



PROMOTING VALUES, STABILITY AND ECONOMIC PROSPERITY  
OF THE EU IN THE CHANGING WORLD (IN THE GLOBAL CONTEXT)

# RESHAPING THE EUROPEAN UNION INTERNALLY AND EXTERNALLY

– A NEW MATRIX?

Edited by:

Ewa Latoszek, Anna Masłoń-Oracz,  
Piotr Stolarczyk, Aleksandra Szczerba-Zawada



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Szkoła Główna  
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Warsaw 2019

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## From the Editors

The European Union is currently going through a period of turbulence, associated with the internal problems within the organisation and the challenges arising from global processes. Initially, we witnessed the euphoria that arose in the early 1990s, when the European Union aspired to the role of being the most important world power, when it consolidated its internal market and promoted the construction of a strong, federal Europe. This European Union radiated other European countries, encouraging them to carry out difficult reforms, and giving hope for membership of this organisation.

The structure built on the foundations of democracy, the rule of law, respect for human rights and implementation of the principles of the free market, was identified with the “oasis” of peace, stability and economic prosperity. These features have made membership of the European Union the main goal of most European countries. Also, for the EU itself, the possibility of enlargement meant the stabilization of its environment, the gradual dismantling of potential threats, the expansion of markets and the building of a strong global position. Considering the European Union’s great powerful ambitions from the beginning of the 21st century, its demographic, political, economic and territorial potential was (and still is) an important attribute in international activities. Undoubtedly, the enlargement of its structures with 13 new members was a great success for the European Union, thanks to which the EU created a powerful half-billion economic and political organisation.

However, the cycle of prosperity for the EU ended with the beginning of the second decade of the 21st century. After the entry of the 13 new countries, the European Union experienced a period of fatigue with its enlargement. Many politicians and part of the old EU’s society identified enlargement waves, with a weakening of EU cohesion. Then came the financial crisis in the euro area, which particularly affected southern European countries, mainly Greece, but also Portugal, Spain and Ireland. This crisis has undermined the foundations of European integration and the role and position of the European Union on the international stage. Another element threatening the European Union was the migration and refugee

crisis of 2015, which caused further divisions among the EU members and had a destabilizing effect on the Schengen area. The result of these crises was the decision of the British, who in a referendum in 2016 expressed their will to leave the European Union. Brexit has therefore become another challenge for the EU.

The environment of the European Union has also become extremely unstable, as evidenced by Russia's expansion policy and the annexation of Crimea in 2014, as well as the very unstable situation on the EU's southeast flank, i.e. in the Middle East. As if that was not enough, in 2017 Donald Trump became the President of the United States, whose policies undermine the credibility of the transatlantic alliance, further weakening the position and role of the European Union in the global dimension. It should also be emphasized that a new global power is growing in strength – China, who is perceived as the main rival to the US, but also competes with European ambitions.

In addition, in the EU itself there is a wave of populism, nationalism and the erosion of the rule of law, which is particularly evident in Poland and Hungary.

Undoubtedly, the European Union is at the crossroads and faces great challenges related to external processes and internal problems. The authors of this volume, try to analyze and diagnose the current problems of the EU and point out ways to solve them. What is important here, is the optimistic approach of the authors who emphasize the uniqueness of integration processes in Europe and emphasize that consistent cooperation and solidarity can help solve problems and strengthen the EU's role on the international stage.

The publication consists of a selection of papers related to the main challenges that the EU encounters in the globalised world.

The first chapter (*European Union; Need for a strong response to global systemic change*) by Willem Molle, discussed the long-term transition of the global multilateral institutional system and changing position of the main actors, including the EU. The EU has to prepare itself for the increase of unstable institutional environments and to transform itself into a global power player. This should be done by the strengthening internally (development of new common targets and of institutional frameworks) and externally through the development of a global strategy. The discussion is continued in the next chapter *The end of the value-based global order* (Bogdan J. Góralczyk) where some changes in the situation on the global scene after the global crisis of 2008 are analysed. The old order – rule-based global order dominated by the



west (US and Europe) is transforming significantly, and China, Russia and other non-Western rising states promote non-liberal traditions or practices. The scenarios of the new order are outlined by the Author.

The issue of the European security system is tackled by Marianna Gladysz who stresses its components and challenges, it's a voice in the discussion of the format of the European security system that will have to be adapted to the crisis conditions in Europe and the changing situation in the world. The chapter *The European Law beyond the European legal order* (Vasile Cucerescu) tackles the issue of European law and its effects. Undoubtedly European law has contributed to the EU legal order, and the chapter underlines the legal effects which can be examined from a political, economic, social and psychological perspective.

Then the subsequent chapter addresses the challenges that the EU has to cope with internally and in relation with the third countries. Nowadays the major one, is Brexit which transforms the situation of this international grouping and its relations with third countries (Agnieszka Kłos). The EU policy towards Russia and the objectives of this policy are discussed by Olga Barburska (*Troublesome Eastern neighbourhood: Russia as a difficult partner for the European Union*).

The Associative Agreement between the EU and Ukraine, which creates a new legal framework distinguished by the features: comprehensiveness, complexity and conditionality is presented in the chapter by Roman Petrov (*The EU-Ukraine Association agreement and EU common values: one or two ways dialogue?*) and this agreement serves to promote EU values in this country.

The problems that stand on the entry of North Macedonia to the European Union, are broadly discussed by Artur Adamczyk and Mladen Karadzoski (*A challenge for the EU enlargement process in the Balkans – the case of North Macedonia*).

The EU development assistance documents of the EU budget, within 2014–2020 are presented by Magdalena Proczek, Ewa Osuch-Rak.

The next two chapters discuss the complexity of relations between the EU and Africa. The process of economic integration in Africa and the role of the EU in this process are studied in detail by José Mella (*African integration and European Partnership Agreements*). It is also underlined, the role of the Economic Partnership Agreements in the integration processes observed in this continent, which also creates some challenges and opportunities. The chapter by Jean-Marc Trouille (*EU-Africa relations, China and the African Challenge*) discusses the stake of African challenges for the European

Union and the road map for Europe that should be considered as support for African development.

Finally, the contemporary relations between the EU and Latin America are presented by Ewa Latoszek and this chapter underlines the character of their relations and main areas of partnership between the parties. The integration process is determined by the economic and trade cooperation in the Americas, and by a number of adverse factors.

Papers included in the publication reflect their authors' own opinions and it is the authors who take full responsibility for their texts. We would like to express our gratitude to all the people and institutions who, through their expertise and financial support, have contributed to the commencement of the present publication. Hereby, we would like to express our most sincere gratitude to the Jean Monnet, Chair of European Union, SGH Warsaw School of Economics, University of Warsaw (Centre for Europe), University of Gdańsk (Research Centre on European Integration), University of Economics in Katowice, New Vision University, Tbilisi, Faculty of Administration and National Security of the Jacob of Paradies University in Gorzów Wielkopolski, College of Economics and Social Sciences, Warsaw University of Technology, Konrad Adenauer Stiftung, the worldwide networks of the European Community Studies Association (ECSA-World), including the Polish European Community Studies Association (PECSA), ECSA Moldova, ECSA Romania, ECSA Ukraine, ECSA Georgia.

*Willem Molle\**

# European Union; Need for a Strong Response to Global Systemic Change<sup>1</sup>

## **Abstract**

The relative weight of the West in the world economy is decreasing, and its supremacy is rapidly eroding. The new emerging powers bring their own values to the fore that often do not match those on which the global institutions are based. In this new multipolar world, it will be increasingly difficult to find common answers to a set of great challenges, in particular in the environmental, energy and security fields.

The present global multilateral institutional system is under great pressure. However, it will take a considerable time before the global shift will result in a new, as yet unknown system. Up till then there will be a sort of systemic flux.

The European Union is committed to fundamental values and principles. It is a supporter of the multilateral world order that has been set up on the basis of similar values. However, it is at odds with the future developments of the system. In order to cope with this situation and to face the main challenger China, the EU must no longer rely on soft power to defend its interests but become a hard power player.

To that end it must strengthen itself internally and externally. On the external field, the EU has difficulty to come to common stands vis-a-vis the main challenger China. On the internal field there is also much reason for concern; populist movements erode the very basis of the European construction. There is an urgent need for a better awareness of the interests at stake and for the strengthening of forces that converge for common action.

**Key words:** European Union, world economy, global system

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<sup>1</sup> Contribution to the PECSA conference, “European Security and Stability in a Complex Global Order; How to Enhance European Competitiveness”, University of Economics Katowice, 20th of May 2019.

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# 1. Long Term Transition of the Global System

## 1.1. Global Shift

In the past a number of very long term trends have emerged. Over a thousand years the relative size of the economy of the great countries of the East (China and India) has much decreased while the West (Europe and later the USA) has emerged to world dominance. Since about the middle of the past century the trends have switched; the relative size of the West has started to decrease while that of the largest developing countries has increased.

This trend is likely to continue in the future. An idea of the considerable shift that this will produce in the distribution of GDP in the world is given by Table 1. It shows that the relative size of the EU will continue to shrink, while the size of the largest emerging economies such as China and India will surpass that of the EU and at a farther horizon even that of the USA.

**Table 1. Changing Relative Position (%) of the European Union (27) in the World Economy**

| Area  | 2010 | 2030 | 2060 |
|-------|------|------|------|
| EU    | 17   | 13   | 9    |
| USA   | 22   | 18   | 16   |
| China | 18   | 23   | 28   |
| India | 8    | 11   | 18   |

Source: estimates based on OECD (2012, 7–8).

If these trends are coupled to forecasts of the demographic growth of the various areas of the world one sees that there will be a considerable convergence of wealth levels in the world. China is expected to converge farthest upwards. The EU is expected to lose ground, while the USA is expected to stay on top of the wealth pyramid for the foreseeable future. Although GDP per capita gaps will shrink, significant cross-country differences will persist.

This *shift of the centre of gravity of economic power* away from the West translates in shifts in political and military power. The hegemony of the West and in particular of the USA is gradually coming to an end. The world is becoming more multipolar.

## **1.2. Economic System Competition**

In the long historical development of the modern economy, different economic systems have been elaborated. The main components of all these systems are the household, the firm and the state (Cohen 2015). Over time one of the components tends to take dominance over the two others. The different countries of the world can be grouped into several prototype systems. The West (mainly EU and USA) has elaborated a firm intensive system; it is often characterised as a liberal order coupled with democracy. On the contrary China has elaborated a state intensive system; it is often characterised as a command economy that is strongly under the control of a state bureaucracy. Other major emerging powers, such as India, Brazil, Indonesia, and South Africa, have each elaborated an idiosyncratic mix of the three basic elements that characterise their economic-political systems.

Not only firms compete on the global level. Actually it is systems that compete for markets and for access to resources (Sinn 2002). Some systems have broken down under this competition (as in the Soviet Union). Others have introduced elements from other systems into theirs in order to reinforce their competitiveness (China). It is likely that in the West the liberal economic order coupled with democracy will be maintained. China is likely to continue along its path of post-communist state capitalism coupled with a more or less authoritarian state-led social model (Ho 2017; Jacques 2012). In the same way other types of systems will continue to function and develop. They are likely to be influenced by each other but unlikely to converge to a new global model.

The dominance of the Western model is rapidly giving way to a multipolar world with each pole having its own systemic preferences to play the world game. Given the differences that exist between the political-economic systems of the major powers, this future configuration is full of potential conflicts.

## **1.3. The Challenge: Finding Solutions for Global Public Good Provision in a Multipolar World**

The development of global shift just described needs to be seen against the backdrop of two other major trends that will shape the future (e.g. ESPAS 2015).

The main one is the growing nexus of climate change; energy transition and competition for resources. This will certainly constitute a vital problem for humanity and a cause of increased tensions among world players.

The second one is the shift in the productive system caused by innovations, notably in the fields of artificial intelligence and electronic exchanges of mass data. The control of computer systems and data will give rise to sharp tensions, in particular because these issues are closely related to security and defence issues.

Of course these trends do not provide the whole picture of the world in the coming decades. Necessary complements are coming from threats to internal and external security from non-state actors like terrorists, criminals and providers of fake news.

## **2. No Alternative Set-Up in View**

### **2.1. The Development of Global Institutions and the Creation of a Western Dominated System**

Over the centuries, international exchanges have been growing in importance. As a consequence the interdependencies between all the segments of the global economy have increased considerably. They are poised to increase further in the future.

Since the Second World War, large segments of the world have been governed by a liberal multilateral order, organised largely by the US that emerged from the Second World War as the hegemon. It is rule-based (inspired by common principles) and it has been given stability by embodying it in international organisations. The first elements of the international order set up concerned peace and security through the UN, trade through the WTO, financial stability through the IMF and development cooperation through the World Bank.

The problems that came later to the fore (in particular the environment) could not be treated as simply in encompassing organisations. For example it has not been possible to set up a World Environmental Organisation. The diverging views of the major partners have only produced a set of much looser regimes about specific components. For other global goods, for example those that refer to production factors such as labour (migration) and capital (investment), almost no progress has been made; even in the set-up of relatively non-constraining regimes has been difficult.

The capacity of the present international organisations to adapt to the global shift of economic systems has been weak. One can mention in this respect the composition of the Security Council of the UN, in which the West is grossly overrepresented and the emerging countries largely

underrepresented. Another example is the incapacity of the IMF to accommodate the role of the euro in its membership representation. Finally, we can mention the incapacity of the WTO to come to grips with the international exchange of the modern most-valued commodity: data.

*“Consequently we are seeing a move away from the large monolithic organizations with their extensive bureaucracies to more flexible arrangements with fewer participants and more diverse solutions. Examples can be seen in all policy fields; the proliferation of regional trade arrangements, the emergence of several parallel regimes for climate change, and the integration of labour rights in regional and bi-lateral agreements.”* (Molle 2014, 231).

## 2.2. Erosion on the International and Intra-National Level

This multi-form multi-lateral global system has functioned more or less correctly for half a century. Since the break-down of the communist system in the 1990s, more and more countries have been drawn into this order (e.g. Molle 2014). So, for a moment it seemed as if the system would become the sole feasible model for the present century. Many authors (in the West) even thought that this would mean that the systems of the other powers would converge to the Western one, which would perpetuate the present multilateral model. This view is now seriously flawed for mainly two reasons.

The first is on the *international* level and concerns the *rise of the non-Western countries in the world economy* as described in the previous sections. The major players in the multipolar world system that have emerged do not feel comfortable in the system that has been built largely without taking their national systems into account. They feel that the principles upon which the world system rests are not theirs. Many of them have accepted becoming part of the system. For instance China has done this by becoming in 2001 a member of the WTO. The main reason was that the disadvantages of staying outside the global system became larger than the inconveniences of being within. However these late entrants have come to the multilateral fora with a wide variety of ideologies and geo-political agendas. They often seek ways to disengage themselves from the constraints put upon them. However, they have as yet no clear ideas as to a new way to pursue global common goods, and they hesitate to commit themselves to targets that assume a shared responsibility. So in such a multilateral system under strain, it is unclear in how far the competing elements will be able to strike new agreements on global public goods (Laidi 2014).

The second is on the *intra-national* level and concerns the *internal erosion of the support for the system*. Some time ago the idea was that any threat to the system coming of rising non-Western states would be answered by the coordinated effort of the US, the EU and its major OECD allies. Now we know that this is no longer a feasible option. The hegemon (USA) has decided that its interests are no longer best represented by a predictable world order but thinks that it will get better deals by bi-lateral negotiations. The partners of the US are all smaller and are unlikely to be able to defend their interest in a fight of all against all. They are likely to pay the bill in case the major powers strike a deal that is not in their interest. So, their first reaction is to stick to the multilateral order. However, this support is eroded from within their national boundaries. Every time a major deal has to be approved strong forces are mobilised under the banners of sovereignty and nationalism that find popular support due to existing and predicted social inequalities, economic and fiscal crises, lack of security, etc. Such forces have often managed to refute even the few deals struck in the multilateral fora.

### 2.3. Is the Present System Dead?

The multilateral system, although far from perfect, has been able to cope with many crises in the past. The question is whether it will be able to survive in the future, given the rising tensions between nations and the eroding forces within nations. To give an answer to that question we have to analyse the foundations and structure of the present global system and the forces at play to change them. One of these foundations is the hegemonic role of the US. The main components of the dominance of the US include: the sheer size of its economy, the role of the dollar as the world currency, the technological lead of its major companies (such as Google), the capacity to suck in the best talents via prestigious universities, the reach of military power, the role of English as a common language, etc.

To overtake the incumbent hegemon by a newcomer on any of these component factors is not for tomorrow. To overtake the hegemon on the interrelated system of factors of dominance is even harder to realise, so will lie in the even more distant future. It should therefore be understood that the roots of the present global system go very deep, that the system has operated in various forms for more than two centuries and has shown the capacity to reinvent itself constantly. The major emerging economies do certainly provide a challenge to the system, but for the time being they



do not present a credible alternative; none of the systemic choices they have made back home seem to have the potential to serve as a model for a new global governance system (e.g. Idenberry 2018).

Nevertheless, on all the component factors of hegemony, Western power is gradually eroding, while that of China is being reinforced. So, to most observers it is clear that in future China will be taking over the role of hegemon from the US (e.g. Jacques 2012).<sup>2</sup>

#### 2.4. The Challenge: Finding Solutions to Problems in a Systemic Flux

The world will have to cope with the very large challenges that lie ahead. These are in the form of major upheavals and crises in the security, financial, environmental, societal and economic fields. This calls for rapid and consistent action by policymakers and strengthened international cooperation for providing global public goods, like regimes for trade, competition, investment, taxation and climate (OECD 2014).

However, in the previous sections we have seen that the interests of the major players in the main international organisations, such as the WTO, the WB and the IMF, have become too divergent for concluding multilateral agreements setting uniform rules and commanding strict compliance with those rules. So it will be necessary to work with the present system but in a less effective way. This weakness of the system to strike major deals among the main players bears the risk that the realisation of the provision of new global public goods will be seriously endangered. The future is therefore particularly uncertain.

*“Alternative solutions are sought, and development in the future is likely to be characterised by fuzzy and complex interactions between flexible groups of actors seeking agreements on the solutions for the most pressing new problems. Progress will become rather unpredictable and will depend on time- place- and subject-specific cases as well as convergence of interests. Flexible solutions have the advantage that they can be easily adapted in case the conditions change.”* (Molle 2014, back flap).

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<sup>2</sup> This is likely to occur not at the moment when the USA is overtaken by its main challenger China, but when the dominant ‘Western type’ group of countries will be overtaken by the ‘China type’ group of countries (e.g. Cohen 2015, 365). This is not expected to happen before the passage of a generation.

### 3. The Uncomfortable Position of the EU

#### 3.1 Past Developments

In the past centuries, the leading European countries became the rulers of the world; they had initially established huge trade networks and later colonial empires (Simms 2014). In the course of two World Wars, this power has collapsed, and the leading role has been taken over by the USA. Faced with their new role, the European countries have come together in order to safeguard peace and prosperity internally, and to recover collectively part of the global influence they had lost individually. Their creation, the European Union, is essentially a cooperative device based on rules and commitments to targets. In a sense, it has since its origin continuously built a multilateral system on the level of the subcontinent. This DNA has been translated over the past into an active support for principle- and rule-based world-wide multilateralism. This has been relatively easy, as the global order built after WW II was founded on the very principles that it cherished back home; liberalism and democracy. The position of the EU in security matters was limited: Europe took shelter under the military power of the US.

Under these conditions, the EU could develop itself by integrating more countries (widening) and dealing with an increasingly large number of subjects (deepening). In this way it has become the largest trade partner and largest development donor in the world (Molle 2006). In the slipstream of these developments, the EU was able to exert a considerable commercial and normative power through the externalisation of EU norms; both technical (products) and moral (about child labour etc.).<sup>3</sup>

#### 3.2. The EU in Global Institutions

The major global institutions date from the immediate post-war period. They only accept states as members, so they have not made any provisions for a supranational organisation like the EU. Yet the EU wants its place at the table. Indeed, the EU treaties stipulate that the EU acquires external competences in all fields where the treaties have transferred internal competence to the EU. This meant that the relevant International Organisations had to work out complicated formulas in order to fit in the new EU reality in their traditional structures. As a consequence the EU position in many of these organisations is fragmented and uncomfortable (e.g. the IMF). As the EU is committed to multilateralism, it has tried to

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<sup>3</sup> The notion of normative power has been defined more clearly in Forsberg (2011).

make the best out of it.<sup>4</sup> This situation is not ready to change, as there is much resistance to change, coming both from EU and third countries that have particular interest in keeping the status quo. The situation is better for those more recent regimes where the EU has played an active role, for instance in the Paris climate agreement.

### **3.3. The Challenge: Become a Global Power Player**

The trends on the world level depicted in the previous sections have changed the external condition in which the EU has to operate in the future. Increased challenges of a widely varied nature have to be faced in an increasingly unstable institutional environment. The EU has to prepare for this. The EU has to articulate its interests and to hammer out internal and external policies to defend them. It needs to make sure that it fulfils the conditions for success; that means that it needs to be an attractive place to both talented young people and to modern investors in future oriented activities. It has to corroborate the economic and political strength of its member countries. Next, it has to reinforce the internal cohesion of the Union. Third, it has to improve its crisis management facilities and its strategic capacities, both in the euro area and in the whole EU (ESPAS 2015; Anheier & Falkner 2017; Schwartz 2017).

In other words: In a world where powers confront other powers, the EU has to transform itself into a global power player that is ready to defend its interests by all peaceful means. If not it is bound to fall back into a position in which the individual European countries become vassal states of the USA. Indeed the US have shown that it easily shifts the burden of its conflicts with the other major world powers to third countries, including its allies. This has happened in the form of trade sanctions (e.g. Iran), but also through the financial sector and through the big data processors. All discussions in Brussels and in the national capitals will have to be seen henceforth in this light to avoid the vassal state condition: be it investments in artificial intelligence, cybersecurity, defence, monetary stability, climate change, fight for resources, and containment of migration, decisions about take-overs of high technology firms, and of vital infrastructure.

To prepare for this new role, the EU has to strengthen itself internally and externally.

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<sup>4</sup> There is a vast literature on this subject. For recent works see: Blavoukos (2012), Orsini (2014), Molle (2015b) and Wessel and Odermatt (2018).

## 4. Making the EU Ready for the Challenges

### 4.1. External: The Development of a Global Strategy

Recently the EU has reformulated its external policy by developing the European Union Global Strategy. The EUGS takes into account the changes in the geostrategic context. It defines the main principles on which EU external actions will rest: ‘resilience’, ‘integrated approach’ and ‘principled pragmatism’. The EUGS gives support to a: *‘global order based on international law, which ensures human rights, sustainable development and lasting access to the global commons.’* In terms of instruments the EUGS says that: *‘We will pursue our priorities by mobilising our unparalleled networks, our economic weight and all the tools at our disposal in a coherent way.’* The EU is very aware of the fact that such a role on the world scene can only be effective in case it is internally strong and united. *“To fulfil our goals we must collectively invest in a credible, responsive and joined up Union.”* (EEAS 2016, 10).

Even with the present global order under erosion the EU has confirmed its will to remain a staunch defender of its positions.

*“The EU is stepping up its engagement in multilateral institutions, to ensure that common solutions can be found to the challenges we all confront together. The EU is playing a lead role in driving forward and upholding global agreements, as shown by the EU work on climate diplomacy through the Paris agreement on climate change.”* (EC 2018, 12).

Due to the growing sense of insecurity in many countries of the EU that cannot be addressed by national actions, the EUGS has concentrated on defence and security matters (Tocci 2017).

However this will not be sufficient for a strong position in the future. The EU has in particular to find a new position towards its main challenger China. In a recent policy paper (EU 2019) the EU recognises the importance of a new common stand. It defines China as an economic competitor pursuing technological leadership and a systemic rival promoting an alternative governance system. The EU will have to find new combinations of policies to face this challenge, notably tougher rules on foreign investment.

### 4.2. Internal: The Development of New Common Targets and of the Institutional Framework

The challenges of a world ‘fight of all against all’ cannot be faced effectively by the EU countries separately. They require that the EU is clear about its common ambitions, about the way it is going to put in place its

instruments to realise its ambitions and to mobilise public support to go forward on its path. There are serious doubts about the capacity of the EU on all three points.

There is no common view on the *ambitions*. In the past there were clear targets such as the internal market 1992; and the EMU 2000. They were generally perceived as bringing net benefits to the EU. They brought about difficulties, but these were attenuated by the cohesion policy of the EU (Molle 2015a, 2018). For the future, such a common clear ambition is lacking. Migration is at the centre of the preoccupations of the European citizen, but no common view has been worked out. Climate adaptation and energy transition are recognized as key objectives, but the measures to get there are perceived as an extra cost to the citizen. The challenge of China is perceived very differently by the European countries, as has become evident by their different reactions to the recent propositions of China for ‘cooperation’ in vital sectors of the EU economy and in vulnerable countries in the direct EU neighbourhood. China has found ways to invest in the EU in conformity with the present rules. These are in urgent need of adaptation so that they will safeguard the long term interest of the EU. However, up till now the divide and rule strategy of China has worked out to its advantage (Blockmans & Hu 2019).

The lack of common ambitions and common views about a battery of instruments to realise them implies that future global developments are likely to hit the EU in unprecedented ways. Is the EU capable to face the possible ensuing crises that will find it unprepared? Many have serious doubts. On the other hand the experience of the recent past with concurrent crises (financial, migration, Brexit) has shown, that the EU can find common political answers to urgent challenges (van Middelaar 2019). It has also shown that the EU is capable of adapting its legal and administrative systems in function of the most pressing needs (notably in monetary, financial and fiscal matters) (Molle 2011). However, such late reactions are not sufficient to keep the EU abreast of its global competitors.

The final point of concern is the gradual erosion of the *popular support for European action*. Indeed, such support seems less and less self-evident. Many observe an increasing swell of Euroscepticism, Brexit being seen as just one extreme manifestation of this trend. However, on closer inspection, one sees that there is much diversity in the nature of Euroscepticism. Its form depends on the way the various crises have hit the country in question. A large part of the population in most countries opts for a new balance between their nation and the EU. Only a small part of the

population translates its misgivings into a straightforward demand for exit. A particularly concerning aspect of the latter phenomenon is that the more people think that they can dispose of the EU, the more they are confident about their country's capacity to cope alone with challenges (de Vries 2018). Euroscepticism in countries that have been particularly heavily hit by crises can be addressed by specific measures in their favour. Euroscepticism based on overconfidence in a future without the EU is much less easy to address; it needs a strengthening of the awareness of the average EU citizen of all the institutional and administrative conditions that need to be fulfilled in order to maintain wealth levels and security and to be able to function effectively in an increasingly uncertain world.

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# The End of the Value-Based Global Order

## **Abstract**

The end of the Cold War has brought about one crucial effect on the global scene: the almost total domination of a US-led and value-based liberal order on the global scene, under ideological umbrella of “the end of history”. Only China rejected it at the time. However, since the global crisis of 2008 the situation has changed significantly. Now not only China, but also Russia and some other countries have chosen a more authoritarian approach and “sovereign democracy” solutions. Worse, the malaise came to the EU, undermining checks and balances system and Copenhagen Criteria in several member states, like in Hungary, Poland, and recently even in Italy, one of the forefathers of the European integration process. Combined with obvious replacement of values by the Donald Trump administration in the US, we have global disorder on the horizon, looking from the Western perspective, or a new multilateral order emerging, according to Beijing or Moscow. The West is divided, the transatlantic relationship has been weakened, while the role of emerging markets seems to be growing. The new global order is looming, but nobody knows who will be the leader(s) of it. Some scenarios are sketched in this text.

**Key words:** Global Order, international system, system of values, axiology, European integration, sovereignty, federation, confederation

## **1. Rule-Based Order: the Origin**

### **1.1. Chapter One – Cold War**

The so-called rules-based global order, Western (US) dominated, emerged at the end of the Second World War as a broad architecture of international governance. This governance framework, including the United Nations System, international laws and conventions and regional security architectures, has helped support to keep global security, with the exception of some proxy wars or local conflicts, relatively calm and stable for more than 70 years.

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Since then the Global Order in the international arena has been defined by United Nations System in normative terms and simultaneously by bipolar (later: Cold War) competition in real politics. Under the latter, the United States of America as the principal and guiding partner was constantly challenged by the Soviet Union with its allies. They were under constant political, economic and ideological competition: due to nuclear balance and arsenals, however, they could not allow themselves to clash directly, using proxy wars instead.

The Western, so called Atlantic alliance was sustained largely (as it is until today) by unilateral American military power. Europe in security sphere was, and still is, a militarily nonexistent power centre. However, its internal balance was maintained – until recently, when president Donald Trump has started to openly express his doubts about it, demanding more military expenditure from all its European partners, starting from economically ever-stronger Germany.

## **1.2. Chapter Two –The Unipolar Moment**

One important feature of all international orders we know, starting from Westphalia, is that it was always arranged by the winners of prior conflict or war. In this respect the situation after collapse of the Cold War order in strictly legal terms is peculiar and can be properly described by a title of one of the books then – “Out of control” (Brzezinski 2010), as after 1991 there was no new Vienna, Versailles or San Francisco. The former bi-polar order was replaced by unipolar moment, to quote proper formula of Charles Krauthammer, arguably by default. The new order was not legally or institutionally embedded, however. It was an automatic result of the fact that one of two major powers had just disappeared.

When the Soviet Union collapsed, the direct threat disappeared from the agenda and together with it, the traditional problems of balance of power and equilibrium. Former military expansion was partially replaced by political, ideological and economic, with (*inter alia*) an obvious notice: the powerful domination of the winning West, and US hegemony.

Then a new, and pretending to be universal, liberal ideological determinism condensed in ‘the end of History’ formula began to reign. Most Americans and Europeans were deeply convinced that the future was inevitable: both China and Russia will travel a path towards liberalism (Kagan 2008, p. 5). All will be Western-born, oriented and focused. In the political sense, liberal democracy and checks and balances systems were the

irreplaceable orders while in economic sphere, the neoliberal Washington Consensus, with the invisible hand of the market, a strong private and weak public sector were dictated to all from the power center, well placed, in both cases, in Washington DC.

However, recently, and gradually since the economic global crisis of 2008, the situation is visibly changing again, and a new global order seems to emerge on the horizon. Why is that happening? What is its meaning? These are the two major questions of this study, which also includes a hypothesis that the former Western domination on the global scene is to be, at least partially, replaced by the new power centres, like China and maybe some other ‘emerging markets’ (with further role of Russia and the EU questionable to some extent).

## 2. Rule-Based Order: Definitions and Features

According to Henry Kissinger, a world order is “a set of values commonly and accepted rules that defines the limits of permissible action and a balance of power that enforces restraint where rules break down, preventing one political unit from subjugating others” (Kissinger 2014, 9). This is so called realistic approach to the issue, or realistic school of thinking in international relations (IR) studies, stressing the role of individual power players and a balance of power between them. This was the logic of the Cold War era.

However, after the Second World War, we had a parallel world order, almost universal, known as US headquartered United Nations system, and strongly supported in the economic sphere by the US-dominated system of Bretton Woods (IBRD, IMF) institutions and later separately GATT – WTO. This American-led order, often associated with *Pax Americana*, had three central features – it was almost global, international by nature, with strong integration tendencies in the economic field and a focus on humanitarian (i.e. human rights) or democratic rules (Dunn, Flochart 2011). Its guiding principles are well known, and well codified, for instance within the framework of the so-called Copenhagen Criteria of the EU, which include: liberal democracy (checks and balances), open markets, rule of law, minority rights, and multilateral institutions.

An Australian Defence White Paper described the rules-based global order as a shared commitment by all countries to conduct their activities in accordance with agreed rules which evolve over time, such as international

law and regional security arrangements' (Defence White Paper 2016, 15). It continues and (quite convincingly) argues that this shared commitment of all major subjects, that is state powers and multinationals, has become even more important with growing interconnectivity, which means that with the growth of interconnectivity events across the world have the much greater than ever before potential to affect global security and prosperity.

However, recently, and especially after the 2008 global economic crisis, criticism of this order has grown world-wide, connecting it to many social problems starting from wage and social inequality, combined with global challenges like mass migration waves, climate change and environmental degradation. Liberal democracy and free market are not sufficient as the only pillars of social and political stability anymore, while economic growth is slowly but visibly replaced by security issues. It is not 'the economy, stupid' anymore, but 'security, stupid', where military factors and power politics are returning to centre-stage.

### **3. Main Disruptors**

#### **3.1. Russia, Ukraine-Crimea and Syria**

Military intervention and forceful annexation of Crimea by the Russian Federation in 2014 brought back to the agenda clash of interests, ideologies and values, as for President Vladimir Putin and his nationalistic course, the Western influence in Ukraine and removal of Russian influence there (equal to the removal of pro-Russian president in Kyiv) were seen as an attack on its core interests. To current political elites and decision-makers in Moscow, Ukraine is nothing else but a part of Russian orthodoxy and civilization, as the Kyiv duchy was a cultural and religious centre before Moscow.

Of course, Ukraine and many world leaders condemned the annexation and considered it to be a violation of international law and many of the Russian-signed agreements safeguarding the territorial integrity of Ukraine. The Treaty on Accession of the Republic of Crimea to Russia was signed between representatives of the Republic of Crimea (including Sevastopol, with which the rest of Crimea briefly unified) and the Russian Federation on 18 March 2014. On 27 March, the United Nations General Assembly adopted a binding resolution, which declared the Crimean referendum and subsequent status change invalid, by a vote of 100 to 11, with 58 abstentions and 24 absent.

It led to the Western economic sanctions even prior to the second stage of this crisis, that is, another Russian intervention in August 2014 and destabilization of the Donbas region (Donetsk, Luhansk, Mariupol). Combined with another military intervention in domestic war in Syria, which began in September 2015, Russia undermined the existing order, coming out with an open approach to fight for its five core interests, which include: defence of the country and the regime, influence in the near abroad, a vision of Russia as a great power, non-interference in domestic affairs, and political and economic cooperation as an equal to other great powers (Radin 2017).

### 3.2. China's Rise

China under Deng Xiaoping's final political will announced in early 1992 never attempted to try any solutions from liberal democracy's mantra, while Russia rejected it when Vladimir Putin came to power at the beginning of the 21st century. A constantly growing China after the 2008 global economic crisis has started to replace its former low-profile attitude with a more assertive and bold policy of China Dream and Great Rejuvenation of the Chinese Nation, as defined by the new – since 2012/13 – charismatic leader Xi Jinping and his Fifth Generation companions.

China's naval expansion, construction of artificial islands and military deployment in the South China Sea, but especially ambitious and assertive new course of Xi Jinping's administration raise concerns about its potential and even aggressive stance, looking from outside. While to the leaders in Beijing now there are two major sources of concern: internal with benchmarks at 2021 (relatively prosperous society), 2035 (innovative society) and 2049 (Great Rejuvenation of the Chinese Nation) (Góralczyk 2018), and external which coincides with announced in 2013 by Xi himself a global vision of engagement and economic (plus capital) expansion, known as Belt and Road Initiative (BRI). They would like to achieve these goals all as scheduled, not an easy task at all.

All this ambitious goals, domestic and international, finally led to a weakening of American elites, who have realised that China has initiated a 'hundred year marathon' (Pillsbury 2016) with the US, and the whole situation resembles a 'Thucydides trap' (Allison 2017), that is a clash of current relatively declining power centre with a new pretender to be a leader, where both of them, as history shows, are 'destined for war'. Of course, it is not inevitable, but some trade clash, incidents or proxy wars and cyberattacks are not excluded in this situation.

### **3.3. The Donald Trump Factor**

Surprisingly the value-based order has been attacked not only from outside, but also from inside. The illiberal system came to the heartland of the liberal order with the presidency of Donald Trump, who came to power as a real game-changer, undermining the existing liberal consensus, and replacing values by interests and multilateral attitudes by bilateral relations and deals, Which he openly stated even from the rostrum at the UN General Assembly session. He defined his policy as ‘principled realism’, according to which the US “will not be held hostage to old dogmas, discredited ideologies, and so-called experts who have been proven wrong over the years, time and time again. This is true not only in matters of peace, but in matters of prosperity”. At the same speech he has announced the US withdrawal from the Human Rights Council of the UN as well from the International Criminal Court (ICC) adding: “America is governed by Americans. We reject the ideology of globalism, and we embrace the doctrine of patriotism.” (Trump Remarks 2018).

Here and everywhere he presented himself as a great believer of sovereign and independent nations as the only guarantees of better future. The retreat from the Transpacific Partnership (TPP) at the very beginning of his presidency was another strong sign of US retreat from international agreements and multilateralism, to be replaced by bilateral accords. As a result, even the best-known experts in the US have started to be blunt, claiming: “The liberal world order is under threat from its principal architect: the United States” (Haas 2018).

The framework of the rules-based global order is under increasing pressure and has shown signs of fragility. The balance of military and economic power between countries is changing and newly powerful countries want greater influence and to challenge some of the rules in the global architecture, established some 70 years ago.

## **4. New Scenarios, New Order?**

### **4.1. Multipolarity – How Many Poles?**

The economic power of China and India, two most populated countries on the globe, emphasizes the growing role of non-western states in global governance, particularly in relation to the international financial institutions and monetary system that are integral to the international order, as

confirmed by the creation of Development Bank of BRICS in 2015 and Asia Infrastructure and Investment Bank (AIIB) following year. These acts seem to confirm that we observe a direct challenge toward the dominating Bretton Woods system and its institutions.

The open question is who else, outside China and India, is or will be a new power centre in this new order? Most frequently mentioned is Russia under Putin, as assertive as China on international arena and powerful in military, but not an economic sense. More questionable is the future role of both Japan, struggling for almost three decades with economic malaise or recession, as well as the European Union internally highly polarised and divided.

When the value-based liberal order is in a state of flux, it is not a surprise that both Russia (Korybko 2017) and China are embracing the new, multipolar world order (People's World, 2018) and starting to claim, that the multipolar forces in the world are working to replace the US-led international order with a diversified array of multiple stakeholders in order to bring a new balance to international scene. Further they treat it as an 'unmistakable trend' and thus ask for 'realignment of global relations', including diversification of concentrated power with the US pre-eminence. They also want to be less dependent on developed western countries as the defining force.

With the ideas like this once again the popular term 'the West and the rest' is emerging on the horizon, with Atlantic Ocean being replaced by the Asia-Pacific centre as a new powerhouse and the connectivity corridors, starting from the Chinese BRI, on the top of the agenda. To quote one of the seminal studies on the issue: „It is now almost a truism to say that our century will be an Asian century. In just a decade or two, at least three of the five largest economies of the world will be in Asia: China, Japan and India” (Maçães 2019, 1). A new economic struggle is undergoing, with Asia becoming the most important region of the globe again, while the West „is consumed with domestic ills: mounting debt, rising inequality, political polarization, and culture wars” (Khanna 2019, 3).

Thus it is completely understandable that in the new US National Security Strategy, adopted in December 2017 there is an open statement: “great power competition returned. China and Russia began to reassert their influence regionally and globally.” (National Security 2017, 27).

#### 4.2. New Cold War?

“The unipolar moment is over”, openly declares *The Economist*, predicting the eruption of a 'new kind of Cold War', this time between the US and China. Simultaneously the fluent Chinese speaker and former

Prime Minister of Australia, Kevin Rudd, not being alone, firmly stated: former US engagement in the Chinese transformation process of more than four decades is over, replaced by a ‘new era of strategic competition’ (Rudd 2019).

The situation became serious when Donald Trump initiated a trade war in March 2018, which until now is unfortunately accelerating, not diminishing. The stakes are high as, to quote *The Economist* again: “The two superpowers used to seek a win-win world. Today winning seems to involve the other lot’s defeat – a collapse that permanently subordinates China to the American order; or a humbled America that retreats from the western Pacific.”

The first big shot from the Western/American side was given by Michael Pillsbury, who declared openly that China has a secret strategy “to replace America as a global superpower”. The second fault-line, already political not only intellectual, was the speech by vice-president Mike Pence at the Hudson Institute in early October 2018, when he declared openly that China is almost a hostile power and thus America has adopted a new approach to it, within the new era of ‘new great power competition’.

The US must respond, as according to him: “Beijing is employing a whole-of-government approach, using political, economic, and military tools, as well as propaganda, to advance its influence and benefit its interests in the United States. China is also applying this power in more proactive ways than ever before, to exert influence and interfere in the domestic policy and politics of this country.” (Pence 2018).

The real danger is that this new kind of Cold War could bring about a situation with no winners at all, as China is caught between its Dream of regaining its rightful place in Asia and Great Rejuvenation vision and simultaneously has found itself under pressure and fear that, jealous for its hegemonic status, America will block its rise. Washington, unsurprisingly, cannot merely accept its own decline, while ambitious China cannot simply retreat from all its projects and plans already announced. It is a kind of a dangerous trap, difficult to escape from. Even if China, sensitive to all historical factors, is trying to do everything to escape from this new Cold War formula, it presented its ambitions to be a superpower and one of the leading – if not the leading – civilizations of the globe. Additionally, China has its own model of development, completely different from those promoted in the West (Zhang Weiwei 2012). It is something not easy to accept by the Western power centres (not only in Washington, also in Brussels or Berlin) whose their value-based order is under growing pressure.



### 4.3. Non-Liberal Order as a Counterproposal?

The United States still is and will remain the pre-eminent global economic and military power, without a doubt. As such it will continue to be the most important strategic partner of all the Western world, both during the Trump administration and after.

However, the recent dramatic growth of the role (not only economic, also in high-tech) (Khanna 2019) and ambitious goals of China, trying to escape from ideological competition known from the Cold War era (Yan Xuetong 2018), are bringing back to the agenda a once well-known formula of ‘the West and the rest’, with the questionable role in it of ‘swinging’ India, or even Australia, China pretending to be just a political player and not a global power and Russia as a security (or insecurity rather) provider. We have a global order in a state of flux with unpredictability (starting from Trump) on the top of the agenda.

It is too early to say yet if the visible expansion of non-liberal systems will change the world constantly, or just undermine the old order. The world is changing and not only Western dominated anymore. In such situation all players, big and small, need to adjust themselves to these new circumstances.

## 5. The Role of the EU

The European Union (EU) born exactly at that moment of highest triumph of liberalism also followed those footsteps, which is visible in its Copenhagen Criteria equated with the internal system of values. However, recent growing inequality and unemployment understood by the wider public as a result of integration and globalisation forces, has brought not only the Trump administration but more and more political movements and parties within the EU to exploit rising public dissatisfaction and discontent to their own political purposes and moving (back) towards nationalism and protectionism, not necessarily only in an economic sense. Social tensions and contradictions are exploited by frequently cynical politicians to achieve their narrow-minded aims and goals. Here also, as in Trump’s America, a former internationalism and ‘cosmopolitan’ values are under attack by ‘patriotic’, i.e. nationalistic and ‘sovereign’ forces.

Significant divides, well described in the ECFR study on growing Eurosceptic forces, (ECFR 2019) put at risk Europe’s capacity to defend itself and its citizens from external threats. This is happening exactly at the time of global turmoil, when far-sightedness, imagination, global vision and



cooperation are more valuable than before. On the one hand, the former definition of the EU as the Unidentified Political Object (UPO) is starting to be more valid than ever before, on the other the EU, like all of us, seems to be travelling through troubled and uncharted international waters. This was confirmed during European Parliament elections in May 2019, when the long-standing duopoly of center-left and center-right forces was definitely undermined (James 2019). It is more than obvious that the EU urgently needs some deep reform, and adjustment to new circumstances, requirements and challenges.

Viewed from a geostrategic perspective, the crucial question in front of the EU today is: given its history, how much diversity must be retained in order to achieve a meaningful unity and significance on the global scene of power politics again? Not an easy task in a highly polarized and fractured continent.

## Conclusions

A visibly weaker liberal or rule-based order is under pressure from forces seen as malicious, such as illiberalism, equated with autocracy, frequently supported by nationalism, protectionism, and pressure for sovereign rights again. It is a world of power politics, spheres of influence, sometimes even of territorial demands or revisionism on the agenda.

All those – not so new, but reanimated – forces are seen by the mainstream ruling elite after the collapse of the Cold War order as ‘populist’, ‘anti-democratic’ and of course dangerous. While those new forces are claiming that the public opinion is supporting them, that they have ‘the vote of the sovereign’, that is, of the majority of the people in their respective countries. Simultaneously for all of them national identity and sovereignty (‘America First’) is more important than human rights or democratic freedoms.

According to this new wave of thinking, which is well-known from history however, only strong and rich countries are designed to safeguard the newly emerging order. This nationalistic mindset is slowly but visibly replacing the former and almost universal liberal order in political sphere and neoliberal order in economy. Both post-Cold-War political and WTO/Bretton Woods economic orders are under pressure. What more, the liberal democracy and value-based order is under pressure not only coming from China or Russia, but from within, as confirmed by ‘Trump factor’ and the emergence of strong Eurosceptic forces within the EU, which, according to one of the

ECFR studies, “could align with one another tactically in support of a range of ideas: from abolishing sanctions on Russia to blocking the EU’s foreign trade agenda, to pulling the drawbridge up against migration” (The 2019 European Election)

This is a surprising phenomenon in the era of objectively growing interdependence in several dimensions, including the economy, security, ecology and environment or climate change. The egoistic by nature self-defense against globalisation forces on the one hand, and ‘the other’, whoever it is – neighbor, migrant, refugee, terrorist or Muslim – is a potential deterrent of mutual restraint which can lead to new crisis situations arising from misinterpretation or misconception. New communication lines are necessary. Without them a new emerging global architecture will bring surely a considerable uncertainty with a phantom of global disorder on the horizon.

The old order dominated by the US and Europe is giving way to one increasingly shared by non-Western rising states, starting from China, and India through Turkey, Brazil and some others, with most of them sharing non-liberal traditions or practices. Thus, one has to agree with John Ikenberry who stated in one of his studies, published even prior to Trump presidency: “Newly powerful states are beginning to advance their own ideas and agendas for global order, and a weakened United States will find it harder to defend the old system. The hallmarks of liberal internationalism – openness and rule-based relations enshrined in multilateral institutions such as the United Nations and norms such as multilateralism – could give way to a more contested and fragmented system of blocs, spheres of influence, mercantilist networks, and regional rivalries” (Ikenberry 2011, 56).

President Trump is trying to change the tide, but there is growing doubt if he is going in the right, proper direction. Unfortunately, his philosophy of making America great again is starting to be shared by everyone. Not only America wants to be the first, while many power centers have their own definition of ‘vital’ interests. It is a scenario of obvious conflict. That is why we have a very interesting but dangerous era in front of us, without any doubts. Unpredictability is a sign of this era, at least for the immediate future of ours. Global tectonic shifts are taking place, with Asia and Eurasia rising, as Europe and America are relatively declining and the Atlantic Ocean is being replaced by the Asia-Pacific region as a new powerhouse. From our European perspective the times are definitely challenging.

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# European Security System In The Context of Current Geopolitical Challenges

## Abstract

Historical and legal aspects of the formation of the European Security system are analysed, exploring the development of the European security system and the role of the EU's institutional mechanisms. The beginning of the formation and development of the European security system starts with the process of European integration, immediately after the formation of the first integration structure of the European Coal and Steel Union (ECO) on April 18, 1951, since the ECO Treaty had a significant political burden. The legal status of NATO as the main military component of the modern European security system and its role in the process of establishing the Common Foreign and Security Policy are examined. It is noted that NATO is a military-political international intergovernmental organisation, which was established in 1949 on the basis of the North Atlantic Treaty. NATO is a regional organisation, but an analysis of the Founding Treaty of NATO, directly art. 5, as well as NATO's new Strategic Concept of 1999, which consolidates the expansion of the military sphere NATO intervention beyond the scope of art. 5, suggests that the alliance claims to be transformed from a regional defence structure into an organisation for the establishment, construction and maintenance of global security. The author considers the problems of the establishment and development of the OSCE (Organisation for Security and Cooperation in Europe) as a regional mechanism in the European Security system.

**Key words:** European Security System, The EU, Common Foreign and Security Policy (CFSP), NATO, OSCE

## Introduction

Recent changes in the international system, as well as the growing threat to global and regional security caused by international terrorism, and violent extremism have highlighted the problem of the formation of a new system of international security, especially on the European

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continent. At the beginning of the third millennium, the problems of the emergence and formation of a qualitatively new comprehensive system of international security are very relevant, which is explained not only by its absolute weight for the preservation of human civilization, but also by the high pragmatic values for the stable functioning of the member states of the world community. Of particular importance, these processes are acquired at the regional level. In connection with the growing threat to the European security system and the need for its reform in the conditions of the existing restoration of the elements of the bloc-civilisational confrontation, there is a need to analyse its peculiarities and the key actors of this system, the most influential participants in European integration and Euro-Atlantic cooperation.

In the context of the escalation of a permanent diplomatic, cultural and ideological, economic and military-political confrontation on the European continent directly linked to the break out of the Russian-Ukrainian conflict in 2014, the European security system as well as the international system of relations came in the period of sharp deterioration. The confrontation of powerful geopolitical players, the key players in the European security system (on the one hand, the United States, NATO and the EU, on the other, the Russian Federation) revealed unresolved problems and mistakes in the policy of Western democracies. Among them we note the uncertainty of further development of Euro-Atlantic relations, the role of the United States in ensuring European security, the possibilities of the European Union in its permanent efforts to reach consensus on the policies with the subjects of integration and the ability to act as the single centre of international politics. We may state that there was a lack of adequate strategy of Western structures regarding inadequate strengthening of monopoly power and military-political resources of Russian Federation, which results in its invariably aggressive foreign policy and the neglect of the basic rules of international law.

In April 2014, the President of Estonia, Thomas Hendrik Ilves, in response to the annexation of the Crimea and preparation for a full-scale military and political aggression against Ukraine, said that «fundamental understanding of security in Europe is now being destroyed» and «political leaders must recognize that old rules no longer apply» (Erlanger 2014). These rules are the postwar settlement of international relations and the world security system in a bipolar confrontation, enshrined in the Helsinki Act CSCE in 1975 and modernized in the Paris Charter for a New Europe in 1990.

Taking into account the above-mentioned challenges, the following questions arise: 1) is the existing European security system effective and if not, how can it be improved? 2) how can the European countries counteract the existing challenges and threats?

## **1. European Security System: Main Components and Challenges**

Security was and is one of the most important aspects in the functioning of international relations. There are four main approaches while analysing the subject of security: the first one, national security, involves the protection of the basic interests of a particular state; the second, regional security, implies the availability of the most effective security systems within specific geographical regions; the third, international security, pays more attention to the interconnection of the security of one state with the security of other states (collective use of armed forces, international institutions and security regimes. Finally, the fourth element, global security, is comprehensive, distinguished by its multi-objective nature, and includes, in addition to military security, the protection of civil rights, the environment, economic development, etc. However, recognizing the existence of these approaches, it still seems that there is no need to confront them, since security in today's world is indivisible. Indeed, no country in the world can afford to protect national security interests based solely on its own resources. This is one of the strongest arguments for a collaborative security model.

It is noted that, based on an understanding of the general nature of international security, measures aimed at ensuring a stable and non-violent peace should be comprehensive. They should touch different and practically all spheres and fields of interaction among states: political, military, socio-economic, environmental, humanitarian and others. Recently, international community forums have been increasingly addressing the environmental and humanitarian aspects of global security that are truly global. This is justified, since it is impossible to ensure universal security without environmental security and respect for fundamental human rights and freedoms. At the same time, it must be mentioned that collective security is at the heart of a system of comprehensive security at the threshold of the third millennium in a constantly changing world.

In recent years global community has been increasingly challenged by “new-generation” armed conflicts: internal armed conflicts occurring within

the territory of a single state. In international law, they have been termed as non-international armed conflicts. Moreover, such internal conflicts are already prevalent today among all armed clashes. In conflicts of a new generation, even if they are found to be a threat to international peace and security, it is difficult, if not impossible, to establish the carrier of such a threat. Moreover, at least at an early stage of its development, such internal armed conflicts may not pose a threat to international peace and security, remaining a violation of the internal order in the country in which they occur. However, it is important to point out that one of the most important tasks in international law and in international practice is the need for the UN and regional collective security structures to find solutions, including military, to such “new-generation” conflicts.

The European security system has also faced new dangerous challenges that threaten it both from the outside in the form of aggressive actions by one side against the other and internally: terrorism, radicalism, large-scale illegal migration. Russia’s new challenges and threats, which have significantly changed the situation in Europe, have forced key international organisations in Europe such as the EU, NATO and the OSCE, to rethink their approaches to security and stability.

NATO’s role in the new conditions, dealing with threats to international and European security is greatly increasing. It has become the foundation of European security architecture. The most important and enduring purpose of NATO, set out in the Washington Treaty, is to defend the freedom and security of all its members through political and military means. The Alliance commits to ensuring a lasting peaceful order in Europe; however, achieving that goal may be at risk due to the crises and conflicts that arise inside and outside the Euro-Atlantic area.

According to the German Institute for International and Security Affairs (Stiftung Wissenschaft und Politik (SWP)), as much as the conflict in Ukraine has intensified NATO, it has also weakened the EU’s Common Security and Defence Policy. It has stated the Alliance member states are ready to increase NATO’s security and defence spending. At the same time, the United States continues to consider itself as a powerful European player and directly cooperates with European security partners.

Russia’s policy has forced NATO to rethink its strategy and focus on enhancing military capabilities and concentration of forces on the eastern borders to respond adequately to Russia’s actions. «Russia’s aggressive actions against Ukraine are fundamentally changing our vision for the whole of Europe,» (the NATO Declaration of the Wales Summit,



5 September 2014). In response to the challenges posed by Russia, the NATO Preparedness Plan was approved, which provided for the Alliance's continued presence and significant military activity in the Eastern Europe. Examples of such actions include the creation of a Joint Readiness Force (JRF), and defence spending of at least 2% of GDP, the development of the North East Multinational Corps, and the establishment of the NATO Strategic Communication Excellence Centre in Latvia. At the same time, the Alliance stated that it did not seek confrontation and left open the possibility of political dialogue with Russia.

The Russian-Ukrainian conflict may become a powerful incentive to spread the influence of NATO on the global stage. The Alliance may find the role of its military remains in Europe, resorting to the functions of deterrence of war in Europe. This will mean the need for reorientation of its military power to perform the complex tasks of defence and increase of readiness to deal with broad strategic confrontation. It is especially necessary for the defence of Central and Eastern Europe. All this requires substantial rethinking. NATO needs to reconsider collective defence in its current form, yet in a different setting, and find the answer to new geopolitical realities and challenges. Possible ways of meeting these challenges are a combination of the foundations of collective, cooperative security and crisis management. That is why it is important not only to implement the programme adopted at the 2014 Wales Summit, but also preserve its internal unity and the ability of the Member States to meet their obligations.

NATO, unlike the EU, is creating a military-security space at its borders, involving partner countries, including Ukraine, in its own security mechanisms. To this end, the Alliance launched the Interoperability Platform, aimed at enhancing interoperability between its partner countries, including Ukraine and NATO, and practically joined the reform of Ukraine's security and defence system. In doing so, the Alliance enhances the ability of Partner countries to respond to new threats, both alone and in cooperation with NATO.

The EU faces a variety of political and economic challenges, including terrorism attacks, the rise of extremist movements and persistently high unemployment in many EU countries. Such factors are complicating the EU's ability to deal with a multitude of internal and external challenges (the migration and refugee crisis; Brexit; a heightened terrorism threat and aggressive policy of the Russian Federation). However, it can be contended that there is a chance that the multiple crises currently facing the EU could produce some beneficial EU reforms, encourage further political

and economic integration, and ultimately transform the bloc into a more effective and cohesive entity (Archick 2016, 2).

In the European Neighbourhood Policy Review (hereinafter the ENP Review), published on 18 November 2015, security was identified as one of the priorities: «a new focus on security will open up a wide range of new areas of cooperation within the ENP». (Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Review of the European Neighbourhood Policy). However, this document does not provide guarantees of the security for neighbouring countries, the policy aims to stabilize the situation in the immediate neighbouring of the EU and thereby avoid the threats it faces, move them away from the EU borders. Therefore, the main areas of EU cooperation with neighbouring countries are identified as follows: conflict prevention, border protection, counter-terrorism, radicalisation and organized crime, and security sector reform.

Conflict prevention is proposed to be implemented through early detection and prevention, for which a permanent mechanism must be developed and the EU's readiness to respond adequately and in a timely manner to new threats. As the experience of Russian aggression against Ukraine has shown, the EU has failed to properly receive signals about the threats to European security coming from the East. Therefore, such an early detection mechanism should be interconnected in «EU-ENP country» with a common centre for the collection and analysis of information and coordination. A similar mechanism is already in place within the FRONTEX Agency, but at the level of border protection. The importance of a timely and rigorous response to the identified threat has been repeatedly confirmed, from the Georgia war in 2008 to the occupation of Crimea and the emergence of a new burning conflict in the Donbas in 2014.

In order to combat terrorism and radicalism, Brussels invites neighbouring countries to step up cooperation in the fight against terrorist financing, involving young people in terrorist and radical movements, illegal migration and arms trafficking. It is envisaged that civil society organisations will be actively involved and that the Radicalisation Awareness Network, Europol, Eurojust and Financial Investigation Units already available in the EU should be used.

The statement by Jean-Claude Juncker, the European Commission President, about the need for the creation of an EU army immediately provoked a strong reaction and lively discussions among world political and expert journalistic circles. "We have a lot to thank the Americans for... but

they won't look after Europe's security forever", Juncker said in November 2016. "We have to do this ourselves, which is why we need a new approach to building a European security union with the end goal of establishing a European army" (Deutsche Welle, 10.11.2016). Juncker's position, however, is neither unique nor sensational for the EU. This policy wording is formally written in the Treaty of Lisbon, and its implementation has become even more urgent in the context of the military aggression of Russia against Ukraine, and threats from the eastern neighbour to the rest of Europe. However, experts' attention to Juncker's statement was exacerbated due to the direct use by such a high level politician (the President of the European Commission) of the term "European army", which should be understood as the united armed forces of the European Union.

NATO and the EU have in the past few years made a great show of their burgeoning cooperation. EU Presidents Tusk and Juncker attended NATO's Warsaw Summit in July 2016 and signed a Joint Declaration with NATO Secretary General Stoltenberg to "give new impetus and new substance to the NATO-EU strategic partnership" (Williams 2018). Though, the EU doesn't dare to create its own full-fledged military component, since most EU member states (twenty-two countries) are NATO members and rely on the Alliance's defence capabilities. This is also recognized by the EU's High Representative for Foreign Affairs and Security Policy, Federica Mogherini, who takes part in all key NATO activities and in her video speech at the NATO PA seminar on November 27, 2015, stressed the importance of close EU-NATO cooperation. Therefore, today the EU focuses on the non-military aspects of security, paying little attention to its defence capabilities. The same conclusion was reached by experts of the German Institute for International and Security Affairs, noting that "the financial costs of EU member states in the field of defence will remain limited in the near future and may be reduced" (Bendiek 2016, 2).

Organisation for Security and Cooperation in Europe (OSCE) (before 1994, the Conference on Security and Cooperation in Europe) is one of the most important elements in the European security architecture. It has to act in the following directions: political (including security aspects), economic (market economy, social justice), ecological (environmental protection) and "human" (human rights and development of democratic institutions) on the basis of generally accepted principles. The political dimension of the OSCE activities concentrates not only on the general principles of the relations development among the countries, but also includes more specific areas, such as strengthening trust among Member States, arms control, prevention

and resolution of conflicts and combating transnational threats. The need for strengthening the trust among European states was clearly understood by politicians taking into account ambiguous processes during the “Cold War”, which included permanent crisis in relations between two warring military-political blocs and constantly growing arms race and armed conflicts in various regions of the world. The high level of international tension could only have been removed through dialogue and the implementation of effective measures of confidence.

After 1990, the OSCE acquired more well-established organisational forms, sent observer missions to different elections and held field operations (for instance, Kosovo, Georgia, Ukraine) in Europe to monitor the situation and the possibilities of peaceful settlement of these conflicts. The OSCE has accumulated some experience in such activities as early crisis prevention, crisis management and post-conflict rehabilitation. The main OSCE achievement was coordination of the adoption of the Treaty on Reduction of Conventional Armed Forces in Europe, which established quantitative restrictions for European countries on the main types of conventional weapons. OSCE tried to carry out mediation or monitoring in the conflict zones in the territories of the new independent states of the CIS, in Transnistria, Abkhazia, Nagorno-Karabakh and Chechnya.

However, the results of OSCE performance have not always been effective. For example, OSCE failed to resolve the problems in Kosovo, where the organisation was involved prior to the NATO action in 1999. The activity of the OSCE mission in Ukraine today is rather controversial. On the one hand, in assessing the actions of international organisations in terms of Russian aggression in eastern Ukraine, some analysts highlight the positive effects of the OSCE activity, while on the other hand, mainly because of participation of Russian experts in the OSCE, their assessments are questioned.

Therefore, as we see, the purpose of OSCE activity is different from NATO. First and foremost, it is conflict prevention, crisis management, compliance with the rights of people, refugees, arms control, economic development, political reforms, etc. Therefore, the OSCE is not an organisation that guarantees safety, rather one that helps to create the conditions for security. Instead, NATO, unlike the OSCE, has the real tools of force impact and coercion to peace. To continue to play a useful role in resolving this issue and in easing tensions between Russia and the West, the OSCE needs to adjust its way of working and strengthen its toolbox.

## Conclusions

Considering the progress of a variety of threats and risks, the debate on changing the format of the European Security System as a whole has become relevant today, especially with a view to adapting it to the current crisis conditions in Europe and worldwide. However, the view that the European Security System has ultimately collapsed is quite controversial today. We believe these judgments are not justified. First of all, due to the fact that the European security system has been constantly changing during its historical development depending on specific historical realities. Like any other system, the European Security System is now experiencing an evolution influenced by both external and internal factors of the up-to-date international system.

Therefore, it is advisable to speak only about changing the format of the European Security System. We should single out the following trends in this context:

- Review of relations with the countries which refuse to recognize the agreements governing the relations in the field of security (the Russian Federation being the first on the list);
- Make a clear distinction between internal and external challenges and problems, identify their priority. It is primarily about the fact that the Western countries have switched their focus from foreign policy to settling domestic problems caused by economic and migration crises, as well as threats of terrorism and radicalisation;
- Define a single structure to address security issues, giving it more powers, and adapt to difficult conditions of modern hybrid wars (many researchers have no doubt that it should be NATO);
- Strengthen cooperation between NATO and the EU;
- Strengthen the unity within the Alliance, particularly in the matter of strengthening its military presence and building military infrastructure on its eastern flank;
- Develop a roadmap of NATO's relationship with Russia, including finding ways to compel the RF to follow the rules of international law;
- NATO expansion;
- Development and adoption of new guidance documents in the field of security and defence, which would reflect current events and trends in the world;
- Full restructuring of the OSCE as non-compliant with modern security requirements, particularly because it lobbies for the benefit of one country over others (especially Russia).

At the same time, these trends are not exhaustive. They are mostly caused by the fact that the analysis of the current security and defence policy of the EU makes it possible to argue that it does not contain a clear understanding of the situation in Ukraine and the Middle East. Thus, the European Security System has travelled a long way since its formation and development. In its efforts to respond accordingly to various international processes, the European Security System has been structurally expanding for a long time. Therefore, its structure is rather complex. On the one hand, it provides clear powers to some of its structural units and thus ensure their functionality, while on the other hand, it leads to their ineffectiveness and has a negative impact on the system as a whole.

However, modern international concerns, including terrorism, the policy of the RF towards post-Soviet states, conflicts in the Middle East, etc., are causing the need for changing the format of the European security system in order to adapt, prevent and handle crises and new challenges.

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# The European Law beyond the European Legal Order

## Abstract

The paper addresses the effects of European law. The first, of paramount importance, is conducive towards the European legal order of the European Communities and of the European Union. Moreover, European law has simultaneously contributed to the development at supranational level of a teleological vision of governance; the values that are considered European per se; the human rights that are better protected; the identity in sensu lato, exceeding the cultural meaning; at global level to a source for international law and national law of third countries. The implications of these effects are examined to highlight the significance of the European law in the process of European integration and enhancing the European actorness in the global order; additionally, the unique design of European law may drive supranational and international stability or instability depending on players' interests.

**Key words:** European law, effects, European legal order, values, identity

## Introduction

The history of European unification is old as Europe itself. For centuries politicians had been striving at uniting Europe by hard instruments. A change of paradigm for uniting Europe occurred in the nineteenth century, when political actors opted for benevolent, soft tools. Since then a lot of incentives have emerged by addressing this issue. The focus transcended the communication for uniting Europe from narrow political circles to masses of people by various means in which thinkers, philosophers and writers were involved.

The philosophy of small steps and legal binding agreements prevailed over all initiatives. The European Union – a successor of the European

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Community – represents a legal reality. This legal reality shaped and continues to shape the constitution of a united Europe, the European Union. Does the legal reality refer only to a new legal order of the Member States that form the European Union? Does the legal reality produce effects only inside the legal order, or outside too? What kind of effects are they? What do they influence after all? These cogent questions claim for reasoning answers which are rooted in European law.

Such an approach originates from the uniqueness of European law in the contemporary world, as it was with Roman law in ancient times. Without having the intention to compare these two systems of law, however, it is fair to say that European law exceeds by far through its magnitude, significance and stance for transformative regional and global changes. In order to clarify it, scrutinising answers to the above-mentioned questions are required by revealing the development of the European *acquis*, its internal and international effects, in what way and how it affected a world competitor, the European Union.

## 1. *Acquis communautaire*

The *Acquis communautaire* (*acquis*: that has been acquired or obtained; *communautaire*: of the community) – or community *acquis*, sometimes called the EU *acquis*, or often shortened to *acquis* – is a central legal concept of the European Union. The French term refers to the legal order of the European Union. The EU's *acquis* is the cumulative body of European Union law applicable in the European Union. *In sensu stricto*, the EU's *acquis* consists of primary, secondary and tertiary legislation. *In sensu lato* the European Union law comprises the rules of the EU legal order, including general principles of law, the case law of the Court of Justice of the European Union, law flowing from the EU's external relations, and supplementary law contained in conventions and similar agreements concluded between the European countries to give effect to Treaty provisions. So, the EU's *acquis* is fundamental, dynamic, constantly developing and evolving.

Thus, the EU's *acquis* is described as a body of common rights and obligations that are binding on all EU Member States. All EU Member States are bound to comply with the *acquis communautaire*, which denotes the primacy of EU law over national law of EU Member States. Applicant countries must accept the *acquis communautaire* and incorporate it into their own legal systems before they can join the European Union. Certain



derogations from the EU's *acquis* may be granted only in exceptional cases and are limited in scope *per se*. Applicant countries must adjust their state institutions and bring their national legislations in line with the EU's *acquis*. During the negotiations for enlargement the *acquis* varied in the number of chapters. For instance, in the last enlargement (Croatia) the *acquis* was split into thirty five chapters: free movement of goods; freedom of movement for workers; right of establishment and freedom to provide services; free movement of capital; public procurement; company law; intellectual property law; competition policy; financial services; information society and media; agriculture and rural development; food safety, veterinary and phytosanitary policy; fisheries; transport policy; energy; taxation; economic and monetary policy; statistics; social policy and employment (including anti-discrimination and equal opportunities for women and men); enterprise and industrial policy; trans-European networks; regional policy and co-ordination of structural instruments; judiciary and fundamental rights; justice, freedom and security; science and research; education and culture; environment; consumer and health protection; the customs union; external relations; foreign, security and defence policy; financial control; financial and budgetary provisions; institutions; and other issues.

The EU's *acquis* is crucial for understanding the constitution of the European Union, the enlargement procedure and the process of European integration. Moreover, the EU's *acquis* is critical for understanding the effects it produces inside and outside the EU legal order.

## **2. European Law: Community Effects**

Legal effects of the European Union law refer to the multitude of legal effects that EU legal norms may generate in the EU legal order and in the national legal systems of the Member States. The rules for the national application of EU law include direct effects, indirect effects, and primacy of EU law (Bobek 2017, 143–176).

Legal effects are distinguished from political, economic, social, and psychological effects that EU law may have on individuals, communities and European society at large. However, the latter effects are not neglectable as they may have the same weight or may indicate more than legal effects, because taken altogether legal and non-legal effects may affect the human condition in the European community, even though only legal effects constitute an accepted legal basis for the conduct of the community.

Ultimately, legal and non-legal effects overlap to some extent, considering that legal norms regulate political and social areas. Positive or negative psychological effects may emerge by adequate or inadequate provision of ethical aspects into legal norms.

On the one hand, EU law contributed to the establishment of the European legal order. On the other hand, EU law also produced non-legal effects, i.e. political, economic, social and psychological effects at national and community levels.

**Unification.** Among political effects, the greatest realisation is a united Europe, i.e. the European Union, a supranational organisation of peoples and states that was built not by force, the hard tools used in the past, but by soft instruments excluding the use of military force.

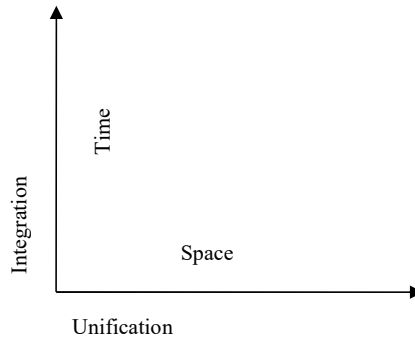
The unification of Europe, a united Europe, has led to democratic and efficient instruments of governance at local, national and supranational levels, reconciling all players; a transparent decision-making process; balanced sharing of powers, etc.

**Integration.** Among economic and social effects, integration seems to be a never-ending process, as it has a temporal dimension. Integration represents the scope and the nature of the European Union. Integration has always been on track. The process of European integration is as lengthy as the European Union itself.

Convergence policy and attenuation of regional disparities (Meliciani 2016) are essentially linked to socio-economic factors of different Member States, Western and Eastern standards, industrial and agricultural regions, central and peripheral areas, newcomers, etc.

Creation of the unique/single European market, customs union, Schengen area, eurozone, and free movement (of goods, persons, capital, and services) contributed to the development and improvement of economic milieu inside the European Union to a greater market exempted from various taxes, the promotion of greater competition among various agents and more innovative economies.

The ensemble of unification and integration may be displayed by an axis in which unification is associated to space and integration to time. An imaginary curve would intersect spatial and temporal points that move obliquely upwards but not always in a straight-line graph.

**Fig. 1. Unification-Integration Axis**

Source: own elaboration, 2019.

***Security and Safety.*** Security and safety are important pillars of the EU legal order. Security is a pre-requisite for stability and growth in the European Union. EU treaties and policies recognise them indispensable for wellbeing of the community. For that to happen, the European Union must play an active role in dealing with local, national, regional and supranational challenges. Some germs of existing challenges come from outside of the European Union. Thus, the European Union is engaged in such challenges as poverty, humanitarian disasters, conflict prevention and resolution. The European Union acts through concrete actions that support development, reduce the risk of disasters and conflicts in order to build resilient societies. In this way the European Union improves its capacities, preparedness and response to security and safety threats.

The European Union's internal and external policies are aimed at supporting stability and security by enhancing the capabilities for prevention and response to the threats it faces alone or jointly with other actors at regional and/or global levels.

***European Law: Driver of Values.*** For sure the values represent a crucial chapter in the constitution and the history of the European Union. These values are prescribed in the constitutional treaties. The European Union is “founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights” (CTEU, art. 2). These values became a common pool of values for the Member States and adhering countries. The European values have been building synergies between people and countries for almost seven decades of sharing them inside and outside the EU legal order.

In the debates over values, there are voices (e.g. Gideon Rachman) asserting that the European Union is not based on values, it is just an alliance. Such an assertion is quite questionable. As a proof of this stands the unity of the European Union in face of various crises (economic, financial, the story of Brexit, etc.). It is possible because the European values are socio-centric. If they were state-centric, just in such case any claim of an alliance would be valid. By extrapolation the European Union is an alliance, but an alliance of peoples first and foremost.

Thus, European law is a driver of values as such, oriented towards and granted to individuals that form the European Union. Considering the direct effects of European law in the national systems of law, the Member States do keep to these values.

European values are also exported to third countries' legal systems as well, through the agreements that the European Union concludes (e.g. ENP countries, etc.).

***European Law: Driver of Identity.*** European law could be regarded as a driver of European identity as well. Both hard and soft effects of European law have left traces on the identity of the peoples living in the European Union. Here the concept of European identity refers to the European Union and not to the continent of Europe, taking into consideration that there is no full overlapping of these two categories. It is worth observing how European law contributed to formation of European identity. European identity formation is also an evolutionary process and its foundations lay in the founding treaties. There are scholars who ask if a European identity exists (Dittrich van Weringh 2005) or even propose the idea that a common European identity is “an illusion” (White 2012, 103–111).

It is fair to say that the meaning of identity – a complex, complicated and sometimes unclear concept – plays a central role in the European community. A valuable reference is that identity refers to “(a) a social category, defined by membership rules and (alleged) characteristic attributes or expected behaviours, or (b) socially distinguishing features that a person takes a special pride in or views as unchangeable but socially consequential (or (a) and (b) at once)” (Fearon 1999). In a broad sense the sameness of essential character can be revealed.

Strictly speaking from the legal point of view, the Treaty on the European Union (Maastricht Treaty), signed in 1992, introduced an innovative legal category, that of European citizenship. The purpose was “to strengthen the protection of the rights and interests of the nationals of its Member States through the introduction of a citizenship of the Union” (TEU, art. B);

“Citizenship of the Union is hereby established. Every person holding the nationality of a Member State shall be a citizen of the Union. Citizens of the Union shall enjoy the rights conferred by this Treaty and shall be subject to the duties imposed thereby” (TEU, art. 8).

Simon Schunz considers that European identity is an “unfinished business” (Schunz 2012). In his pertinent policy review, he follows four main theoretical concepts driving the study of European identity: European identity and identification with Europe; Europeanisation; transnationalism and cosmopolitanism. Then he identifies nine dimensions for the expression of European identity: multiple social identities and biographical identity; transnational intimate relationships; collective action; standardisation and regulation; cultural production; intercultural translation; inclusion/exclusion; structural conditions and opportunity structures; the public sphere and state-regulated institutions (Schunz 2012).

European identity seems to be based on two models of formation: the structuralist model (deriving from association with other Europeans) and the culturalist model (deriving from core, European values and their expression, especially in governance and legal order) (Recchi 2012).

There are scholars who are in favour of active promotion of initiatives on European identity. Stefan Hojelid focuses on obstacles and possibilities (Hojelid 2001). In a recent study Mathias Dolls and Clemens Fuest analyse the existing policies and recommend concrete proposals on how to activate an “EU feeling”: how to encourage European identity (Dolls, Fuest 2018).

European identity must be treated in a broader sense of belonging to the same geography, history, culture and legal order. European identity resides in a feeling of exclusive belonging to the European Union. As an open process, the European identity is being shaped continuously.

### **3. European Law: International Effects**

International treaties make part in the hierarchy of European legal order (CTFUE, art. 216). On one hand, in order to produce effects, they must fulfil three conditions: binding; clear, precise and unconditional provision capable of direct application; and unprecluded effect.

On the other hand, in the opposite way the contribution of European law to the development of international law is also certain: the European Union concludes international treaties; the European Union is a member of some international organisations; the European Union participates

actively in shaping of international law (cf. Smith 2010, 224–241; Kochenov, Amtenbrink 2013, 1–18; Wouters, Chané, Odermatt 2014). The European Union is an “actor of international law” (Lenaerts, de Smijter 1999, 95–138). There are voices considering European law as international law (Moorhead 2012, 125–144).

Additionally, European Union law has effects on the national law systems of third countries in the form of law approximation. It especially happens with the countries with which there are concluded partnership and cooperation agreements, and association agreements. In this respect, the European Union covers a large geographical area in supporting development, security and political dialogue with the countries in the Western Balkans, the Mediterranean, the Middle East, Eastern Europe, Central Asia and Latin America. Human rights and democracy are among the key elements in promoting cooperation for mutual benefits.

***European Actorness.*** The abovementioned facts speak in favour of European actorness at international level. In other words, the European Union has the status of global actor in international relations due to its presence and contribution in such areas as law, diplomacy, economic affairs, culture, etc.

#### 4. What Is in Crisis?

A lot of discussions and debates have emerged lately in the European Union about a specific crisis or certain crises, including research results provided by the academic world. What is not expressly mentioned in these debates is the area of competences. Crises occur in the areas of competences adjudicated by national authorities, not in those conferred to the European Union. Under the principle of conferral, the European Union acts only in the limits of its competences given by the Member States. Those competences that are not given to the European Union remain under the authority of the Member States. The division of competences between the European Union and its Member States falls into three categories:

- exclusive competences,
- shared competences,
- supporting competences.

Exclusive competences (CTFEU, art. 3) refer to areas in which the European Union alone can legislate and adopt binding acts. The Member States may do so only if empowered by the European Union. But as a rule, the European Union exerts its right in exclusive competences without

transferring them to national authorities. The European Union has exclusive competences in such areas as: the customs union; the establishment of the competition rules necessary for the functioning of the internal market; monetary policy for the Member States whose currency is the euro; the conservation of marine biological resources under the common fisheries policy; common commercial policy; conclusion of international agreements under certain conditions.

Shared competences (CTFEU, art. 4) mean that the European Union and the Member States can legislate and adopt binding acts. The Member States exercise their own competences in areas the European Union does not exercise or has decided not to exercise its own competences. Shared competences apply in the following areas: internal market; social policy, for the aspects defined by the Treaty; economic, social and territorial cohesion; agriculture and fisheries, excluding the conservation of marine biological resources; environment; consumer protection; transport; trans-European networks; energy; area of freedom, security and justice; common safety concerns in public health matters, for the aspects defined by the Treaty; research, technological development, space; development cooperation and humanitarian aid.

Supporting competences (CTFEU, art. 6) are those that the European Union may intervene to support, coordinate or supplement the actions of its Member States. Supporting competences include the following areas: protection and improvement of human health; industry; culture; tourism; education, vocational training, youth and sport; civil protection; administrative cooperation.

In order to draw a demarcation line between competences and crises, it is fair to say that crises happen in the areas in which the Member States have powers, i.e. in those of shared and supporting competences, not in exclusive competences exercised by the European Union. In fact, crises are national crises, not supranational European ones (political, economic, financial, identity, cultural, etc.). Usually crises appear in areas in which the Member States exercise their competences. The motives may have various origin and nature. Challenges for European integration are national(ist) tendencies/interests in imposing improper conduct rules (not values) at EU level. An overcoming approach would be complete fusion between values and interests as the Global Strategy for the European Union's Foreign and Security Policy suggests: "our interests and values go hand in hand [...], our fundamental values are embedded in our interests" (EUGS 2016, 13).

Probably a more correct question would be to ask in another way: who is in crisis? Usually local/national politicians are in crisis or provoke crises for different scopes; local/national tendencies undermining the European Union, European values, European integration, or European unity.

All in all, irrespective of any crisis in which the powers are in local/national areas of competence, it causes the players know each other better, to learn properly weaknesses and strengths, thus working on those weaknesses and exploiting those strengths. The positive side of any crisis is that the European Union gets stronger and more effective in the long run.

***United, Effective and Legitimate Entity.*** Various critical situations occurring in the Member States of the European Union turn to be transferred at supranational level rather attempting to solve them properly at the national level. However, authoritative voices suggest responding in a complex manner to overcome such challenges. In their joint research “Towards a More United and Effective Europe: A Framework for Analysis”, Nathalie Tocci and Giovanni Faleg (2014) evaluate these challenges in terms of unity, effectiveness and governability of the European Union at large. Three questions are under analysis in the vicious cycle of centripetal and centrifugal forces in Europe, i.e. a more united Europe: integration of the core to restore the European Union’s output and input legitimacy; a more effective Europe: heterogeneity within the core and the core-noncore relationship; and squaring the institutional circle: a more governable European Union.

**Table 1. Categorisation of Differentiated Integration (adapted from Stubb)**

|                              | Multi-speed<br>(time)   | Variable geometry<br>(space)   | À-la-carte<br>(matter)   |
|------------------------------|---|--|--|
| Definition                   | A core of Member States which are able and willing to go further, the underlying assumption being that others will follow | As differences in the integrative structure are unbridgeable, a permanent separation exists between a hard core and less developed integrative units | MS pick and choose, as from a menu, which policy area they would participate in, while subscribing to a minimum set of common objectives |
| Related model of integration | Multiple speeds   | Multiple levels  | Multiple clusters  |
| Examples                     | EMU and pre-in Member States  | Schengen agreements  | United Kingdom with respect to EMU, Denmark with respect to defence  |

Source: Apud Tocci and Faleg, 2014.



Revisiting the debates between the core and noncore nature of the Member States, how does integration address the governance of European heterogeneity? Alexander C.-G. Stubb identifies three models of integration: multi-speed, variable geometry and à-la-carte, that correspond to variables of time, space and matter.

The authors identify four non-uniform European integration types: patchwork core, concentric circles, multiple clusters and hub-and-spoke (Tocci and Faleg 2014, 27). They are summarised in the following table.

**Table 2. Models of Future EU Governance and Logics of Integration**

| Model              | Logic of Integration   |
|--------------------|--|
| Concentric circles | <i>Variable: geographic space</i><br><i>Structure: single core</i><br><i>Force: centripetal</i>                              |
| Multiple clusters  | <i>Variable: matter</i><br><i>Structure: multiple cores</i><br><i>Force: centripetal</i>                                     |
| Hub-and-spoke      | <i>Variable: space and matter</i><br><i>Structure: single core</i><br><i>Force: centrifugal</i>                              |
| Patchwork core     | <i>Variable: space and matter</i><br><i>Structure: single heterogeneous core</i><br><i>Force: centrifugal or centripetal</i> |

Source: Tocci and Faleg, 2014.

It is worth mentioning that these are ideal types and may be applicable in the future. What counts in the table of governance models these are the elements that might be applied in the existing and emerging realities in the larger process of building a united, effective and legitimate European Union.

## Conclusions

The European Union is a construction formed by the virtue of law. The founding treaties represent the primary law of the European Union. The law, supranational law, has played a crucial role in the constitution of the European Union. That is European law, the law of the European Union or *acquis communautaire*.

European law has contributed to the EU legal order. In the same time, European law which exceeds the limits of the EU legal order, goes beyond its essential scope. First, European law produces non-legal effects inside the European Union as well. Second, European law produces both legal and non-legal effects outside the European Union by harmonisation.

European law has also produced political, economic, social, and psychological effects inside and outside the European Union. European law has contributed to unification, integration, security and safety. European law contains drivers of values, European values, established in the founding treaties inside and outside the European Union, and drivers of European identity, expressed by structuralist and culturalist models.

European law has contributed to the development of international law and national legal systems of third countries that concluded partnership, cooperation and association agreements with the European Union as a legal approximation has been conferred a central role in developing mutual cooperation.

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# The United Kingdom's Decision on the Withdrawal from the European Union, its Reasons and Economic Impact

## **Abstract**

On 23<sup>rd</sup> June 2016, the general public of the United Kingdom voted in favour of leaving the European Union. The possible exit from the Union by the United Kingdom is not only going to create a dangerous precedent, but also weaken the voice of the European Union in the international arena. In the light of recent events, one should ask themselves whether Britain is able to afford, first and foremost in economic terms, to leave the EU and what consequences it may have for the economy of the rest of the European Union countries, including the situation on the financial markets. The present article will attempt to present the reasons for the decision by the society of the United Kingdom to withdraw from the European Union and to indicate possible economic consequences related to its leaving the EU.

**Key words:** European Union, UK–EU relations, the economic policy of the European Union

## **Introduction**

Britain is one of the most Eurosceptical countries in Europe. Due to its historical power as an empire, today's Great Britain has preserved its prestige and retained the trust of its citizens. Because of this strength, the British remain reluctant to delegate the functions of the state to external institutions, which is sanctified by centuries' worth of traditionally stable political morals. In addition, the insular location of the United Kingdom eliminates the question of fundamental guarantees of the national security of their state from the daily concerns of the British citizens. The European Union is important for the United Kingdom in two aspects, i.e. ensuring

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access to the single internal market, and allowing it to influence the laws regulating said market and other EU policies. The question of the further participation of the United Kingdom in the process of European integration is therefore the subject of an ongoing ideological dispute.

The purpose of the study is to analyse the causes and economic effects of the referendum of 23<sup>rd</sup> June 2016, in which the British declared themselves in favour of leaving the European Union. The study presents the evolution of the United Kingdom's relations with the European Union, including the reasons for the United Kingdom's accession to the European Union, as well as the procedure for the withdrawal of a Member State from the European Union, and presents models and scenarios acceptable to the United Kingdom in the area of pursuing policies, including economic and related to the trade with the EU. Analysis and synthesis were used alternately as a research method, carried out on the basis of literature, official documents, reports and others. The presented study is a study of selected issues and does not pretend to exhaust the abundance of the subject matter.

## **1. The Evolution of the UK-EU Relationships**

The membership of the United Kingdom in the European Communities, and later in the European Union, is preceded by numerous considerations resulting from the conviction that the British Empire still persists. British fears and scepticism about the processes of European integration have been evident for a long time, but intensified at the moment it gained full membership in the European Communities. European affairs were usually a tool of internal policy and were treated as a means of pressure on political opponents. The other European countries were thought of mainly in terms of balancing influences. The main goal of the British foreign policy has always been to prevent the emergence of a dominant power on the continent. The instinctive reluctance of the British towards European integration resulted from the belief that it concerned subordinating the continent to one stronger state. The British policy towards Europe has always been characterized by far-reaching pragmatism and instrumentalism, at the core of which there was the protection of its national interest. The participation of the United Kingdom in the integration processes was rather selective, resulting from well-developed, instrumental approach towards Europe. The United Kingdom has always accepted membership in the European Communities when its absence could be detrimental to its national interests,

mainly in the economic aspect (Ronek 2012, 101–102; May 1999, 5). The United Kingdom is one of the Western European powers that did not appear among the founding countries of the European Community (Biskup 2013, 3–5; Krasuski 2003, 201–205). It also valued strong economic links within the British Commonwealth and economic and political relations with the United States, Australia and New Zealand (Barabasz 2015, 505; Mikołajczyk 2015, 93).

The change in the economic situation of the United Kingdom in the 1960s forced some reflection on its place in Europe and a certain kind of its economic backwardness in relation to EEC countries. For example, the economic growth of the United Kingdom in 1965 was 2%, compared to 6.5% in EEC countries. In addition, the United Kingdom saw the opportunity to regain some of the lost revenues and to strengthen its position on the international stage. These decisions clearly show the pragmatic nature of actions taken towards rapprochement with Western Europe (Ronek 2012, p. 106). The first application by the United Kingdom (1967) expressing the willingness to join the Communities, was vetoed by France. It was only after the resignation of President Charles de Gaulle in 1969 that his successor Georges Pompidou declared his support for Britain's accession to the Communities [Kenealy 2016]. The negotiations necessitated a compromise on the amount of contributions to the Community budget, the protection of dairy products from New Zealand, sugar producers from the British Commonwealth of Nations and the provision of British fishing grounds to the Community countries. When voting on the conditions of accession to the Communities in the British Parliament, it was clearly emphasized that "Britain's membership of the EEC is possible only if its interests are secured within the Commonwealth" (Ronek 2012, 108). Finally, the United Kingdom joined the European Communities on 1<sup>st</sup> January 1973, i.e. almost a year after signing the Accession Treaty, which took place on 22<sup>nd</sup> January 1972.

In the history of the United Kingdom's integration with the Communities, there was one referendum on membership in the Communities, which took place on 5<sup>th</sup> June 1975, after the Labour Party came to power in 1974. It was argued that British membership was in conflict with the socialist program of the Labour Party. Many activities implemented at Community level, including for the harmonization of VAT rates, did not meet with acceptance and participation in the European Monetary System was rejected. In matters of economic and tax policy, it was considered that these issues should be resolved by the British Parliament. With a turnout of 64.6%, 67.2% voted for continued membership in the European Communities, while 32.8%

were against (Ronek 2012, 109). The positive result of the referendum did not bring to an end the urges to call for the United Kingdom to leave the Communities if membership conditions were not changed. The United Kingdom did not agree to participate in the European Monetary System. The policy of the United Kingdom towards the Communities became more and more expressive as Margaret Thatcher assumed the office of Prime Minister, as she rejected the federalist concept of Communities while advocating an entrepreneurial Europe. It was during her term as Prime Minister of the UK, in 1984, that Margaret Thatcher negotiated the so-called British rebate (Ronek 2012, 109–110; Sporek 1997, 93–99), i.e. a discount in the contribution to the Community budget, which is in force to this day. Another wave of Euroscepticism emerged in the early 1990s around the debate on the ratification of the Maastricht Treaty. In the House of Commons, 25 parliamentarians decided to vote against their government, contributing to the rejection of the Treaty. In the face of this situation, the new Prime Minister John Major asked the House of Commons to express a vote of confidence in the government's policy as a whole. Parliamentarians' support was given and the Treaty could be ratified. The UK successfully negotiated the option not to participate in the so-called Social Charter of the Treaty and not to adopt the common currency alongside Denmark. The UK and Ireland obtained a similar opportunity in relation to the issue of accession to the Schengen Agreement, which abolished control at the internal borders of the Member States of the European Union (Ronek 2012, 111; Królikowska 2008, 6–7; Nowak-Far 2001). Both the UK and Denmark took advantage of the so-called "opt-out clause". Pursuant to the provisions of Protocol 11 to the Maastricht Treaty, Great Britain<sup>1</sup> will not go to the next stage of integration as long as the British government and parliament refuse to join the economic and monetary union (Królikowska 2008, 11–13).

Since the beginning of the discussion on the introduction of the euro in the United Kingdom, much attention has been paid to financial markets. The imprecise determination of what Britain will gain and what it will lose after adopting the common currency has left a lot of freedom to political bodies in shaping their policy towards EMU (Mrzygłód 2010, 160).

When in 2010 David Cameron became the Prime Minister of the UK, suspicions arose that he would not only prevent the introduction of the euro on the Isles, but would begin preparations to leave the EU. Questions arose as to whether D. Cameron would be able to rule Britain in a crisis.

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<sup>1</sup> By the end of M. Thatcher's term, the UK joined the European Monetary System, but opted out in 1992.



His slogans proclaimed, among others, building a great society, combating poverty and exclusion, and sensitivity to global climate change. But the ideas of “great society”, the fight against exclusion and inequality or climate change dissipated. The most important issues for the cabinet of D. Cameron were the struggle against the financial crisis of 2008 and the reduction of the budget deficit. This gave rise to a disastrous economic policy mainly based on austerity. And it was the ruthless policy of “austerity” that laid the foundation for the so-called Brexit, or the UK’s decision to leave the European Union (Zapadłowski 2016). The government put forward two main arguments in favour of savings. First, a credible promise to reduce the deficit was supposed to increase confidence in economic policy in the business sector and encourage it to invest. Secondly, the country’s growing debt could lead to a situation in which the financial markets would have to pay more and more interest for British bonds, ruining the budget and causing the pound to collapse. As a result, the abovementioned the arguments proved to be completely groundless. Private entrepreneurs did not want to invest anyway, as there was no demand for their goods and services, and financial investors bought British bonds, leading to a fall in interest rates to the lowest level in 300 years (Leszczyński 2016). D. Cameron failed to fill the hole in the budget, which in fact grew even bigger than during the term of his predecessor. The probability was also high that the economic stagnation which had lasted almost a decade would last even longer. During the reign of D. Cameron’s cabinet, inequalities increased not only between social groups, but also between regions. London grew, developed and cosmopolitanized, while the north became increasingly impoverished (Zapadłowski 2016). From mid-2013, the British economy started showing clear signs of recovery. Forecasts spoke of 1.4% GDP growth in 2013, and unemployment fell to 7.4%. However, economic growth was not high enough for British realities. Not only the opposition, but also many economists immediately reminded that the UK had not gone through such a deep recession for over a hundred years. The country’s economic results under conservative rule were in many respects worse than in the Great Depression of the 1930s. D. Cameron and G. Osborne ignored the warnings of certain economists who had warned that expense-cutting policies would deepen the collapse of the economy, as they would further reduce demand, which was low already due to rising unemployment and the collapse of prices on the real estate market [Leszczyński 2016]. Ignoring economic factors, enormous frustration of the society and reluctance towards emigrants turned out to have catastrophic consequences (Zapadłowski 2016). It is likely that the expansion of the



financial services industry, which creates few, but very highly paid jobs, has contributed to growing income inequalities, which are more pronounced in the UK than in other EU Member States. Inequalities may have fuelled the widespread reluctance towards globalisation and the so-called “establishment elites,” which frustration led to the success of the so-called Brexit campaign (Gross 2016). The rising Euro-scepticism of the British was evidenced, for example, by the UK's low turnout in the elections to the European Parliament in June 2014, which was 35.60%. Studies on the perception of the EU, published a few weeks before the EU referendum, showed that only 6 out of 10 people knew that MEPs are elected directly by the citizens of each Member State. Almost a fifth (18%) believed that MEPs were not elected, and a quarter (25%) said they did not know whether or not elections took place. In addition, only 5% could correctly name at least one deputy representing their region. Euroscepticism, protests and indifference about the EU are present in all Member States. Low turnout and a general lack of interest and knowledge about selected European representatives and their work intensify the anti-European sentiment in all parts of the EU (Davies 2016). Also the United Kingdom's refusal to join the Treaty on Stability, Coordination and Governance in Economic and Monetary Union (i.e. the fiscal pact), adopted on 30<sup>th</sup> January 2012 at the EU Summit in Brussels and the signed on 2 March 2012, put Britain in the position of one out of two (alongside the Czech Republic) countries that do not agree with its provisions. This gave the impression of isolation of the UK in relation to the other 25 states – signatories of the pact, and numerous questions arose about its future place in the system of the significantly changing European Union (Żurawski P. vel Grajewski, 2016). In the literature on the subject, research on the decision taken by the British and the reasons why the society voted for withdrawal from the EU was conducted by I. Colantone and P. Stanig from the University of Bocconi. According to their analysis, support for the “leave” option in the referendum on exit from the EU was systematically higher in regions affected by economic globalisation. The authors focused on the shock caused by growing imports from China over the past three decades as a structural driver of divergence in economic performance in regions of Great Britain. Neither general stocks nor the influx of immigrants in the region are associated with greater support for the “leave” option. A positive association only appears if it focuses on immigrants from accession countries. On the other hand, the analysis of individual data suggests that voters respond to import shock in a sociotropic manner, because individuals respond to the overall economic situation of their region, regardless of

their specific state (Colantone, Stanig 2018, 201–218). Another study by S.B. Hobbolt indicates that favouring British exit from the EU, or “Brexit”, was particularly common among less educated, poorer and older voters and those who expressed concerns about immigration and multiculturalism (Hobbolt 2016, 1259–1277).

## **2. Economic Consequences of the UK’s Decision to Leave the European Union**

In a nationwide referendum on 23<sup>rd</sup> June 2016, the British were in favour of leaving the EU. As many as 52% of voters were in favour of leaving the EU (the so-called Brexit), and 48% voted for staying in the EU. Supporters of leaving the EU were the British who rejected national and global elites, whose representatives urged them to remain in the Union. These elites, in turn, commented that the referendum was a vote whose outcome was determined by ignorance with an admixture of xenophobia, which can have very adverse economic consequences. A. Persaud believes that the decision on the so-called Brexit is not the irrational decision of the ignorant, but the rational position of representatives of the same groups around the world who lose as a result of trade liberalisation. He believes that there is a probability of a new crisis, similar to that which took place in Europe and the US in the 1930s, which inevitably led to World War II. The more so because there are disturbing phenomena of nationalism not only in Great Britain, but on a global scale (Persaud 2016; Kenealy 2016).

What is the procedure for leaving the European Union and how much time will pass before the United Kingdom actually leaves it? Due to the fact that the referendum in the UK was not binding, the declaration of withdrawal should be adopted in a legal procedure appropriate for a given country. Exit from the EU cannot take place without annulling the Treaty of 1972, under which the UK joined the European Communities, which should be approved by the British Parliament. The first step is the formal formulation by the United Kingdom of the will to withdraw from the European Union in a letter to the European Council. After receiving such a notification from the United Kingdom, the European Council will formulate guidelines for negotiations with the United Kingdom. The result of the negotiation is to be an agreement describing the conditions for withdrawal from the EU and establishing the basis for future relations between the Union and the United Kingdom. Article 50 of the Lisbon Treaty provides that negotiations may

last for two years; after this time, European treaties cease to include the EU-exiting country. However, the negotiation period can be extended if the European Council gives unanimous consent.

After agreeing on the terms of agreement with the United Kingdom, EU countries will have to approve it by a qualified majority. Earlier, however, consent must be given by the European Parliament. The United Kingdom notified its intention to the European Council on 29<sup>th</sup> March 2017. Earlier, both the High Court and Supreme Court had recognized the need for the British Parliament to comment on the Brexit case. In February 2017, both houses of Parliament adopted a draft legislation allowing Prime Minister T. May to launch Article 50 of the Lisbon Treaty (Pawlas 2017, 176).

If the British ever want to come back to the EU in the future, they will have to go through the normal path and accession negotiations, just as any other EU candidate country. This is the most complicated part, as it will be necessary to verify thousands of laws and financial relations and to establish new regulations for the British. The withdrawal agreement must be approved by the Member States, the European Parliament and the United Kingdom itself. Depending on the areas indicated for negotiations, it may be necessary to start negotiations between the United Kingdom and the European Union on future commercial and economic relations (Riebert, Matzke 2016; *The Economic Consequences of Leaving the EU* 2014, 28). The direct effect of the UK's withdrawal from the EU involves the need to reallocate seats in the European Parliament, changes in the balance of EU energy policy, general changes in EU policies and perspectives, including an increase in budget payments from other Member States to make up for the loss of British contributions, etc. (Oliver 2016, 8–9). It is estimated that the entire procedure related to the withdrawal of the UK from the EU may take up until 2025 or longer (BREXIT: the impact on the UK and the EU 2015, 28).

Analyses and estimates of socio-economic development in the UK after its exit are difficult to assess. Various institutions and scientists present their scenarios of events. However, in such a rapidly changing environment and in current regional and global conditions, with shaky economic, political and military security, it is difficult to accept any of the scenarios as the most probable. While the current political and economic reality of EU Member States (also towards Great Britain) is determined by the political and economic programmes of parties in power, it must be remembered that the scenario of conduct and political correctness may soon change.

The UK's decision to withdraw caused the European Union to find itself in a new situation, which means the need to prepare new strategic

decisions and scenarios in all policy areas run by the European Union. By undertaking any analysis of this decision, the effects of a possible UK exit from the European Union may have serious consequences for the economy and financial markets of Great Britain and the European Union. For several weeks after the referendum, exchange rate fluctuations continued, but the financial markets soon stabilized. Changes in consumption expenditure were observed. When analysing the impact of this decision on investment, it is estimated that the UK will lose approx. 2–3% of GDP on exit from the European Union. These losses, which may occur in the long run, will be caused by, among others, leaving the single internal market. It may turn out that losses will occur gradually, and it is estimated that each year they will cost Great Britain 0.2–0.3% of GDP on average (Gross 2016).

D. Gross believes that with a weaker currency, the UK could benefit from increased competitiveness that could offset increasing losses and temporary weakness in investment that is likely to occur. In the mid-1990s, exports of goods were three times more important than exports of services, and most of British exports were directed to the EU. Today Great Britain mainly exports services, and mostly to markets outside of the EU. The intra-EU commodity market is much less important for Great Britain today than for other EU countries, as the added value of goods exported to the EU corresponds to only about 5% of British GDP, which is several times less than in the case of Germany. In contrast, British exports outside the EU account for about 7% of GDP. This state of the British goods exports reflects the change of the sources of economic growth, with Asia playing the leading role. Voices can be heard saying that if the United Kingdom withdraws from the European Union, it will be easier for it to approve trade agreements than when in the EU. This seems doubtful, as in the case of approving a free trade agreement with Canada or with other countries, the UK might have a less significant position in the negotiations than the EU (Gross 2016). This is a practical problem, as the United Kingdom has been in the EU for over 40 years and is unlikely to have much experience in bilateral trade negotiations, as negotiations have been conducted by the European Commission on behalf of the Member States. Uncertainty about future trade agreements is considerable and this is why economists believe that Brexit may be harmful to the British economy (The Economist 2016, 6).

The United Kingdom does not have to be afraid of great changes in its capability to export services to the EU (which currently accounts for about 40% of its exports), especially financial services, which constitute about a third of all British exports of services and provide two-thirds of the surplus in

the balance of services, which the United Kingdom needs in order to pay for the deficit in the trade of goods (Gross 2016). In addition, the United Kingdom has a comparative advantage in production, entrepreneurship and other services, such as marketing and engineering.

Another study conducted by the Centre for European Reform (CER) shows how closely the UK economy is linked to the rest of the Member States. In the UK, exports of services, as well as services provided by domestic companies to exporting companies, are strongly linked to the EU market. Thanks to the UK's membership in the EU, the volume of goods exchanged with other Member States has increased by 55%. In 2015, the trade of goods between the UK and the EU amounted to £364 billion. In comparison, bilateral trade with China amounted to £43 billion in the same year. Great Britain is strongly integrated with the rest of the EU economy in other ways. While in 1997 foreign direct investment of other EU Member States in Great Britain constituted 30% of the total level of foreign direct investment (FDI), in 2014 this percentage increased up to 50%. In addition, in 2015, the value of British banks' assets in the euro area was 45% higher than American assets (The Economic Consequences of Leaving the EU 2016).

According to I. Pawlas, the UK's decision to leave the EU creates new challenges for all parties, including Poland. The analysis of trade links between Poland and Great Britain made by I. Pawlas indicates a gradual increase in the importance of the British market for Polish exporters of goods and service providers. Poland has a positive balance in the exchange of goods and services with the UK, with smaller importance of imports from the UK. It would be beneficial for Polish exporters to maintain the existing free movement of goods and services. However, it is difficult to state clearly today whether the EU will be willing to agree to such a solution. The emergence of trade restrictions would have a negative impact on the activity of Polish exporters on the British market, as it could significantly reduce the demand for Polish goods and services (Pawlas 2017, 170–173).

The overall impact of Britain's exit from the European Union is difficult to quantify in macroeconomic terms. This is because there are numerous unknown and macro models that do not cover the many areas that will be affected by the exit. According to most published studies, the impact of this decision on the British economy would be significant in a negative way. A study prepared by Global Counsel indicates three areas that may indicate the broader significance of this decision for the European Union and the rest of the world. The first is uncertainty. Many British companies are concerned about staying outside the EU. This means returning to the starting point and

then creating new stable relations with the EU and with the other Member States, as well as other countries. The second is political dynamics and its impact on large countries in the EU. The influence of the UK in the EU will be affected because leaving the EU will change the relations between other Member States, i.e. France and Germany, or may tie them together, which could strengthen the position of France and Germany. The third area is the transfer of patterns to other Member States. The same tensions as in Great Britain also exist in other countries, even if they manifest themselves with varying intensity. If the UK's decision proved to be right, it could have far-reaching political consequences for the rest of Europe, which would result in the release of disintegration impulses in other Member States (BREXIT: the impact on the UK and the EU 2015).

Brexit's impact on economic relations depends on Britain's future relations with the European Union. A study by the Global Counsel points to five different models. It shows that what is most politically beneficial can be economically harmful. This is called the "Brexit paradox."

1. The Norwegian model – the EEA agreement: the UK joins the European Economic Area and maintains full access to the single internal market, but it must adopt the EU norms and regulations with little impact. This option does not solve political problems in the UK with the EU.
2. The Turkish model – customs union: internal tariff barriers are avoided. The United Kingdom introduces many regulations in trade with the EU on the product market, but the scope of the customs union is incomplete. The customs union requires the introduction of external tariffs for the EU. This option is an unfavourable compromise for Great Britain.
3. The FTA-based approach: Britain has the right to make this kind of decision, with EU relations being regulated in the form of free trade agreements. Tariff barriers are unlikely. A compromise will be needed to agree on common standards and regulations. This scenario is possible, but depends on the shape of the contract.
4. The Swiss model – bilateral agreements: withdrawal from the EU and relations with it based on a free trade agreement. The United Kingdom and the EU agree to cooperate in a set of bilateral agreements that will give Great Britain access to the single internal market. However, the EU may limit its access area. This scenario is possible but may be less attractive for the UK.
5. MFN-based model: full break with the EU and relations based on the general principles of the World Trade Organisation (WTO). Non-tariff barriers may occur in the future, which could in turn destroy trade in



services. This scenario is incompatible with Britain's liberal approach to trade (BREXIT: the impact on the UK and the EU 2015, 6; Booth, Horwarth 2012, 6–34; Żurawski P. vel Grajewski 2016).

The most likely scenarios acceptable to the UK are either the Swiss model or the FTA model, but one has to keep in mind that costs of trade are likely to increase over time. These costs are likely to be borne by both consumers and businesses. Apart from the above models, the literature also points to the creation of a free trade zone in the United Kingdom – European Union relations or the creation of a new solution, different from the ones used so far by the EU in its relations with third countries (Pawlas 2017, 176).

The analysis of the economic consequences for the European Union of the decision taken by the United Kingdom indicates a rather complicated, complex problem. All areas are interrelated and intertwined, which means that a change of decision in one area may affect the shape and form of the economic policy implementation of both parties in another area. The final balance of profits and losses will be possible to prepare at the final conclusion of negotiations and signing of the treaty specifying the rules of the withdrawal of the UK from the European Union.

## Conclusions

The British policy towards Europe has always been characterized by far-reaching pragmatism and instrumentalism, at the core of which was the protection of the national interest. The participation of Great Britain in the integration processes was rather selective and pragmatic. Great Britain accepted membership in the European Communities when it was beneficial to its national interests, mainly in economic terms. Great Britain was not a country which would give up on maintaining strong economic relations within the British Commonwealth of Nations and economic and political relations with the United States, Australia and New Zealand in favour of the Communities. The first signs of the so-called Euroscepticism appeared less than 2 years after joining the Communities. In 1975, the first referendum took place regarding the purposefulness of the UK's participation in this organisation. The next wave was the 90s and the lack of consent to adopt the euro. The negative attitude towards the EU did not change, and even deepened with subsequent governments. As a result, on June 23, 2016, the British were in favour of leaving. Along with the decision to leave the EU, all Member States found themselves in a new reality, as this decision will

have a significant impact on the shape of the policies pursued within the EU. One can analyse different decision scenarios that the UK and the European Union could make and their effects. The problem is so complex that it cannot be clearly predicted what actual effects we will be struggling with, as the UK's decision means not only the need to define a new economic and political order within the EU, but also new challenges of third countries towards the EU and the UK itself.

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# Troublesome Eastern Neighbourhood: Russia as a Difficult Partner for the European Union

## **Abstract**

The aim of this paper is to present the main objectives of the EU's policy towards Russia, and then to indicate the reasons why this policy is a failure. The basic objective of the EU was to help Russia in the process of its systemic transformation, which was to lead to the democratization and the adoption of a peaceful foreign policy course. Thanks to this, the EU was to gain in its Eastern neighborhood a friendly partner with whom it would be possible to develop a comprehensive cooperation. However, this goal has not been achieved, and one of the main reasons why is the fundamental contradiction between the ideological and political systems of both sides. As a result, it also creates a contradiction of basic geopolitical interests, which, in turn, translates into problems with the functioning of the main instrument of mutual relations, which is the EU-Russia strategic partnership. This partnership operates on various levels: while in the sphere of economic relations compromises or cooperation are possible, in practice there is no place for this in the sphere of foreign policy and especially of ideology.

**Key words:** European Union, Russia Federation, strategic partnership EU-Russia, EU-Russian ideological/political controversies

## **Introduction**

For centuries, Russia has played a very special role in the history of Europe. This country undoubtedly made a huge contribution to the achievements of European civilization, but at the same time occupied the specific position of a kind outsider. Like the British, the Russians developed their own distinct sense of identity, which made them feel, as Dariusz Milczarek described it,

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“torn between a sense of belonging to the European culture” and “tendencies to orthodox preservation” of its own distinctiveness (Milczarek 2017, 18). This approach has far-reaching political and ideological consequences in contemporary relations between the Russian Federation (treated as heir not only of the Soviet Union, but also of old Russia) and the European Union, treated in turn as the most representative of the rest of Europe.

The state of these relations is influenced not only by the historically shaped, centuries-old close ties connecting the Russian state with Europe, but also by the contemporary geopolitical position of the Russian Federation. Admittedly, the collapse of the Soviet Union shook this position very much, because the winner in the confrontation with Soviet communism turned out to be the West, but the current Russia still remains a superpower with ambitions not only regional, but also global. As a result, for the European Union this country still has a special position among the addressees of the EU’s Eastern policy (Barburska 2018; Maass 2017; Barburska, Milczarek 2014).

For this reason, relations with Russia have been treated and still are by some Member States, politicians or researchers as having a primary character in relation to other elements of this policy, and *de facto* considered as a priority according to the slogan “Russia first”. It resulted, among others, from the conviction that the international situation in Europe after 1991 was very much dependent on the efficiency of the processes of the Russian political transformation. In Russia, in turn, cooperation with Western Europe was perceived at the time as one of the important ways of including the weakened Russian state in the re-emerging international political and economic system.

## 1. The Main Objectives of the EU’s Policy Towards Russia

The first legal basis for the relations between the European Union and the Russian Federation was the Partnership and Cooperation Agreement signed in 1994. Like other agreements of this type concluded with the countries of Eastern Europe, this agreement created institutional infrastructure, but at the same time it did not include the prospect of EU membership, something to which Russia never really aspired. A very important turning point in EU policy towards this country was the formulation in 1999 of the so-called common strategy that became the founding act of the EU-Russia strategic partnership. The joint strategy concerned a wide range of issues, as

evidenced by the scope of the so-called common spaces covering economic issues, freedom, security and justice, international security and research, education and science. Looking from the perspective of later experiences, it is clear, however, that such initiatives were of a rather formal nature, and some of them were not filled with real content.

When analyzing the main objectives of the European Union's policy towards the Russian Federation, it must be emphasized immediately that the EU's principal goal was not to support such reforms in Russia, which were to introduce a full-scale liberal democracy and a free market economy in line with the EU standards. Thus, it was not about creating a specific political and economic alliance with this country: just as the EU wanted to achieve such a goal in the case of recipient countries of another Eastern policy instrument, namely the Eastern Partnership (Piskorska 2017; Barburska 2015; Latoszek, Kłos 2014).

The more moderate but also more realistic goal was to create closer ties with Russia, under which it would play the role of an important and credible partner on the international arena. This partner would not have to fully agree with the system of values and the foreign policy of the European Union, what was understandable and resulted from the different geostrategic interests of Russia as a regional power with global ambitions. It would be important, however, that Russians should respect the basic principles of "good behavior" governing both international relations, as well as domestic policy with regard to respect for democracy and human rights.

This was to lead to a lasting and mutually beneficial cooperation between the EU and Russia. To achieve this goal the European Union was ready to work closely with this country, as well as provide it with substantial political and economic assistance. The EU therefore based its policy on the basic assumption that ever closer mutual relations and the interdependence would change Russia and make it dependent on more and more comprehensive connections with Europe. In this way, as Maria Domańska put it, it was supposed to be a gradual process of "Russia's integration with the Western world, understood as Moscow's acceptance of basic Western political and economic standards and mutually beneficial cooperation in the sphere of security" (Domańska 2017, 5).

Thanks to this, the European Union wanted to protect its various geopolitical interests, as well as to act as so-called normative power promoting "European values" (Barburska 2016). They include democracy, human rights, civil freedoms, rule of law, market economy etc.; and in the sphere of foreign relations, meaning solving disputes in a peaceful manner

and preference for diplomatic and economic instruments rather than military ones. “European values” constitute a set of fundamental rights that Jan Barcz calls “the common axiological roots of the process of European integration” (Barcz, 86). These values were to be accepted to a certain extent by the Russian authorities and society and thus to lead to a probably limited, but nevertheless certain Europeanization, that is, generally speaking, adopting the EU’s norms and standards. One could say that only that was expected and at the same time so much was expected.

During the first decade of the Russian Federation as the successor of the Soviet Union, there were some indications that such a moderately optimistic scenario could be realized. Although Russian political élites and society were traumatized by the collapse of the empire and struggling with a serious political, economic and social crisis, the Russians were able to defend their young democracy: the proof was the fiasco of Yanayev’s putsch in 1991. Unfortunately the coming to power in 2000 of President Vladimir Putin and his undertaking of a neo-imperial and authoritarian course of foreign and internal policy gradually led to a dramatic drastic change of the situation, leading to a real failure of EU-Russia relations (Barburska 2014). What are the main reasons for this failure?

## **2. The Main Reasons of Failure of EU-Russia Relations**

As one can see, the influence of the European Union as a “normative power” towards Russia was supposed to be less intense than in the case of the Eastern Partnership countries, and it was supposed to bring less visible results. Apart from adopting such assumptions, a number of other factors also had an impact on the final results of the strategic partnership. In identifying and characterizing them, it may be helpful to formulate two research hypotheses.

### **2.1. Ideological Factors**

The first of these hypotheses assumes that in the case of the strategic partnership with Russia, we are dealing with a large role of various political, economic or social factors, but ideological factors including the sphere of norms and values play a crucial role. This is in line with the normative approach, according to which in the relations between international actors an important role is played by the ideological and political concepts adopted and implemented by them. As Charles A. Kupchan put it succinctly

“international order is not just about the distribution of material power and the hierarchy and authority structure”, but is also based “on norms and rules that guide state behaviour and govern their relations with other states” (Kupchan 2014, 6). This means that the system of values adopted by an international actor has a great impact on the attitudes and actions of that actor.

Such a system includes ideologies and political views, as well as culture, historical traditions, religion, customs, etc., which apply to individuals and societies as well as to states (such as Russia) and international organisations (such as the European Union). Ideological and political concepts define not only the position of the authorities and societies of one actor against the other, but they can also shape – to a greater or lesser extent – the concrete actions in their mutual relations. Generally speaking, this mechanism usually consists in the fact that ideology influences political attitudes, which in turn affect the shape of undertaken activities.

It must be pointed out that this kind of ideologization of mutual relations concerns to a much lesser extent the position of the European Union. The EU bases all of its relations with foreign partners on “European values”, which means that, as a rule, it does not apply to them clearly differentiated ideological approaches. Thus, the European Union does not treat Russia in this respect in a different way than other international actors, trying at best to more or less successfully adapt its policy (similarly in the case of Eastern Partnership countries) to local realities. However, the situation is quite different in the case of Russia, which has developed a very specific attitude towards the European Union. This attitude consists in establishing relations with the EU on a different basis than in the case of other foreign partners, that is, on an ideological basis (Barburska 2019; Barburska 2018a).

It allows us to formulate a second research hypothesis, according to which the Russians perceive the characteristics of Europeans as the reverse and the opposite of their own Russian traits, which in turn are clearly glorified by them. This is due to the fact that the identity of Russia as a state, nation and civilisation is, according to the opinion of Stanisław Bieleń, “defined not in inclusive terms, within the system of membership in the international community, but rather in exclusive terms: <against> other states”, which means emphasising differences and contrasts and attachment to one’s own specificity. In short, the Russians define themselves in opposition to other nations, but importantly, their identity “began to shape very early on the principle of opposition to the West” and as a kind of “antidote to Western recipes” (Bieleń 2006, 57).

This approach is based on a number of ideological and political concepts that have a longer or shorter history, such as the “Russian Idea”, “Russian World” or especially Eurasianism (Potulski 2015; Tsygankov 2014; Laruelle 2014). All these ideas have as a common denominator the strong belief in the uniqueness and at the same time the superiority of Russian civilization over all other civilizations, in particular the “rotten” Western/European civilization. According to Andrzej Szabaciuk, Russians believe that their country “plays a unique role of the leader in the struggle against the corruption brought by Western postmodernism, globalisation, [and] ultraliberalism”, which are supposed to undermine all the traditional forms of identity, religion, nation, family and “the human being itself”. In this view, “Western civilisation is a civilisation of death with obvious destructive characteristics”. Russia, in turn, has a messianic mission to fulfil and tries to build “a fraternity of nations based on strong historical, cultural and spiritual foundations” (Szabaciuk 2014, 83–84).

A similar interpretation of this type of dichotomy is given also by Tomasz Stępniewski. He points to a deep “ideological opposition” between Western civilization based on Latin Christianity (dominant in Europe) and Byzantine civilization represented primarily by Russia, which is based on Orthodoxy. The existence of this type of opposition entails significant results because it is associated with “different images of the world, human life and political ideas” (Stępniewski 2017, 40–41). This is of great importance for the relations between the European Union and Russia, because, as already mentioned, such great differences can shape oppositional or even hostile attitudes towards the other side. This may refer first to ideological views, and then to specific political actions – which, according to the research hypothesis adopted here, may refer to the views and actions of the authorities and the society of Russia. In reality it happens because Russians negatively assess the European Union and its system of values, so their attitude towards the EU is characterized by a high level of dislike or even hostility, which in turn is reflected in the Kremlin’s foreign policy.

## **2.2. Political Factors**

Russia’s attitude toward the European Union is favored by historically well-established traditions of Russian statehood. For centuries, it has been based on the idea of authoritarian, anti-democratic governments in connection with the idea of a superpower, whose development is based mainly on military strength and conquest of other lands and nations. The



concepts of autocracy and the need for expansion mutually condition and drive each other, which largely explains the existence of a strong combination of anti-democratic and imperial tendencies in contemporary Russia. As one of the eminent Russian historians Yuri Afanasyev notes bitterly: “Our whole history is a story of external annexations, instead of internal reforms” and because of the lack of democratic traditions, “it’s no coincidence that Russia’s historical chance at the turn of the 1980s and 1990s has been completely wasted” (Afanasyev 2009, 11). Nowadays, acceptance of such traditions leads not only to adopting specific ideological views, but also to undertaking specific political actions towards the EU.

It can be best shown by comparing the changes introduced in important documents, such as *The Foreign Policy Concept of the Russian Federation* (*The Foreign Policy Concept...* 2016). Compared to a similar document from 2013, the latest Concept published in 2016 no longer prioritises the relations and strategic community of goals with the Euroatlantic world, as well as it does not contain any reference to a common civilisational identity shared by Russia and the West. In the sphere of relations with the European Union we can clearly see a shift of emphasis: the EU is no longer perceived as the “main” partner but merely an “important” one, and only in the sphere of economics. At the same time, the document does not mention many elements of previous political cooperation, such as the conclusion of another agreement on strategic partnership. Moreover, it is not the entire Union that is identified as a potential partner, but its individual Member States. This not only shows a change in the approach to mutual relations, but also reflects the strategy adopted under President Putin to break down the unity of the EU.

This strategy is reflected, among others, in the lively and extensive propaganda activities directed at Western societies, especially those of nearby Europe (Reichardt 2016; Pomerantsev 2015). Such propaganda serves, on the one hand, to increase acceptance of Russia as a great-power: as Andrei Soldatov put it: “It is simply about convincing people that Russia is big and omnipotent” (Radziwinowicz 2017, 25). This especially applies to the TV channel Russia Today, which, according to Katarzyna Pełczyńska-Nałęcz, is “hostile to the democratic élites, publicising Eurosceptic tendencies and fuelling transatlantic contradictions” (Pełczyńska-Nałęcz 2016, 8), as well as extensive Internet instruments such as pro-Russian trolls. These media played a disgraceful role in assisting Russia’s interference in the political and social life of European countries. This was the case, for example, with the campaign prior to the UK referendum on Brexit in 2016



and the French presidential elections in 2017. What's worse, everything seems to indicate that interference of this kind will be continued, possibly even more intensively, which unfortunately proves Russia's involvement in disinformation campaigns before the elections to the European Parliament in 2019.

Equally important are the efforts undertaken by the Kremlin in order to weaken the morale of European societies. This is done, for instance, by praising the advantages of nationalistic worldviews (along the lines of Great Russian chauvinism), as well as by denying the idea and practice of the process European integration, which, according to Russian propagandists, is in a phase of prolonged stagnation or even "eurosclerosis". In the whole of Europe the Russians support various radical and populist forces that openly proclaim anti-EU, chauvinistic and anti-democratic slogans. Many of them receive not only political support, but also financial assistance, as exemplified by the radically anti-EU – and also strongly pro-Russian – French party Rassemblement National (formerly the Front National) led by Marine Le Pen.

Unfortunately, in some EU Member States this type of propaganda achieves noticeable successes, since the Kremlin's anti-EU rhetoric associated with yielding to Russia's influence begins to find support also in government circles. (This applies especially to such countries as Italy, Hungary, the Czech Republic, Austria or Greece). An additional pressure instrument used by the Kremlin is the supply of oil and gas. It can be used, on the one hand, as a "reward" for countries that support Russia, and on the other hand – as an "energy weapon" against countries opposing Russian policy (Gryz 2009). In this way, the Kremlin not only increases their influence, but also is able to introduce deep divisions within the European Union, which is exemplified by the strong controversy over the construction of the Nord Stream 2 gas pipeline (Łoskot-Strachota et al. 2018).

Moreover, the European Union has apparently underestimated the significance of the decidedly negative attitude of the Russian authorities towards the EU's involvement in Eastern Europe. This region has always been treated by Russia as its exclusive and vital area of influence, constituting a kind of buffer zone or "sanitary cordon" separating from the West. What is more, in accordance with the ideological concepts quoted above, the Russians are convinced of the cultural, ethnic and linguistic indivisibility of the post-Soviet area, which is supposed to belong exclusively to the Russian state. On this basis, the Kremlin firmly opposed the extension of the EU and NATO to certain post-Soviet states, such as the Baltic republics. The

hostile reaction of Russia intensified even further when the European Neighborhood Policy started to cover the remaining countries of the region. The Kremlin considered this policy as violating both the dignity of the great power and its basic geostrategic interests (Maass 2017; Youngs 2017).

An even greater criticism was caused by the establishment of the Eastern Partnership, which Russia from the beginning treated with hostility as a grave threat. Foreign Minister Sergey Lavrov accused the EU of building its own sphere of influence in the East at the expense of Russian interests, and another Russian politician, Alexander Sergunin, even said that the EU wants to establish there a “European protectorate” (Sergunin 2010). The Ukrainian crisis has worsened the situation: the very intention of Ukraine signing the Association Agreement with the EU in 2013, as well as consequences of the “Maidan Revolution” were for the Kremlin, as Katarzyna Pełczyńska-Nałecz put it, “crossing the red line” and an attempt by the EU to take control of an area which until now has been *de facto* managed by Russia (Pełczyńska-Nałecz 2016, 4). As a result of this crisis, bilateral relations are at an impasse, and both sides began to throw grave accusations and impose economic and political sanctions on each other (Raś, Szkop 2014).

## Conclusions

All these contradictions in the sphere of ideology and foreign policy inevitably cause the growing of incompatibility also in the area of basic geopolitical interests. This incompatibility is determined by fundamentally different visions of the world and of the place the European Union and Russia do and should hold in it. As Józef M. Fiszer puts it: “The EU was created in response to threats of nationalism and catastrophic rivalry between European nation states”, while for Russia “the most important problems are those resulting from the break-up of the Soviet Union”, which “Putin and millions of Russians cannot accept to this day”. For the European Union, the main cause of instability in Eastern Europe is the lack of democracy, which is why it is actively trying to promote it by exporting “European values”. On the other hand, for Russia one of the main reasons for this instability is precisely the EU’s policy of spreading democracy (Fiszer 2016, 188–189).

Such differences of opinion should not come as a surprise, since the Russians, unlike the Europeans – believe only “in the power, unilateralism and unrestrained pursuit of the national interest”, and they understand

sovereignty only as “economic independence, military power and cultural identity” (Fischer 2016, 188). It proves the huge axiological incompatibility caused by the fact that the European Union and Russia have based their activities on quite different assumptions: the EU consistently supports and promotes “European values”, and Russia increasingly adopts a policy of anti-democratic authoritarianism, imperialism and nationalism. As a result, sooner or later the clash of these two contrasting views of the European and international order in the 21<sup>st</sup> century would be difficult to avoid.

As one can see, in the sphere of axiology there is virtually no room for compromise. The fact that the European Union is a “normative power” promoting its “European values” gives rise to discontent and passionate opposition in Russia. This particular aspect of the EU’s international activity, as Tatiana Romanova put it, is thought to be an attack on the Russian identity and “conflicts with some of the Russian Federation’s fundamental foreign policy ideas” (Romanova 2009, 53). Other Russian researchers even speak of the “normative hegemony” applied by the European Union to its neighbours, especially Russia (Gretskiy et al. 2014, 376). All this means that it is currently difficult to imagine overcoming such deep axiological differences between the EU and Russia.

As already pointed out, ideological differences have a direct impact on the state of political relations. Generally speaking, it is reasonable to agree with the opinion that “the Russian Federation from the strategic partner of the Union has become its strategic problem” (Stępniewski, Visvizi 2016, 214), because the EU-Russia strategic partnership has brought a clear fiasco. It did not bring the European Union the intended results in the sphere of pragmatic safeguarding its interests, nor in the field of promoting “European values”. This means that for the EU, relations with Russia, on the one hand, remain very important, but on the other hand, they can cause problems and raise concerns.

At the same time, the state of these relations is a source of serious controversy: some Western politicians and researchers, in accordance with the concept “Russia first”, support the Kremlin’s policy, for example John J. Mearsheimer, who believes that all blame for the outbreak of the Ukrainian crisis is borne only by the West (Mearsheimer 2014). Other analysts, such as the experienced diplomat Chris Patten, believe that “in recent years the possibilities of dialogue between the West and Russia have been exhausted” and therefore “there is no alternative to a heavy hand against the Kremlin” (*Putin dąży do przejęcia kontroli...* 2018). The opinion that “sanctions should remain the main instrument of EU policy towards Russia” is also shared

by Grzegorz Gromadzki (Gromadzki 2015, 20–21), Fredrik Erixon (Erixon 2014, 33) and many others.

All this does not mean, of course, that relations between the European Union and the Russian Federation are in a fatalistic manner condemned to failure. Both sides are too important economic and political partners to each other, thus they cannot base their (still formally existing) strategic partnership only on fears or hostility. Therefore, we should hope that they will manage to develop at least appropriate relations, serving not only their mutually beneficial cooperation, but also stabilizing the international situation in Europe and in the world.

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# The EU Ukraine Association Agreement and EU Common Values: One or Two Ways Dialogue?<sup>1</sup>

## **Abstract**

This article analyses the Association Agreement (AA) between the EU and Ukraine. It argues that this agreement constitutes a new legal framework, which has the objective to establish a unique form of political association and economic integration is characterised by three specific features: comprehensiveness, complexity and conditionality, and to promote EU values into legal systems of Ukraine. The article studies substantive and procedural means of promotion and protection of EU values in the AA. The article scrutinises objectives, institutional framework and mechanisms of enhanced conditionality and legislative approximation in the AA. In addition, means to protect EU values (the EU's response to security conflicts in Ukraine) are discussed.

**Key words:** European Union, Common Values, Ukraine Association Agreement, Legislative Approximation

## **Introduction**

The Entering into force of the EU-Ukraine Association Agreement (AA) in September 2017 led to the consideration of the issue of promotion of the EU common values into the legal system of Ukraine. Yet there is no straightforward clarification of this issue, because the AA is the first framework international agreement in the modern history of Ukraine that implies its deep and far reaching integration into the legal order of supranational international organisation. The objective of promoting EU

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common values occupies a central place among objectives of the AA. EU common values underpin a mutual ‘close and lasting relationship’ and the parties share ‘common history and common values’ and are ‘committed to implementing and promoting’ them (EU-Ukraine AA 2014).

Taking the above as a starting point, the aim of this paper is to consider three issues. We look, first of all, at the objectives and specific features of the AA between the EU and Ukraine. Second, we look at the scope of EU policy of enhanced conditionality applied therein. Third, we study the means of promotion of EU common values into the legal system of Ukraine.

## 1. Objectives and Specific Features of the Association Agreement with Ukraine

The AA is the most voluminous and ambitious among all EU association agreements with third countries (7 titles, 28 chapters, 486 articles, and 43 annexes on about 1000 pages). This is a comprehensive mixed agreement based on Article 217 TFEU (association agreements) and Articles 31(1) and 37 TEU (EU action in area of Common Foreign and Security Policy). There are many novelties introduced in these agreements. The most prominent of them are the strong emphasis on comprehensive regulatory convergence between the parties and possibility for the application of the vast scope of the EU *acquis* within the Ukrainian, Moldovan and Georgian legal orders. Of particular significance in the AA is the ambition to set up a Deep and Comprehensive Free Trade Area (DCFTA), leading to gradual and partial integration of Ukraine into the EU Internal Market. Accordingly, the AA belong to the selected group of ‘integration-oriented agreements’, i.e. an agreement including principles, concepts and provisions which is to be interpreted and applied as if the third country is part of the EU. It is argued that the AA is unique in many respects and, therefore, provides a new model of integration without membership.

The AA is characterised by three specific features: *comprehensiveness*, *complexity* and *conditionality*. The AA is a *comprehensive framework agreement* which embraces the whole spectrum of EU activities from setting up a deep and comprehensive free trade area (DCFTA) to cooperation and convergence in the field of foreign and security policy as well as cooperation in the area of freedom, security and justice (AFSJ) (P. Van Elsuwege in G. Van der Loo, P. Van Elsuwege, R. Petrov 2014).



The *complexity* of the AA reflects a high level of ambition of Ukraine achieve economic integration in the EU Internal Market through the establishment of the DCFTA and to share principles of the EU's common policies. This objective requires comprehensive legislative and regulatory approximation including advanced mechanisms to secure the uniform interpretation and effective implementation of relevant EU legislation into national legal order of Ukraine. In order to achieve this objective the AA is equipped by multiple specific provisions on legislative and regulatory approximation, including detailed annexes specifying the procedure and pace of the approximation process for different policy areas in more than 40 annexes and based on specific commitments and mechanisms identified in both the annexes and specific titles to the agreement.

Furthermore the AA is founded on a strict *conditionality* approach which links the third country's performance and the deepening of its integration with the EU. In addition to the standard reference to democratic principles, human rights and fundamental freedoms as defined by international legal instruments (Helsinki Final Act, the Charter of Paris for a New Europe, the UN Universal Declaration on Human Rights and the European Convention on Human Rights and Fundamental Freedoms) (Art. 2 EU-Ukraine AA), the AA contains common values that go beyond classical human rights and also include very strong security elements, such as the "promotion of respect for the principles of sovereignty and territorial integrity, inviolability of borders and independence, as well as countering the proliferation of weapons of mass destruction, related materials and their means of delivery" (Art. 2 EU-Ukraine AA).

Apart from the more general 'common values' conditionality, the AA contains a specific form of 'market access' conditionality, which is explicitly linked to the process of legislative approximation. Hence, it is one of the specific mechanisms introduced to tackle the challenges of integration without membership. Of particular significance is a far-reaching monitoring of Ukraine's efforts to approximate national legislation to EU law, including aspects of implementation and enforcement (Art. 475 (2) EU-Ukraine AA). To facilitate the assessment process, the government of Ukraine is obliged to provide reports to the EU in line with approximation deadlines specified in the Agreements. In addition to the drafting of progress reports, which is a common practice within the EU's pre-accession strategy and the ENP, the monitoring procedure may include "on-the-spot missions, with the

participation of EU institutions, bodies and agencies, non-governmental bodies, supervisory authorities, independent experts and others as needed.” (Art. 475 (3) EU-Ukraine AA).

## **2. Enhanced Conditionality in the Association Agreement with Ukraine**

Conditionality is one of the key strategic tools of the ENP and it is, therefore, no surprise that this instrument also occupies a prominent place in the AA. Two different forms of conditionality can be distinguished in these agreements. On the one hand, the AA includes several provisions related to Ukraine’s commitment to the common European values of democracy, rule of law and respect for human rights and fundamental freedoms (‘common values’ conditionality). On the other hand, the part on the DCFTA is based on an explicit ‘market access’ conditionality implying that Ukraine will only be granted additional access to a section of the EU Internal Market if the EU decides, after a strict monitoring procedure, that the country has successfully implemented its legislative approximation commitments. Both forms of conditionality bear some revolutionary features in comparison to other external agreements concluded between the EU and third countries (Petrov R. in Kerikmäe, T. Chochia, A. (2016)).

### **2.1. ‘Common Values’ Conditionality**

International agreements concluded on behalf of the EU include standard conditionality clauses. In general, an ‘essential element clause’ defining the core common values of the relationship is combined with a ‘suspension’ clause including a procedure to suspend the agreement in case of violation of those essential elements. Such a mechanism is also included in the AA (Art. 2 in conjunction with Art. 478 EU-Ukraine AA). Yet the common values conditionality in the AA differs from similar provisions included in, for instance, the SAA with the Western Balkans. First, in addition to the standard reference to democratic principles, human rights and fundamental freedoms as defined by international legal instruments (Helsinki Final Act, the Charter of Paris for a New Europe, the UN Universal Declaration on Human Rights and the European Convention on Human Rights and Fundamental Freedoms), a specific reference to human rights and fundamental freedoms is included in the AA’s provisions on “dialogue and cooperation on domestic

reform” and in the AA’s provisions dealing with EU cooperation with Ukraine on justice, freedom and security (Art. 7 EU-Ukraine AA). Second, the essential elements of the AA contain common values that go beyond classical human rights and also include very strong security elements such as the “promotion of respect for the principles of sovereignty and territorial integrity, inviolability of borders and independence, as well as countering the proliferation of weapons of mass destruction, related materials and their means of delivery”. Third, “the principles of the free market economy” as well as a list of other issues such as “rule of law, the fight against corruption, the fight against the different forms of trans-national organised crime and terrorism, the promotion of sustainable development and effective multilateralism” are not included in the definition of essential elements. Rather, they are considered to “underpin” the relationship between the parties and are “central to enhancing” this relationship. In other words, a distinction is made between hard core common values related to fundamental rights and security and a range of other general principles that are deemed crucial for developing closer relations but which cannot trigger the suspension of the entire agreement (Art. 478 EU-Ukraine AA).

## **2.2. ‘Market Access’ Conditionality**

Apart from the more general ‘common values’ conditionality, the AA entails a specific form of ‘market access’ conditionality, which is explicitly linked to the process of legislative approximation in Ukraine. Hence, it is one of the specific mechanisms introduced to tackle the challenges of integration without membership. Of particular significance is a far-reaching monitoring of the country’s efforts to approximate national legislation to EU law, including aspects of implementation and enforcement (Art. 475 (2) EU-Ukraine AA). To facilitate the assessment process, the Ukrainian government is obliged to provide reports to the EU in line with approximation deadlines specified in the Agreement (Art. 475 (3) EU-Ukraine AA). In addition to the drafting of progress reports, which is a common practice within the EU’s pre-accession strategy and the ENP, the monitoring procedure may include “on-the-spot missions, with the participation of EU institutions, bodies and agencies, non-governmental bodies, supervisory authorities, independent experts and others as needed.” Arguably, the latter option is a new and far-reaching instrument introduced precisely to guarantee that legislative approximation goes beyond a formal adaptation of national legislation (Van der Loo G. 2015).

### 3. Protection of EU Values in the Association Agreement with Ukraine via EU's Sanctions Towards Third Countries

Principles of sovereignty and territorial integrity, inviolability of borders and independence considered as core values of the AA and must be shared and respected by the EU and Ukraine. Furthermore, in case of the EU-Ukraine AA, these principles constitute essential elements of the agreement.

The overall security situation in the EU's neighbouring countries for the last decade has gradually deteriorated. Currently Moldova and Georgia have unresolved border security conflicts either with other EU's neighbouring countries or with third countries (mainly with the Russian Federation). Ukraine has been plunged into flames of bloody civil conflict since April 2014.

Moldova experiences prolonged conflict with its breakaway part Transnistria (the so-called Pridnestrovian Moldavian Republic). This territory is not recognised by any of the UN members and formally constitutes part of the Republic of Moldova (Transnistria autonomous territorial unit with special legal status). However, *de facto*, Transnistria is an independent state with strong presence of Russian military troops. The EU is engaged in solving the Transnistrian conflict via the European Border Assistance Mission to Moldova and Ukraine (EUBAM). This structure as part of the EU Common Security and Defence Policy helps to control traffic on borders between Moldova and Ukraine around Transnistria in order to prevent illegal movements of people and goods from and to Transnistria (Kurowska X. and Tallis B. 2009).

Georgia went through a military conflict with Russia over the breakaway areas of Abkhazia and South Ossetia. The conflict took place August 2008 and led to many casualties and loss of control of Georgia over Abkhazia and South Ossetia. Currently Russian military troops are stationed in Abkhazia and South Ossetia and *de facto* control their territories.

The EU played a very modest role in settling the conflict in the Caucasus allowing some EU Member States to lead the peace process in the region (Vasilyan S. 2011). No sanctions were applied by the EU in the aftermath of the Georgian-Russian conflict.

However the next security challenge within the country which was on the road of signing the AA compelled the EU to act and to apply sanctions against one of the leading geopolitical players on the European continent – the Russian Federation. It happened after the self-proclaimed authorities

of the Autonomous Republic of Crimea held an unrecognised referendum under Russian military presence in March 2014. As a result of this integral parts of Ukraine (the Autonomous Republic of Crimea and the city of Sevastopol) were annexed by the Russian Federation and incorporated by the Russian Federation as its own federal subjects on March 21, 2014. The fact of annexation is not recognised by Ukraine and the United Nations (UN General Assembly Resolution 68/262 2014) and is universally considered as a blatant violation of international public law by the Russian Federation (Marxsen C. 2014).

Following the turbulent events in Crimea, the EU decided to apply broad sanctions against Russia. The EU sanctions led to a complete halt in EU-Russia relations (suspension of bilateral talks on visa matters and on a new EU-Russia agreement, cancellation of the EU-Russia summit) and to imposing measures against ‘certain persons responsible for actions which undermine or threaten the territorial integrity, sovereignty and independence of Ukraine’ (travel bans and asset freezes). The list of these persons is constantly increasing and covers leading Ukrainian, Russian and Crimean politicians related to the fact of the Crimea’s annexation. The EU had to extend the scope of sanctions against Russia after the security situation in Ukraine has drastically deteriorated by the end of the summer 2014. The world was shocked when Malaysia Airlines Flight MH17 was shot down above the part of Eastern Ukraine controlled by pro-Russian separatists. This incident caused the loss of 298 lives and drastically deteriorated security situation in the region and in the EU. Bloody conflict between Ukraine and the armies of the self-proclaimed ‘peoples republics’ of Donetsk and Lugansk led to several thousand casualties and about a million refugees from the east of Ukraine (UN (Report on the human rights situation in Ukraine in 2017)).<sup>2</sup> The EU Member States had to speak with one voice in order to show their solidarity against direct Russian involvement into civil conflict in Ukraine. As a result, the EU Member States agreed on a new level of sanctions against Russian and Ukrainian officials and nationals involved in supporting the separatists’ movement in the Donbass region of Ukraine. Previously, the EU’s sanctions against Russia concerned the following issues: diplomatic measures (cancellation of the EU-Russia political dialogue and dismantling of G8); restrictive measures (asset freezes and visa bans of persons and entities responsible for actions against Ukraine’s territorial integrity); restrictions for Crimea and Sevastopol; “economic” sanctions

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<sup>2</sup> Available at <<https://www.ohchr.org/EN/Countries/ENACARegion/Pages/UARReports.aspx>>.

against Russia (prohibition of exports of arms, energy and military related technologies and dual use goods, freezing economic cooperation).

The EU sanctions were issued upon unanimous decision of all the EU Member States on basis of Article 215 TFEU as part of the Common Foreign and Security Policy (CFSP). This fact represents the evident solidarity of all EU Member States facing a violation of territorial integrity of one of its nearest neighbours which is about to enter into association relations with the EU.

It is hoped that the procedure of political dialogue and institutional framework of the AA will be effectively used to protect the principles of sovereignty and territorial integrity, inviolability of borders and independence considered as core values of the AA.

#### **4.4. Constitutional Amendments Caused by the Implementation of the AA**

One of the first ‘post-Maidan’ constitutional amendments took place in June 2016 when the *Verkhovna Rada* adopted the ‘Law on amending the Constitution of Ukraine (as to justice)’ (Law of Ukraine ‘On amending the Constitution of Ukraine (as to justice) (2016))’. These constitutional amendments were proposed by President Poroshenko in light of the fight against corruption and the independence of the judiciary in Ukraine. The constitutional amendments sparked considerable public debate in Ukraine and beyond. Externally, the European Commission for Democracy through Law (Venice Commission) scrutinized the draft amendments twice for their compliance with European standards and issued several important reservations. Internally, on the one hand, the draft amendments were criticised for giving extended powers to the President of Ukraine to influence the appointment of judges, narrowing the scope of judges’ immunity, and for keeping a complicated system of specialised courts in Ukraine. On the other hand, the position of the Office of the President of Ukraine was that the constitutional amendments were crucial to achieve the objectives of the EU-Ukraine AA regarding sharing common values, fighting corruption and improving access to the judiciary. In particular, the constitutional amendments ensure that Ukraine observes the essential elements of the EU-Ukraine AA (respect for the principle of the rule of law) and meets the objectives of Title III of the EU-Ukraine AA on justice, freedom and security which calls on Ukraine to consolidate the rule of law, to improve the

efficiency of the judiciary, to safeguard its independence and impartiality, and to combat corruption (Article 14 EU-Ukraine AA).

The official position of the EU institutions regarding the constitutional reform in Ukraine was rather supportive. The annual report on the progress of implementation of the EU-Ukraine AA hailed the constitutional amendments of 2016 as legislation, which ‘strengthen judicial independence and [reorganises] the court system, by streamlining the judicial instances (from four to three) and by subjecting the sitting judges to examinations and mandatory electronic asset declarations’ (Joint Staff Working Document (2016)). Furthermore, it must be acknowledged that the most recognised impact of the EU-Ukraine AA (Article 8 EU-Ukraine AA) on the constitutional reform in Ukraine can be seen in the revised Article 124 of the Constitution wherein it is stated that ‘Ukraine may recognise the jurisdiction of the International Criminal Court as provided for by the Rome Statute of the International Criminal Court’. This amendment overrules the Decision of the Constitutional Court of Ukraine from 2001 which explicitly considered the recognition of the jurisdiction of the International Criminal Court as incompatible with the national Constitution and, therefore, made the ratification of the former by the Ukrainian Parliament impossible (Decision of the Constitutional Court of Ukraine on the Statute of the International Criminal Court) (2001). The wording of revised Article 124 of the Ukrainian Constitution opens a possibility for the Ukrainian Parliament to ratify the Rome Statute in the near future. However, the ratification of the Rome Statute is likely to be postponed until the eventual implementation of the ‘Minsk II Agreement’ regarding the military conflict in the East of Ukraine (Donbass area) caused by the aggression of Russia in Ukraine. In particular, the sides of the conflict must ensure an effective ceasefire, effective control by Ukraine of its Eastern border with Russia and guarantee the amnesty of illegally armed belligerents. These actions must take place before the ratification of the Rome Statute in order to avoid entrenching a legal war between the government of Ukraine and the Russian government and governments of the self-proclaimed separatist republics in the East of Ukraine (Briefing of the European Parliament “Ukraine and the Minsk II agreement: On a frozen path to peace?” (2018).

Another test of Ukraine’s devotion to the EU’s common values as enshrined in the EU-Ukraine AA took place in September 2017 when the Verkhovna Rada adopted the new education law. It immediately sparked controversial reception and protests by representatives of national minorities (mainly the Hungarian minority) in Ukraine (Law of Ukraine “On



Education” (2017). This law foresees the reduction of scope of instruction in mother tongue of a national minority at the secondary education level. According to the new education law, only primary school education can be given in mother tongue of a national minority in Ukraine. Secondary and higher education must be offered only in official language (Ukrainian) with the possibility to study the mother tongue as one of the courses. The Hungarian government fiercely protested against the new educational law on the grounds of violating the rights of the Hungarian minority in Ukraine (Hrynevych L. (2018)). Furthermore, the Hungarian government considered the Ukrainian education law in conflict with objectives and human rights commitments of Ukraine in the EU-Ukraine AA. In order to prevent the escalation of tension with some of the EU Member States, the Ukrainian authorities submitted the Article 7 of the education law to the assessment of the Venice Commission. In the assessment issued on 11 December 2017, the Venice Commission noted the vague nature of relevant provisions of the national education law and recognised narrowing the access of national minorities to obtaining secondary education in their mother tongue. The Venice Commission recommended adopting further implementing legislation in order to ensure sufficient level of teaching in languages of the EU Member States in Ukraine. However, the Venice Commission recognised the discrimination of national minorities’ languages that are not official languages of the EU (Russian) and called Ukraine not to endanger ‘the preservation of the minorities’ cultural heritage and the continuity of minority language education in traditional schools’ (Statement of the Ministry of Education and Science of Ukraine (2017)). The Ukrainian government welcomed the findings of the Venice Commission and agreed to follow most of them in the course of drafting and adopting further education legislation, and to ensure the transitional period of the implementation of the education law till 2020 (Statement of the Ministry of Education and Science of Ukraine on the findings of the Venice Commission (11 December 2017)). Meanwhile, the EU’s reaction to the language issue in the education law and its compatibility with the objectives of the EU-Ukraine AA remains neutral (Joint Staff Working Document, Association Implementation Report on Ukraine, (14 November 2017)). However, it is possible that the Venice Commissions’ recommendations may be taken on board by the EU institutions and became the part of the conditionality requirements on behalf of the EU towards Ukraine in the process of further implementation and application of the EU-Ukraine AA.



However, the Ukrainian courts have not yet recognised (mainly avoided the recognition of) the direct effect of provisions of the EU-Ukraine AA in their decisions. In particular, the issue of direct effect of the EU-Ukraine AA may find a particular relevance in case of possible litigation on correspondence of Ukrainian laws and other legal acts to the objectives, principles and ‘essential elements’ of the EU-Ukraine AA before the Constitutional Court and general courts. Among the most recent examples are the Executive Order of the President of Ukraine on banning the Russian social networks (on the matter of national security and sanctions against the Russian Federation caused by the annexation of Crimea in 2014 and military aggression in the East of Ukraine) (Executive Order of the President of Ukraine on 15 May 2017) and Law of Ukraine on banning the St. George (Guards’) Ribbon. It was widely used by paramilitary separatist groups and Russian army’s units in the Donbass area and during the annexation of Crimea and, therefore, may be considered as propaganda of the Russian military aggression in Ukraine (Laws of Ukraine ‘Ban on production and propaganda of the St. George (Guards’) Ribbon’ and “On Vygotovlenya i Propagandy Georgievskoy (gvardiyskoy) Strychky” (16 May 2017)). However, these legislative acts raise some concerns regarding their compliance with the objectives of the EU-Ukraine AA, in general, and freedom and expression and the principle of proportionality (as they are applied and interpreted within the ECHR and the EU Charter of Fundamental Rights), in particular (Van Elsuwege P. (2017)).

## Conclusions

Taking into account the comprehensive nature of the agreement and the underlying conditionality approach, the AA occupies a unique position within the network of bilateral agreements concluded between the EU and third countries and anchors Ukraine to the EU common values and internationally recognised democratic freedoms.

The EU-Ukraine AA is an innovative legal instrument in the EU’s external relations practice based on comprehensiveness, complexity and conditionality. These features are central in ensuring effective and successful promotion of EU values into legal system of Ukraine. The AA employs various substantive and procedural means of promotion and protection of EU values which have significantly impacted the constitutional and legal system of Ukraine. Security challenges, which happened in Ukraine as

well as in other countries of the Eastern Partnership (Moldova, Georgia, Armenia and Azerbaijan), emphasise the urgent need not only to declare and to promote EU values like the principles of sovereignty and territorial integrity, inviolability of borders and independence but also to protect them by means of restrictive measures against third countries that break the international legal order and to deepen cooperation between the EU and the countries of the Eastern Partnership in area of the CFSP.

The EU-Ukraine AA serves as a template for further political and economic reforms in all the countries of the Eastern Partnership (EaP). The obligation to share the EU's common democratic values will imply regular monitoring by the EU institutions. Thereby this should prevent Ukraine and other countries of the eastern neighbouring countries from undemocratic practices. The new joint institutions set up under the framework of the AAs with Ukraine, Georgia and Moldova will help to pursue the programme of approximating the laws with the help of its binding decisions. The process of effective implementation of the AAs will constitute the greatest challenge for Ukraine, Moldova and Georgia. These countries have to prove their adherence to the EU's common democratic and economic values, and ensure the proper functioning of their deep and comprehensive free trade areas. The latter objective may be achieved only under the condition of establishing truly competitive market economies and the adoption of international and EU legal standards. Ukraine, Moldova and Georgia will be bound by decisions of the dispute settlement body established by the AAs. Following the widely-used practice in the EU's external agreements, the AAs contain so-called "evolutionary" and "conditionality" clauses. These are provisions in the EU's external agreements with specific objectives (for instance, granting a visa-free regime, access to all freedoms of the EU Internal Market), the attainment of which is conditional either on certain actions on behalf of a party to an agreement (such as the elimination of trade barriers and uncompetitive practices) or the effective functioning of democratic and market-economy standards (such as free and fair elections and fighting corruption).

Looking at the pattern of future implementation and application of the EU-Ukraine AA and its impact on the Ukrainian legal system it can be concluded with a suggestion that the success of this process is threefold. First, the efficient implementation and application of the AA implies considerable further constitutional reforms in Ukraine in order to enhance the direct enforceability of international agreements within the domestic legal system. Second, effective application of the AA requires Ukraine to issue the

implementation law that will clarify and prevent all potential challenges of this complicated process. Third, the scope of the EU acquis to be adopted by Ukraine is massive and covers not only EU laws, but EU fundamental principles, doctrines and the ECJ case law. Ukrainian civil servants and judges will require in depth training in EU law in order to be able to apply the EU acquis in their everyday activities. In case these challenges are successfully met, Ukraine could claim fruits of closer European integration and engagement into an expanding European Legal Space.

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# **A Challenge for the EU Enlargement Process in the Balkans – The Case of North Macedonia**

## **Abstract**

The main purpose of the text is to analyze the most important problems that stand in the way of the accession of North Macedonia to the European Union. The name dispute with Greece and the nationalist and populist policy of Gruevski government led to the degrading of the role of North Macedonia from the top to the outsider in the process of European integration. The agreement with Greece signed in Prespa in 2018 on the change of name to the Republic of North Macedonia has opened new opportunities in the accession process of this young state. The Prespa agreement is also part of the new EU opening towards the Western Balkans. For European security, the integration process of this historically unstable region with the EU would create an opportunity for a geopolitical consolidation of our entire continent.

**Key words:** European Union, Enlargement Process, Western Balkans, North Macedonia, Greece

## **Introduction**

The process of European integration is a unique undertaking in the history of our continent, which resulted in building a sustained organisational structure guaranteeing peace, a sense of security and stabilization of the societies of EU Member States. The process that began with the decision to cooperate between six Western European countries now applies to

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28 Member States and covers the majority of the European continent. Even if there are setbacks in this project, for example Brexit, the European Union should be perceived as the greatest political and economic success in the history of Europe. For the first time in seven decades, this part of the continent where the integration process is taking place was not tormented by cruel wars, and former adversaries are now cooperating, respected partners. Instead of competition, there has been cooperation, instead of hatred, understanding and trust have appeared.

Membership in the European Union means membership in a club of states with peace, stability and economic prosperity. These features are consolidated by the foundation of the EU's activity on the foundations of democracy, the rule of law, respect for human rights and the principles of a free market. It is therefore hardly surprising that the sense of security and prosperity are attractive for the nearer and broader environment of the European Union, which means that many of the neighboring countries are seeking the accession to this structure as the main strategic goal. It is also in the interest of the European Union itself to guarantee a stable and safe environment and to eliminate and distance potential threats arising outside its borders. We can definitely say that the prospect of EU membership is the most effective tool of Brussels, as a result of which it can shape and influence its surroundings (Ker-Lindsay et al. 2017, 512).

The Particular interest of the European Union is focused on the Balkan region and, in principle, on the Western Balkans. It was in this region that for the first time after World War II on the European continent there were cruel wars that lasted from 1991 to 2001. The effects of these wars in the areas of Croatia, Bosnia and Herzegovina, Serbia and Kosovo were genocide, ethnic cleansing, destruction and more than two million refugees, many of whom sought shelter in the European Union. The Balkan region is treated by EU politicians as its soft underbelly, from which further dangers may threaten the stability of all of Europe. In the countries of this region, there are still deep national, religious and social divisions, and political decisions have repeatedly resulted from the desire to rematch, revenge or distrust.

Considering these elements, the EU particularly supports the political and economic transformation taking place in the Balkan states and is oriented towards membership in its structure. Everyone applying for membership in the EU must complete the so-called Copenhagen criteria constituting a catalog of political, legal and economic norms. The candidate country should respect the values of democracy, freedom, equality, the rule of law and minority rights. The candidate should also settle all internal

and international disputes, in order not to entangle the European Union in its conflicts. Considering these specific and restrictive requirements, the Balkan states find it is particularly difficult to fulfill them, due to the injustices and wounds inflicted during the last Balkan wars, still present in their memory. However, it turns out that here also the European Union is clearly successful. Among the countries located on the Balkan peninsula, recognized by politicians and historians as a national, ethnic and religious melting pot, a large part of the countries already belong to the European Union. Greece was the first, followed by Slovenia, Bulgaria, Romania and Croatia. Accession talks are already being conducted by Montenegro and Serbia, and the next countries, namely Northern Macedonia and Albania, are waiting for the decision to start negotiations on full membership. The European Union cannot afford to let the Western Balkan countries remain outside its sphere of influence, because it would mean maintaining a permanent threat to its security, which is why it has stated that these countries have a clear prospect of membership. However, they must adapt to the criteria defined by the EU as a condition of accession. This clearly defined prospect of membership has been repeated in many European Union documents, starting with the 'Agenda for the Western Balkans: Moving towards European Integration', adopted in Thessaloniki in 2003 by the European Council, through subsequent declarations at the EU-Western Balkans summit organized in Sofia in 2018 (Szpala 2018, 1).

The enlargement process slowed down after the accession of Croatia in 2013, when as a result of subsequent crises: financial, migration and refugee, and Brexit, the European Union had to concentrate on solving its own problems and announced that by 2019 it does not envisage enlarging its group of members. An additional element slowing down the EU enlargement policy was the strengthening of national and populist movements in many EU countries that based their campaign on criticizing the existing enlargement policy, believing that the admission of new countries to the EU results in the emergence of a cheap labor force depriving citizens of the old Member States of work.

Both the crises that were underway in the European Union and the slowing down of the EU enlargement process meant that the Balkan countries were less determined to implement the political, economic and social reforms required by the Union. The European Union, falling into stagnation, lost its attractiveness and weakened its position in the international dimension. It turned out that other actors operating in the Balkans, i.e. Russia, China, and Turkey, do not care about stabilizing the situation in the Balkans and



carrying out democratic reforms. The loss of EU influence in the Balkans to other players would in the long term be associated with the risk of new conflicts in this region. Therefore, since 2018, there is a clear difference in approach to the Balkan countries in Brussels' policy. In February 2018, the European Commission adopted a new strategy for the countries of the region in which it presented the European perspective for these countries (European Commission 2018). The Commission explicitly declared that the next enlargement could take place in 2025 and would concern Montenegro and Serbia. The remaining countries are to have an open road to the EU, provided, of course, that they fulfill the criteria and readiness for membership. Also, in *'The European Union Global Strategy'* of 2019 it was emphasized that the Western Balkans are an integral part of the regional space of the European Union (The European Union's Global Strategy 2019).

A marked change in the attitude of the EU institutions to the process of enlargement to the countries of the Western Balkans also contributed to the intensification of the activities of aspiring states. An interesting case is North Macedonia (formerly FYROM), which, determined by the desire to join the EU, decided to solve the most important problems blocking its commencement of accession talks and achieving full membership in the EU.

## 1. Problems of Government in Skopje on the Road to EU Membership<sup>1</sup>

The biggest problem of Macedonians on their way to the European Union was Greece's objection, which appeared in subsequent attempts to bring Macedonia closer to this structure. It should be emphasized that Greece as a member of the EU has the right to veto in making decisions regarding the enlargement process, which is obviously the result of EU treaty provisions.

Greek-Macedonian relations remained tense since the founding of the Republic of Macedonia as a result of the disintegration of Yugoslavia in 1991. At that time, Greek politicians tried to block the recognition of the new state (the Republic of Macedonia) on the international arena, arguing that the emergence of such a state could threaten the security of the Balkans in the future. This message was sent by then Greek Foreign Minister, Antonis

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<sup>1</sup> Part of the text uses the content of the article prepared by the authors in Polish language: A. Adamczyk, M. Karadzowski, "Wyzwanie dla tożsamości międzynarodowej Macedonii – grecko-macedoński spór o nazwę państwa (A Challenge to Macedonia's International Identity – Greek-Macedonian Naming Dispute)", *Rocznik Instytutu Europy Środkowo-Wschodniej* 2019, vol. 19, no. 1.



Samaras, to his colleagues from the European Communities (Milchevski 2013, 42). It is hard to be surprised, however, by this reaction of the Greeks, when some Macedonian politicians in euphoria used the slogans of Greater Macedonia and declared their desire to join territories inhabited by Macedonians in neighboring countries. These slogans found their reflection in the Macedonian constitution, in which there was a provision on protection by the Macedonian state of the status and rights of Macedonians living in neighboring states. In addition, the new state chose as its emblem the Vergina Sun, the symbol of Alexander the Great, which is the emblem of the Greek region of Macedonia.

Greece consistently denied the existence of the Macedonian nation and language and claimed that the northern neighbor could not be called the Republic of Macedonia, because the name Macedonia belongs to the historical Greek heritage, it is closely related to its history and has nothing to do with the Slavic culture and Slavic inhabitants of a new country. Greece's objection contributed to the problems of obtaining international recognition by the Republic of Macedonia and cooled down the euphoria of the country's politicians, who abandoned the slogans of the Great Macedonia. The calming down of the Macedonians' ambitions resulted also from the fiasco of attempts to recognize this country by the European Communities. In December 1991, Macedonia applied for the recognition of its statehood to the Council of Ministers of the European Communities, which, because of Greece's objection, postponed the decision in time, awaiting a solution to the problem of the name issue.

Also, in bilateral relations, no EC member state recognized the sovereignty of Macedonia. Greece also tried to block the membership of the northern neighbor to the UN under the name Republic of Macedonia. The lack of stabilization of the international situation of Macedonia and the risk of another conflict in the Balkans made the UN Security Council to recommend accession of the new state to the UN under the working name of the former Yugoslav Republic of Macedonia (FYROM) in 1993. (Sioussiouras 2004, 12). The UN decision freed the process of recognition and establishment of diplomatic relations by European countries. Of course, Greece could have blocked the recognition of the Republic of Macedonia by the EC, but it was not able to stop the individual decisions of European countries that began to establish diplomatic relations with Macedonia, mainly using the working name FYROM. In this situation, the determined Greek government decided to put pressure on the government in Skopje and force it to make concessions on contentious issues. The main

instrument of pressure was the economic embargo imposed by Greece on trade with Macedonia in February 1994. The lack of alternative trade channels contributed to the drastic deterioration of the economic situation in Macedonia, which was willing to talk with Athens. The international community has also put pressure on Greece not to risk increasing tension in such an unstable Balkan region.

As a result, in 1995 an interim agreement was signed, in which the Republic of Macedonia gave up the image of the Vergin Sun in its emblem and removed the irredentist provisions from its constitution. Both parties confirmed the integrity and inviolability of their borders. Macedonia has committed not to use symbols belonging to the Greek cultural heritage. Greece, in turn, declared that it would not block the application of the neighbor, under the name FYROM, to membership in international organisations. This agreement did not solve the problem of the name of Macedonia, but it contributed to improving relations with Greece, and thus opened the way of FYROM to the European Union. In December 1995, official relations were established between the European Union and Macedonia, of course under the name FYROM. The government in Skopje was encouraged by this development of the situation and determined to launch a series of difficult reforms adapting Macedonia to EU requirements and standards. Macedonia was the first among the Western Balkan states to sign the Stabilization and Association Agreement with the European Union, which placed it in the lead in full integration with the EU (Nuhija 2013, 145). As a result of these efforts, the EU granted Macedonia the official status of a candidate state in 2005. The next step was to start accession negotiations. However, parallel to the success of the government in Skopje in the process of integration with the EU, the name issue had begun to warm up on the political scene in Greece. Greek politicians from various parties clearly declared that Greece will not agree to the accession of Macedonia to the EU and NATO, if it does not change its name and will not give up the word Macedonia in the name of the state. Despite the mediation under UN auspices, no agreement was reached on this matter. The sense of the national identity of the Macedonians did not allow them to accept the solution proposed by the Greeks: the Republic of Skopje.

A crucial moment in the process of integration with European structures was the NATO summit in Bucharest in 2008, where Greece vetoed the invitation of Macedonia, under the name FYROM, to this organisation. It was a clear signal that Greece would not give way and would also block Macedonia's path to the European Union. When in 2009 the European

Commission recommended in its report the readiness of Macedonia to start accession negotiations with the EU, Greece used its right of veto to block decisions in the Council of the European Union. Since then, in subsequent annual opinions, the European Commission recommended the EU to start negotiations with Macedonia and consistently Greece presented its intransigent position by blocking this decision in the EU Council. Greece only set one condition to unlock its veto :changing the name of the state by deleting the word Macedonia.

Embittered by Greece's behavior, the Skopje government complained about the violation of the 1995 agreement in the International Court of Justice. In 2011, the court ruled that Greece does not respect the agreement and cannot obstruct Macedonia, under the name FYROM, of integration with international organisations (The court blameed Greece for blocking Macedonia's NATO bid in 2011). The government in Athens, however, did not give in to the pressure of this verdict and remained unmoved, systematically blocking the start of Macedonian accession talks with the EU. The Macedonian government, formed by the VMRO coalition (Democratic Party for the Macedonian National Unity) and headed by Prime Minister Gruevski, after 2008 began to drift away from the European direction (Bieber 2018, 2). Gruevski, on realising that the road to the EU was blocked by Greece, instead of seeking the possibility of resolving this conflict in negotiations, began to warm up nationalistic and populist moods among Macedonians, seeing in this activity the chances of maintaining his power.

The government began to propagate a historical policy in which it referred to the antiquity and heritage of Alexander the Great as a foundation for shaping the identity of modern Macedonia (Dokos 2018, 2). Hundreds of monuments of ancient heroes appeared in the country, and the airport in Skopje and the main highway in the country received the name of Alexander of Macedon. Newly built buildings for public administration referred to ancient architecture. There was widespread mania for antiques in the country (Vankovska, 2019, 2). At the same time, Gruevski began drifting towards authoritarianism, violating the principles of democracy and the rule of law. He flouted the principle of independence of the judiciary by politicizing the justice system. Gruevski also violated the principle of freedom of expression and took control of the media. His policy based on clientelism and corruption began to move Macedonia away from the EU. The arrest of Zoran Zaev, the leader of the opposition party, on dubious allegations and the disclosure of the wiretapping of approximately 20,000 Macedonian citizens by Gruevsky's services led to the crisis in the state in 2015 (Shelton 2017, 32). Fearing the

escalation of the crisis and the spread of tensions to neighboring countries, the European Union and the United States began to exert pressure on Macedonian politics to overcome the crisis. The European Council in 2015 in its conclusions identified the most important errors of the Macedonian Government: violation of fundamental rights, freedom of the judiciary, freedom of media, freedom of elections; corruption and politicization of the state institutions (European Council 2015). The European Commission announced revising its recommendations regarding Macedonia's readiness to start accession negotiations. International pressure was effective and earlier elections took place in Macedonia in December 2016. (Shelton 2017, 33). However, the political crisis was resolved only after the creation of a government led by Zoran Zaev in May 2017.

Gruevski's government led Macedonia to move away from the Euro-Atlantic direction, led to deep social divisions and, above all, tensions between the large Albanian community (about 25% of the population) and the rest of the citizens. Zoran Zaev's new government decided to repair the damage caused by the previous team and return to the European path by restoring European Union standards: respect for the principles of democracy, the rule of law and respect for fundamental human rights. The European Commission, of course, expressed its full support for Zaev's reform plans.

## **2. The Prespa Agreement – a New Opening in Macedonia's Way to the European Union**

The consequence of the Gruevsky government's policy was to bring about the self-isolation of Macedonia in the international arena (Petkovski, Stojkovski 2018). After taking office, Prime Minister Zaev realized that the only prospect of Macedonia's development, ensuring its security and improving the quality of life in society is the Euro-Atlantic direction. The integration of Macedonia with NATO and the European Union will be possible not only by implementing membership criteria, but also by improving relations with neighbors, especially those who already belong to these organisations (Christidis 2017, 1).

The government in Skopje started repairing its external relations from Bulgaria, which also from 2012, with less intensity than Greece, blocked the start of negotiations between Macedonia and the EU. Bulgaria had set the condition for Macedonia to sign a bilateral agreement with Sofia, regulating

the contentious issues regarding education, history, culture and language issues. Thanks to a more flexible approach on the part of both neighbors, on August 1, 2017, the Treaty of Friendship, Good-Neighborhood, and Cooperation between Macedonia and Bulgaria was signed (Christidis 2017, 1–3).

Another big challenge for the government in Skopje was regulating relations with Greece. The new Zaev government made a few gestures that were to encourage Greece to talk. First of all, he canceled the provocative patronage of Alexander of Macedon over the airport in Skopje and the highway. The problem of changing the name of the state was crucial for both Macedonians and the Greeks. In Macedonia, this meant the necessity to change the constitution, which involved obtaining huge public support. In turn, in Greece, the possible approval of the name, which would be unsatisfactory for Hellenic society, would involve the electorate's loss in the next elections and mean political suicide.

It was in the interest of Greece, weakened by the economic crisis, to rebuild the international image and regain prestige in the EU forum as a credible state. The ambition of Prime Minister Tsipras was to free Greece from the stigma of the “black sheep” in the European Union, creating problems and blocking European initiatives. Thanks to the mediation of the American diplomat, Mathew Nimetz, both countries signed on 17 June 2018 in Prespa the *‘Final Agreement for the settlement of the differences as described in the United Nations Security Council Resolutions 817 (1993) and 845 (1993), the termination of the Interim Accord of 1995, and the establishment of a Strategic Partnership between the Parties’* (Final Agreement for the settlement 2018). The importance of this agreement for the European Union and NATO was demonstrated by the presence of M. Nimetz, Federica Mogherini (High Representative of the EU for Foreign Affairs and Security Policy) and Johannes Hahn (European Commissioner for European Neighborhood Policy and Enlargement Negotiations) when the document was solemnly signed in Prespa. In accordance with the agreement, Macedonia undertook to change the name of the country to the Republic of North Macedonia, which was to emphasize the geographical distinction from Greek Macedonia. The Greeks recognized the identity of Macedonians and Macedonian language as a descendant of the Slavic language group. The agreement clearly stressed that the attributes related to the statehood of Northern Macedonia have nothing to do with the ancient Greek civilization, history, culture and heritage of Greek Macedonia and Alexander the Great.

Just after signing the agreement, NATO Secretary General, Jens Stoltenberg, officially invited Macedonia to the alliance, on the condition that the government in Skopje must first ratify the agreement and change the name of the country in the constitution. The signing of the agreement opened Macedonia's path to the Euro-Atlantic structures. Of course, the document first had to be ratified in Macedonia itself. To this end, on September 30, 2018, the Skopje government announced a consultative referendum. Since the right-wing parties attacked Prime Minister Zaev and accused him of betraying national interests, there was a risk that the result could be detrimental to the pro-European camp. That is why the question regarding change of the name was directly connected with the accession to the European Union and NATO. The referendum question was: "*Are you in favor of membership in NATO and the European Union by accepting the deal between the Republic of Macedonia and the Republic of Greece?*" (Prospects for FYROM name deal 2018). Both European and American politicians have engaged in the referendum campaign. In order to demonstrate support for the implementation of Zaev's ambitious plans, official visits were made to Macedonia by German Chancellor Angela Merkel, Austrian Chancellor Sebastian Kurz, NATO Secretary General Jens Stoltenberg and US Secretary of Defense James Mattis. A positive answer to the referendum question was given by 94% of those taking part in the referendum, but the turnout was not high: about 37% of those entitled to vote (Gotev 2018). Finally, in mid-January 2019, the Macedonian Parliament approved amendments to the constitution introducing a new name for the state.

In Greece, despite the government crisis and the pressure of numerous demonstrations against the Prespa agreement, the Hellenic Parliament ratified the agreement on January 25, 2019. The ratification of the Treaty of Prespa in both countries freed the process of obtaining full membership of Northern Macedonia to NATO. NATO signed the final protocol of its acceptance into the alliance, which should be ratified by all member states within a year. Greece was the first country to ratify the protocol of the accession of the northern neighbor to the North Atlantic Treaty (February 8, 2019), this symbolic gesture indicates that Athens has assumed the role of advocate for the Euro-Atlantic ambitions of the government in Skopje. The next challenge for Northern Macedonia is to obtain the full membership in the European Union. Prime Minister Tsipras showed great political maturity. Through an agreement with Northern Macedonia, he proved that Greece is a country that wants to stabilize European security, while the government in Skopje has shown that it is trying to free itself from the stigma of a Balkan



country generating problems for the European Union. Now the biggest challenge for both neighbors will be to convince the other members of the European Union that the organisation should make another enlargement process, precisely for the Balkan countries.

The European Commission already in April 2018 again recommended the European Union to start accession negotiations with the government in Skopje. It seemed that the meeting of the Council of the European Union planned for June 18, 2018, the day after the signing of the agreement of Prespa, will end with the decision to start accession negotiations. However, the ministers of the member states postponed this decision to the next year. The case of Northern Macedonia was coupled with the accession process of Albania, which became the proverbial brake of the Macedonian government. Albania is far less advanced in reforming the state and has been delayed in the fight against corruption and organized crime. Because the issue of starting accession talks with both countries was treated together, the ministers from the Netherlands, Denmark and France pushed through the decision to postpone the decision for 2019 (Garding 2019, 9–10). During subsequent meetings at the European Summit, the French President, Emmanuel Macron, argued that making a decision to open the next accession negotiations before the May elections to the European Parliament in 2019 would be a political mistake, as it could strengthen the nationalist and populist parties (Armakolas 2019, 10–11).

In May 2019, the European Commission again prepared its reports recommending EU member countries to start accession talks with Northern Macedonia and Albania. In the report, the European Commission appreciated the efforts of the government in Skopje to strengthen democracy, the rule of law and the checks and balances principle. Fewer successes were recorded in the area of judicial reform, the fight against corruption and organized crime, but the government has taken decisive steps in this direction as well (European Commission 2019). The Council of the European Union held its meeting in June 2019 regarding the start of the negotiation process with Northern Macedonia and Albania, but EU ministers again postponed their decision in October 2019. The problem for Macedonians again was the linking of their integration process to the accession process of Albania. The reason was the lack of approval of Netherlands and France, whose politicians denied the readiness of Tirana government to negotiate. In such a situation, the best solution for North Macedonia was the separation of both countries in terms of their integration with the EU. This option was also adopted by EU politicians who were afraid that keeping Macedonians

uncertain would weaken their motivation to continue reforms. It is difficult to burden the government in Skopje with the tardiness of its neighbor. In June 2019, the Dutch parliament voted against the start of talks with Albania, at the same time the decision to start negotiations with North Macedonia was accepted (Europeanwesternbalkans 2019). A similar solution is to be adopted in France. It seems that the long-awaited decision to open accession negotiations between North Macedonia and the EU will be made in October 2019.

## Conclusions

North Macedonia has been a candidate for the European Union since 2005 (as FYROM), but it could not start accession negotiations with the EU mainly due to the opposition of the Greek government. The problem was the name of the country that Greek politicians and society refused to accept. The name dispute was resolved thanks to the agreement between the two countries in June 2018 and the acceptance of the new name: the Republic of Northern Macedonia. Greek Prime Minister Alexis Tsipras, who signed the Prespa agreement, paid for this step by losing elections in July 2019. It was a signal that a large part of Greek society did not support this solution. The key question is what the policy will be of the new Greek government, led by Kiriakos Mitsotakis, who criticized Tsipras' policy towards the northern neighbor. Will the new Greek government also try to strengthen the image of its country in the international arena and end the role of "hampering" the integration of Northern Macedonia with the European Union?

Until recently, Greece's behavior could have been convenient for the European Union, which was not interested in the enlargement process. However, EU policymakers, even in the era of the difficult situation of the European Union, realize how important the Balkans are to the security of the European continent. It was this part of Europe in the twentieth century that was the source of many wars and international conflicts. The Balkan Peninsula received the symbolic name of the "cauldron", in which nations, religions and cultures known for mutual hostility, hatred and mistrust are mixed up. The process of European integration based on the adoption of EU standards, which include the principles of democracy, the rule of law, respect for human rights, among which tolerance and respect for minority rights is extremely important, gives a chance to overcome this bad streak of the Balkan countries. For the first time in the history of modern Europe, the



Balkan states have the chance to break out of this vicious circle and stabilize the political, economic and social situation, based on the possibility of joining the European Union. The vision of EU membership is the best, most proven way to eliminate international conflicts. It is also a great opportunity for the entire EU, whose weakest link is the south-eastern flank. Considering the shape of the European Union, maintaining an unstable enclave in the form of the Western Balkans within the body is very dangerous for the EU's integrity in the future. The European Union must undertake every effort to absorb this region. Lack of progress in the accession process, demotivating the societies of the Balkan states by permanently prolonging their waiting in the "hallway" can turn against the EU states. It should be noted that there are other actors in the Balkans who are not interested in carrying out reforms based on the European model: Russia, China or Turkey. Russia is particularly dangerous, because in its interest is to maintain the state of tension and conflicts. The lack of a stable situation in the Balkans is the basis for its interference in the region and the weakening of the expansion of European structures.

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# **EU Development Assistance Instruments under the EU Budget**

## **Abstract**

As globalisation progresses numerous global issues arise that cannot be tackled by individual states. This creates a space for international organisations, and in Europe, the European Union, to act as important platforms for interest reconciliation and coordination of actions aimed at resolving global issues. External operations, including development cooperation represent a priority for the EU, especially in the context of the Millennium Declaration and the Agenda 2030. This paper examines the 2014–2020 EU budgetary external instruments. It provides an overview of them and confronts these instruments with current global challenges.

**Key words:** development assistance, international organisations, European Union, EU budget, global challenges

## **Introduction to the Issues of European Union's Development Policy Instruments under the EU Budget**

Along with increasing globalisation, numerous issues of a global nature arise. These issues cannot be successfully tackled by individual states and, as a result of growing interdependencies, are faced by the majority of countries worldwide. Because of the globalisation process, in the contemporary economy numerous threats, contradictions and imbalances between the countries are cast into much broader perspective than previously, due to

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their universality, accumulation and intensity. They arise not only from past developments, various development paths, and differences in economic and political systems, but they are also a consequence of contradictory economic, social and political interests of countries (Latoszek et al. 2016, 7). The authors of this paper regard international organisations operating based on common rules, norms, values and objectives as important platforms for interest reconciliation and coordination of actions aimed at resolving issues that are beyond the capacity of individual states, or of reactions to these issues. Therefore, the international organisations serving as significant global management actors should play a much more crucial role in resolving these issues (Willetts 2011, 148). In fact, they possess adequate non-financial resources (such as: competencies and position, knowledge and access to information, organisational skills, endorsement for action resulting from the social acceptance) and financial ones (Rewizorski 2016, 19–21). This paper pays special attention to the second group of resources of international organisations which constitutes a basis for their operations.

Proposals for resolving global issues differ widely. However, in the context of this analysis, special importance is attached to concepts related to global management and the role of international organisations in this process (Finkelstein 1995, 368; Rosenau 1995, 13; Dingwerth, Pattberg 2006, 193). The scientific literature is dominated by the widely accepted view that global management stands for the system of steering and affecting global processes and phenomena through joint actions aimed at developing effective cooperation and control mechanisms<sup>1</sup>. Global management should be based on centres of international cooperation and the use of these centres as organisational foundations for management. In the opinion of the authors of this paper, international organisations, and in Europe in particular, the European Union, seem to serve as such perfect centres. The EU is the only international organisation with specific political resources in the form of exclusive competences guaranteed by the Treaty on the Functioning of the European Union, and enormous financial resources for an international organisation. The member states of the EU have conferred some of their sovereign rights to this organisation to a greater extent and within a broader scope than in other organisations, as a result of which they have some legislative, executive and controlling powers within the subject matter area designated by the states (Barcz 1991, 93),

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<sup>1</sup> As stated by: Rosenau (1995), Brown (1996), Hooghe, Marks (2003), Kahler, Lake (2009), Alexandroff (2010), Rachman (2010), Hout (2013), Rewizorski (2015).

including external and development policies. The EU is, therefore, a trustee of development aid, which constitutes both an important medium for solving global problems and a foreign policy tool for building international position. Therefore, it can be said that the European Union functions as a “soft power” (Nye 2004; Tulmets 2008; Barburska 2016), a civilian power (Stavridis 2001; Smith 2005) and a normative power (Manners 2002), mainly due to its development policy and the development aid it provides. J.S. Nye, the author of the “soft power” concept in international relations, elaborated on the issue of financial aid and its instruments, which on the one hand constitute a form of “economic power”, and on the other hand are the source of both “soft” and “hard” power in the international arena (Nye 2011, 22).

The issues of development cooperation constitute an important subject for economists, EU researchers, political scientists, lawyers and sociologists who mainly search for answers to questions about the role of the development aid in international relations, conditions of cooperation between aid donors and recipients, the merits of the developmental policy and challenges faced by the development issues in 21<sup>st</sup> century<sup>2</sup>. These studies usually emphasise some selected components of development cooperation that are important for a given research focus. This topic has not been exhausted yet. It is rare and up-to-date, as the contemporary papers on the EU concentrate mainly on the changing role of this organisation in international relations or touch upon the EU’s internal issues, less often pertaining to development policy<sup>3</sup>. Recent studies lack in coverage of financial aspects of the EU’s development policy. Therefore, the authors want to close this gap. The research task set in this way is directly reflected in the paper structure, which is comprised of five parts: an introduction, three primary parts, including the EU’s budgetary development policy instruments versus global challenges, the overview of the said instruments, and overall evaluation of these instruments, followed by conclusions.

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<sup>2</sup> The issues of development cooperation were discussed, e.g. by the following authors: Cassen (1994), Burnell (1997), Hjertholm, White (2004), Clarke, Hunt, Kingsbury, McGillivray, McKay (2008), Sachs (2006), Riddell (2007), Bagiński, Czaplicka, Szczypiński (2009), Symonides (2010), Latoszek, (2011), Kopyński, (2011), Deszczyński, (2011), Hopper (2012), Carothers, de Gramont (2013), Latoszek, Proczek (2013).

<sup>3</sup> The following authors attempted some studies on the EU’s development policy: Hoebink, Stokke (2005), Frisch (2008), Hill, Smith (2011), El-Agraa (2011), Keukeleire, Delreux (2014), Cornelius (2015), Doidge, Holland (2015), Zajączkowski (2016), Bodenstein, Faust, Furness (2016), Furness, Gänzle (2016), Skolimowska, Jankowski (2016), Faure, Maxwell (2017).

For the purpose of the research an analysis and synthesis were applied interchangeably with the use of qualitative methods as well as a comparative and descriptive analysis of the subject literature and official documentation of the EU. Data was retrieved from the EU's annual reports to conduct an analysis of research results and carry out an *ex post* evaluation. The research ended on 25<sup>th</sup> May 2019.

## 1. EU's Budgetary Instruments versus Global Challenges

It is essential to underscore that funds at disposal of an organisation, alongside a structure and size of expenditure necessary for the accomplishment of objectives and tasks have a significant impact on the importance and operations of an organisation. They condition the ability of a given international organisation to exist and develop, and to respond to the needs of the constantly changing international environment. Therefore, the issue of funding of these entities, in practice, affects the actual capacity of these entities, both as it relates to internal and external operations. It refers, in particular, to the structure and volume of the funds at disposal through which international organisations try to mitigate the emerging threats in the world economy and reconcile often conflicting interests of member states (Proczek 2013, 14). When spending funds on these objectives, international organisations become participants in and partners to resolving many complex global issues.

For the European Union acting as an international organisation, the main priority is, above all, to further develop economic, social and political cooperation and to strengthen the integration among the member states. However, the EU in its operations does not only focus on internal problems, but also on global issues under the external policy, especially development cooperation. Some of these issues have a significant impact on the internal situation and policy of the EU, as well, for example the contemporary migration crisis caused to a great extent by tensions in the Middle East that brought a wave of refugees and illegal migrants fleeing to the EU from war-stricken territories with a desire to improve their living standards, or such issues as global climate change or the war in Ukraine, which also affect the EU's internal affairs, namely security of states and energy policy.

The core of the EU's external policy constitutes the development policy with its primary objective being the eradication of poverty, and additional ones, including defending human rights and democracy, promoting gender

equality and tackling environmental and climate challenges (EP 2017). Ensuring more than 50% of global development assistance, the EU and its member states are the biggest aid donor in the world (EC 2017a). The EU's development assistance is funded from three main sources: the EU budget, the European Development Fund, and the European Investment Bank. The member states also prepare their individual support programmes for developing countries. Due to the greatest significance of the first funding source both for the EU and its beneficiaries, this paper will focus attention exclusively on it.

The EU budget differs in many aspects from the budgets of other international organisations. As already mentioned, its size exceeds by multiple times the budget of any other international organisation, which reflects the enormous size of external operational functions of the EU. These functions are, first and foremost, related to its supranational nature. The EU budget funds both costs of internal and external operations of the EU. Most of expenditure relates to the execution of the external operational function, including development cooperation. The entire external activities of the EU, including development cooperation, fall under the category "Global Europe" within the Multiannual Financial Framework (MFF) for the years 2014–2020 (EC 2017b) (development aid represents one third of the funds for external action) (Cichos 2016, 180). Institutionalised international cooperation under the EU has led to the development of several funding instruments and mechanisms which imply the EU's actions aimed at the improvement of situation of the aid beneficiaries (Zajączkowski 2012, 428).

From the point of view of assessing the EU's development aid, it is key to examine it in the context of turbulence in the internal and external environment of the EU, also known as "global risks" (according to World Economic Forum) or "challenges" (according to Research Congressional Centre), which have been accumulating since 2015. It is too short a period to comprehensively assess the EU's development aid in the context of these challenges and to evaluate its ability to mitigate their negative consequences. However, the above-mentioned period has revealed several factors influencing the shape of the EU's development aid, such as: the contemporary migration crisis, the Eurozone crisis, initiated by the economic crisis and the financial crisis in Greece or the process of the UK leaving the EU structures (Brexit) (Archick 2017, 10–16). In-depth analysis of these factors goes beyond the scope of this paper.



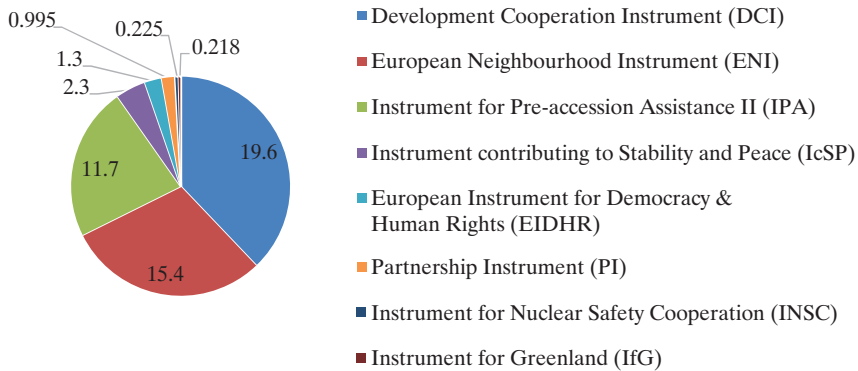
## **2. Overview of the EU's Budgetary Funding Instruments under Development Cooperation (2014–2020)**

Funding instruments under the EU budget for development cooperation are defined according to the EU budget cycle, namely for the period of the MFF, and provide the legal basis for the implementation of geographical (country or region specific) and thematic programmes. The legal basis specifies which countries, regions, thematic programmes or other special programmes receive development cooperation funding and determines the rules for funding provision. To operationalise the implementation of instruments, the European Commission (EC) alongside the European External Action Service (EEAS) draft a Strategy for the period of the MFF and three-year plans generally called Multiannual Indicative Programmes (MIPs) which under geographical programmes are specifically called National Indicative Programmes or Regional Indicative Programmes. MIPs set out priorities, objectives, expected results, indicators and indicative financial allocations. Halfway through the seven-year period a Mid-Term Review of the MIP is carried out, as a result of which a revised MIP is adopted for the remaining three years. MIPs are followed by the Annual Action Programmes (AAPs) prepared by the EC that present the actions to be funded under the annual budget for a given instrument. Further details are provided in Annual Work Programmes (AWPs) (CONCORD 2015, 6).

Under the MFF for the years 2014–2020, the EU has eight instruments covering external cooperation and aid at disposal, of which four are thematic, three geographical and one blended. Thematic programmes are always implemented using a horizontal approach, and complement the geographical instruments (EC 2017c) providing regional and country-based assistance. Under the currently binding MFF, the following thematic instruments are given: European Instrument For Democracy and Human Rights (EIDHR), Instrument contributing to Stability and Peace (IcSP), Partnership Instrument (PI), Instrument for Nuclear Safety Cooperation (INSC), and two thematic programmes: global public goods and challenges and civil society organisations and local authorities under the Development Cooperation Instrument (DCI). The geographical instruments focus on development priorities for a specific country or region and cover: Instrument for Development Cooperation (DCI), Instrument for Pre-accession Assistance II (IPA II), European Neighbourhood Instrument (ENI), Instrument for Greenland (IfG). These instruments are funded from the EU budget. All except for IPA II and ENI which are managed by the

Directorate General for European Neighbourhood Policy and Enlargement Negotiations fall under the management of the Directorate General for International Cooperation and Development. The total budget for 2014–2020 for commitment appropriations amounts to EUR 1087.197 bn of which EUR 66.262 bn (EC 2017d) (around 6%) constitute allocations under section 4 “Global Europe” covering all external action by the EU such as development assistance or humanitarian aid (EC 2017b), where all funding instruments fall representing in total almost 80% of all commitments in this category. The Figure 1 below shows the distribution of funding among the instruments.

**Figure 1. EU Budgetary Instruments in Numbers, for 2014–2020, bn EUR**



Source: own elaboration based on: EC 2017d.

Development Cooperation Instrument (DCI) with its main objective to reduce poverty in developing countries and auxiliary ones: to foster sustainable economic, social and environmental development, and to consolidate and support democracy, the rule of law, good governance and human rights, contributes greatly to the achievement of the international commitments and goals in the field of development (Regulation EU No. 233/2014, Art 2), namely Millennium Development Goals and the post-2015 agenda for sustainable development. It is designed to finance (Regulation EU No. 233/2014, Art 1):

- geographical programmes aimed at supporting development cooperation with developing countries included in the list of recipients of ODA established by the OECD/DAC except for countries that are signatories to the Partnership Agreement between the ACP Group and the EU,

excluding South Africa, and those eligible for funding under the EDF, ENI, IPA);

- thematic programmes addressing development-related global public goods and challenges and supporting civil society organisations and local authorities in all developing countries;
- a Pan-African programme that supports the strategic partnership between Africa and the Union and complements other financing instruments used in Africa.

Under the geographical programmes the DCI supports cooperation with 47 countries, and as far as indicative allocations are concerned most of support goes to South Asia (35%) and North and South-East Asia (26%) and Latin America (23%), followed by Central Asia (10%), Middle East (5%) and South Africa (2%) (CONCORD 2015, 23). For the period 2014–2020 the DCI on the one hand prioritises the least-developed countries providing aid based on the recipient's needs, capacity and results, on the other hand, it gradually stops providing funds to the upper-middle-income countries on the OECD DAC list and countries with more than 1% of the world's GDP (e.g. China, India, Indonesia, Cuba, Columbia, Ecuador, Peru and South Africa) (CONCORD 2015, 24).

Thematic programmes add value to and complement geographical ones. The DCI supports two programmes (EC 2017e):

- global public good and challenges addressing climate change, environment, energy, human development, food security and migration; at least 27% of this programme is spent on climate change and environment objectives, and 25% on social inclusion and human development;
- civil society organisations and local authorities providing greater support to civil society and local authorities to encourage them to be active players in development field.

The Pan-African Programme supporting the Joint Africa – EU Strategy focuses mainly on peace and security, democracy, good governance and human rights, human development, sustainable and inclusive development and growth, as well as climate change and environment.

The DCI has the biggest budget among the development instruments. It equals EUR 19.6 bn for the period 2014–2020 of which EUR 11.8 bn has been allocated for the geographical programmes, EUR 7 bn for the thematic programmes and EUR 845 m for the Pan-African programme divided into two sub-budgets: the first of EUR 415 m for the years 2014–2017 and the second of EUR 430 m until 2020 (EC 2017e).

The European Neighbourhood Instrument (ENI) is another extremely important instrument. Established in 2014 the ENI turns European Neighbourhood Policy (ENP) agenda into actions. Therefore, it supports the effective implementation of ENP's initiatives such as the Eastern Partnership, the Partnership for Democracy and Shared Prosperity, as well as the Union for the Mediterranean in the southern neighbourhood. The instrument is designed to be effective and hence offers fast, flexible and accessible support. The fact that funding is provided on an incentive basis ensures better implementation of agreed action plans by partners, which in consequence leads to rewarding the most involved partners (Regulation EU No. 232/2014, Art 7). The ENI is intended for the partner countries (Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, The Republic of Moldova, Morocco, the occupied Palestinian territory, Syria, Tunisia and Ukraine) and the areas involved in cross-border cooperation, (including Russia) that can be involved in cross-border cooperation, regional cooperation with the EU and in relevant multi-country programmes, including cooperation on education and, in particular, student exchanges. The purpose of the ENI funding is to promote democratic values, observe the principles of the rule of law and good governance, promote and facilitate actions supporting sustainable development and market economy in benefiting countries (EC 2017f).

The 2014–2020 ENI has a budget of EUR 15.4 bn and represents the second largest envelope. Support under the instrument is channelled through (EEAS 2015): bilateral programmes offering support for one partner country (up to 80% of overall funding), multi-country programmes addressing challenges common for all or many partner countries (up to 35%), cross-border cooperation programmes between the member states and partner countries taking place along their joint part of the external EU border, including Russia (up to 5%). The bilateral programmes address top priorities such as human rights, good governance and the rule of law, institutional cooperation and capacity development, sustainable and inclusive economic development, support to civil society actors, development of the social sectors, trade and private sector development, agriculture and rural development, sustainable management of natural resources, the energy sector, transport and infrastructure, education and skills development, mobility and migration management, confidence-building and other measures contributing to the prevention and settlement of conflicts. The EU support at the multi-country level covers the same topics, which are the most urgent in the international environment. The cross-border cooperation programmes focus on economic

and social development, the environment, public health, safety and security and the mobility of persons, goods and capital.

Another crucial tool constitutes the Instrument for Pre-accession Assistance II (IPA II) which provides support to candidate and potential candidate countries (Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Kosovo, Montenegro, Serbia, and Turkey) by facilitating political and economic reforms and building capacities for the future EU membership with financial and technical help. The pre-accession funds also help the EU reach its own objectives, among others, regarding sustainable economy, energy supply, transport, environment and climate change. The assistance covers investments in public administration reforms, the rule of law, sustainable economy, people, agriculture and rural development. The IPA II provides assistance under the new framework having a strategic focus (Country Strategy Papers for each beneficiary and Multi-Country Strategy Papers for regional cooperation) and pre-defined list of sectors closely linked with the enlargement strategy (democracy and governance, the rule of law, growth and competitiveness). The new developments ensure more targeted, efficient, results-oriented assistance that can be measured based on performance indicators agreed with beneficiaries. The IPA II builds on the results of its predecessor and has a budget of EUR 11.7 bn for the period 2014–2020.

Next, the Instrument contributing to Peace and Stability (IcSP) with the budget of EUR 2.3 bn starts the group of instruments of much more modest financial envelopes. The IcSP is a key tool to help prevent conflicts, respond to crises, build peace, ensure stability and address global and trans-regional security threats such as terrorism (EC 2017g). It is an improved version of its predecessor, the “Instrument for Stability” – more flexible and better contributing to the comprehensive EU approach to crisis management and crisis prevention, as well as peace building processes.

The European Instrument for Democracy and Human Rights (EIDHR) is a thematic financing instrument for the EU external action facilitating the development and consolidation of democracy, the rule of law and human rights, as well as fundamental freedoms allowing for assistance to be provided independently of the consent of the governments and public authorities of the third countries concerned (Regulation EU No 235/2014, Art 1). Its specific objectives embrace support to human rights and human rights defenders in situations where they are most at risk, support to other priorities of the Union in the field of human rights, support to democracy, EU election observation missions, support to targeted key actors and processes, including

international and regional human rights instruments and mechanisms. It has a global scope and can be applied anywhere outside the EU, operating worldwide at the national, regional or even international level, both in developing and non-developing countries. The budget for the EIDHR amounts to EUR 1.3 bn for the period 2014–2020 (EC 2017h). It recognises the effective force of civil society in making political reforms and defending human rights by cooperating directly with civil society organisations and human rights defenders without involvement of national authorities which ensures independence of action. Thanks to its high flexibility, it addresses sensitive political issues and responds to emerging challenges.

The Partnership Instrument, with a budget of EUR 954.765 m, supports closer cooperation between the EU and third countries to boost external aspects of the EU's internal policies such as competitiveness, R&D and migration, create opportunities for economic and academic collaboration, as well as address global challenges like energy security and environmental issues. Geographically, it focuses on countries the EU either has a special interest in or wants to cooperate with, including those involved actively in global affairs, international economy and trade, multilateral fora and global governance, and tackling issues of global concern. The PI also fosters new relationships with countries graduating from bilateral development aid (EC 2017i).

The Instrument for Nuclear Safety Cooperation (INSC) with the financial envelope amounting to EUR 225.321 m, promotes a high level of nuclear safety and its constant improvement, radiation protection standards, responsible and safe management of spent fuel and radioactive waste including remediation of former nuclear sites and installations, and the application of efficient and effective safeguards for nuclear material in the third countries. The geographical scope of the INSC extends to all third countries, however accession and neighbouring countries constitute a priority (EC 2017j). Its programmes range from the upgrading of regulatory frameworks in countries in Africa with respect to uranium mining safety and environmental standards to the improvement of the day-to-day situation of the population in and around Chernobyl.

The Instrument for Greenland (IfG) with a budget of EUR 217.8 m for the period 2014–2020 aims at supporting sustainable development of Greenland mainly by addressing its major challenges such as economic diversification, labour force qualifications, and climate and environmental issues, and reflects the partnership between the EU on the one hand and Greenland and the Kingdom of Denmark on the other hand (EC 2017k).

### **3. Overall Evaluation of the EU's Budgetary Funding Instruments under Development Cooperation (2014–2020)**

In 2017 all external cooperation funding instruments for the years 2014–2020 have been subject to the external evaluation on individual basis. These evaluations will feed into the Mid-Term Review of the EU's 2014–2020 External Financing Instruments required by the Common Implementing Regulation before the end of 2017. The main purpose of the evaluation was to identify key areas to improve based on an independent assessment of instruments. The specific objectives were to provide the relevant external relation services of the EU and the wider public with an independent assessment of the EU's external funding instruments, including complementarities and synergies between the given instrument and the remaining instruments, and to improve the programming and implementation of instruments, and learn lessons for the future ones.

The evaluations provide assessments with regard to relevance, effectiveness, impact and sustainability, efficiency, coherence, consistency, complementarity and synergies, added value, and give conclusions followed by recommendations. Overall, all instruments are fit for purpose, but require further improvements as it comes to programming and further alignment with each other. Specific findings of the individual evaluations will be discussed under each instrument. Instruments are presented according to their financial envelopes starting from the biggest ones.

The external evaluation (EC 2017l) of the DCI has found that it remains reasonably fit for purpose and contributes to positive development results aligned with the goals, although more progress is expected in mainstreaming democracy and human rights, including gender equality. As part of the contemporary architecture of the EU external action, it is quite complex and compartmentalised, however, some progress on joint programming with member states has been noted. There are still some efficiencies to be gained in the area of flexibility and administration efficacy. Staff capacity both in the EU delegations and at headquarters remains a problem. Overall, the evaluation stressed the changed operational environment with a smaller number of ODA eligible countries, a decreasing ODA role in resource flows, and greater significance of multi-actor partnerships. Therefore, as the DCI remains a donor-beneficiary instrument, it is highly recommended to invest more in long-term, value driven, multi-actor partnerships at country, regional, and global levels using non-development policies alongside ODA to address common global concerns in line with the EU's interests.



The external evaluation (EC 2017m) of the ENI proves that this instrument is delivering against its main objectives and its programmes are well aligned to one another and to country priorities. The differentiation of support is its definite strength. However, some shortcomings in joint programming, flexibility and effectiveness of the incentive mechanism were detected despite overall progress in those fields. The recommendations focus on strengthening: coherence and a more balanced political dialogue with partner countries, complementarity between the ENI and other instruments, partners' capacity to contribute to policy dialogues, the incentive-based approach using financial incentives, flexibility with regard to crisis responses, and synergies with the Instrument contributing to Stability and Peace.

The IPA II external evaluation (EC 2017n) stated that this instrument is becoming fit to deliver its objectives, however, the sector approach is still in a transitional phase, programming needs further improvements and intended efficiency gains from the increased country ownership have yet to materialise. Key recommendations refer to the above-mentioned deficiencies and concentrate on better and wider programming efforts, clarification of the sector approach planning to stakeholders, development of strategic vision for the countries under the indirect management mode, and coordination with other instruments' planning and programming.

The external evaluation (EC 2017o) concluded that the IcSP has contributed well to the EU external strategy and delivered on its objectives, generated important outcomes and proved to be efficient and responsive to a fast-evolving peace and security developments. The evaluation resulted in a number of recommendations stating, among others, that the IcSP's continuity should be ensured after 2020, an IcSP baseline enabling better future performance measurement should be developed, the overall strategic peace and security framework should be improved, with a special focus on regular monitoring and assessment of programming; the EU should engage in strategic dialogue on systemic challenges with other peace and stability funds and all identified challenges should be addressed.

The 2014–2020 EIDHR external evaluation (EC 2017p) found that the instrument has been relevant, effective (given early evidence of its impact), increasingly efficient (low support expenditure and improved disbursement rate), flexible (quick responses to human rights and democratic crisis and emergencies), complementary in terms of aid provided by other players and in respect of other instruments, as well as contributing to the increased political leverage. Some shortcomings in programming and implementation have been detected.



Generally, the external evaluation (EC 2017r) presents the PI as a relevant, effective and results delivering tool for boosting the foreign policy and diplomacy capability of the EU through support of its bilateral, regional and multilateral agenda. The instrument is coherent, consistent and complementary with the entire architecture of instruments. The report recommended focusing on internal and external communication about the PI, further strengthening coordination with member states and paying attention to monitoring and reporting.

The external evaluation (EC 2017s) found the INSC relevant to its objectives, well aligned to Euratom priorities and directives on nuclear safety, flexible, efficient and effective. It indicated a need to improve the instrument's result orientation and measurement, as well as quality of programming documentation. It was concluded that the instrument should be continued, taking into account complementarities with other instruments and frequent interactions with EU players.

The IfG has been assessed under the external evaluation as a relevant instrument to maintain close partnership with Greenland with very limited interface with other instruments. It has contributed to education, but no results in economy diversification have been demonstrated. The evaluation (EC 2017t) concluded, among others, that expanding policy dialogues beyond education, covering other aspects of partnership under the instruments and the relevance of the instrument in the future should be considered.

## **Conclusions**

Continuing conflicts in Syria, Yemen and South Sudan, and also in other African countries have led to the enormous migration waves and increased concerns over worldwide security. Resolving peacefully such complex global issues as illegal migration, poverty, unstable economic growth, terrorism, security and management of scarce natural resources is feasible only by taking effective and often tough measures. The fact that most of the countries cannot successfully deal with the dividing them issues on their own creates an actual need for the increased role of international organisations, and among them the European Union, as coordinators of concerted actions aimed at solving global issues and platforms for conflicting interest reconciliation.

According to the authors' point of view, the EU's role in mitigating consequences of global issues has recently gained much wider significance and the EU has become a place for reconciling conflicting interests of its

members. Therefore, the EU is an important actor on the contemporary global stage, being subject to various external international developments on the one hand, and impacting these developments on the other hand. EU funds play a significant role in these processes, because as a result of them the EU can intensify its actions within development cooperation and increase the effectiveness of these actions. Currently, the EU is executing development policy based on the Multiannual Financial Framework for the years 2014–2020. For that purpose it uses budgetary and non-budgetary instruments constituting an important pattern for contemporary development aid.

The EU budgetary sources of funding that constitute the subject matter of this study embrace eight instruments, of which four are thematic ones, three geographical and one blended. Thematic programmes are implemented following a horizontal approach and complement geographical instruments which, in turn, ensure regional and country-based aid. Expenditures under these instruments are to support economic and social growth in the world in countries still struggling with poverty, undeveloped infrastructure, the lack of the rule of law, disrespect for human rights and freedoms, and other global issues.

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# African Integration and European Partnership Agreements

## Abstract

Firstly, the purpose of this paper is to analyse the process of economic integration in Africa and the role of the EU in that integration process, taking into account the available data: the Africa Regional Integration Index Report 2016 (Economic Commission for Africa of the United Nations) and the economic weight (Shares of regional GDP of the various countries). Secondly, the effects of the European Partnership Agreements (EPAs) will be studied in these African integration processes taking into account EU information and available documentation. The principal results are that the African integration is still weak, and the EU interventions are weakening even more this integration process. Finally, the conclusions are evident. The EU has to extend the deadlines for negotiation of EPAs and future negotiations should be aware of the need to align EPAs with the objectives of sustainable development consolidation of African regional integration initiatives.

**Key words:** African integration, European Partnership Agreement, Regional Economic Communities

## Introduction

The purpose of this paper is to analyse the process of economic integration in Africa in the light of the European experience and the role of the EU in that integration process. It is known that the historical experience of African integration (Marinov 2013 and 2014a, Michel 2012) has been a process of seeking political integration; but it has evolved slowly, especially due to the lack of will of governments of African countries. In terms of economic

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integration, the achievements have been of greater importance, although with differences between countries, especially in the early stages of the gradual elimination of customs barriers in intraregional trade.

This is a reality that must be taken into account when considering the strategic objective of creating a continental free trade area as the first stage of a continental customs union. Therefore, the reality of the African experience shows a weak political will for integration, strong differences in the economic and geopolitical objectives of the countries and the inability to establish common integration goals. In other words, taking into account the European experience, the process of economic integration of the EU step by step, in stages, could be a good approach to be followed by Africa, on the basis of changing the political integration scheme by another of economic integration.

The conceptual framework is based on the applied analysis of concepts of the Theory of Economic Integration (Balassa 1961), the Theory of Optimum Currency Areas (Mundell 1961), the Theory of European Monetary Unification (Eichengreen 1997), and the Economic Integration in the developing countries (Gosh 1984, Marinov 2014b). That is to say, the main concepts used are price and wage flexibility, mobility of production factors including labour and financial flows, economic openness, diversification in production and consumption, fiscal and political integration.

The theoretical bases of economic integration rest on the elimination of economic borders (the limits to the mobility of goods, services and factors—capital and labor) between two or more countries. There are four forms of integration: the free trade zone, the customs union, the common or single market, and the economic and monetary union. The benefits of economic integration are greater specialization by taking advantage of the comparative advantages of each country, better exploitation of economies of scale, greater efficiency through increased competition, and changes in the quantity and quality of productive factors in their mobility and technological progress. These benefits are a consequence of changes in relative prices and changes in production levels, which have an impact on trade flows, production and consumption.

The structure of this paper is based on; firstly, the analysis of the current processes of regional economic integration in Africa, taking into account the available data: the Africa Regional Integration Index Report 2016 (Economic Commission for Africa of the United Nations 2019) and the economic weight (Shares of regional GDP of the various countries).



Secondly, the effects of the European Partnership Agreements (EPAs) will be studied in these African integration processes taking into account EU information and available documentation. Finally, the paper closes with the examination of some challenges, opportunities and policy recommendations.

## **1. Regional Integration Processes in Africa: Analysis**

Regional integration in Africa is a development priority. Regional integration deals with the freedom of movement of goods, services and factors between countries' borders. It is about the expansion of markets and the development of infrastructures. To do this, connectivity must be ensured, through transport, energy and telecommunications between countries.

As African leaders tend to say, integration is the present to be built and the future to be achieved on the continent. With a dynamic population and a growing youth, with great opportunities of a market of 54 countries and growing purchasing capacity, Africa needs to transform its economy through the intensification of trade and investment flows, greater industrialization and an increase in productivity. A fundamental way to achieve these economic objectives is through economic integration. Hence, the measurement of the degree of integration is a basic issue.

## **2. Degree of Integration**

The degree of regional integration is the measurement of development of commercial and productive relations, the provision of infrastructures, and the mobility of work and capital. This measurement shows the degree of progress towards the objective of the Treaty of Abuja (1991) for the establishment of the African Economic Community (AEC) and the fulfillment of the objectives of the Lagos Action Plan for the Development of Africa (1980) and the 2063 Agenda of the African Union for the creation of the Regional Economic Communities (RECs) as the basis for a broader African integration.

The index for 2016, the last one available, covers the member countries of the eight Regional Economic Communities (RECs) recognized by the African Union. This is: East African Community (EAC), Southern African Development Community (SADC),

**Table 1. Integration Dimensions of RECs**

| REC                   | Trade integration | Regional Infrastructure | Productive integration | Free movement of people | Financial and macroeconomic integration | Media |
|-----------------------|-------------------|-------------------------|------------------------|-------------------------|---|-------|
| EAC                   | 0.780             | 0.496                   | 0.553                  | 0.715                   | 0.156                                   | 0.540 |
| SADC                  | 0.508             | 0.502                   | 0.350                  | 0.530                   | 0.397                                   | 0.531 |
| ECOWAS                | 0.442             | 0.426                   | 0.265                  | 0.800                   | 0.611                                   | 0.509 |
| UMA                   | 0.631             | 0.491                   | 0.481                  | 0.493                   | 0.199                                   | 0.459 |
| IGAD                  | 0.505             | 0.630                   | 0.434                  | 0.454                   | 0.221                                   | 0.457 |
| ECCAS                 | 0.526             | 0.451                   | 0.293                  | 0.400                   | 0.599                                   | 0.454 |
| COMESA                | 0.572             | 0.439                   | 0.452                  | 0.268                   | 0.343                                   | 0.415 |
| CEN-SAD               | 0.353             | 0.251                   | 0.247                  | 0.479                   | 0.524                                   | 0.395 |
| AVERAGE OF EIGHT RECs | 0.540             | 0.461                   | 0.384                  | 0.517                   | 0.381                                   | 0.470 |

Source: Africa's Regional Integration Index, Economic Commission for Africa of United Nations.

Economic Community of West African States (ECOWAS), Arab Maghreb Union (UMA), Intergovernmental Authority on Development (IGAD), Economic Community of Central African States (ECCAS), Common Market for Eastern and Southern Africa (COMESA), and Community of Sahel-Saharan States (CEN-SAD). Keep in mind that a country can be in a single Regional Economic Community or in several.

The analysis of the results of the index shows that, on a scale of 0 (low) to 1 (high), the average of the regional integration of the RECs stands at 0.470 (Table 1). The RECs by the index value are ordered, from highest to lowest value, as follows: EAC (0.540), SADC (0.531), ECOWAS (0.509), UMA (0.459), IGAD (0.457), ECCAS (0.454), COMESA (0.415) and CEN-SAD (0.395). The average regional integration shows that the global regional integration in the RECs is reduced to date and, therefore, could improve considerably.

It can be said that the EAC is in the highest position of regional integration. In this case, the country with the highest regional integration is Kenya, with values above the average; with the remaining countries below (Uganda, Rwanda, Burundi and Tanzania).

SADC and ECOWAS have higher values than the average of the RECs in the global regional integration. The country with the highest integration values in SADC is South Africa and the lesser Angola and the Democratic Republic of Congo (DRC). The countries with the highest integration values in ECOWAS are Ivory Coast and Togo, and those that are worse are Guinea and Liberia.

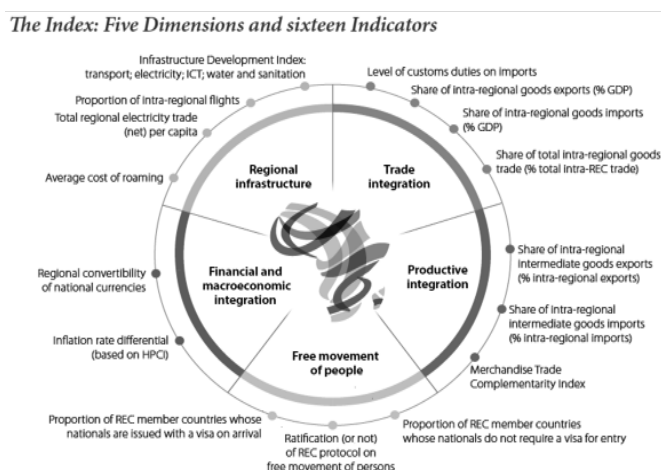
UMA has Morocco as the most integrated country, while Mauritania is the least. IGAD shows Kenya and Uganda as the best-placed countries and Sudan as the least.

The lower levels of integration, to date, are those reached by ECCAS, with Cameroon and Gabon being the best-placed countries and the DRC the least. In COMESA, only Kenya and Zambia present better positions, Ethiopia occupying the worst. In the case of CEN-SAD, Ivory Coast is the best placed, with Sudan in the worst position.

### 3. Integration Dimensions

The index is composed of five dimensions, which represent the key socio-economic concepts of the integration of Africa. These dimensions are: trade integration, regional infrastructure, productive integration, free movement of people, and financial and macroeconomic integration. These dimensions are based on sixteen indicators (Graph 1).

**Graph 1. Dimensions of African Integration**



Source: Africa's Regional Integration Index, Economic Commission for Africa of United Nations.

The largest average values of the dimensions correspond to the commercial integration (0.540), reaching in the EAC a maximum (0.780). It was a priority of African integration (Table 1). The minimum values are those of macroeconomic and financial integration (0.381), with UMA presenting the lowest value (0.199) and ECOWAS the highest value (0.611), which include the lack of currency convertibility and coordination of macroeconomic policies.

The figures show that the EAC has values in each of the dimensions of the regional integration higher than the average, except in the macroeconomic and financial integration (Table 1). SADC has higher values in regional infrastructure, free movement of people, and financial and macroeconomic integration.

ECOWAS has higher values than the average of REC in free movement of people and financial and macroeconomic integration. UMA has an acceptable degree of commercial, productive and infrastructure integration.

IGAD shows greater trade and regional infrastructure integration. ECCAS shows greater integration in trade, macroeconomic and financial matters. COMESA shows greater trade integration.

CEN-SAD presents superior values to the media in macroeconomic and financial integration.

The observation of the composite index of regional integration makes it possible to affirm that most countries have good behavior in at least one dimension, even if their level of integration is low. With the exception of Somalia in CEN-SAD and IGAD, there are no countries with low values in all dimensions. Each country can share experiences with other countries in the dimensions that they have developed more, and identify how to overcome the difficulties.

#### **4. Level of Production and Integration**

It is a matter of seeing the degree of correspondence between the weight in terms of GDP of each country and its degree of integration. In EAC, Kenya and Uganda are the main contributors to the creation of regional wealth (39% and 21% of regional GDP, respectively), although only Kenya stands out in the high values of commercial integration, production and free movement of people.

In SADC, South Africa represents 61% of regional GDP and is the first in regional integration. South Africa is strongly integrated into

all the dimensions considered. The remaining countries, with reduced wealth-creation weights (Botswana, 2% of regional GDP; Namibia, 1.8% and Zambia, 2.5%), enjoy relatively strong levels of integration. The first two in commercial integration, infrastructures and macroeconomic and financial coordination (the second one stands out in the mobility of people) and the third, in addition to commercial integration, in people mobility and productive integration.

In ECOWAS, Nigeria is the first contributor to wealth creation (75% of regional GDP), but it is not the most integrated. On the other hand, Ivory Coast is the most integrated, but it only represents 6% of GDP. The greater integration of the latter country is due to commercial integration, people mobility and macroeconomic and financial integration.

In UMA, Algeria contributes with 42% of GDP, but it is not the country that has higher levels of integration. Morocco and Tunisia are the countries that lead the integration indexes, although their contributions to regional GDP are lower.

In IGAD, Ethiopia, Sudan and Kenya are the main contributors of wealth in the region (29%, 28.5% and 27.7% of GDP, respectively), but only Kenya is at the maximum level of regional integration, especially because of the dimension of infrastructure, productive integration, mobility of people and macroeconomic and financial integration.

In ECCAS we can see that Angola and the DRC are the main contributors to the creation of wealth in the region (36% and 19%, respectively), but they are not the countries with the most integration. Instead, Cameroon is the most integrated, but it occupies only the third place in terms of weight in GDP.

In COMESA, Egypt is the first contributor to wealth creation in the region (35% of GDP), but occupies the fourth place in integration. Sudan and Libya are the second and third contributor to GDP, but they are not placed in prominent positions in regional integration. However, Kenya, Zambia and Uganda stand out for their high values in trade integration, productive integration and mobility of people.

In CEN-SAD, Nigeria accounts for 37% of regional GDP, but it is not the largest regional integration, nor is Egypt, which accounts for 18% of regional GDP. Instead, Ivory Coast is at the top of regional integration, although it accounts for 3% of GDP.

In short, note that the economic weight of the country (% of regional GDP) does not necessarily correspond to its regional integration index. Economically powerful countries are not necessarily more integrated into

their RECs, with the exceptions of South Africa in SADC and Kenya in EAC. There is strong potential for Algeria, Angola, the Democratic Republic of the Congo, Egypt, Ethiopia, Libya, Nigeria, Sudan and the United Republic of Tanzania to achieve higher levels of integration in their corresponding RECs, directing their economies towards their regional areas.

## **5. Role of the EPA's in the Integration Processes of Africa**

### **5.1. Positive Effects**

In this context, it is relevant to analyse the role of the “Economic Partnership Agreements” (EPA) in the integration processes of Africa. In theory, EPAs are trade agreements between the EU and African countries (and also the Caribbean and the Pacific) to promote the growth of these economies in a sustainable manner and improve the living standards of the population. From the point of view of the EU (EC 2016), EPAs create new business opportunities, African companies can freely export to the EU (without taxes or quotas at the border) and import the inputs they need (machinery and components) at lower prices; that is, export and import costs are reduced.

In addition, EPAs can help African countries compete and generate more and better jobs. These agreements open EU markets completely and immediately, but protect local producers by keeping tariffs in long periods of transition on sensitive products (agri-foodstuffs) and safeguards as quotas of origin of products.

Apart from that, EPAs foster closer integration relations between neighbouring countries and stimulate regional value chains. Countries can process their products in neighbouring countries and benefit from free access to Europe. EPAs seek the promotion of better working conditions, encourage environmental protection, good governance and human rights.

In a word, the expected impact of the EPAs is important, according to the Overseas Development Institute (Stevens, Meyn and Kennan 2010), in terms of value chain creation, African export profitability by reducing entry fees at the EU borders, and African trade increase to the EU.

### **5.2. Negative Effects**

However, the role of the EPAs, in the processes of African integration, is not always positive. There seems to be a disparity in the evolutionary processes of the different RECs and EPAs (Marinov 2013). In effect, the role of the

EPAs manifests itself in two negative senses. First, the formation process of the EPAs increases the complex process of African integration with new groups. Second, except for the EAC and ECOWAS, none of the remaining EPA negotiations coincides with the existing African RECs (Hulse 2016). In the other regions (ECCAS – Central Africa, COMESA – East Africa and Austral, and SADC – Southern African Development Community) are complicating the future prospects for regional integration and in some cases have contributed to the blockade by promoting a fragmented regionalism.

This is due to the tension between the ACP (Africa, Caribbean and Pacific) principles of regionalization, which recognizes the importance of regional integration for development and the differentiation that advocates a separate treatment of countries according to their level of development. EPAs try to stimulate groups of countries to sign agreements as regional blocs, but the EU's "Everything But Arms" regime undermines regional EPAs by offering least developed countries (LDC) non-reciprocal trade preferences. This divides African regions into low income countries (LIC) and LDC, which makes it difficult to conclude regional EPAs.

The degree of liberalization of the new EPAs is still under discussion today and pending the end of the Doha round. Regionalism implies that EPAs correspond to existing African or RECs regional groups.

In this context of tension, it should also be added that the Brexit has introduced a factor of uncertainty and is causing in African countries the reconsideration of their decisions to sign the EPAs.

## **6. Challenges, Opportunities and Policy Recommendations**

### **6.1. Challenges**

The RECs's first challenge is the weakness of macroeconomic and financial integration, which is affected by political instability, lack of budgetary discipline and insufficient financial management.

The second challenge of productive African integration is the creation of higher value-added products to prevent exports from being based solely on unprocessed raw materials. This phenomenon is the result of the weakness of foreign direct investment flows, the limited development of regional production networks and the lack of participation in global value-creation chains.

The third challenge is that the expansion of regional productive networks is hampered by the insufficient development of transboundary transport



infrastructures, the low reliability and costly supply of energy and the reduced penetration of the ICTs. In addition, we have to mention the impediments to the movement of people across borders. Still two-thirds of African countries require visas to access them.

The Constitution of solid RECs is weakened by the multiplication of EPA agreements, which complicate even more the “Spaghetti Bowl effects” of the existing ones (Bhagwati 1995).

## **6.2. Opportunities**

Africa must take advantage of investment opportunities arising from the new discoveries of natural resource deposits (oil, gas, coal) in East and West Africa, to obtain yields from the recent multiplication of investment sources (EU, China, India, Japan, UAE, Turkey, Indonesia, Russia, the United States, Brazil), the dynamism of a growing and young population, and expanding middle classes.

In particular, on the one hand, the rise in wages in China calls for Africa to make a commitment to create a productive base that employs tens of millions of workers in manufactures. On the other, Africa and the EU, through the EPAs and other channels, must intensify their economic relations. The opportunities of one and the other are complementary. If Africa does not develop, the EU’s future is in question.

## **6.3. Policy Recommendations**

Regional commercial and productive integration requires the improvement of customs management, the elimination of non-tariff measures, the simplification and flexibilisation of the rules of origin (together with their transparency), the opening of markets, the boosting of logistics and the development of services.

Greater convergence of macroeconomic and financial policies, currency convertibility cooperation, liberalization and competition of transport and communications systems to reduce costs are needed. The introduction of passports-such as ECOWAS and EAC passports -for the mobility of people is a good example.

Integration is also impeded by the weakness of States and the political opposition to share sovereignty. The main success factor in the process of streamlining the RECs is the political will and commitment of all the economies involved. A positive sign towards deepening the integration process is the initiative to harmonize and establish a free trade area between

COMESA, EAC and SADC, as well as the commitment of African country leaders to accelerate the process of African Economic Community.

Given the current stage of tension and uncertainty for the conclusion of the regional EPAs, the EU considers the need to extend the deadline for negotiations. Future negotiations should be aware of the need to align EPAs with the objectives of sustainable development consolidation of African regional integration initiatives (Giesbert et al., 2016).

There is no shortage of voices advocating the adoption of an AU proposal for a Common and Enhanced Trade Preference System (CETPS) for LDCs and LICs. Under this system, the discrepancy that exists between the treatment of LDCs and LICs will be abolished for regions where more than half of the countries that comprise it are LDCs, so that all the countries within the region can be treated as LDCs (Onu 2018).

Finally, caution is recommended. Regional integration is only a development strategy for Africa. Its effectiveness depends on a strategy of human and sustainable development. After all, that is the objective and not another.

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# EU-Africa Relations, China, and the African Challenge<sup>1</sup>

## Abstract

The African continent is a sleeping giant which will increasingly be a player to be reckoned with on the global stage. At the same time, its migration potential will be multiplied by Africa's forthcoming demographic explosion. Consequently, the EU and Africa have a shared interest in working together towards making African development sustainable. African integration will be key towards speeding up this process.

This paper first evaluates the stakes of the African challenge for the European Union. It considers the economic potential that can be unleashed by speeding up integration processes in Africa. Second, it argues that Africa will be 'the China of the 21<sup>st</sup> Century', and that any development, positive or negative, taking place there will have large repercussions in Europe, and that therefore the EU and Africa are communities of destiny in need of a joint approach towards African industrialisation. Finally, it provides a roadmap of important steps that Europe needs to consider in its endeavour to support African development.

**Key words:** Africa, development, EU, growth, integration

## Introduction

The last decade has seen the emergence of two new parallel developments in the international economic arena. One is the rise of China as a major power. The other is the increased inclusion of Africa in the world's economy. These two critical dynamics are increasingly interwoven, in a web of business and investment relations which are largely, though not exclusively, the result

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of an intense Chinese engagement in Africa over the last two decades. The dimensions of this engagement cover the economy, investments, trade and business, but also the social and cultural domain. These trends have important implications for Africa's economic and industrial rejuvenation, sometimes referred to as Africa's *renaissance*.

The African continent is indeed changing fast. Once dubbed *the forgotten continent*, Africa is no longer associated exclusively with the plagues of endemic poverty, ill governance, conflict, food insecurity and epidemics. It is today *a sleeping giant* on the brink of major changes. Africa is the last frontier (Halligan 2012), the last part of the world, apart perhaps from Antarctica, where geopolitics and geoeconomics have not yet been fully decided. It is *a giant in the making* who will increasingly gain in importance on the global stage (Lamy 2013; Baverez 2015).

At the same time, most African leaders are facing 'wicked problems', a term coined by European design theorists Horst Rittel and Melvin Webber (Rittel and Webber 1973) to refer to problems that are not just challenging, but 'inherently unsolvable'. African development is indeed facing a number of major obstacles, the combination of which appear, at first glance, to be impossible to solve, at least without determination, strong leadership and resolute measures.

It is the purpose of this paper to raise awareness of Europeans on the scale of *the African challenge*, as well as on the existential need for Europe to tackle it upfront and without delay. Indeed, the European Union (EU) and Africa have a shared interest in working together towards making African development sustainable. And African integration will be key towards speeding up this process. But do the EU and its Member States fully appreciate the real stakes linked to African development, and what the implications of slow-pace or delayed development would be for Europe? Have they fully realised how crucial it is to take on the challenge of 'making Africa work'? (Mills *et al* 2017) First and foremost, why does this represent such a challenge? What could Europe do to speed up the improvement of the world's least developed continent, and how?

## 1. The African Challenge – The Stakes for Europe

No major player on the world stage can afford to ignore the African continent any longer. This also applies for the EU. Not only is Africa a very close neighbour just across the Mediterranean, but it has the world's youngest demographic profile, in sharp contrast with an ageing and

diminishing European population. This discrepancy is widening: whilst the youngest continent continues to become younger, the oldest continent is getting older (Trouille 2017). The 2015 migration crisis showed blatantly how developments in apparently remote areas of sub-Saharan Africa can have an impact on European domestic politics and trigger new dividing lines in European political systems (Smith 2018). In an increasingly interdependent world, the future of European democracy depends on how we interact with countries outside of Europe.

In addition to being on the verge of a massive demographic expansion, Africa is the second largest continent and has the potential to become a huge market. A rising Africa on world markets will be a global game changer. Its resources are of fundamental importance for Europe. Links and partnerships between the two continents can lead to win-win economic cooperations – Provided that there is a will, backed up by an appropriate strategy. However, Europeans today appear, far too often, to be introspective, self-absorbed, and tend to remain rather indifferent to these potential opportunities, in spite of the fact that on their doorstep lies a continent with a gigantic potential for economic growth and wealth creation. European businesses tend to prefer the comfort of the EU Single Market rather than investing on emerging markets not bearing the promise of immediate dividends. Whilst Europeans have considered Africa for too long as their natural backyard, the rest of the world has discovered its potentialities, resources in raw materials and rare earth minerals, and are eager to position themselves in many African countries. Not least China, whose presence is noticeable in virtually each of the African states, but also India, Japan, South Korea, Brazil, Malaysia, Turkey, Australia, are all interested in Africa, and they act accordingly. Even Russia, which organised its first Russia-Africa Summit in October 2019, is increasingly present.

Africa's economic turnaround has started. It is taking place, right under Europe's nose, and arguably at Europe's expense. China's exports to African countries tripled in ten years' time from 2002 to 2012. They now account for one fifth of all exports to Africa. Those from Britain, Germany, Spain, Italy and Japan have all been falling. Very few Europeans have taken notice of this, even though the EU remains, before China, the main trade partner and the first provider of foreign direct investments to Africa. Only a few will know that since the turn of the century six of the ten fastest growing countries are in Africa, and there have been several years where Africa as a whole grew faster than East Asia. At least a dozen African countries have enjoyed similar levels of growth as in East Asia over the last ten years. Slowly, but

surely, the giant is awakening. However, Europe's focus has been more on the difficulties, trouble and threats of investing south of the Mediterranean than on the opportunities. And yet, if the geopolitical context in Africa leads to greater instability, Europe will unavoidably be on the frontline (Trouille 2017). All developments, positive or negative, affecting Africa, will have more knock-on effects on Europe than on any other part of the world. Hence, from a European perspective the case for supporting African development to make it sustainable is a compelling one.

## 2. The African Context – Understanding the Challenge

Africa's pressing challenges in terms of governance, corruption, slow and unequal growth, infrastructure needs, are 'wicked problems'. Moreover, the combination of these problems tends to generate multiplier effects, making it even more difficult to tackle these issues. As such, wicked problems can only be addressed with dedicated leadership, efficient governance, and ambitious measures. There is no shortage of vision and innovative ideas among African leaders as to what needs doing, but these rarely go through the implementation stage. The volatility of many of the continent's 54 states poses security issues, internal as well as external. Its rich mineral resources are a source of greed and envy. They will be the focus of even greater global resource competition and unrest, as is the case with foreign powers' attempts to seize them in the Democratic Republic of Congo (DRC) and other fragile states. The *extractivism-based-model*, i.e. the process of extracting natural resources from the Earth to sell them on world markets, has not generated wealth for the common good. Instead, this model of raw material exploitation has led to the pillaging of resources that do not benefit the poor.

Most importantly, the African continent is on the brink of a demographic explosion. Its population is set to more than double by the middle of the century, with all the implications that this will have, notably in terms of education and training. If the challenge of providing education and training to the coming generations can be met, Africa may benefit from a demographic dividend with the world's largest available workforce. It would then supplant China and the Far East and become the new workplace of the world. Some more successful African countries, i.e. Ethiopia and Ghana, have already become the new workshops of the world, able to produce certain goods, e.g. textiles, cheaper than in East Asia.

Half of the global population's explosion up to 2050 will be happening in Africa, which will count an additional one billion inhabitants in the next



30 years. This will put huge strains on governments' ability to feed and house their countries' people. The speed of urbanisation is a tremendous challenge: the rapid growth of African cities can generate unmanageable, crime-ridden slums.

Findings ways to boost food production will also be a major headache for Africa leaders when the whole continent today produces less food than it used to in 1960. And yet, Africa would have sufficient areas of unused arable land in order to feed itself, if not the world. But instead, Africa has become a major consumer of Asian rice, with India and Thailand selling half of their rice exports to African countries, mainly in West Africa. Another African 'wicked problem', linked to food production, water scarcity, in the Sahel and in countries most affected by global warming, will make water management increasingly difficult in years to come. This will potentially be a source of conflict, as shown by growing tensions between Egypt, Sudan and Ethiopia about the new Nile River dam.

In the face of all these substantive obstacles, not all are reasons for doom and gloom. There is, among some economists, a school of thought which postulates that Africa's demographic growth will be a driver of wealth rather than the harbinger of doom. They argue that the vicious circle could be turned into a virtuous one. For this to happen, the demographic explosion will need to be backed up by sustained levels of growth able to provide 23 million additional jobs yearly for the youth arriving on African job markets. With such a scenario, European know-how could combine with Africa's expanding marketplaces to transform the economic outlook. If the availability of African labour can be combined with new technologies and with the continent's tremendous, largely untapped natural resources, then clearly the sky could be the limit. However, this all needs to happen first, and in this crucial process Europe has a role to play that will be of historical importance. Will the EU, European companies and financial institutions, shy away because they are unwilling to take financial risks? Sometimes former colonial links make them more familiar with local conditions. Another substantial advantage for Europeans lies in the fact that the vast majority of African states uses English, French or Portuguese as official language. It is important for Europe to draw advantage of these positioning advantages to consolidate its positions. Not just China, but Asian investors in general, are among the most active and far-sighted on African markets. The Indian telecoms giant Bharti Airtel, for instance, third in size in the world, is present in numerous African countries.

### 3. African Integration

Furthermore, whilst the principles of free trade are under ideological attack in many parts of the world, the case for more intra-regional trade in Africa is overwhelming. It will be essential for the continent to bring about the integration of its states, within the frameworks of its Regional Economic Communities (RECs), as well as at continental level under the aegis of the African Union (AU). Understandably though, integration has its own limitations. Any form of political union beyond what the AU represents appears unlikely in the foreseeable future. At regional level, alongside eight main RECs, the number of regional, sub-regional or sectoral organisations has significantly increased in recent decades (Révillon 2015). However, rather than helping integration move forward, this flurry of regional organisations slows the process considerably and creates unnecessary competition between various groupings, whilst some countries' membership in several RECs generates additional problems.

Notwithstanding this, more open borders are essential to encourage trade and investment (Adebajo and Whiteman 2012), open up new business opportunities, enhance knowledge and boost innovation. Many African countries are sub-skilled, landlocked, with variable size, and have relatively small populations. Smaller countries in sub-Saharan Africa receive only a very small share of foreign investment in the continent because the lion's share usually goes to South Africa, Egypt (until it was hit by political turmoil), and oil-rich Nigeria. Africa is still a backgarden of the global economy. It currently attracts only 3% of the more than one trillion \$ spent worldwide each year on international investment projects. Its share of world trade is just 2%. Africa's total economy represents some \$1.6 trillion yearly, but in terms of purchasing power this amounts to only 2.5% of the world's economic output. Furthermore, intra-African trade, with 14 percent of overall African trade, is still in its infancy in comparison with 67 percent of EU trade consisting of intra-EU trade and 58 percent for intra-Asia trade<sup>2</sup>. A push to speed up economic integration, with business-friendly facilitation measures to reduce red tape and increase freedom of movement, would greatly contribute to making African growth more sustainable. Furthermore, economic integration creates alliances of countries more prone to achieve gains collectively in trade negotiations rather than separately.

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<sup>2</sup> Financial Times, 4 April 2018.

To sum up what precedes, the real issue is about the future position of Africa in the world's economic integration, in the international division of labour, and in relation to the major stakes which know no boundaries: climate change, migration, sustainable development, fundamentalism. All these question marks and stakes point out to the same fundamental question: What will be the role of Africa in tomorrow's world? As pointed out by Pascal Lamy and numerous other observers, it is in Africa that in the next few decades the most important and decisive chess match between geopolitics and geoeconomics will take place. In these circumstances, what could Europe do to support the world's least developed continent in achieving sustainable growth? What does Europe need to do to benefit from Africa's growth and ensure that it will see thriving markets on its southern doorstep?

#### 4. A Roadmap for the EU

Firstly, Europe needs to reset its geopolitical compass and be less exclusively focused on migration. This involves understanding where its long-term interests lie, and being prepared to defend these interests. The stakes are overwhelming, and the challenges of *making Africa work* (Mills *et al* 2017) become more pressing by the day. Europe also needs to abandon enduring prejudices about Africa. A long history of exploitation, from the slave trade to colonial times, has left deep scars in the collective unconscious of Africans which are prompt to resurface in the complex ongoing interface between Africa and Europe. In this respect, it is worth taking a fresh look at what is being achieved in Africa.

Secondly, there is already a large range of EU initiatives and contributions to support Africa, of which some go in the right direction, subject to more effective coordination, but some also do not (Seitz 2018). The time has come for the EU to turn the page of public development aid. This aid provided to Africa is substantial, and allows the EU to pride itself for being the most generous donor to African states. However, ample evidence points to the fact that the aid poured to Africa has made far less impact on people's living standard than was expected. This has been acknowledged by a number of economists such as Deaton (2013) and Bourignon (2015). The latter rightly claims: *'When the share of external aid that reaches the local population only amounts to 15 percent of the transfer, often even less, because 85 percent have been 'redirected' by state corruption and wasted, then should development*

*aid be stopped altogether?*” (Bourgignon 2015). Can we also just ignore that arms and exports to these countries cancel most of the effects of this aid, by contributing to civil wars and self-destruction of unstable young states?

EU funding covers two types of aid: projects, which have a high level of visibility; and budget support, seen as contributing to the ‘local ownership’ of development projects. The EU Commission regards this as a source of leverage in strengthening governance. Good examples are support in organising elections, or assistance to civil society organisations, which strengthens the capacity of political parties. A functioning judiciary, or transparent land ownership legislation, are also regarded by the EU Commission as key areas of support. The EU Commission’s Directorate for Development and Cooperation (DEVCO) has established key indicators to measure progress, using poverty-fighting benchmarks set by the United Nations’ Millennium Development Goals. However, reliable statistics are too rarely available to allow proper comparison and evaluation. The Commission increasingly realises that the system in place does not work, and that an overhaul of development aid is necessary. Such reform should be geared towards human development and carried out with a focus on public and productive investments. If Europe’s ambition is to play an instrumental role in speeding up African development, it should proceed to a complete reappraisal of development aid (Seitz 2018). In the case of a few sub-Saharan countries like Ghana, where assistance in projects or budget support no longer appears necessary, the EU Commission is already considering, in coordination with the countries concerned, an aid exit, or ‘exit strategy’. As Rwanda’s President Paul Kagame declared at the Fifth African Leadership Forum, on 2 August 2018 in Kigali, *‘Africa can finance its own development!’*.

At the same time, DEVCO Commissioner Neven Mimica, argues in favour of linking migrations and development aid. But is this realistic, and above all, can it achieve the aim of keeping migration levels under control? (Trouille 2017) This is highly unlikely. If we consider this in a cynically realistic way, those Africans considering migrating to Europe are not among the poorest ones, struggling for survival. African migrants have access to resources allowing them and their families to bring together the money they will need to pay smugglers for their passage to Europe. Paradoxically, development aid provides some Africans with the means to come to Europe rather than being a financial incentive to stay at home. It would seem to be far more sensible to improve security, stabilise the functioning of democratic

institutions, and generate truly sustainable societies in sub-Saharan Africa rather than injecting *ad hoc* funding without a proper long-term view.

Thirdly, Europe can support and boost African development, but its model cannot be transposed to Africa, whose starting base, strengths and weaknesses are fundamentally different. Africans have to shape their own model. They do not need condescending foreign partners to take charge of them, they are doing it themselves. Notwithstanding this, it is important to ensure that Africa is at the centre of decisions that concern it directly. But cooperation is indispensable. The challenges Africans face have to be shared as they concern the whole of mankind.

Fourth, EU policymakers should also review the trade and development policies, the Economic Partnership Agreements (EPAs), that many Africans see as wrong-headed.

Fifth, and foremost, a large-scale European initiative would be urgently required, not least to regain lost momentum, but as a pressing necessity to accelerate Africa's economic transformation: *a European initiative for Africa*, which would be comparable in size and ambition with the Chinese Belt and Road initiative, would attract large-scale financing from international institutions, and would definitely send a strong signal that the EU intends to remain one of the key players on its southern flank. France, Germany and the World Bank want to invest more in Africa, but from a small starting base. It is not uncommon to hear political leaders in Europe talk about the need for a Marshall Plan for Africa. But what about concrete action? Europe can, and should, play an instrumental role in this process. In order to unleash African potential, considerable government spending will be required (de Boysson and Gillet 2019), which should be an incentive for private investment to follow. Returns on these investments may be uncertain and variable. It could take some years until dividends can be reaped. This is why Western investors remain underrepresented in Africa. However, if Europeans are not up to the African challenge, others will respond to it.

Sixth, it would be most appropriate to allow African RECs, and the African Union, to be represented in key institutions of international governance, the G20, the IMF, the World Bank, and other plurinational development banks. However, it will take time until the US and large European countries consent to revisiting their historical privileges. The EU could be a strong advocate of including Africa in these international organisations.

Finally, a dialogue should take place between Africa, the EU and China to promote a trilateral cooperation working towards boosting Africa's economy. Not just the EU and Africa have a shared interest in working

together towards achieving sustainable development on the African continent. China and Africa also have a shared interest in pursuing their economic ties. They will continue to do so. Europeans need to factor this in and integrate this state of affairs in their external action strategies. Rather than being rivals in Africa, the EU and China have a joint interest in adopting a cooperative approach instead of one based exclusively on competition. They should re-think their stance towards Africa and towards each other, and consider a balancing act between competition and cooperation. Tripartite coordination would not only develop good practice. It would also draw advantages from combining the different strengths and comparative advantages that European and Chinese can provide. And last but not least, in this complex interface between the three, it is essential that Africans play their full role and are in the centre of trilateral decision making on decisions that affect them directly.

## Conclusions

Over the next decades, sub-Saharan Africa will face three major, closely interrelated challenges. First, the doubling of its population by 2045. Second, a concentration of more than half of its population in megalopolises. Third, a large urban population of mostly young people who will be connected with each other and the outside world via mobile devices. This situation, if carefully monitored, can be a game changer for Africa. But without sustainable growth, the 23 millions jobs needed to integrate these young people in the economy will be missing. This could lead to a political and social catastrophe for both Africa and Europe (Mills 2017; Smith 2018). African leaders will need to face these tremendous challenges without resorting to forms of bad governance that have too often prevailed since gaining independence from colonial rulers.

The core question raised in this paper concerns the way forward: Europeans must learn how to deal with Africa. The EU has a key role to play in unlocking Africa's potential, and needs to contribute actively to ensure that the continent's development will be a success. Will Africa be able to play its full role in tomorrow's world? What will Africa's future position be in the international division of labour? In short, how to make Africa work, both for Africans and their neighbours? Africa, with the support of Europe and in coordination with other willing partners, needs to pursue its drive for integration, both at regional and continental level, increase intra-African

trade, implement joint policies for inclusive, sustainable growth, whilst at the same time developing through large-scale educational initiatives a new, ‘One Africa’ mindset, through the collective articulation of joint African positions in global affairs. In the end, with the support of Europe, Africans will have to empower themselves to find their own way and define their own model.

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# Latin America – European Union: a New Narrative for Further Cooperation?

## **Abstract**

Contemporary relations between the European Union and Latin America, their character and scope are closely related to the current international position of the continent and the internal situation of the Latin American countries, significantly different in political and economic terms. Regardless, Latin America remains a region free of open armed conflicts and relatively stable politically. The landscape of changes in this part of the world is enriched by the processes of regional integration taking place here, exemplified by the integration of the Pacific Alliance group states (Mexico, Colombia, Chile, Peru) and the normalization of US-Cuba relations. The above changes have created the possibility to re-evaluate the existing cooperation between the European Union and the Latin American continent towards more partner relations. The EU sees in Latin America not only an important economic partner, but also an ally in solving global problems and creating common standards. For Latin American countries, the EU is an important exporter of modern technological solutions and foreign direct investment, as well as an important partner in co-financing development projects. The aim of this paper is to discuss and analyze the current relationship between the Latin America and the European Union, their incentives and obstacles as well as the difference between old and new generation agreements.

**Key words:** European Union, Latin America, Strategic Partnership, Latin American groups, free trade agreements, new generation association agreements

## **Introduction**

From the creation of the European Economic Community (EEC) in 1958 until today, the Member States of European Union (EU) have created a common commercial policy. Within a few years they abolished tariffs and other barriers to trade between themselves, and they delegated

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their sovereign rights in regulating trade with the rest of the world to the supranational level of the EU. Member States thus provided the EU with exclusive competences in this area along with only a few other policy fields, such as the regulation of the internal market, competition policy, agriculture policy or monetary policy. Regardless, trade policy is the first and one of the most important EU policies within the exclusive competences of the EU. This renders the EU similar to a country in its policymaking in the area of foreign trade. Due to its market size and its important role in world trade, from the very beginning the EEC, and since the 90s the EU has been a significant economic and political power being accepted by all other countries of the world as a major trade partner, which has been the case for over six decades now. In the meantime, new trading powers have entered the world stage and the trade agenda has broadened, mobilizing more and more diverse stakeholders including Latin America.

Nowadays, Latin America occupies a special place on the political map of the world, as a region whose economic resources and development opportunities attract all the leading economic forces of the world (Gstohl, De Bierre 2018, 139–152). The United States, the European Union and Japan compete to deepen their economic and political ties with the countries of this area of the world. However, the significant role of the US in these relations is undeniable, primarily due to its geographical proximity and the nature of the policy of the US, which has long cooperated with countries in the region. Nevertheless, the European Union also strives to not only maintain but also intensify its cooperation with Latin American countries. The scope of the new generation of agreements, both on free trade areas and the association agreements, takes into account to a greater extent not only the needs of the parties, but also the most important challenges of the modern world, including issues of sustainable development and migration.

## **1. The Origins and Conditions of the Cooperation between the European Union and Latin America over the Years**

Since around the mid-eighties, the relationships between the countries of the region and the external environment have changed radically, which is primarily due to the democratic forces coming to power in most countries of Latin America. Integration processes in Latin America alone have intensified and historic ties with the European Union have been renewed. Spain and Portugal played a particular role in this process. For example,

the cooperation agreement between Brazil and the European Community was signed during the Portuguese Presidency of the EU, and the second European Union–Latin America Summit was held during the Spanish Presidency of the EU Council. For Iberian countries, such a role in the development of Latin America–EU interregional cooperation is particularly important, as it can significantly increase their prestige in the political life of the EU.

For a long time, EU contacts with Latin America were limited to bilateral agreements with countries of the region, which resulted from the rule of dictatorial regimes in most Latin American nations. With the emergence of new conditions conducive to economic and political rapprochement between the parties in connection with the democratization of Latin American countries at the turn of the 1980s and 1990s, gradual changes occurred both in the nature of integration links within the region, currently based on the model of the so-called hybrid integration, as well as in EU–Latin America relations. They also coincided with the deepening integration process in the Union (Doctor 2007). An important element of EU–Latin American talks was the special involvement of Spain and Portugal in the negotiations, which began to play the role of a certain kind of “bridge” between the two regions, which was undoubtedly supported by historical traditions, a common language and culture. At the same time, in the 1990s, Spain became the largest European investor in Latin America. Between 1990 and 1999, Spain’s total capital investment in Latin America increased more than five times and accounted for over 60% of all Spanish foreign investment.

Finally, in October 1995, the European Commission adopted the key assumptions of the Strategic Partnership between the Union and Latin American countries and integration groups, *EU economic and trade relations with Latin America*. The new EU–Latin America Strategy included several important aspects: deepening the political dialogue, expanding trade cooperation while supporting the process of regional integration in Latin America and the Caribbean, as well as technical and financial cooperation. The development of this Strategy was a response to the growing concerns of the EU about the weakening of its position in the Latin America region in the first half of the 1990s (Dur 2007). At that time, there was a clear tendency to reduce the role of the European Union in bilateral trade: between 1990–1999, the EU’s share in the region’s exports fell from 21.7% to 13%, and in Latin America imports, its share of deliveries fell from 17.5% to 16%. The share of Western Europe in foreign direct investment in

the region, which was 50% at the end of the 1980s, fell to 25% in 1990–1997 (Eurostat 2009).

It needs to be emphasized that the Western European strategy for cooperation with Latin America was developed against the backdrop of important US initiatives to support the development of regional integration processes on the Latin American continent, such as the signing of the agreement between the US, Canada and Mexico on the creation of the North American Free Trade Area (NAFTA) in 1994 and the decision taken at the “Summit of the Americas” in Miami in the same year to take steps to create the Free Trade Area of the Americas, FTAA; Spanish *Área de Libre Comercio de las Américas*, ALCA), providing for the creation of a joint economic space from Alaska to Tierra del Fuego by 2005 (Latoszek, Proczek 2012, 59–65).

Given the growing aspirations of Latin American countries during this period to diversify foreign economic relations and reduce the influence of the US on regional affairs, the EU’s efforts to offer alternative solutions to its partners in this part of the world were justified and found great support in all of the region. The main characteristic feature of the strategy adopted by the EU at that time was the individualized approach of the EU to individual Latin American states and groups. The European Union began to selectively build its new relations separately with each country or organisation (Council of European Union 2008).

An important step in this direction was the signing in December 1995 in Madrid of the “fourth generation” interregional framework agreement on cooperation between the EU and Mercosur, which provided for gradual liberalization of foreign trade towards the creation of an intercontinental free trade zone between the two integration blocs. However, due to the issues arising from the implementation of the protectionist common agricultural policy by the EU and the application of the policy restricting access to the EU market for Mercosur partners’ agricultural goods, the implementation of the principles of this agreement encountered a number of problems. Ineffectiveness in the implementation of the EU-Mercosur Treaty was largely responsible for the fact that the EU’s political dialogue with other Latin American groups and states was only institutionalized in the late 1990s. The first summit of the heads of Latin American and European Union states was held on June 28<sup>th</sup>–29<sup>th</sup>, 1999 in Rio de Janeiro, where the first documents on cooperation were adopted, i.e. the “Declaration of Rio de Janeiro” and “Priorities for Action” (Council of European Union 2008). A working group made up of representatives of both regions was also set up

to monitor and strengthen the cooperation between Latin American and EU countries.

On September 20<sup>th</sup>, 1999, as part of the EU-Latin America Summit, the leaders of Latin American countries held a meeting of foreign ministers of the Rio Group countries to form a Committee of Latin American and Caribbean States to deepen their further cooperation with the EU. The committee was created as an open structure for all Latin American countries interested in developing relations with the EU and capable of representing the region (Latoszek, Proczek 2012). It became the *de facto* nucleus of the later Latin American and Caribbean Community (CELAC).

Latin American actions clearly show the desire to continue and develop cooperation with the European Union (the second EU-Latin America summit took place in Madrid on 17<sup>th</sup>–18<sup>th</sup> May 2002), which unfortunately remained stagnant for a long time, as at that time the main EU efforts related to its external relations focused on Eastern European and African countries. It was only in the second half of the 1990s that the European Union began to take more active action in relation to this cooperation, but paradoxically it probably happened due to the strengthening of the United States integration policy towards the Latin American continent. The idea of the United States creating a free trade zone between the two Americas, proposed in 1967 by President Lyndon B. Johnson, initially did not have much broad support in both the political circles of the USA and Latin American countries. This was undoubtedly caused by both the internal political instability that characterized Latin America at the time and the difficult situation in world politics and economy. However, the US government did not abandon its plan, but postponed its implementation, which was a sensible thing to do. In 1994, at the Summit of the Americas in Miami, President Clinton once again presented plans for broad cooperation between the Americas, and the outcome was radically different. Other participants in the summit supported the US project and opted for its quick implementation (Council of the European Union 2008).

The main obstacle to the implementation of the US concept was the resistance from Brazil, which trying to maintain its leading role in South America tried to justify the profitability of another project – the free trade zone of South America. For Brazil, the project to create ALCA was hardly advantageous, as it implied the loss of its leadership in the region. At the same time, the deepening cooperation with the EU (e.g. through participation in Ibero-American summits initiated by Spain) was perceived by Brazil as much more favorable in the long term (Rymarczyk, Wróblewski 2010, 46).

## 2. The Main Areas of Partnership between the Parties

At this stage, since 2006, i.e. since the adoption of the European Parliament Resolution on a closer partnership between the EU and Latin America (Council of European Union 2008), the scope of the political and economic dialogue between the European Union and Latin America is much broader and takes place on four levels:

- interparliamentary (organizing interparliamentary conferences once every two years, starting in 1974);
- regional (organizing meetings of the heads of governments of the European Union with the leading countries of the region that make up the Rio Group);
- subregional (rounds of bilateral negotiations between the EU and Latin American groups);
- interregional (based on the summits of the EU–Latin America, initiated at the first meeting of heads of state of the European Union and Latin America and the Caribbean on June 28, 1999).

On the first three levels, international political and economic dialogue is being held to adopt joint solutions to many issues related to trade and economic cooperation, external debt, solving social problems, protection of human rights, etc. On the interregional level, the negotiation process was initiated at the threshold of the 21st century and concerns strategic EU–Latin American partnership in the context of the new global world order, in which the two regions – the European Union and Latin America – can occupy one of the leading positions.

Both the cooperation of Latin American countries with the EU and the deepening of subregional and regional integration processes within the continent remain important factors attracting more EU attention to Latin America.

It needs to be stressed that among the economic conditions imposed by the EU in the negotiations – both with countries and regional integration organisations of Latin America – the Union emphasizes the need to adopt a common external customs tariff for EU countries. Since the very beginning of the implementation of the new EU–Latin America Strategy, the Union's approach to this problem has revealed the justified fear among a significant proportion of Latin American enterprises of possible losses associated with the introduction of the solution mentioned above, since there are virtually no compensation mechanisms in Latin American countries for those sectors and regions that will be most closely connected to the European

economy, especially at the national level, which is particularly important in the context of the fact that Latin American countries opt much more strongly for EU-state cooperation than regional groupings-EU, as far as relations with the EU are concerned (Council of European Union 2004). For example, Mexico and Chile were much more willing to engage in economic cooperation with the European Union by signing bilateral agreements on the creation of a free trade area than in the form of a multilateral agreement at regional group level.

An important obstacle to the EU–Latin American dialogue is also the reluctance of the EU to allow high-quality agricultural products from Latin America to the EU market, as they are direct competitors to agro-industrial products produced by EU countries and subsidized from the EU budget. At the end of the Second EU–LA Summit in Madrid, the issue of export subsidies for agro-industrial products was submitted for resolution within the WTO. It should be noted that there are some positive dynamics for resolving this problem: in the summer of 2004, the European Commission decided to review its sugar policy and reduce export subsidies in the EU. Solving the sugar problem is a key issue, especially for Brazilian entrepreneurs who have lost around \$400 million a year in recent years as a result of EU protectionism regarding sugar exports from Brazil.

Another factor slowing the creation of a strategic alliance between the EU and Latin America is the asymmetry in mutual trade and investment. While the European Union is the second largest trading partner of Latin America, the main investor and the main source of financial assistance, in the second half of the 1990s the region only occupied the seventh place in its foreign trade (in 2018 it was already fifth). This asymmetry is also manifested in the EU's relations with the northern and southern regions of Latin America. For example, Mexico and the Central American Common Market (CACM) countries – unlike Mercosur Member States, including Brazil – are geared towards cooperating with the US and Canadian economies. In the case of Mexico, about 80% of its foreign trade is targeted and implemented in cooperation with the United States, while trade with the EU accounts for only about 7% of its trade.

Nevertheless, the European Union countries are slowly beginning to become more and more serious competitors to North American countries in Latin America. The EU is the second trading partner of Latin America and the Caribbean, after the US. The EU trade turnover with Latin America and the Caribbean almost doubled over the past decade and reached over EUR 220 billion in 2016 (EUR 121 billion in 2010). In relative terms, the



share of trade with Latin America and the Caribbean is about 7% (2016) of total EU trade. In the case of Latin America and the Caribbean, the EU accounts for 14.5% of total turnover. Agricultural products as well as fuels and fossil products dominate the imports to the EU from this region, while Latin America is mainly the recipient of machines, transport equipment and chemicals. Latin America and the Caribbean are an important EU partner at the multilateral level, especially within the UN system. Latin America and the Caribbean countries very often share the EU's interest in foreign policy issues and ensuring international security, as well as in solving global problems, e.g. climate change, migration, drugs. The EU is the largest investor on the continent (40% FDI, with a cumulative value of around EUR 400 billion). The financial crisis in the euro zone has slowed down the investment dynamics of EU Member States. Nevertheless, the interests of European companies are the driving force of the agenda of modern economic cooperation between the EU and Latin America and the Caribbean. An example of such activities is the stimulation of investment growth by EU instruments, i.e. LAIF (Latin America Investment Facility) and the possibility of signing EU agreements on investment protection and promotion. Development assistance is an important element stimulating economic relations. In 2014–2020, the EU will allocate EUR 2.5 billion to Latin America under the Development Cooperation Instrument and EUR 1 billion to Caribbean countries under the European Development Fund, the EU's development cooperation instrument with the ACP countries (ECLAC 2018).

Free trade agreements and association agreements between the EU and Latin American countries/groups are of particular geopolitical and economic importance to both parties. However, the EU's willingness to open the EU internal market for Latin American producers remains a decisive step towards a strategic alliance (Garcia 2015).

Deepening the strategic partnership with Brazil and Mexico, with which the EU maintains the formula of cooperation in the form of summits at the highest level, remains a priority for the EU. Brazil and Argentina are the most important countries in the context of the Mercosur Association Agreement. Preparations are underway with Mexico and Chile for the modernization of Association Agreements to open new areas of cooperation. Colombia and Peru and Ecuador are among countries are interested in strengthening their relations with the EU, and have negotiated free trade agreements (MTAs) with the EU. In addition, Colombia and Chile have signed Framework Agreements on participation in EU crisis operations,

which may be an incentive for other countries in the region. As part of strengthening political relations, the EU has established a Trust Fund for Colombia for the reconstruction of post-conflict regions. In 2016, the EU also entered into an institutional dialogue with Cuba, concluding a Political Dialogue and Cooperation Agreement, which can support reform and modernization processes in Cuba, redefining bilateral relations between Havana and the EU. This is the first bilateral agreement between the EU and EU Member States and Cuba, replacing the existing dialogue, carried out *ad hoc*. It will provide a framework and platform for closer cooperation across a wide range of policy areas. Since 2011, the main institutional partner of the EU at the regional level is CELAC – the Community of Latin American and Caribbean States. Admittedly, the EU's dialogue with Latin America and the Caribbean includes political and security cooperation (disarmament and non-proliferation, organized crime and drug trafficking), promotion of democracy and human rights (e.g. dialogue with Mexico, Chile, Brazil), as well as socio-economic cooperation in the field of financial stability, energy, climate change, education, social cohesion, and enhancing entrepreneurship and migration, nevertheless the internal diversity of the continent's countries and the nature of the expectations of the Latin America and the Caribbean states often hamper cooperation (Holland, Doidge 2012, 157–160). The EU also conducts bilateral dialogue with other subregional blocs of countries. Depending on the specificity of the grouping, this cooperation is of a different nature (e.g. for Mercosur, the planned trade liberalization, for SICA countries – economic and security cooperation). Central America, with which the EU has concluded the first interregional Association Agreement, remains an important sub-regional partner of the EU. The EU also conducts a dialogue with the Caribbean region as part of the EU-Caribbean Joint Partnership Strategy.

One of the important achievements of the cooperation between CELAC and the EU was a joint migration project aimed at enhancing the dialogue and cooperation between the two organisations, as well as at creating a common model for managing migration and development policy. As part of the project over 350 civil servants were trained, representing 150 institutions and covering CELAC and EU member countries. The training was conducted in the form of seminars, training sessions, internships, research, as well as textbooks and guides created as part of the programme. In Guatemala, Mexico, Peru, the Dominican Republic and Uruguay, institutional mechanisms have been developed to facilitate the integration of migrants into the labour market based on five pilot projects; Six Public-Private and

Civil Society Partnerships were created in Bolivia, Brazil, Colombia, Haiti and the Organisation of Eastern Caribbean States (OECS) to maximize the use of remittances as a development tool. Government agencies in Peru, Bolivia and Ecuador offered technical support in managing migration data. The programme also includes the development of an institutional framework of alliances to increase the possibilities for wider transfers of immigrant remittances, synergies between migration profiles and increase the transparency of national migration data (Nicaragua, Ecuador, Jamaica), as well as to strengthen cooperation between national administrations of CELAC countries dealing with labour migration.

**Table 1. EU Trade Agreements with Latin American Countries**

| Trade partners         | Trade agreement name   | Date of signature    | Related political agreement  |
|------------------------|--|----------------------|--|
| <u>Mexico</u>          | Economic Partnership, Political Coordination and Cooperation Agreement | 2000                 | Economic Partnership, Political Coordination and Cooperation Agreement   |
| <u>Chile</u>           | Association Agreement  | 2002                 | Association Agreement (replacing previously existing Framework Cooperation Agreement)  |
| <u>Cariforum</u>       | <u>Economic and Partnership Agreement</u>                              | 2008 (Haiti in 2009) | <u>Cotonou Agreement</u>   |
| <u>Central America</u> | <u>Association Agreement</u>   | 2012                 | <u>Association Agreement</u> (replacing previously existing political dialogue and cooperation agreement)  |
| Peru-Colombia          | <u>Trade Agreements</u>  | 2012                 | <u>Political Dialogue Declaration of 1996</u> (to be replaced by the <u>Political Dialogue and cooperation agreement of 2003</u> , <u>not yet in force</u> ) |

Source: E.G. Ramirez, E. Lazarou, L. Puccio, G. Sabbati, "Latin America Trade Relations. Overview and Figures. In-Depth Analysis", European Parliament Research Service, 2016, p. 23.

At present, what connects most Latin American and Caribbean countries, as well as Latin American integration groups with the European Union are the free trade agreements and new generation association agreements based on three pillars: political dialogue, cooperation and free trade. These include: agreements with Central America (Guatemala, Honduras, Costa Rica, Nicaragua, Panama, El Salvador) and a free trade agreement

with Colombia, Peru and Ecuador. By treaty, the Caribbean countries are associated with the EU as the African and Pacific Group (the so-called ACP Group). The Cotonou Partnership Agreement, concluded in 2002, covering 80 African, Pacific and Caribbean countries will expire in 2020 – there are plans to replace it with Economic Partnership Agreements that have already been signed with CARIFORUM. In 2012, a joint Caribbean-EU partnership strategy was created as a political complement to the Cotonou Agreement. In addition, the EU is negotiating the updating of association agreements with Mexico and Chile. The EU–Mexico and EU–Chile FTAs reflect, from a content point of view, the time of their conclusions, and differ significantly from the later agreements. Issues such as regulatory cooperation and sustainable development provisions are much less developed than those found in the subsequent agreements. The EU–Mexico and EU–Chile agreements already have WTO+ provisions for Technical Barriers to Trade (TBT) and Sanitary and Phyto-Sanitary (SPS) provisions, including regulatory cooperation frameworks (as well as provisions establishing cooperation to achieve mutual recognition). These rules are however further developed in later agreements. Sustainable development provisions are also major parts of recent agreements. In particular, in view of the developmental aim of the CARIFORUM EPA, that agreement starts with a partnership on sustainable development and clear commitment that the agreement should be applied in conformity with sustainable development principles. Specific chapters were dedicated to trade and sustainable development issues in the EU agreement with Colombia and Peru as well as in the agreement with Central America. In the EU–Chile and EU–Mexico agreements, there is no specific chapter dedicated to sustainable development, although this issue was partly covered by political dialogues. As opposed to Euro-Mediterranean Association Agreements which merely confirmed GATS commitments in services, the EU–Mexico and EU–Chile agreement incorporate some GATS+ features. However, more recently negotiated agreements have gone further in ensuring GATS+ commitments and have further developed the areas of regulatory issues to be tackled under the services provisions (including data protection provisions). A study regarding the evaluation of the EU–Mexico FTA shows that further liberalisation of agricultural markets and agro-industry would benefit both partners, as current FTA coverage in these areas is limited. Finally, none of the EU agreements with Latin American countries include investment protection provisions; these provisions are covered by bilateral investment agreements with some EU Member States (Ramirez, Lazarou, Puccio, Sabbati 2016, 34). It is also worth noting that on

June 28, 2019 an EU association agreement with Mercosur was concluded. Officially the Southern Common Market trade bloc's full members are Argentina, Brazil, Paraguay and Uruguay. Venezuela is a full member but has been suspended since 2016. For Mercosur, the EU is the first major partner with which it has struck a trade pact, potentially giving EU firms a head start. The European Union is already Mercosur's biggest trade and investment partner. In terms of tariff reduction, it could be the EU's most lucrative trade deal to date, with some 4 billion euros of duties saved on its exports, four times more than its deal with Japan. European Union will win sharp tariff reductions on goods such as cars and wine and the bloc has its eye on increasing access for its companies making industrial products. Meanwhile, Mercosur aims to increase exports of farm products. It will get a new 99,000-tonne quota of beef at a 7.5% tariff, phased in over five years, along with tariff-free 180,000-tonne quotas each for sugar and of poultry. Brazil's President Jair Bolsonaro said on Twitter that the deal was historic and one of the most important trade agreements of all time. Past deadlines have come and gone because of EU nerves about a surge of beef imports and Mercosur's hesitation to open up in some industrial sectors, such as automotive. France and some other EU countries fear the impact of a sharp rise in beef imports, while environmental groups, whose influence is stronger in the new European Parliament, argue that the agreement could exacerbate deforestation. However, both parties indicated they have committed to implementing the Paris climate change agreement and that a special chapter on sustainable development would cover issues such as forest conservation and labour rights. According to Copa-Cogeca, a union representing farmers at an EU level, "The imports of Mercosur's agricultural goods will de facto establish double standards and unfair competition for some key European production sectors, putting their viability at stake."

The development of trade between the EU and Latin America has contributed to the creation of a series of joint development programmes, especially the ATLAS and MERCURE programmes, aimed at increasing the level of financial support for Chambers of Commerce and Industry of both the European Union and Latin American countries to stimulate economic development between the two regions. Practical work on the implementation of the programme is being carried out by a bilateral Steering Committee, which maintains operational contact with the authorities of each of the participating countries.

The main goal of the ATLAS programme is to stimulate and expand cooperation between the Chambers of Commerce and Industry of the EU

and Latin America, as well as to strengthen their role in civil society. In particular, the programme's main goals are:

- the transfer of the experiences of the European Chamber of Commerce and Industry to Latin American partners, peer review of business promotion systems;
- dissemination of information on the economic potential and promising projects in Latin America among the members of the Chambers of Commerce and Industry of the EU and Latin American countries;
- support and development of partnerships between the Chambers of Industry and Commerce of the parties;
- the creation of an EU-Latin American network of chambers of commerce and industry to stimulate the economic cooperation between the two parties.

These tasks are carried out through a variety of activities, including specialist study visits or employee training financed from the aforementioned programmes.

## **Conclusions**

In the medium-term perspective, the development of interregional cooperation between the European Union and Latin America will undoubtedly be determined by the processes of economic and trade cooperation in the Americas. Much will also depend on how quickly Brussels demonstrates its readiness to make concessions in liberalising trade with Latin American subregional integration blocs. According to analysts' forecasts, the development of regional integration in Latin America will be based on a model similar to NAFTA, which is quite different from the European integration model.

According to research carried out under the aegis of ECLAC, the process of strengthening the economic relations between the EU and Latin American integration groups will also depend on a number of adverse factors related to the current situation in the European Union, as well as the political and economic situation in some Latin American countries, which is not conducive to full regional stability that European investors would expect of close trade and economic cooperation.

Latin America is the weakest link in the network of economic links between the European Union and third parties, but at the same time there is no doubt that its market is extremely attractive for the business of the

world's largest powers, i.e. the USA, EU, China and Japan. That is why the main battle is currently being fought for cooperation with Latin America. After the end of the Cold War between the US and the EU, the parties were embroiled in a kind of rivalry for spheres of influence, and while Africa is more Europe-oriented, Latin America and the Pacific region have always been far less achievable goals for the EU. In this situation, the creation of the Free Trade Area of the Americas would be particularly bad for the Union. Hence, it can be assumed that the EU–Latin America summits are an attempt by the EU to maintain its (still quite insignificant) influence in the Latin American region. At the same time, the rivalry between the EU and the United States for influence on the Latin American continent may benefit primarily Latin American countries, which, although they would prefer closer cooperation with the United States, will be more freely able to impose their own conditions on both sides under new geopolitical conditions.

According to a significant proportion of Latin American researchers, the following scenarios for the development of the continent are likely, which can be conventionally divided into two groups: “evolutionary” and “revolutionary”.

Evolutionary scenarios are based on the assumption that the United States will remain the dominant country in the Western Hemisphere and that the traditional balance of power and economic relations will not experience change. As part of the evolutionary approach, two scenarios are anticipated. The first assumes that among the Latin American countries, sub-regional structures of the Andean Community type will be created. Against the background of general political stability, there may occasionally be regimes with revolutionary and anti-fascist rhetoric, however they will not be a viable alternative to the development of Latin America, as they will not include large Latin American countries. The United States will continue to be the clear leader of all integration processes throughout the New World. The second evolutionary scenario envisages enhancing the economic power of Latin American countries and increasing their political influence, as well as deepening relations with the US, as well as the international competitive position of some of them, which will be tantamount to increasing their exports to markets outside the Americas. Under this scenario, regional integration will develop in two directions: with and without US participation, with the second option playing a leading role. South American countries (likely not all of them) will move on from creating a common market to the creation of a real political and economic association that will gradually approach



the current model of the European Union. At the same time, according to analysts, Latin American integration will not pose a threat to the role of the US on the Latin American continent and will not go beyond the Western Hemisphere.

However, the revolutionary scenarios assume that the position of the US will weaken as a result of internal integration processes. According to many Latin American scholars, the further growth of the “left wave” will lead to the formation of a Latin American association with a clear ideological orientation towards “bolivarianism” or another similar anti-capitalist ideology. It will be aimed at creating a single market, a common defence policy and supranational institutions. At the same time, it will not necessarily cover all the countries of South and Central America, but will become a real centre of political and economic strength. The geopolitical goal of its existence will be to reduce the importance of the US and the broader entry of the Latin American economy into the global arena. Such a scenario may serve to strengthen the role of Latin American countries in the Western Hemisphere, but at the same time may delay the development of integration organisations in the region, since competition for leadership in the New World with the strongest countries will become the dominant trend.

The coming years will show which development scenarios Latin American countries adopt. Regardless, it should be emphasized that under new regional and global conditions, Latin America may soon become a forum for an intense struggle for external forces’ influence. Paradoxically, it is the presence of the moderately strong United States that encourages mutual solidarity between Latin American countries. While Latin American countries are still much less open to international trade compared to other emerging markets and still treat the United States as their most important partner, at the same time they adopt the strategy of deepening regional integration as an important factor in improving the economic situation of the region. However, any deviation to one side or the other may have negative consequences for the region. If too strong, the United States will, as it has so far, hinder the development of competition in the New World, while the sudden weakening of the United States will exacerbate the rivalry between the EU and China to strengthen their positions on the Latin American continent, because although the Union currently has comprehensive trade agreements with virtually all Latin American countries, in the last few years its market share has been decreasing and China has become the main competitor in the struggle for influence.

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