, anti-competitive practices must, in the end, have an impact of the bottom line of the undertakings engaging in it.

It is almost against logic to argue that a monopolist abuse his market power in the condition that such a monopolist is less profitable than the average producer in the economy. Welfare analysis argues that, in the end, the rate of return should be equal among the different sectors of an economy so, per a contrario, anti-competitive practices should lead to a higher than normal rate of return. In fact, the concentration of competitive analysis on the dynamics of sales and market shares ignores the more important aspect of profitability. Very challenging also, a cartel that succeeds in fixing price and limiting production but assuring a "normal" rate of return for its members is nothing but a proof that such a cartel has discovered the equilibrium price and output volume. It is a poor logic to argue that a business practice is exploiting consumers as long as the overall profitability of the producer(s) is the same as in the rest of the industry.

Record fines, total ignorance of an economic approach: the car glass cartel

The fact that European Commission ignores the economic approach is found in each decision regarding cartels. This is also the case with the most notorious example (given the value of the fine which reached 1.4 billion Euros) in the history of European cartels. The car glass cartel started – according to European Commission – in 1998 and ended in 2003. It was formed by the Company of Saint-Gobain, Pilkington, AGC and Soliver, the biggest car glass suppliers in Europe. The European authority was informed of the existence of this cartel by a German lawyer, the assignee of a client who remained anonymous during the entire inquiry.

On the car glass market, auto manufacturers periodically organize auctions where every glass supplier can participate. In its inquiry (which included interviews with the companies
Radu Muşetescu, Andreas Stamate

officials), the European Commission discovered that the cartel forced car manufacturers to accept prices which were secretly set before the auction, and concluded that, in this way, final consumers of cars suffered a loss in welfare. At the core of the decision to prosecute the cartel stays the results obtained from the inquiry which reveal that there were certain bilateral and trilateral meetings between the companies having as purpose “in particular the evaluation and monitoring of market shares, the allocation of car glass supplies to car manufacturers, the exchange of price information as well as other commercially sensitive information and the coordination of their respective pricing and supply strategies” [European Commission Decision, 2008, page 26]. There is some evidence which EC can present for showing that car glass suppliers were setting the winner of the auction before its official date, by taking into consideration the comparative advantages in and between them. These actions constitute an infringement on article 101 and article 53 of the European Economic Area (EEA).

In the summary of the infringement, EC notes that “The addresses of this Decision participated in a single and continuous infringement of Article 81 of the Treaty and of Article 53 of the Agreement on European Economic Area. The infringement consisted in concerted allocation of contracts concerning the supply of car glass pieces and/or car sets for all major car manufacturers in the EEA through coordination of pricing policies and supply strategies aimed at maintaining the overall stability of the parties’ position on the market concerned” (EC Decision, 2008).

As regards the nature of the infringement, EC states that this is to be found in the express provisions of article 81 and article 53 of EEA: “An agreement can be said to exist when the parties adhere to a common plan which limits or is likely to limit their individual commercial conduct by determining the lines of their mutual action or abstention from action in the market. It does not have to be made in writing; no formalities are necessary, and no contractual sanctions or enforcement measures are required. The fact of agreement may be express or implicit in the behavior of the parties. Furthermore it is not necessary, in order for there to be an infringement of Article 81 of the Treaty Article 53 (1) of the EEA Agreement for the participants to have agreed in advance upon a comprehensive common plan”.

The concept of agreement in Article 81 (1) of the Treaty and Article 53 (1) of the EEA Agreement would apply to the inchoate understandings and partial and conditional agreements in the bargaining process which lead up to the definitive agreement. (EC Decision, 2008, pp.128): “The facts [...] demonstrate that the arrangements of the undertakings Saint-Gobain, Pilkington, AGC and Soliver constitute agreements and/or concerted practices under Article 81 of the Treaty”. (EC Decision, 2008, p. 131)

A very large part of the Decision issued by the European Commission in 2008 is concerned with the specific details of the private discussions between the parties involved in cartel like the locations of meeting and also their frequency and content, but it is hard to find any proof of the cartel effects on the final consumers of cars and on car manufacturers. This proves that in the case of car glass cartel, the Commission had no intention to apply an economic analysis on cartels, although the report of EAGCP was issued and published in 2005.

Another striking example of how European Commission stuck to the per se rules is to be found when it replies to the objections issued by the parties involved in the cartel. Thus, in response to Saint-Gobain and Pilkington who argued that Commission did not succeed to prove the existence and implementation of a coherent cartel plan, and that price coordination and allocation of contracts at auctions are not sufficient per se for the cartel to exist, EC explained
that: "... it is sufficient for the undertakings to have expressed their joint intention to behave on a certain way on the market" (EC Decision, 2008, p. 45) and also that the “the Commission repeats its argument that an expression of joint intention suffices and that implementation is not required for an arrangement to be unlawful in its nature". (EC Decision, 2008, p. 83)

Conclusions

European Union as well as the quasi-totality of jurisdictions that enforce competition law is gradually transiting towards a so-called economic approach to the analysis of anti-competitive business practices. Several arguments can be recalled in this direction, from the statements of public statements of officials to the Court Decisions as well as increased resources and institutional changes in the structure of the enforcement agencies. This material has argued that such a transition won’t be fully coherent till the attitude of competition policy towards cartels won’t be also adjusted. Cartel analysis has to use more economic tools and it should not concentrate only on revealing the formal agreement of participants. Cartels should not be criminalized as they are, from an economic perspective, nothing more than partial mergers among participants. Paradoxically, cartels can increase consumer welfare as any other competitive or cooperative business practice on an unhampered market.
Bibliography:

- Geradin, Damien, *Introduction to Global Competition Law Centre Research Papers on Article 82 EC*, July 2005;
- EAGCP, DG Competition, *An Economic Approach to Article 82*, July 2005;
- European Commission, *DG Competition, DG Competition discussion paper on the application of Article 82 of the Treaty to exclusionary abuses*, Brussels, December, 2005;
This book is the result of a smooth interfusion between different academic disciplines and it pikes on the process of governance transformation in the European Union. The authors are three highly rated professors from the University of Cologne that bring their contribution along with other nine fellow researchers. All of them have a solid research background in political sciences and a broad expertise in analyzing the dynamics of the overall development of the EU architecture.

The main hypothesis of the book upholds that it is a high interdependence between governance and deepening the process of integration. As it seeks answers to the question of what changes have taken place in EU governance up to the Lisbon Treaty and which factors have triggered it, the study presents an extensive image of EU governance from multiple perspectives. Decision-making is the core of governance and in the EU context it is typically multi-leveled: the supranational and national levels interact within the common legal framework provided by the European institutions. Due to the enlargements that took place, EU had to cope with the growing plurality in policies therefore the guidelines and instruments of European governance have been modified over the time.

A number of key policy areas such as the social, environmental and cohesion policy are scrutinized in terms of decision and policy-making procedures, legal acts and implementation instruments. Moreover, the book uncovers and zooms on the methods that were used in generating and sustaining the EU policies that comprise the European pillars as well as their alternation. The inquiry is structured in 9 chapters, each of them aiming to reveal the dynamics and evolution of EU governance over the past decades. The chapters are based on the findings of empirical research relevant to this topic. This study provides a synthesis the most relevant empirical research findings, obtained either directly by the contributors (for example, chapters 5, 6 and 9) or by other specialists.

This work is a valuable addition to the fields of economics and political sciences due to the amalgamation of various facets and concepts related to European governance. New institutional theories but also neo-functional and intergovernmental ones have provided guidance for the authors in their attempt to capture the shifts. Governance implies both a structural and a process dimension. This refined book tackles them in a concise and fact-based manner.

The novelty of the contribution arises from the fact that it reviews both the history and the factors that led to the governance transformation, and introduces the Lisbon Treaty

---

* Raluca Oprescu is a Ph. D Candidate at the Doctoral School of International Business and Economics, Academy of Economic Studies, Bucharest. Research interests include: EU integration, economic development, territorial cohesion, E-mail: raluca.oprescu@gmx.com
as a key element of the new stage of institutional development. The book achieves its declared purpose because it is able to provide an unparallel and complex examination of the governance evolution up to the present time.

EU governance topic is particularly important in this crucial moment the Europe is facing. Understanding the past can hold the key to forecasting the future. The authors investigate the past patterns of the interaction and coordination of social and political actors in their quest to adopt and implement collectively binding decisions. In the last decade, reshaping and reinforcing governance has become a priority for the European Union.

The analysis begins with a chapter dedicated to the role of ‘soft law’ in this new framework and emphasizes that such instruments provide a much clever approach compared to the ‘hard law’. The research shows that during time, there was a certain propensity towards it. This situation is comprehensible and partially justified since soft law serves as a testing ground for new policy initiatives therefore it provides a flexible option and a faster route to legal commitments. The book further continues with an extended overview of the Open Method of Coordination in the context of the EU’s cohesion policy as well as for the Common Security and Defense Policy. A whole chapter presents the hefty changes that have been implemented in the areas of justice, freedom and security, especially after the Amsterdam Treaty. Another part brings into light and discusses the pension reforms that have taken place. The text is sprinkled with interesting concepts such as ‘key political entrepreneurs’, ‘window of opportunity’ or ‘strategic orientation’.

The masterpiece chapter comes at the end of the book when Diedrichs conducts an analysis of the legal architecture of EU from the 1950s until the Treaty of Lisbon, comparing the formal provisions for decision-making, their actual use over time and the shifts that have taken place. At this point, it is undertaken an investigation of treaty-based provisions for the shaping of governing modes. The Lisbon Treaty is perceived as a milestone in the history of the European governance and it is devoted a special focus.

The conclusions of the study pinpoint that the system change was set off by the institutional dynamics at both national and supranational levels. The nature of the policy instruments (whether they are binding or non-binding decision) is switched in the direction of either hard or soft law depending on the sensitivity of the subject and the implications of it. Another revealing fact is that European governance has had little impact on national political structures. EU only recently has gained political weight in terms of building up a considerable body of political regulation spreading out to policy fields which are of particular interest to citizens such as employment, consumer protection, health and safety, or to areas of high like politics justice, home affairs and foreign relations.

A major strength of the book is that it brings together and discusses the co-existence of the Community method, the Open Method of Coordination and the classical intergovernmental cooperation. This is distinctly important in order for the readers to fully understand how these methods have shaped and induced the patterns of governance over the time. The first one seems to have dominated the policy-making in EU and its forty years of intensive use has made the union overregulated. However, the recent years were in fact the interplay between the last two methods. Starting with the Lisbon Treaty onwards the EU leaders have displayed a propensity towards intergovernmental cooperation. Additionally, the authors strive to explain how the specific policy interests
were mediated by the interchange use of these methods. Another strong point of the book is that it highlights the pre-requisites of sound governance and it underlines the role of system building.

While the authors do a fine job in explaining the patterns and integrating the governance trends into a consistent model for the evolution of the EU system, there are also a few weaknesses of the book. For example, despite a compelling analysis of all the stakeholders involved in the process of change, it is still too little focus on the civil society involvement. Governance implies predominantly a top-down approach but reality has shown that bottom-up processes also should be considered. Unless there is a greater emphasis on the EU citizens, an improvement of policy output and compliance is not possible. Also, the authors are moderate in discussing whether the changes that have occurred during time were in fact beneficial or not. They do not strongly articulate the necessity of a major breakout from the old paradigms of EU governance, which is critical in order to overcome the current economic turmoil.

The discourse of the book is built in a methodical, neat and easy-to-follow style. This work can be appreciated for the selective focus, the accuracy of information as well as for the high-quality analysis and its critical perspective. The effort to gather, blend and use relevant contributions from the literature to support certain ideas did pay off and the outcome is outstanding.

A meaningful finding of the book is that EU has been based on a political and constitutional asymmetry between economic and social policy functions. As it describes the contour of governance and it points out the changes, the book presents a multifaceted Europe passing through different phases over time and adjusting itself in order to cope with the new challenges and circumstances. This work is thought provoking because it reveals a striking reality, that EU is mostly a formal union and less of a community. This supports the idea that a political integration could energize the interaction between the member states and instill trustworthy governance.

Researchers and scholars in international politics, EU integration, constitutional law or even diplomacy could benefit from reading this book. Present trends in EU governance investigations claims that to understand better the gradual metamorphosis of EU governance, the whole process should be assessed in the context of the evolution of regional integration and emergent trends in the member state systems. Although the theories of integration provide some guidance, it is nearly impossible to tell how the policy coordination will affect the future of the European construction. Fusing the perspective of this book with such an idea can lead to further research opportunities.
Guidelines for Authors

Romanian Journal of European Affairs (RJEA) is a publication that deals with a wide range of topics pertaining to the realm of European Affairs. Its articles focus on issues of significance in the EU today (economic policies, euro-zone, energy, migration etc.), the effects of the European integration process on the new member states (with a particular focus on Romania), as well as the EU’s relations with other global actors.

Issued on a quarterly basis by the European Institute of Romania, the journal has been distributed both in Romania and in prestigious universities and research centers across Europe. Since 2007, the Journal has been scientifically evaluated by the National University Research Council (RO – CNCSIS) as „B+” category and its articles have been included in various international academic databases, such as ICAAP, Index Copernicus, DOAJ, Social Science Research Network etc.

Starting with the first issue of 2010, RJEA is included in ProQuest database. During 2011, the RJEA was also accepted in SCOPUS, EBSCO, HeinOnline, Cabell’s Directory. The articles of the Romanian Journal of European Affairs are also indexed in World Affairs Online (WAO), accessible via the portal IREON.

We warmly welcome submission of articles or book reviews. Each article received for publication enters a thorough selection procedure before being accepted or rejected. All articles under analysis are made anonymous and handed over to two referees whose reports shall be synthesized by the editorial team and provide the basis for acceptance or rejection. Even when an article is accepted, the editorial board reserves the right to ask for changes, both in form and scope. Within the evaluation procedure, there are several factors, both quantitative and qualitative, that are taken into consideration. The main selection criteria are: scientific excellence, originality, novelty and potential interest for the journal’s audience.

The ideal length of an article (in English or French) is from 4 000 to 8 000 words, including a 200-word abstract in English and a very brief autobiographical note. Book reviews should be no longer than 2 000 words. All articles should be presented in Microsoft Office Word format, Times New Roman, 12, at 1.5 lines, and will be sent to the address rjea@ier.ro mentioning “For RJEA”.

Starting 2010, the submission of an article implies commitment from the author to comply with the copyright policy of the Romanian Journal of European Affairs. The Copyright Agreement is fully available online on RJEA’s website: http://www.ier.ro/documente/rjea_pdf/copyright_agreement_for_RJEA_articles.pdf

Please send your contribution before February 1st, May 1st, August 1st and November 1st respectively.

For more information, please visit www.ier.ro/rjea or contact us at rjea@ier.ro
Rien ne se crée sans les hommes. Rien ne dure sans les institutions.

Jean Monnet