Sofia University "St. Kliment Ohridski", "Hanns Seidel" Foundation,
Wilfried Martens Center for European Studies

The State of the European Union

a need for unity and solidarity

Papers from the Tenth International Scientific Conference of the European Studies Department, Jean Monnet Centre of Excellence, Faculty of Philosophy at Sofia University "St. Kliment Ohridski"

SOFIA, 2023

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Sofia University „St. Kliment Ohridski“,
Hanns Seidel Foundation,
Wilfried Martens Centre for European Studies

Sofia, 2023

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Introduction

The Tenth International scientific conference „The State of the European Union – a need for unity and solidarity," organised by the European Studies Department of Sofia University „St. Kliment Ohridski" with the kind support of Hanns Seidel Foundation and Wilfried Martens Centre for European Studies took place in Sofia on 1-2 June 2023.

Each year the Department of European Studies and its Jean Monnet Centre of Excellence become a hub of debate as university professors and experts gather to discuss the key challenges and opportunities facing Europe and Europeans. Each year's edition of the conference is unique in its focus in order to match the changes in Europe and in the world. The Tenth conference is focused on the state of the European Union and the need for unity and solidarity.

Determining the current ***state of the Union*** *is much more complicated than talking about its future. The story of Odysseus and his sailors, who had to steer their ship between two great dangers – Scylla and Charybdis, on their way home, is relevant to the current state of the European Union. It is clear that European Union operates in a complicated environment of many risks and challenges for the European ship – „weaponization" of economic interdependence, heavy dependence on imports of rare metals and other strategic materials, aggressive US protectionism, assertive behaviour of China. The trade and technology war between the US and China is not without consequences for the European Union. In the current complex conditions, rivalry has become simultaneously an economic competition and a security competition.*

How to turn dangers and risks into opportunities? How to address the challenges demanding a quick response or requiring „out of the box" thinking? Is Europe able to ensure its own stability and security? How to keep the right balance in this new world? Do Europeans have the necessary skills to deal with the digital transition, cyber threats and disinformation?

These questions need not only the right answers and quick practical actions. To face the risks and challenges, the EU needs above all ***unity*** *and solidarity. Herman van Rompuy – former President of the European Council openly chided euro-sceptics: „The belief to be able to survive on your own in a globalised world is not just a delusion, but a lie." But is it possible to be united in stressful situations without having mutual trust? Trust among the EU Member states, toward and within the EU institutions is a key ingredient for successful crisis management.*

The need for unity is related to ***solidarity.*** *Due to the interdependence between European states, a new sense of solidarity and responsibility toward each other is desperately needed. What we learned is that solidarity is not charity, but on the contrary, a contract: each party fulfils its obligations. Solidarity in the EU has never been an easy and uncomplicated act, but solidarity was a vehicle in the common progress of the integration process. Solidarity has never been, and* cannot *be, a sentimental idea of utopian dreamers. It constitutes an element of a pragmatic calculation of interests and will probably continue to do so. The solidarity among the Member States constitutes an element of the „package deal" system relating liberalisation to redistribution. Jacques*

Delors' triptych of „competition that encourages, cooperation that strengthens and solidarity that unites" springs to mind as most adequate. Solidarity to achieve cohesion among all Member States should be its key element. The huge socioeconomic differences among the Member States and the regions serve no one and safeguard the interests of neither the rich, nor the poor countries. If those differences do not diminish, EU would find it difficult to remain stable and to progress along the path of integration.

The conference generated great interest and lively discussions on a wide variety of topics, united by a common commitment to the EU unity and solidarity. Leading European experts and academics as keynote speakers – Loukas Tsoukalis – Sciences Po, Paris, Peter Hefele – Wilfried Martens Centre for European Studies and Damian Tambini – London School of Economics turned the conference into a remarkable event. The participants from Belgium, Croatia, Greece, Lithuania, Poland, Romania, Albania, North Macedonia, Serbia, UK, China, Brazil from different sectors and backgrounds and of course a lot of colleagues from Bulgarian Universities contributed to looking at Europe from different angles and hearing different points of view. The questions asked by the students who attended the conference also enlivened the discussion. Despite the diverse topics and different points of view, presented during the conference, we all agreed that preserving the EU unity and solidarity is a prerequisite for addressing the risks and the challenges.

I cannot but express my gratitude to everyone who helped to hold the conference – Hanns Seidel Foundation, Wilfried Martens Centre for European Studies, the members of the organising committee, the House of Europe in Sofia, the speakers, the students and all the participants in the discussions.

The Department of European Studies has a tradition to name every promotion of bachelor students after the name of an outstanding European. I would like to mention a truly relevant quote by the patron of 2021-2025 promotion – Erich Maria Remarque:

„The pale light of the Apocalypse hangs over the world again, the smell of blood and the dust of the last devastation have not yet flown away, and laboratories and factories are again working at full steam to preserve the peace by inventing weapons by which the whole globe can be thrown into the air... Peace on earth! It was never more talked about, and never less ruled about, than in our time; never have there been more false prophets, more lies and more death, never more destruction and more tears than in our twentieth century - the century of progress, technology and civilization, the century of mass culture and mass murder..."

To conclude, when war again rages on the European continent, when people are killed in the 21st century, when millions are forced to leave their homes, when destruction and devastation destroy human achievements and human lives, we need to remind the lessons of the history. We should never forget that the European Union is the most incredible and successful peace project in human history.

Ingrid Shikova
President of the Scientific Committee
of the Tenth International conference
„The State of the European Union – a need for unity and solidarity"

FIRST PANEL

THE STATE OF THE EU - A NEED FOR UNITY AND SOLIDARITY

EUROPE'S COMING OF AGE: A FEW THOUGHTS[1]

Prof. Loukas Tsoukalis
President ELIAMEP/Professor PSIA, Sciences Po, Paris

Resilient, but ready for change?

Most Europeans share the use of a sturdy vehicle which has been tried on very difficult terrain for many years. It is called the EU: a strange vehicle indeed, unlike any other on the roads of the world, surely not a flashy vehicle, rather slow and not easy to drive either. However, it has been able to accommodate ever-increasing numbers of passengers and covered a remarkably long distance, often in adverse conditions and with accidents on the way. Resilience is the key word.

Only one passenger, the UK, has so far decided to leave the communal vehicle and look for its own independent means of transportation at a juncture where the road gets much rougher. All other passengers have stayed on, although bickering most of the time about the direction they take and the speed they travel while jostling with each other for access to the wheel and the best seats. They are all meant to have equal rights. In practice, everybody knows that some passengers have more rights than others – they are after all so much bigger in size. And those usually confined to the back seats know only too well it is still much better than having to walk by themselves. It is not always fun – sometimes it gets ugly inside the bus – but strangely enough the bus keeps moving on, and outsiders marvel how.

The large European single market still constitutes the cornerstone of European integration. It is a great achievement that allows for the free movement of goods, services, people and capital across a very large space with no national borders – almost no borders, to be precise, because they tend to reappear in times of crisis. The single market contributes significantly to economic prosperity and ensures free choice for European citizens in terms of where they want to live and work, and how to spend their money. All twenty-seven EU members are part of the single market while several countries outside, including now the UK, are linked through all kinds of custom-made agreements.

The existence of a common trade policy has turned the large single market into a powerful negotiating weapon in the hands of the EU. No outside country and no foreign company, however big they are, can be relaxed about losing access to a market of 450 million relatively prosperous consumers. This makes the EU a trade superpower. It has also become a regulatory superpower with high standards for the protection of the worker, the consumer and the environment, usually among the highest

[1] This paper contains long extracts from Loukas Tsoukalis, *Europe's Coming of Age*, Polity 2022.

in the world. But it is a continuous uphill struggle against free market zealots and powerful organized interests, not to mention institutional failures in a highly decentralized system. Naturally, it also leads to excesses. Opponents of European integration concentrate on the latter.

The European single market is also underpinned by structural policies mostly directed towards the less developed parts of the Union. Thus, the free movement of goods, services, people and capital inside the EU is tied to development and redistribution policies through the common budget. This is still a mild version of what happens inside most European countries, where redistribution and social protection operate on a much larger scale through the welfare state. Social policy remains today mostly in the hands of national governments.

European integration as a convergence machine reducing the economic gap between more and less developed parts of the Union has worked less well in recent years. Regional disparities remain; in some parts of Europe, they have become worse. Those in the forgotten regions protest with their votes, albeit diminishing in numbers as more and more people leave in search of better prospects, usually outside their national borders.

The freedom to leave one's country has become a key attraction of EU membership for new and prospective members. If in doubt, ask people in the western Balkans who are desperate to join the EU and emigrate. They want to follow the example of many others who have already left their countries in search of better opportunities in the more developed parts of the Union. Join and leave: it may sound like an oxymoron. Free movement of people has turned at best into a mixed blessing for both home and host countries inside the Union. It may not be politically correct to say so because it challenges the official mantra about the fundamental freedoms of the EU. And yet it is an undisputable fact that also serves as fodder for nationalist and populist movements in several countries.

Free markets and technological change combined have strong agglomeration effects. If anything, such effects have been accentuated during the recent phase of globalization. Corrective action is therefore needed unless our societies are prepared to live with ever larger urban concentrations, wide regional disparities and more deserted areas in the hinterland. Or will the problem be at least partially solved through digitalization and teleworking? There are idyllic places with very few inhabitants in many parts of Europe. The digital revolution could turn them into small paradises for people who enjoy the luxury of distance working.

The EU and its member states have developed instruments to deal with large regional disparities, but resources and administration are inadequate. A European single market needs an appropriate mix of liberalization measures and accompanying policy instruments to make it a positive-sum game for the large majority among European citizens. This is, after all, what the European model of mixed economy and welfare state with its different national variations has always been all about. It was challenged by the (neo)liberal revolution and now the pendulum is swinging back.

Politics remains mostly national while markets have become increasingly European and global. This creates an inherent asymmetry. In a half-baked political system

trying to catch up with market integration, which is the case of the EU and unique in the world, there is an inherent liberal bias in economic terms, hence the initial scepticism of many social democrats and socialists vis-a-vis the European project. But is political ideology the key factor in European politics? An economic liberal from Greece is still much more likely to support EU structural policies and transfers than a German social democrat. Guess why!

This inherent liberal bias of European integration has been increasingly challenged by changing facts on the ground. They include greater inequalities between and within countries, the financial crisis and its aftershocks, Europe's technological dependence and the climate crisis, not to mention the return of industrial policy in the developed world as a key instrument for guiding the allocation of resources. The emphasis has gradually shifted away from liberalization towards empowerment policies and the provision of public goods. It has also shifted from austerity to macroeconomic expansion. EU institutions have been trying to adjust to this new reality by fits and starts and most often in response to crises. One such example was the pandemic, which brought about a true game changer in the form of an ambitious recovery programme with a strong redistributive bias between members and the issue of common debt. It also brought about a coordinated effort in public health, in which the EU had very little competence before. Such developments would have been simply unthinkable only a few years earlier. The energy crisis that soon followed has further reinforced this trend.

One of the big questions for the future will be whether the recovery programme serves as precedent for more joint borrowing to finance large investment programmes or whether it remains a one-off response to an extraordinary crisis. And the answer will depend to a large extent on the use made of these new resources by member states and the kind of domestic reforms they help to bring about. Can the EU drag along laggards within its borders with the use of common rules, financial incentives and conditionality? The record has been mixed so far. To achieve better results, it will need more power at the centre and more money.

Demands on the public purse have been constantly rising. Where will the money come from? Borrowing at close to zero interest rates is now a thing of the past and debt levels are already too high for comfort in several countries. New and better taxes are needed. A more effective, environmentally friendly and socially fairer system of taxation would go a long way in restoring legitimacy and trust in our democratic systems.

Unconstrained national sovereignty in tax matters no longer makes any sense in an economic space where capital particularly is very mobile and can easily arbitrage between different national tax regimes. Multinational digital platforms have been very active in this game and made large gains. The EU has the size and collective bargaining power that individual countries do not have. It could therefore provide the right framework for tax cooperation among member states. It could also selectively raise common taxes to finance common policies. The fight against climate change is the most obvious example. Taxation has a political and symbolic value as well. If this battle is waged successfully, it would help a great deal to bolster the legitimacy of the European project among broader sections of society. They may not include, though, nationalists, tax evaders and free riders all fighting in the name of (what else?) national sovereignty.

Most EU members share a common currency, a common monetary policy, and a common framework for fiscal policy which remains in the hands of national governments. Members of the Eurozone belong to the most advanced tier of integration. They have committed themselves to sharing the main levers of economic policy. But European monetary union has had anything but a smooth ride, which may suggest that the project had been flawed from the beginning or that some members had not been ready for i – most probably both.

Be that as it may, almost everybody now agrees there is no way back. No possibility of divorce in other words – never say never? – even when this polygamous arrangement looked at its most unhappy. Being left with no realistic alternative, members of the Eurozone have endeavoured to strengthen the common arrangement and make it more liveable for all concerned. And in so doing, integration has gone further and deeper. The apotheosis of functionalist theories or the conspiracy of the *illuminati*?

The European monetary union is still a highly imperfect construction. It is also asymmetrical, with Germany as the leader who wields strong veto power and occasionally makes concessions having previously exhausted all other alternatives. Moreover, the euro remains today the most extreme manifestation of the gap between economic and political integration in Europe. Some of its architects had thought of monetary union as the most effective lever for political union. But in times of big crisis, it became a hugely divisive factor that threatened to blow apart the whole European construction.

As the aftershocks of the pandemic begin to fade away, we may prepare for a partial return to the old 'normal', albeit only partial because other causes of the overall policy shift are unlikely to go away as well. New fiscal rules need to be agreed to replace those suspended during the pandemic and the energy crisis that followed also accompanied by a big rise in inflation. European economies now have even more debt than before, they also need large amounts of private and public investment. The ECB and national treasuries will have to steer a hazardous course between stagnation and inflation. Banking union is still incomplete and capital union a (slow) work in progress. Let us also not forget that the euro could serve as a powerful instrument to strengthen Europe's strategic autonomy, if only the political will were there.

The Green Deal is Europe's big new project. It is a long-term project with a target date almost thirty years from now for the decarbonization of the economy. EU institutions are trying to set guidelines, coordinate action between member states, adopt common rules and policy instruments and provide a large part of the finance required. If the Commission had not existed, it would have had to be invented if only to help with the green transformation of European economies. The EU is also a key player in international negotiations. If successful, the Green Deal will radically transform not only the economy but also the politics of Europe. The good news is that Europe is trying better and harder than most of its international partners. The sobering news, though, is that we are still at the early stages and implementation will be rendered ever more difficult by high energy costs and a confrontational international environment. But we simply cannot afford to go slow on climate policy. It is a matter of survival.

Looking back to what happened during the last decade and more, it has been a truly transformational change of the domestic economic agenda in Europe. Agendas

shape policies, and policies eventually transform institutions – or is it the other way round? Many European political leaders may not have yet fully digested the nature and scale of change.

The world outside

The EU has the experience and the capacity in managing the ever-growing interdependence between its members through a mix of liberalization, regulation, stabilization and redistribution policies. It is surely far from perfect, but still much better than anything else in today's world. In contrast, the prospects for global cooperation do not look promising and multilateral rules are too often ignored. WTO rules proved too weak in the past to ensure conditions of fair trade and led to justified complaints that China, as the foremost example, has exploited loopholes to the full.

Moreover, security considerations increasingly take precedence over economic objectives. If anything, this tendency was reinforced by the pandemic and even more so with war returning to Europe and the unprecedented sanctions levied against Russia after the invasion of Ukraine. While the process of global interdependence slows down, if it does not altogether shift into reverse gear, which is no longer an implausible scenario, the forces pushing for further integration in Europe are likely to persist. European integration and globalization are parting ways.

As one of the big economic blocs in the world, the EU is faced with the hard task of reconciling the benefits of international interdependence with its own economic and social priorities. To put it bluntly, the EU and its member states will need to reconcile economic openness with social justice and the ballot box, an exercise that has become increasingly difficult with time as the number of losers at home has grown. Economic liberals will call such talk protectionism, but they will first have to explain what went wrong with globalization before. Attempts to draw a clear line of division between free trade and protectionism by squeezing everything under one or the other category have little relevance for the world today. They are political slogans rather than fact-based analysis.

A major task of the EU in the years to come will be to help member governments find a better modus vivendi between global markets and domestic social contracts. This is absolutely crucial although not widely understood. Economic interdependence can and should proceed faster between countries with compatible economic structures and priorities. But given Europe's close integration into the world economic system, it would make little sense for Europeans to turn economic interdependence into a weapon to be used in a political and ideological war with China. Europeans will have good reasons to view their relations with China differently from the United States.

The competition and regulatory arms of the European Commission regarding new technologies have been put to good use. But the key question remains whether European companies will be able to play global championship games in the future, instead of the Commission just trying to referee games played by others. Continued technological dependence on companies, and indirectly also on governments, beyond Europe's borders would severely reduce the capacity of Europeans to define independently their interests and defend their freedoms and way of life. To avoid this,

Europe will need to complement an effective competition policy with industrial strategies fit for purpose in the new technological era and try to reconcile the two. The key priority for Europeans should be to think strategically and collectively. They should invest in a big way in innovation and help mobilize large amounts of resources. They will also need institutions that think outside the box.

Because of its long-accumulated experience of cooperation and compromise, Europe would be ideally suited to trying to inject a healthy dose of reason and moderation into the management of global interdependence. This could apply to the design of new and better multilateral rules and institutions to govern international economic exchange. It could also apply to the greening of the global economy, with Europe playing a leading role in the creation of an international climate club that will combine incentives and sanctions to achieve this crucial goal for humankind. The European model has indeed valuable things to export to the rest of the world. Instead of imperial conquests in which they specialized in the past, Europeans might try instead to export the logic of cooperation and the defence of global commons. It would be a most welcome change.

Such arguments should apply even more to broader issues of peace and security. In a world in transition, with growing strategic rivalry and rising nationalism, Europe can be the quiet power that does not think and act in Manichean terms, is patient with negotiations, acts in moderation and seeks compromise solutions. But let us have no illusions. The force of persuasion of a European Venus will depend not only on her beauty and the intrinsic value of her arguments. It will also crucially depend on the kind of power she can project. Such power will need to include trade instruments, economic sanctions, and military weapons as the ultimate means of persuasion. Europe needs credible means to defend its interests and values.

It is high time Europeans begin to face up to some fundamental questions. Can matters of European security and relations with a revisionist/revanchist Russia be decided in their absence, and if not, how should they handle an aggrieved and aggressive neighbour, a declining power yet heavily armed? And should European countries continue to free-ride on US security protection? Objections to free riding can come as a matter of principle. But there are also legitimate questions about how reliable such protection may be in the future and at what price it may come.

The long history of isolationism and exceptionalism in US foreign policy, the US pivot to Asia, the painful experience with the Trump administration, and the extreme views aired by several US politicians today should make Europeans think about what may be in store for them in the future. They may also not forget the almost unlimited urge in Capitol Hill to apply US laws extraterritorially through a dollar-based international financial system. Sometimes, Europeans too find themselves on the wrong side of US extraterritoriality.

The alliance with the United States of course remains crucial for the security of Europe, especially when faced with a revisionist and trigger-happy Russia. But Europeans need to take greater responsibility for their collective security inside the Atlantic alliance and face up to the costs. Excessive dependence on an external protector, even though usually benign, is not a healthy state of affairs. Taking more

collective responsibility for their security would also give Europeans less excuse to blame others when things go wrong. It is all about becoming a political adult.

Many people believe Europe will never make this transition from an economic to a political power, from soft to hard power. They are probably the same who in earlier times were entirely convinced that a common European currency was a pipe dream and preparations for it a kind of tribal rain dance. They were the same who later predicted that the European project would never make it through the financial crisis, the migration crisis and more recently the pandemic and the energy crisis. Admittedly, this new transition required of Europe will be even more difficult.

Big events and big crises have indeed been the catalysts for major new initiatives in European integration. Should Europeans wait for Trump or his new incarnations to return to the White House? Should they wait for a major new conflagration in the Balkans, the Middle East or Africa, or for China's resurgent nationalism and malign use of new technologies, before they begin to forge a common foreign and security policy worth the name? And most important of all, has Putin's Russia given them a loud enough wake-up call? Even unintentionally, Putin may have rendered a great service to European unity. The radical change in German policy could help to usher in a new era in European defence cooperation.

Europe is essentially a regional bloc with limited global ambitions, albeit sometimes pretending otherwise. Its neighbourhood broadly defined is neither stable nor peaceful. Soft power is not enough when it comes to wars in the Middle East or Africa which directly impact on European security. And the choice between engagement and containment is never easy when dealing with bullies outside. Those inclined to a more muscular approach to foreign policy are usually tempted to dismiss most forms of engagement as appeasement.

Finding the right mix between engagement and containment is one thing; recognizing that the right mix should be defined at European rather than national level is another. A divided Europe can hardly play an effective and stabilizing role in its neighbourhood, or anywhere else for that matter. It becomes an object rather than a subject of international diplomacy as outside powers play one European country against another. Even France, Germany and the UK should have learned this lesson from experience.

An advanced form of engagement has been the well-tried method of Europeanization. Bringing countries of the European periphery into the EU fold has been indeed the most powerful tool of common foreign policy. But we now know it has limits. How many more new and weak members can the EU take before the Brussels machine grinds to a halt? The stabilization role of the EU in its immediate neighbourhood, including notably the western Balkans and now Ukraine and other countries in the former Soviet space will require a stronger and more political European centre, more money, and ways to associate countries much more closely with the European project but still short of full membership for several years to come. It could all be part of a more united yet more differentiated Europe in the making. If you think this is a contradiction in terms, you may need to delve more into the history of European integration.

Many people from nearby countries and further afield want to come and settle in Europe. It is a paradise of peace and prosperity compared to conditions they experience

at home. With a declining and ageing population, Europe indeed needs immigrants. But not in the form of large unregulated inflows which provoke a political backlash on the receiving end. Europe's humanitarian values – and international conventions created under very different conditions years back – have been repeatedly sacrificed for the sake of political stability and social peace at home. Let us admit it will be difficult to reconcile supply with demand for immigrants in the years to come and even more difficult to reconcile humanitarian values with political realities. It would greatly help, though, if European countries can agree on the essentials for a common migration policy and try to better integrate immigrants who are already in.

A political adult?

For many years, the EU has kept acquiring more functions and members. Good old functionalists point with glee to the inherent expansive logic of economic integration and the reduced capacity of member states to handle problems on their own. On the other hand, those who believe in the primacy of politics stress the importance of big political events such as the fall of dictatorships in southern Europe, German unification and the dismantling of the Soviet empire as key factors that have shaped the course of European integration – the war in Ukraine being the next one? Meanwhile, fans of conspiracy theories keep denouncing the role of the *illuminati* and the Brussels cabal in this everlasting plot against proud European nation states fighting to protect their sovereignty.

Believe what you want: the simple truth is that the EU has been constantly growing albeit not in a linear fashion. Brexit constitutes the main exception to the rule. Slowly but surely, the EU has been acquiring more functions, some of which are normally associated with a federal state, notably the common currency, while new members have added considerably to internal diversity. Trying to reconcile the two, the EU has relied more on differentiated integration among its members and less on common institution building. The latter requires treaty revisions and treaty revisions require unanimity, which is more than one can hope for in today's political context. The rule of unanimity for all big decisions in the EU has morphed into the tyranny of minorities.

The result has also been more intergovernmental cooperation and more ad hoc arrangements. It is extremely messy for sure, but this is not all. Responsibilities grow but the capacity to deliver does not follow suit. The widening gap between expectations and capabilities leads to disappointment and weakens the legitimacy of the European project. EU institutions are being constantly judged on delivery. They have a much smaller reservoir of legitimacy to draw from than national institutions. As new functions are being constantly added in a bigger and more diverse EU, European treaties become like a legal straitjacket. It is often difficult for common institutions to breathe in it and hence deliver what is expected from them.

Europeans will need to take some difficult and bold decisions in the months and years to come. And the rest of the world is unlikely to sit around and wait for Europeans to agree among themselves and then act. Europe needs to become an economic and political adult and urgently so to be able to defend effectively collective fundamental interests and values. The why and how have been discussed more extensively elsewhere[2].

[2] *Europe's Coming of Age, op.cit.*

BRIDGING EU'S DIGITAL DIVIDE: THE CASE OF BULGARIA

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Abstract

Since 2014, the European Commission uses the Digital Economy and Society Index (DESI) as an important tool for monitoring of the digital progress of the EU-Member States. It measures the progress of the Member States in divergent areas such as human capital, connectivity, integration of digital technology and digital public services.

According to the 2022 data provided by DESI, Bulgaria is again ranked on the 26th place among the 27 EU-Member States. While there is some progress in certain areas, the country is still lagging in its overall digital development in comparison to the rest of the Member States. In this sense, the paper will focus on what are the prospects of Bulgaria to develop further in this field. Furthermore, the analysis define how Bulgaria can be more digitally integrated with the rest of the EU Member States rather than divided from them.

Key words: euro area, enlargement, economic crises*, digital divide, Bulgaria*

1. Introduction

The new digital technologies are used more and more in the everyday life and business relations. Today, they are essential for the communication between people, for purchasing goods and services, for financial transactions, for information storing as well as for interaction with the government. Nowadays, we organise virtual meetings that save time and resources for travel; we perform our payments usually via online banking services and we may pay digitally even our taxes. Furthermore, the COVID-19 pandemic accelerated those processes that were already in development.

However, digital technologies are far from equally spread among different social and business groups, or even among different countries and regions. Socially excluded or vulnerable groups rarely use digital resources in their everyday life. The multinational companies have significantly better access to digital technologies than

[1] This is a joined paper from Assoc. Prof. Kaloyan Simeonov and Ralitsa Stoycheva, PhD Student, including the introductory and concluding sections. Assoc. Prof. Kaloyan Simeonov focused his research on section 2 and 3 and Ralitsa Stoycheva on section 4 and 5. The opinions expressed in this paper are personal opinions of the authors and they do not engage the institutions in which the authors currently work.

the majority of the small and medium-size companies. Big cities and economically developed regions have greater opportunities for profiting from the rapid digital development than small cities and rural areas. Even the Member States from the European Union do not have equal access to digital technologies. Member States from North and West Europe are more digitally developed than those from South and East Europe. These differences create a digital divide.

What is a digital divide? Generally, digital divide is characterised as the gap between people and regions that have access to new information and communication technologies and those that don't.[2] In some cases, this phenomenon is not tackled properly and it increases even further among people, business, and countries, it may create more profound economic, social, and even political divide between them.

One of the difficulties in tackling this problem is measuring the digital divide. During the years, different international and local organisations established various indicators and indexes to evaluate and assess it. Their main goal is to identify the areas of digital gaps and ultimately to tackle them. In the context of the European Union (EU), the Digital Economy and Society Index (DESI) is the tool that evaluates the digital development of the Member States.

As an EU Member State, Bulgaria is also included in the results and assessments that DESI provides. While there is some progress in bridging the digital divide with the more digitally developed Member States, there are still a lot of challenges for the authorities, businesses and different social groups in Bulgaria.

The main goal of this paper is to outline the digital divide in Bulgaria compared to other EU Member States as well as to highlight the main challenges the country is facing and therefore, to provide policy recommendations how to tackle them. The next section will present DESI and its main characteristics. The text will then focus on where Bulgaria stands according to the EU statistics and DESI results. The paper will then outline some possible prospects for the country to bridge the digital divide by providing some policy recommendations. In the last part, it will draw a conclusion.

2. DESI – establishment and main characteristics

The Digital Economy and Society Index is used for monitoring the digital progress of the Member States by the European Commission since 2014.[3] The methodology of collecting and assessing the data did not change substantially since then. The index provides the opportunity for the EU and its Member States to track the development and the progress of each individual country and of the EU as a whole. DESI is divided in four main sections (pillars) - each of them further divided in several sub-indicators. This allows a close monitoring of the progress as well as of the concrete challenges that each individual EU Member State faces. The concrete indicators and their assessment also allow to make targeted decisions by the EU and national authorities in order to further improve the digital performance of EU institutions, national authorities and business organisations.

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[2] Kiara Taylor (2022), „The Digital Divide: What It Is, and What's Being Done To Close It", Investopedia.

[3] Source: https://digital-strategy.ec.europa.eu/en/policies/desi

The four main pillars of the Digital Economy and Society Index of the European Union are:

1. Human capital;
2. Connectivity;
3. Integration of digital technology;
4. Digital public services.

The COVID-19 pandemic further intensified the necessity to boost the efforts in the field of digitalisation in the European Union. The need for physical distance between the people made the demand for digital investments and innovations even more prominent. The European Union approved a recovery and resilience framework that aims to overcome the effects from the pandemic. Under this framework, each Member State adopted national Recovery and Resilience Plan. In accordance with the rules of that framework, a total 127 billion euro are allocated for digital transformation in the Union. The share of digital reforms of each EU Member States is defined by the national authorities but digital investments shall be no less than 20% of the recovery and resilience framework.

On average, EU Member States devote 26% of their recovery and resilience investments for digital transformation after the beginning of the pandemic. In some countries, this percentage reaches more than 30%. Examples are Austria, Germany, Luxembourg, Ireland and Lithuania.[4]

The latest DESI results, issued in July 2022, present data that was collected in the course of the previous year. In accordance with the European Commission analysis on digital transformation, the main shortcomings at EU level are in the areas of artificial intelligence, big data and development of connectivity infrastructure, including 5G. The usage of digital technologies by small and medium sized enterprises also remains a challenge.[5]

3. Bulgaria and DESI – a digital divide rather than a digital unity

Although Bulgaria has made progress in the Digital Economy and Society Index (DESI) since its creation in 2014, the country's low starting point makes this improvement insufficient. Even though Bulgaria's score improved by an average of 9% per year over the last five years, the country consistently ranks lower than the EU average in DESI rankings. The latter indicates a digital divide rather than a digital unity between the country and the other EU Member States.

As seen in the table below, Bulgaria tends to score the last or one of the last results according to DESI scores in the four main pillars of the index. There are some exceptions related to the improvement of connectivity as well as some positive results for digital

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[4] Source: European Commission (2023), „Shaping Europe's digital future. The Digital Economy and Society Index", Brussels, last updated on 6 January 2023.

[5] Source: European Commission (2022), „Digital Economy and Society Index 2022: overall progress but digital skills, SMEs and 5G networks lag behind.", Press Release, Brussels, 28 July 2022.

public services. The following table represents the DESI results as a whole as well as separately for its four main pillars over the last three years. The data for Bulgaria is compared to the EU average. The ranking for 2020 includes 28 EU Member States (also United Kingdom) and those for 2021-2022 are in the context of EU-27.

Table: DESI and Bulgaria – general results (2020-2022 r.) [6]

Total DESI	**Bulgaria**		**EU**
	Rank	**Score**	**Score**
DESI - 2020[7]	**28**	**36.4**	**52.6**
DESI - 2021	**26**	**36.8**	**50.7**
DESI - 2022	**26**	**37.7**	**52.3**
1. Human capital	**Bulgaria**		**EU**
	Rank	**Score**	**Score**
DESI - 2020	26	33.9	49.3
DESI - 2021	27	32.7	47.1
DESI - 2022	26	32.6	45.7
2. Connectivity	**Bulgaria**		**EU**
	Rank	**Score**	**Score**
DESI - 2020	26	38.5	50.1
DESI - 2021	26	38.1	50.2
DESI - 2022	19	50.7	59.9
3. Integration of digital technology	**Bulgaria**		**EU**
	Rank	**Score**	**Score**
DESI - 2020	28	17.9	41.4
DESI - 2021	27	20.5	37.6
DESI - 2022	26	15.5	36.1
4. Digital public services	**Bulgaria**		**EU**
	Rank	**Score**	**Score**
DESI - 2020	23	61.8	72.0
DESI - 2021	21	56.0	68.1
DESI - 2022	25	51.9	67.3

[6] Sources: European Commission (2020), „Digital Economy and Society Index (DESI) 2020. Bulgaria", Brussels, Belgium; European Commission (2021), „Digital Economy and Society Index (DESI) 2021. Bulgaria", Brussels, Belgium; European Commission (2022), „Digital Economy and Society Index (DESI) 2022. Bulgaria", Brussels, Belgium.

[7] DESI 2020 within the EU still includes in its analysis the United Kingdom, therefore the average score of the EU comprises EU-28. DESI 2021 and DESI 2022 comprises EU-27, i.e. without the United Kingdom.

As a rule, Bulgaria ranks as one of the three worst performing EU Member States in the majority of indicators. The other two countries with similar results are Greece and Romania, the two neighbouring countries from the Southeast Europe. The fact that the region as a whole has the lowest digital results in the Union highlights a further problem. On the opposite side, the most digitally developed countries in the EU are Finland, Denmark, the Netherlands, Sweden and Ireland that are predominantly from the northern part of Europe.

In accordance with the European Commission assessment, some of the main challenges for Bulgaria in relation to its efforts for digital transformation are as follows:

- low basic digital skills among the main society groups;
- number of information and communication specialists in the workforce;
- percentage of the enterprises that use big data, cloud services and artificial intelligence;
- the number of e-government users.

These challenges are related to the four main pillars under the Digital Economy and Society Index. Another very important challenge is the fact that there is unequal distribution of digital competences and results among different regions in Bulgaria. The capital and some big cities perform digitally much better than the other regions in the country.

However, there are also some areas where Bulgaria performs relatively well in the recent years. Some of these areas are:

- female information and communication specialists, where Bulgaria scores a result that is higher from the EU average;
- percentage of households with fast broadband coverage;
- percentage of households with fibre to the premises coverage.

The challenges for Bulgaria in relation to the digital transformation for the moment are rather substantial. Some digital advancements of the country do not change substantially the overall picture. Therefore, Bulgaria shall intensify its efforts towards digital convergence, narrowing the gap with the rest of the EU.

4. The Road Ahead: Bulgaria's Digital Agenda

In order to evaluate the prospects for Bulgaria to bridge the digital divide, the country's digital agenda must come into focus first. As seen in the previous sections of this paper, there is progress in the digital development of Bulgaria in recent years. To a high extend, this is due to its membership in the European Union. This provides the opportunity for the country to benefit of the structural funds and programs of the Union, thus, receiving substantial investments for new technologies and digital progress.

Yet, in order to achieve substantial progress in the area, the impetus must come also from the national policies. Currently, the country has a well-defined digital agenda. The current priorities are prescribed in the National Program „Digital

Bulgaria 2025“ and the Roadmap for its implementation.[8] This program was adopted in 2019 and it is a continuation from a previous 2015 strategic program. The program for Digital Bulgaria 2025 has six main priority areas:

1. Establishment of appropriate conditions for the development and accessibility of digital networks and services;
2. Developing a dynamic and innovative digital economy and increasing its growth potential;
3. Enhancement of digital competence and skills;
4. Ensuring effective and high-quality public e-services for business citizens and government;
5. Promoting a secure cyber ecosystem: addressing the challenges of cybersecurity;
6. Internet governance.

Some of its main objectives include but are not limited to new regulatory framework for electronic communications, overcoming regional disparities by stimulating investment in ICT infrastructures and technologies, digitalisation of Bulgarian industrial sectors and related services and development of a data-based economy, etc. Some positive development in recent years is the establishment of a special Ministry for e-Government that focuses on the digital policies as well as a digital government web portal (egov.bg portal). The strategic goals of the programme „Digital Bulgaria 2025“ to a high extend are covered also by the national strategic document „Digital Transformation of Bulgaria for the period 2020-2030“.[9]

Additionally, the latest version (from April 2022) of the National Recovery and Resilience Plan foresees the allocation of 23,6 % of the total investments planned for the digital transition[10]. This is divided in four main pillars:

1. Deployment of Broadband Infrastructure
2. Enhancing the Digital Skills of the Population
3. Accelerating the Deployment of Digital Technologies in Enterprises
4. Deployment of e-Government and e-Services

As seen, these pillars coincide with the main areas in which, according to DESI, Bulgaria is falling behind. The National Recovery and Resilience Plan foresees key reforms and actions in most of these areas. Some examples are the reform in pre-school and school education, which will be adapted to the rapid technological development – both in terms of development of digital literacy and skills and improvement of the school facilities; the development and implementation of effective

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[8] Council of Ministers (2019), „National Program „Digital Bulgaria 2025“ and Road map for its implementation“. These documents are adopted by Council of Ministers Decision №730/05-12-2019.

[9] Ministry of Transport and Communications (2020): „Digital Transformation of Bulgaria for the period 2020-2030“. This document is adopted by Council of Ministers by decision № 493/21.07.2020. (https://www.mtc.government.bg/en/category/283/national-strategic-document-digital-transformation-bulgaria-period-2020-2030-0)

[10] National Recovery and Resilience Plan (https://www.nextgeneration.bg/14)

policy and regulatory framework in the field of digital infrastructure; building a mechanism to attract industrial investments and develop industrial ecosystems as well as the promotion and further development of e-Government and e-Services. There are further documents that cover the same issues and highlight the same areas of strategic action needed. All of them are clear signs for the recognition of the existing gaps in Bulgaria.

However, many of the existing challenges come from the complicated political situation in Bulgaria. Over the course of the past two years (April 2021 – April 2023), there were five parliamentary elections in the country. For the majority of this time, there was an interim government appointed by the President with regular government in power for less than 8 months (13th December 2021 – 02nd August 2022). Without a doubt, this political situation and constant changes of governments and members of Parliament influenced the institutional capacity to successfully implement the digital agenda of the country. Moreover, the country was facing the danger of not receiving the whole funding under the National Recovery and Resilience Plan whose submission by the Bulgarian government has been delayed several times and the plan itself has also been repeatedly revised. This would have inevitably also influenced the implementation of the Bulgarian digital agenda. In this context, the lack of continuation of the policies connected to the digital transformation of the country might result in even deeper digital divide of Bulgaria with the other Member States.

5. Policy recommendations for Bulgaria

In this context, the results by DESI provide the opportunity for the country to collect and compare data regarding its digital development in the EU context, thus, being able to identify the exact areas in which it lags behind. The results of the Index not only present a realistic view on where Bulgaria is standing but they also help to identify the specific areas that need appropriate decisions for further digital improvements.

One of the main areas, in which Bulgaria is falling behind in comparison not only to the EU average but to almost every Member State is digital literacy and skills.[11] All of the described in the previous section documents clearly show that the state authorities are recognising this as an existing issue and is willing to put efforts in overcoming it. To some extent, they put highlight in the field of incorporating the digital literacy and skills in the school system as well as providing the necessary for these purposes facilities. In terms of facilities, their advancement in response to the rapid technological development is foreseen. However, all strategies fail to address the issue of teachers' possibility to adapt to these changes and implement this into practice – both in terms of the insufficient young people oriented towards this profession and the digital literacy and skills that the older generation of teachers have. While the efforts are foreseen towards the students, the focus should be first put to the working staff at schools and pre-schools and how to advance their digital literacy and skills.

[11] Yurukova, M., Stoycheva, R. (2022), „Digital Literacy Gaps in Member States as a Barrier to Implementing the EU Digital Strategy", In: Collection of reports, Sofia, 2022.

It must be said that the National Recovery and Resilience Plan foresees providing digital skills training and creating adult learning platform. However, the total amount of people that will be included, is insufficient for „catching up" with rest of the EU – training of 500 000 and validation of basic and intermediate level digital skills and competencies to at least 100,000 individuals. Moreover, it must be ensured that all individuals have equal information and fair access to this programme – an issue that remains open. While the funding, both coming from the EU and the one from the state itself, will not be sufficient to cover the whole Bulgarian population, the government can partner and encourage the private sector for developing training programmes that are adapted to the needs of business.

Investments in the digital infrastructure are also crucial for bridging the digital divide. What is more, the country must ensure that the digital infrastructure is accessible to all, regardless to their location or income level. As of December 2022, 88.8% of the households in the cities have internet access with this number falling to 82.4% in rural areas.[12] In comparison, the EU average is 93% and the country with the highest level of internet access is Netherlands with 98%.[13] A special focus is also put on the broadband access. A positive trend is that the internal division – between the urban and rural areas in Bulgaria in terms of the existing digital infrastructure, are taken into consideration. However, there are two main issues that should be addressed in this field. First, improvements in digital infrastructure and connectivity should keep pace with current technological developments. In this sense, investments in outdated technologies should not be made. This has a close relationship with the second issue – funding procedures for projects in the area should be conducted under strict and fair conditions for those involved. Furthermore, encouraging innovation and entrepreneurship is also of high importance. In a sense, this could be an impulse for economic growth and job creation. In order to efficiently encourage the innovation and entrepreneurship, Bulgaria must create a supportive environment. This includes funding for startups and SMEs, the establishment of incubators and accelerators, and fostering a general culture of entrepreneurship.

Promotion and improvement of e-government services should also be continued in order to improve the efficiency and transparency of government operations. It is essential that there is a broad information campaign to make citizens aware of the benefits and opportunities that e-government will provide. This is of key importance especially for the older part of the population, for those with a lower level of education and also for the minorities.

Another key issue in ensuring the appropriate level of cybersecurity. This, however, should be implemented without turning the usage of e-government services into a slow and complicated for the general society procedure as in such case many will be discourages to use them. National digital documents of strategic importance shall be updated more frequently, considered how fast the digital environment is changing.

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[12] Source: National Statistical Institute (https://www.nsi.bg/bg/content/2808/достъп-на-домакинствата-до-интернет)

[13] Source: Eurostat (https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Digital_economy_and_society_statistics_-_households_and_individuals)

These strategic documents shall be amended and updated once in every three years rather than once in every five years. Regular exchanges of experience with countries such as the Baltic States, which are some of the best examples in the field of e-government services in Eastern Europe, will also provide useful perspectives for the Bulgarian policy makers.

As mentioned above, the digitalisation processes are developing at high pace and impact different fields of the economy and the society. Currently, the main focus in Bulgaria remains on the development of digital literacy and skills, improving the digital infrastructure and connectivity, embracing the e-government services and creating supporting environment for businesses. In the meanwhile, the issue of Artificial Intelligence (AI) is not included on national level. Official information about this topic can be found in the „Concept for the Development of Artificial Intelligence in Bulgaria by 2030" presented in 2020[14]. The topic is also briefly mentioned in the National Recovery and Resilience Plan, but it is not recognised as a separate field of interest. However, there were some significant developments in this area in the first months of 2023 which highlight the need for a clear vision and concrete policies. There are some Member States of the EU who already adopted national strategies regarding the development of AI. In this sense, Bulgaria must quickly adapt to these changes and take corresponding early measures in order to avoid falling behind again.

Yet, the most important thing remains the persistence and continuation in implementing the national digital agenda as well as the effective pursue of national interests at European level. The setting of the EU targets for the digital development and transformation of the Member States fails to consider the different starting points of the countries. This being said, it would be harder for Bulgaria to „catch up" compared to other Member States that are also bellow the EU average but still closer to the set targets. The rankings that DESI provides could be a useful tool for policy makers for identifying the areas in which more action is needed. The structural funds and programs provided by the EU are irreplaceable means for achieving digital progress. But only a well-functioning government and a working parliament with vision for the future can use and allocate these means to the proper areas, thus, ensuring the bridging of the digital divide with the rest of the EU.

6. Conclusion

The rapid digital development in the recent years, which was further accelerated by the COVID-19 pandemic, transformed the global economy. It opened up many new possibilities – higher connectivity, increased e-commerce, smart technology, fast financial services, e-government services, etc. However, digitalisation also highlighted many challenges as for example the access to digital infrastructure, digital skills and literacy, cybersecurity, etc.

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[14] Ministry of Transport and Communications (2020): „Concept for the Development of Artificial Intelligence in Bulgaria by 2030". This document is adopted by Council of Ministers with written statement №72/ 16.12.2020. (https://www.mtc.government.bg/en/category/157/concept-development-artificial-intelligence-bulgaria-until-2030)

In order to tackle these challenges, the EU identified the digital transformation as a priority in the development of the Union for next decade[15]. The targets and objectives of the Union are divided in four areas: skills, infrastructure, business and government. In order to monitor the progress of the Member States, the European Commission is using the Digital Economy and Society Index (DESI). DESI annually provides valuable information about the progress of the Member States in different areas. Furthermore, the index clearly draws a picture on the digital divide among the countries of the EU – with the gaps in some areas being enormous. Over the years, the Index proved itself to be a useful benchmark for assessment of the digital performance of the Member States.

While there is some progress in recent years, Bulgaria continues to be on the last positions in the majority of indicators. In some areas, the country even scores two times lower than the EU average. Yet, the country has a well-defined digital agenda which covers the main areas that will be developed in the future. Bulgaria will also be able to use EU structural funds and programs in order to accelerate the internal digital transformation.

However, the progress of the country as well as it is „catching up" with the rest of the Member States, thus, bridging the digital divide, to a high extend remains a complicated task. It can be argued that the key problems are recognized on a state level – as proven by several official documents. Key issues are yet to be tackled. Moreover, rapid technological developments require adaptation, flexibility and fast reaction from the policy makers – something that currently remains open for discussion. A lot also depends on the political will, the functional implementation of the national agenda and the effective allocation of the EU funds. DESI provides the base information needed by policy makers. In this sense, the political measures for overcoming the digital divide must be comprehensive, integrated and sustainable.

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[15] The period 2020-2030 is even called „Europe's Digital Decade". (Source: https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/europes-digital-decade-digital-targets-2030_en)

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EUROPEAN INDUSTRY REORGANISATION – AN IMPORTANT FACTOR FOR THE EU SINGLE MARKET DEVELOPMENT

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Abstract

The EU Single Market (SM) is a further stage of deepening EU integrity, of economic and trade integration. The EU SM is also a new stage of industrial development in the pursuit of achieving the double transition towards green economy and digitalisation. This objective is developed in the context of Europe becoming the first climate-neutral continent by 2050. Achieving the double transition, which is particularly important for the further evolution of European industry, is a task that requires the identification of major risks, which ought to be eliminated in order to strengthen European industries and the functioning of the Single Market. The development of new mechanisms and policies in the field of the new technologies implementation are needed for the successful double transition towards ecological friendly and innovative industries. The main idea of this article is the strengthening of the EU SM and the introduction of new industrial policies for transforming the real economic base and facilitate the double transition goals as well as the reforms on the SM.

Key words: European Union Single market, European industries, EU economy and trade during the pandemic crisis of COVID 19, New Industrial Strategy, Green industries and digitalisation.

1. Introduction

The main objective of this contribution is to reveal the role of the European Union Single Market (SM) in the restructuring of the EU industrial base and to what extent this market contributes to increasing the European industries' efficiency. The Single Market (1993) is a stage of EU economic integration and the main goal is to increase the productivity and the competitivity of European industrial companies, by diversifying the product list and the quality of goods. The pandemic crisis related to COVID-19 has revealed the gaps and the contradictions encountered by the SM and the need for rapid overcoming of difficulties and risks. The aim is to enhance environmentally friendly production and digitalisation, to improve the competitiveness of EU processing companies on the internal market and abroad. The main topics in

the contribution are the necessity of further development and sustainability of EU SM, the rebuilding of the EU industrial sector towards green industry and digitalisation, the New EU industrial strategy.

2. The EU Single Market and the need to rebuild the industries

The EU Single market is a new stage in the development of economic integration - from an EU free trade area to full integration of the economic and production potential of EU member states. The Single market has the most significant industrial capacity in the world, covering over 2.3 million industrial enterprises, 32.7 million persons employed, EUR 2.24 trillion of value added.[1] The opening and/or closing of industrial enterprises is a variable quantity that depends on the macroeconomic situation, on the processes of mergers and takeovers of companies, on the acquisition of equity capital, on the restructuring of companies, and on a change in the EU and world economic situation.

The Single market is a positive project for the European integration and development of the industrial sector because of many reasons. *Firstly*, it met the European industrial production development in order to enhance the supply of European industrial goods to other markets. *Secondly*, the EU member countries shared common visions to strengthen the EU economies' cooperation. *Thirdly*, reaching an agreement on the production of certain specific goods. The free movement of „special" (disputed) goods was regulated on the basis of mutual recognition of national legislation, but without harmonising the legal basis of countries, producing specific goods. This practice reduces the number of laws and allowed for more adequate management of mutual trade relations in the EU. *Fourth,* the SM's functioning and norms correspond to the developed industrial countries in Europe interests. The emphasis is on the certification of goods at the request of industrial enterprises and companies. The intervention of national governments, in attempts at covert or overt protectionist measures in the production and marketing of certain goods, was avoided. Higher norms and requirements were introduced in the production of goods, in conditions of more competition between companies and more opportunities for implementing innovative productions.

The Single market created a number of opportunities for European Multinational Companies (MNC) to develop and implement information and communication technologies (ICT) and to apply innovative approaches in the production and the management of companies, operating in a large highly competitive market. The Single market has contributed to improving the efficiency and profits of Western European industrial enterprises and expanded their opportunities to establish in other EU countries. The accession of the developed industries of the Central and Eastern Europe (CEE) countries also changed the regulatory framework of the European economic and trade space. The Single market facilitated business relations and the realisation of production. The efficiency and the competitiveness of European industrial enterprises ameliorate and volumes of products offered increase, along with the diversification of goods.

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[1] Key figures on European business, 2023 Edition, Eurostat, p.36

Without doubt, the SM strengthens the economic and commercial ties between EU countries, but it was especially beneficial for the developed EU economies. Although, EU industrial producers were lagging behind in competitiveness on world markets. In some industrial sectors have been implemented partial restructuring, but not in some manufacturing and in the services areas, related to the industrial sector. The successive crises (the Global financial crisis (GFC), the Eurozone debt crisis, the COVID 19 pandemic crisis) had led to the fragmentation of the SM, an issue not underlined by the European Commission (EC). Five leading European business associations declared that the SM is fragmentated and EU regulations are not applied in order to enforce the uniformity across the trading area. The EU Commission identified problems in the transposition of EU legislation in EU member states. According to the scoreboard, the EU average conformity deficit was at a record high in 2020, and the transposition performance of 14 member states has deteriorated. [2]

The modernisation of EU industries is an important factor for the achievement of the EU double transition goal, green economy and digitalisation, and Europe becoming the first climate neutral continent by 2050. That is why for the EU Commission of primary importance is the identification of the main risks and challenges for the European economy and industry and the adoption of new EU mechanisms and policies. The highlighted risks are climate change, high energy prices, the unsustainability of the supply of the Global value chains (GVC), the food supply crisis. Other additional risks are the provision of social security, the education and health care.

Table 1. Potential future risks to the European economy and industry in connection with changes in the geo-economic and geo-political state of the world

Risks for the Europeaneconomy and industry	Risk Mitigation Policies
Climate changes	Creating climate resilience
High energy prices	Strengthening Europe's energy security
Other pandemic crises	Better preparedness to deal with contagion
Growth of publicdebts	Economic sustainability and betterstrategic autonomy of the Europeanindustry. Strengthening relations with strategicpartners. Reducing dependence on „special" goodsimport from China.
Economic stagnation	
Disintegration of the chains forsupply of semiconductors	
Possible Internet crash	
Food crisis	Protecting the EU from a food crisis andassistance for global food security

Source: *Marcin Szczepanski and Guillaume Ragonnaud.Future shocks, (2022), Establishing greater strategic autonomy for European industry. European Parliamentary Research Center.*

[2] „Businesses no longer experience the Single Market as a true free trade area," J. Allenbach-Ammann, (Jun 28, 2022), European businesses lament fragmentation of the EU Single Market, EURACTIV.

The strategic European industries are largely dependent on imports of strategic raw materials (critical raw material - CRM). About half of the materials, needed for aircraft production come from countries outside the EU. Public and private funds are not enough for the financing of the research and development (R&D) and this creates tensions and technological gaps. The insufficient investments affect the faster development of high-technological industries and the reorganisation of enterprise management, which is also an impediment for implementation of the double transition and risk for SM's fragmentation. Improving the strategic autonomy of EU industry means the overcoming financial and technological gaps and reducing dependence on import of strategic raw materials and intermediate goods from countries outside the EU.

European industry has comparative advantages in the field of green technologies, but it lags behind in the production of some important strategic goods, such as the manufacture of batteries. EU industrial production was 13.9 % higher in 2022 than it had been in 2005.[3] Besides, by ending in 2022, the overall rates of change of the EU industrial production reflect the combination of the long-term developments and the downward impact of the COVID-19 pandemic in 2020 and rebound in 2021 and/or 2022.

The small and medium enterprises (SMEs) are major sub-suppliers to the industries. The difficulties in the digitalisation of SMEs affects the increase in the imbalances between governance of the company and the industrial and sectoral activities. Other limitations stem from the relatively low training and weak mechanisms for planning and monitoring of SMEs.

Because of COVID-19 crisis, there was a 5.9 % real terms contraction in the EU's gross value added (GVA) between 2019 and 2020.[4] Economic contraction in 2020 with EU real GDP falling by 6.1% more than during the Global financial crisis (GFC).[5] Public finances have taken a considerable hit and fiscal divergence between Member States has increased. Deficit and debt ratios have soared in all EU Member States.[6] COVID-19 impact had a strong impact on EU enterprises, with 49% of EU firms suffering a drop in sales, compared to 21% that were able to increase sales. Investment was also affected, with 26% of EU firms reduced their planned investment.[7] The number of firms carrying out investment in the 2021 declined to 79% from 86% in 2019.[8] Investments in intangible assets (R&D, software, training and business processes) by European firms increased slightly in 2020 compared to 2019. Investment activities varied depending on the sector and size of the business. The firms that registered lower productivity, felt a sensible decline, while digital companies reveal to be more resilient.

The changed economic landscape after the pandemic crisis with COVID 19 is ushering the European firms to modernise their industries and apply measures to

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[3] Key figures on European business, 2023 Edition, Eurostat, p.40

[4] GDP at regional level. May 2022, Eurostat Statistics explained.

[5] Vervey M., A. Monks, 21/10/2021, The EU economy after COVID 19: Implications for economic governance, CEPR.

[6] ibidem

[7] European Investment Bank (EIB) Investment Survey 2021, European Union Overview, p.5.

[8] https://www.eib.org/en/publications-research/economics/surveys-data/eu-overview-2021.htm

diminish the negative effects of the climate change. The modernisation was a priority because of the European companies' decrease of competitivity on the world market, where the large trade part is dominated by Americans and Chinese companies.

The pandemic crisis increases the incentives of the European compagnies for investment in innovative technologies and digitalisation. 55% of them declared that their future is the digitalisation of the industrial processes, and 46% of firms became more digital. Among companies that are late to introduce advanced digital technologies, 34% included in their schedule to start digitalisation.[9] 58% of the European companies are worried about the climate changes, particularly in regions with extreme weather. The share of firms that invest in planned climate change projects are increasing to 47 % (2021-2022) from 41% in 2020.[10] However there are still European firms, which a lack of skills, with high energy costs and poor transport infrastructure, that are hampering their ability to grow and to become more competitive.

3. EU new industrial model and sustainable ecological industries

The European Union develops new economic models which create a sustainable industrial base, capable of rapid adaptation and adoption of information technology's innovations. The implementation of circular economy requirements plays an important role for the enterprises, at every stage of their business process.

The role of the European institutions would be reduced to settlement of agreements for the purchase of electricity from renewable sources from the companies. A laboratory on the geography of energy and industry will be established, which will provide information to European companies and energy infrastructure. The revision of the EU's industrial strategy is targeted again, as in previous years, to improve the competitiveness of European companies on the world market and to promote public-private partnership for investments in large and important for EU countries projects.

In order to protect the integrity and the functioning of the SM, the European Commission introduces regulations for foreign investors' operations on EU territory. Those measures are essentially oriented towards Chinese investors penetration into Europe, which exhibit financial interest mainly in strategic industrial sites and infrastructural ones' projects. Regulations relating to foreign investors and the receipt of financial resources from multinationals outside the EU are important to guarantee the principle of equal treatment of the competition in the framework of SM.

The European Commission (10.03.2020) adopted a New industrial strategy for strengthening the strategic autonomy of the EU economies and to stimulate the economic growth. The industrial strategy goal is to achieve ecological competitive and sustainable industrial base, taking into account the gaps which were admitted by the EU during the COVID 19 pandemic crisis. The placement of the industrial policy at the heart of the European policy for the modernisation of business branches

[9] https://www.eib.org/en/publications-research/economics/surveys-data/eu-overview-2021.htm

[10] EIB Investment Report 2021-2022, Recovery as a springboard for change, The EIB annual report on Investment and Investment Finance.

is a new stage to overcome deindustrialisation in Europe, by investing in innovative technologies and modern ways of organisation and management.

The economic sustainability of the SM is based on the diversification of international partnerships, to guarantee the trade and investment relations. The reduction of the import dependence of strategic industrial products and the increase in manufacturing sustainability are a guarantee for the free movement of goods, the investment in SMEs innovative activities, and last but not least for the application of a regulatory system to settle outside legal disputes, in case of delays in payments between trading partners in the EU.

The strengthening of the strategic autonomy of EU industry is a combination of coordinated internal and external policy actions and measures. An „ecosystem approach" is introduced, which is based on the careful monitoring strategic dependencies in 14 sensitive industrial ecosystems in order to remove the internal and external shocks. Every year, the Single Market is subject to a special monitoring of the 14 industrial ecosystems. Depending on the ecosystems, the crisis impact is different amongst the industrial sectors. The size of the industrial enterprises to fight the crisis also matter.

It has been revealed that there are strong ties between the GVC's supply and demand activities and the well-functioning SM, as well as the dependencies of European companies from foreign import. EU manufacturing based on remote suppliers operating on a just-in-time delivery model stopped to function, because of the closure of the economies and the disruptions due to the pandemic. The shortage of materials to deal with the pandemic, especially healthcare equipment, contributed to the recognition of the need to review production and distribution model, based on the dependencies on foreign manufacturers and suppliers. (Gereffi, 2020) Although, with the pandemic spread, the GVC operations adapted to the new economic environment and they started to deal with the new challenges. The GVC, originating from East Asia recovered relatively quickly their manufacturing processes to accommodate increased global demand for medical products and home office equipment. (Brenton et al.,2022).

The dynamic change in the geo-economic environment and the growing power of the main European competitors on the world market demanded the more special treatment of European industries through detailed information and the elucidation of the interrelationships between the companies at the regional and branch level. Imports of strategic goods are used in industries with high absorption on energy (such as raw materials), on ecosystems for health, on new technologies.

The European Commission identified a series of dependents industrial branches. Out of 5,200 goods imported into the EU, 137 goods were from sensitive ecosystems, whose imports make the EU particularly dependent on third-party suppliers' countries. These products represent 6% of the value of all imported goods in Europe.[11] Technologies identified as strategic areas for industrial future of Europe, are active

[11] https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/european-industrial-strategy_en

pharmaceutical ingredients, batteries, cloudy and ultimate computing, cyber security, hydrogen, IT software, photovoltaic panels, raw materials and semiconductors. 34 goods have been identified, the lack of which, puts the EU in a strong vulnerability, since the European industrial sector does not have enough manufacturing capacity for their production and delivery.[12] About half of these products originate in China, followed by Vietnam and Brazil.

The strengthening of the SM is through the promotion of industrial unions in key areas in order to increase the Europe's strategic capacity to attract potential investment projects. Industrial unions will facilitate the dual transition on the basis of industrial ecosystems, especially in energy and in other branches of the non-financial economy. Industrial alliances include a wide range of partners in specific industries as well as GVCs. The formation of these unions is with countries from geographically close areas to Europe, with which the EU has developed trade relations. In the EU, 4 new industrial unions have been created (for processors and semiconductor technologies, industrial data exchange, cloud edge technologies (Edge&Cloud), for space carriers, for aviation with zero emissions). The industrial alliances accelerate SM dynamism, attract foreign investors, create new business partnerships, consistent with the rules of competition and new jobs in industries with high added value. In 2021 industrial unions were built in the field of raw materials, of clean hydrogen, peripheral and cloud microelectronics and cloud technologies. Industrial alliances are a base for European companies to expand and open up to other markets, with an emphasis on start-ups and SMEs.

Another topic is to support the implementation of strategic EU industrial projects of common interest (Important projects of common European interest, IPCEIs), which are an instrument for state aid, designed to stimulate timely market entry of the EU on innovative technologies and major infrastructure projects. In 2019 and 2021, 2 strategic industrial projects with the inclusion of GVC were approved for the production of batteries. In December 2021, in the context of the recovery plan, a new project in the field of microelectronics was presented to the EU.

The amelioration of industrial competitiveness and strategic autonomy is based on the EU Standardization Strategy (February 2022) aiming to use the impact, the size and the integration of the SM to determine global standards. Regulatory frameworks targeting key industries are proposed, such as the semiconductor sector (microchips), which are particularly important for digitalisation. In the event of supply disruptions and shortages it will be activated a 'crisis stage', which means that the European Commission will apply a range of the following emergency measures:

1. The European Commission requires information on production of microchips capacity of the company at every stage of the manufacturing and the main causes of market disruptions. A coordination mechanism is established in a short period of time between Member States and the Commission to monitor chip supplies.

[12] https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/european-industrial-strategy_en

2. The European Commission may act as central authority for public procurement for certain goods purchases from the name of certain member states. Under certain circumstances, an export control regime is introduced.
3. Recommendation of the Commission on a common set of tools to deal with the shortage of semiconductors.
4. EU Mechanism to Monitor the Semiconductor Ecosystem includes crisis response measures which Member States may apply before the entry into force of the new regulation.

The additional investment needed to achieve climate and digital goals amounts to EUR 650 billion per year over the next decade (public and private combined).[13] A new regulatory framework for batteries aims to improve turnover and resource efficiency through recycling and recovery of strategic raw materials. (December 2020) The European Commission proposed a market package for hydrogen and decarbonised gas - a key raw material for industrial processes. (December 2021) The package aims to strengthen energy security and global industrial leadership of European MNCs. The EU hydrogen strategy 2020 is oriented towards the production of 10 million tonnes and import 10 million tonnes of renewable hydrogen in the EU by 2030. The aim of these actions is the decarbonisation of industries, such as transport, energy-intensive industrial processes.[14]

In order to improve the strategic autonomy of the industry and sustainability of the SM, EU funding programs have been upgraded. The EU's long-term budget, coupled with NextGenerationEU (NGEU) to boost the recovery, form the largest stimulus package ever financed in Europe. A total of EUR 2.018 trillion in current prices are helping rebuild a post-COVID-19 Europe.[15] Under the Multiannual Financial Framework (MFF) 2021-2027 and NGEU significant funds have been earmarked for the development of the EU SM, amounting at EUR 149 billion from MFF and EUR 11.5 billion from NextGenerationEU.[16] The financing is directed towards improving the resilience, the cohesion, the strengthening of values, and for the amelioration of EU countries' adaptive capacity and growth potential. The countries have the right to choose to finance cross-border and multinational projects.

The EU4Digital Facility (2019-2022) initiative aims to develop core areas of the digital economy that would have a wide resonance in European industry in accordance with EU norms and practices. EU support is in the following areas: telecommunications, e-commerce, ICT innovation, e-upgrading of healthcare and e-skills. The aim of EU4Digital is the increase of the economic growth, increasing jobs in the digital economy, improving the business conditions and living standards. Through the initiative EU supports the reduction of roaming tariffs, the development of high-speed broadband Internet access to stimulate economies and expanding e-services,

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[13] Vervey M., A. Monks, 21/10/2021, The EU economy after COVID 19: Implications for economic governance, CEPR.

[14] europa.eu. https://energy.ec.europa.eu > topics > hydrogen_en

[15] https://commission.europa.eu/strategy-and-policy/recovery-plan-europe_en

[16] The total funding from MFF 2021-2027 amount to EUR 1 210.9 billion, and from Next NextGenerationEU - EUR 806.9 billion https://commission.europa.eu/strategy-and-policy/recovery-plan-europe_en.

coordinating cyber security and the harmonisation of digital frameworks from logistics to healthcare that will have a strong influence on the development of the European industry and the economic relations of the EU member states.

The main goal of the EU is the digitalisation of the European industry and economy and aligning the SME with the new digital economy as well as the inclusion of the EU member states to a single rulebook governing the regulations conditions of digitalisation of the economy. The EU's strategy towards creating a Digital Single Market is based on three ladders: better access for consumers and European businesses to innovative digital goods and services in Europe; the creation of suitable and equal conditions for the spread of digital networks and innovative facilities in the context of the preservation of the environment; increasing the potential for economic growth, essential for the development of the digital economy. The expectations are that the digitalisation will increase the economic growth, will stimulate the creation of new jobs, will have a favourable effect on the competitiveness of European companies, will lead to an increase in trade and investment.

4. Conclusion

The intensified process of delocalisation of European industrial enterprises outside the EU and mainly in Southeast Asia brought to the fore the claim that deindustrialisation in Western Europe is a process that cannot be mastered even by the SM. The development of industrial production in the SM has shown that the industrial capacity of the EU is high and the main goods that are in demand in the EU are goods with medium and high added value.

One important topic is the fact that the fluctuating growth of industrial production and other impediments influenced the SM's functioning and it has had a more limited effect in insulating European industrial production from the external shocks following the successive crises.

In the course of functioning of the SM, a number of spheres of trade and industry emerged, which did not benefit from the removal of economic and financial restrictions on European companies. This led to the fragmentation of the SM, with some sectors being liberalised, while in others a series of restrictions remain, and this acted as a deterrent to the SM's economic and commercial deepening and for its further development.

The orientation of EU policy and the European Commission Directives towards the completion of the double transition (environmentally friendly and digitalisation), as well as the financial facilities delivered for the covering of this main goals are a base for a broad reorganisation of European industries and their modernisation.

The implementation of the EU's goals in this direction is progressing, but the question is whether the stagnant years during the COVID 19 crisis and because of the war on the territory of Ukraine will not be reproduced again due to the uncertain political and economic environment, despite EU policies oriented towards the reduction of its dependency from external energetic sources and the efforts for the attainment of strategic autonomy in most of the EU industries.

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NEW DEVELOPMENTS IN THE EUROPEAN UNION ON FINANCIAL CONSUMER PROTECTION POLICY

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Abstract

Consumer protection is a critical aspect of maintaining trust and stability in the financial sector. Recognising the importance of safeguarding the rights and interests of consumers, the European Union (EU) has been at the forefront of developing and implementing regulations to ensure robust financial consumer protection. In recent years, the EU has made significant strides in this field, introducing new measures and initiatives to enhance transparency, strengthen consumer rights and promote responsible financial practices. This paper explores some of the noteworthy developments in financial consumer protection within the EU.

The topic is important and relevant in at least two main aspects:

The global financial and economic crisis and the Covid-19 pandemic have demonstrated the importance of consumer confidence in financial services to the stability of financial markets. It is an asset that is very quickly and easily lost and extremely difficult to recover, especially when it is related to personal savings, investments and pension rights. It is no coincidence that one of the main goals at the global, European and national level is to improve the level of protection of users of financial services and to improve the legal framework of financial products in the EU. The second reason why the topic is of utmost importance is that each of us is a consumer of financial services: a depositor in a bank, a customer of a consumer loan, a mortgage loan, an originator of payment operations, a holder of an insurance product, an investor in securities, a client of a pension insurance company, a user of other traditional or innovative financial products and services. Each of these products and services has its own specifics. Therefore, it is extremely important that the users of financial services are well acquainted with their rights and with the measures and means of their protection.

Key words: financial services; consumer protection

1. Introduction

During the last three decades the Bulgarian financial market has opened up to the world markets and the variety of services offered and consumer choices has grown significantly. The changed conditions have increased the need to be informed when

making decisions about the use of different types of financial products and services. It is extremely important that users of financial services are well aware of their rights and the measures and means of their protection, as well as understand their responsibilities when concluding a contract for financial services and during its subsequent implementation. The EU has taken a number of measures to promote a competitive and safe retail financial services market in Europe. These include measures to guarantee an EU-wide right of **access to basic bank accounts**, rules to **protect deposits** of up to €100,000 in the case of bank failure, initiatives to increase the level of consumer protection and facilitate the cross-border distribution of **insurance, mortgages** and **consumer credit**, improved consumer protection rules for **distance marketing of financial services** and **retail investment products.**

The COVID-19 pandemic has affected all aspects of societies and economies around the world. Among other consequences, the pandemic has also affected consumers of financial services. As a result, their access to the use of financial services was limited due to job loss, reduced income, the development of digitisation in the sector and/or limited physical access to financial institutions. On the other hand, the pandemic has also had a significant impact on the regulators and supervisors responsible for the formation and implementation of the policy for the protection of consumers of financial services and financial inclusion in terms of the implementation and monitoring of measures to protect and support financial consumers in order to overcome the crisis.

In a very short period of time, the pandemic has also fundamentally changed people's consumption and mobility patterns. The home confinement measures highlighted the essential role of digital technologies in people's everyday lives, enabling them to purchase goods and access services despite physical limitations. The crisis affected many areas of consumers' lives and highlighted the critical importance of a high level of consumer protection and of close cooperation between the EU authorities responsible for implementing this policy. At the same time, it revealed some gaps in the EU's consumer protection framework.

Along with the problem areas identified as a result of the 2007-2008 financial crisis, another critical area that has come to the fore during the pandemic is the increase in online consumer fraud, deceptive marketing techniques and online shopping fraud where a large number of users have become and continue to fall victim.

Events in recent years, not only in Europe, but also in Bulgaria, have proven that there is a strong correlation between consumer confidence and the stability of financial markets. There can be no stability in financial markets without the necessary consumer confidence. Conversely, if a crisis occurs in the financial markets and there is instability in the provision of financial services, then consumer confidence in these services falls sharply. All this can create a chain reaction and give rise to a dangerous spiral in which the lack of sufficient trust among consumers leads to a threat to financial stability, which in turn further increases the mistrust and concerns of these consumers, etc. Therefore, it is necessary to make efforts to simultaneously achieve both goals: protecting the users of financial services and preserving their trust in them, on the one hand, and on the other hand, preserving the financial stability and security of the financial markets.

In this paper a review will be made on the main recent legislative proposals of the European Commission and an analysis of the most important actions undertaken by the EU in last years. They are directly related to increasing the protection of consumers of financial services.

2. Consumer protection in banking sector – consumer credit directive (CCD)

The banking sector and the loan provision sector have been drastically transformed by the digital transition that is happening during the last decade. New players such as peer-to-peer lending platforms have emerged and traditional financial services providers are increasingly using online sales channels for offering their products and concluding the contracts. New products such as short-term high-cost loans that can lead to significant costs for the borrower are more and more marketed and sold online. The growing use of digital devices affects the way in which pre-contractual information is provided to consumers. Also, automated decision-making for credit scoring and the use of personal data not directly provided by consumers for assessing their creditworthiness raise questions in terms of consumer and data protection and potential discrimination from decisions based on opaque algorithms. Finally, the COVID-19 crisis has seriously impacted the credit market and consumers, especially those who are more vulnerable and less literate, leading to an increased financial vulnerability of many EU households[1].

The first Consumer Credit Directive was adopted in 1987 and replaced in 2008 with the current directive, which was designed to strengthen the consumer rights, allow consumers to take informed decisions when signing a credit contract and harmonise the requirements for the financial institutions. The existing CCD has introduced a number of benefits for consumers, but due to the technological and market developments during the last years it is now outdated and needs to be revised.

Following the rise in digital lending and the increase of the online distribution of consumer credit products, the European Commission proposed a revision of the CCD in June 2021[2]. The Commission's new proposal aims at addressing these latest developments and improve the regulatory framework for consumer credit by expanding its scope, introducing new pricing rules, clarifying the information requirements and revising the creditworthiness assessment of the consumer.

In terms of scope the proposed CCD extends the scope by including additional types of loans: buy-now-pay-later schemes, payday loans, short-term overdrafts facilities, interest-free credits and loans offered through crowd-lending platforms since the existing CCD does not covers all consumer loans.

As for the information requirements since its adoption the CCD has faced some criticism regarding the quality of information that is provided to the consumers[3]. The

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[1] Impact assessment report accompanying the Proposal for a Directive of the European Parliament and of the council on Consumer Credits, European Commission Brussels, SWD (2021) 170 final

[2] Proposal for a Directive of the European Parliament and of the Council on Consumer Credits', European Commission Brussels, COM (2021) 347 final

[3] EBA Consumer Trends Report 2020/21 (EBA/REP/2021/04)

information provided to loan borrowers is not always clear and very often too complex and misleading for the consumer, especially the information regarding the costs of credit and the consequences of late or missing payments. The lack of clarity and the complexity of the information provided often result in higher costs and makes it difficult for consumers to compare different loan offers and respectively make informed choices and choose the best product. To increase the consumer awareness and to promote responsible lending practices the proposal aims at streamlining and reflecting the increasing importance of digitalisation in the pre-contractual and contractual phase of provision of financial services. The proposal aims at improving the provisions of pre-contractual information by requiring creditors to focus more on the key information related to the price of the loans, such as borrowing rates and costs, the annual percentage rate of charge (APR) and the total amount of credit to be paid. This information is envisaged to be summarised in a Standard European Consumer Credit Information overview and form, which can fit on a mobile phone screen. In addition, the proposal also stipulates the introduction of a one-day reflection period before the conclusion of the credit agreement or a notification on the right of withdrawal.

The creditworthiness assessment of the consumer when applying for a loan is another issue identified in current CCD[4]. The quality of creditworthiness assessments currently varies across different Member States and there are poor assessment practices which caused mis-selling. The Commission aims at tightening the rules on creditworthiness assessments by requiring all lenders for all type of loans to perform creditworthiness assessments. New moment is introduction of banning lending practices if the result of the assessment is negative. In very limited cases lenders can still provide loans even if the assessment is negative for example when the lender has a long-lasting relationship with the consumer and can assess whether the consumer is covering his obligations. These exceptions may imply a risk to both the borrower and lender, which should be monitored by the supervisors[5].

The selling of consumer credit together with other financial products as a mandatory (tying) or as an optional (bundling) element of a package deal has been a common practice in the EU during the last decade. This could lead to excessively expensive products, abundant or limited competition. The proposed CCD bans these tying practices, unrequested sales of credit without the consumer's explicit agreement and sales of auxiliary services as default options.

In the absence of EU high level of harmonisation of this product, many Member States go further and regulate consumer loans beyond the scope of the existing directive. Most Member States have introduced interest rate or APR caps at different levels to avoid excessively costly consumer loans. The latest draft CCD amendments introduce caps to be placed on the interest rate applicable to credit agreements for consumer credit, APR and total cost of the credit. The current proposal empowers Member States to decide on the level of these caps. Member States may decide to set up a specific cap for a revolving credit facility. Capping is proved to be beneficial for

[4] EBA Consumer Trends Report 2020/21 (EBA/REP/2021/04)

[5] Meryem Gökten and Willem Pieter De Groen (2022), „The revision of the Consumer Credit Directive: Does it go far enough? Meryem Gökten and Willem Pieter De Groen"

consumers in some of the Member States like Bulgaria. However, it can also push consumers to even more damaging types of credit[6]. To avoid this, it is important that vulnerable and less literate consumers are referred to independent debt advice, which according to the proposal should be made available. Nevertheless, it is still not guaranteed that all individuals that need debt advice would be able to receive it.

Overall, the Commission proposal to revise the current CCD is an important step forward in improving the consumer protection by covering almost all consumer loans. It further regulates debt advice for those in need of it which is strengthening the Single Market and the financial stability. However, there are still some areas where further work is needed to strengthen the Single Market. For example, the larger and remaining types of consumer loans (pawnshop and doorstep loans) could also be covered, and the credit worthiness assessment, as well as pricing caps could be defined in a way to allow for cross-border offering.

3. Consumer Protection in the field of payment services – instant payments

In October 2022, the Commission adopted a legislative proposal which revise the 2012 Regulation on the Single Euro Payments Regulation (SEPA) and aims at making the instant payments in euro available to all citizens and businesses which hold a bank account in the EU and in EEA area. The purpose of the proposal is to ensure that the instant payments in euro are affordable, secure and processed easily across the EU.

Instant payments would allow people to transfer funds at any time and day within seconds. This operation will be much faster compared to traditional credit transfers, which are received by payment service providers (PSPs) only during working hours and arrive at the payee's account by the following business day, which, if this happens on Friday, could take up to three calendar days. Instant payments will significantly increase the speed and convenience for consumers, for example when paying bills or receiving transfers in urgent need. In addition, they would help to significantly improve and promote the cash flow and reduce the cost for consumers and businesses. They should free up money that are currently locked in transit within the financial system (so-called „payment float"), which can be used for payment or investment (almost €200 billion euro are locked on any given day). The data shows that at the beginning of 2022 only 11% of all euro credit transfers in the EU were instant[7]. This proposal aims at removing the barriers which prevent instant payments and the benefits to become more widespread.

The availability of instant payments and the eventual related fees vary strongly across Member States, which interfere the rollout of instant transfers in the Single Market. Thus, a legislative amendment is necessary to scale up instant payments in

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[6] Bouyon, S. and Oliinyk, I (2019), 'Price rules in consumer credit: should the EU act?', European Credit Research Institute, available at http://ecri.eu/publications/research-reports/price-rulesconsumer-credit-should-eu-act.

[7] Impact Assessment Report accompanying the document Proposal for a Regulation of the European Parliament and the Council amending Regulations (EU) No 260/2012 and (EU) No 2021/1230 as regards instant credit transfers in euro (COM (2022) 546 final)

euro across EU member states and unlock their benefits for EU citizens and businesses. The EU citizens and businesses will also benefit from improved cash flow and more and better choices of payment means.

This proposal aims at improving the payments in euro and removing the barriers that prevent instant payments and development of the full potential and benefits from this type of payments. The proposal introduces four main requirements regarding the instant payments in euro:

- The new provisions make the instant payments in euro universally available, by introducing an obligation for EU PSPs that already offer credit transfers in euro to offer also their instant version within a defined period.
- The new provisions aim at making instant payments in euro affordable, by introducing an obligation for PSPs to ensure that the price charged for instant euro payments is not higher than the price charged for traditional credit transfers in euro.
- It aims at increasing the consumers' trust in instant payments, introducing an obligation for PSPs to verify that the bank account number (IBAN) and the name of the beneficiary provided by the payer match in order to avoid a possible mistake or fraud before the payment is made.
- The proposal aims at removing friction when processing of instant payments in euro while preserving the effectiveness of persons' screening who are subject to EU sanctions, by introducing a procedure whereby PSPs will verify at least daily whether their clients are in EU sanctions lists, instead of screening all transactions one by one.

The expectation is that the current proposal will support innovation and competition in the EU payments market, in line with the existing framework on sanctions and fighting against financial crime. It aims also to contribute to the Commission's objectives on digitalisation of the financial sector and horizontally and open strategic autonomy. This initiative is in line with the Commission's priority for economy that works for citizens and serves as a base for more attractive investment environment.

4. Consumer Protection in the field of retail investments – retail investment package

Investor protection rules are currently set out in sector specific legislative instruments such as Markets in Financial Instruments Directive[8], the Packaged Retail and Insurance-based Investment Products Regulation[9], the UCITS Directive[10],

[8] Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (recast)

[9] Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs)

[10] Directive 2014/91/EU of the European Parliament and of the Council of 23 July 2014 amending Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) as regards depositary functions, remuneration policies and sanctions

Alternative Investment Funds Manager Directive[11], Solvency II Directive[12], and Insurance Distribution Directive[13]. These rules differ from one financial instrument to another and sometimes are inconsistent, making the cumulative requirements confusing for retail investors. Along with that the digitalisation has changed the distribution models and brought new forms of marketing for financial instruments for retail clients of financial instruments and insurance products.

In May 2023, the Commission published a Retail Investment Package which aims at putting the consumers' interests as a milestone of retail investing. The purpose of the strategy is to ensure the possibility for retail investors to make informed investment decisions that are in line with their needs and preferences, guarantying that they are treated fairly and well protected. This would enhance the trust and confidence of retail investors to invest in their future and develop the full potential of the EU's Capital Markets Union.

Making the EU financial market an even safer place for citizens to invest in the long term was one of the Commission's three key objectives of **the 2020 Capital Markets Union Action Plan**. The Retail Investment Package aims at achieving that goal and encouraging retail investors' participation in EU capital markets, which is less developed and less competitive than in other jurisdictions[14], such as the United States. Boosting the Capital Markets Union is also an essential element to stream the private funding into our economy and to ensure funding for the green and digital transitions.

The package includes ambitious and wide-ranging measures aiming at improving the retail investors' landscape:

- It introduces measures to improve the way the investors' information is provided to retail investors about investment products and services. Disclosure rules will be adapted to reflect digitalisation and sustainability preferences of investors. The information should be more meaningful and standardised in order to be easier to compare;
- The package aims at increasing the transparency and comparability of costs by introducing a standard presentation and terminology on costs. It will ensure that the investment products bring to retail investors better value for money. It ensures that all retail investors receive at least once a year a clear information of the investment performance of their portfolio;

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[11] Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010

[12] Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (recast)

[13] Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (recast)

[14] Impact Assessment Report accompanying the document Proposal for a Directive of the European Parliament and of the Council amending Directives (EU) 2009/65/EC, 2009/138/EC, 2011/61/EU, 2014/65/EU and (EU) 2016/97 as regards the Union retail investor protection rules and Regulation of the European Parliament and of the Council amending Regulation (EU) No 1286/2014 as regards the modernisation of the key information document (COM (2023) 278-279 final)

- The package proposes changes to be made to suitability and appropriateness assessments. It introduces a requirement the purpose of those assessments to be explained to retail investors and to be given them warnings on how the provision of inaccurate information could impact those assessments;
- The package addresses the potential conflicts of interest in the distribution of investment products by banning inducements for „execution-only" sales where no advice is provided and aiming at ensuring that the financial advice is appropriate for the retail investors' and in their best interests. After lengthy consideration and reaction from the insurance and investment businesses the Commission decided not to ban inducements for advised sales, where stronger safeguards and transparency rules will be introduced in case the inducements are allowed such as a strengthened „best interests of the client" test;
- The Commission will also be tasked with reviewing whether those safeguards have in fact reduced potential conflicts of interest 3 years' post-transposition. In line with the ever-growing importance of sustainability preferences when making investment decisions, among the changes proposed to improve the knowledge and competence of financial advisors is the inclusion of an additional limb regarding professional knowledge of sustainable investments;
- The new rules aim to protect the retail investors from misleading marketing by ensuring that the financial intermediaries are responsible for the use of their marketing communication, including when it is made via social media, or via other third parties if they are remunerated or incentivised and also preserves high standards of professional qualifications for financial advisors;
- The package will give the opportunity for the consumers to take informed and better financial decisions by encouraging Member States to implement national measures that can promote consumers' financial literacy for all citizens.

The new rules reduce the administrative burdens for retail investors and service providers. They improve the accessibility of more sophisticated products and services for more advanced retail investors, by making eligibility criteria to become a professional investor more proportionate. The framework enhances supervisory cooperation between the national competent authorities to make it easier for them and the European Supervisory Authorities to ensure that all the rules are properly and effectively applied across the EU and to jointly fight fraud and misleading practices.

5. Other issues related to consumer protection

5.1. Distance financial services

The main purpose of the current Distance Marketing of Consumer Financial Services Directive (DMFSD)[15] is to protect consumers when they sign a contract for basic financial services at a distance online or by phone like buying an insurance

[15] Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC

product or opening of a bank account. It lays down rules on the information to be provided to consumers before concluding the contract and the right of withdrawal in the 14-day after concluding the contract. The directive bans certain abusive marketing practices: consumers cannot buy a financial product without their explicit consent (inertia selling) and unsolicited phone calls and e-mails.

In November 2020, the Commission published a report on the evaluation of DMFSD[16]. Since its adoption in 2002 the digitalisation changed the landscape in online and mobile sales of financial products and enhanced the emergence of non-traditional market players offering new types of financial products and services. These products are easily accessible making possible for the consumers to purchase some of these services with a single click. On the other hand, the service providers are using tools such as „Big Data" to influence their clients. Hence, the report warned that this situation put the consumers in a vulnerable position and concluded that some of the directive's aspects have been superseded by newer legislation on specific retail banking products and by horizontal consumer protection legislation.

In May 2022, the Commission published a proposal for revision of the provisions concerning financial services contracts concluded at a distance. The proposal amends the 2011 Consumer Rights Directive and repeals the 2002 DMFSD in order to address the new challenges which consumers face when engaging with service providers that promote and sell financial products digitally and suggests several improvements. The Proposal simplifies and adapts the legislative framework by repealing the existing DMFSD and by including relevant aspects of consumer rights regarding financial services contracts concluded at a distance within the scope of the Consumer Rights Directive. The proposed directive introduces full harmonisation, which will ensure the same high level of consumer protection across Member States.

- The Commission proposal is extending the scope of the distance marketing for financial retail services beyond distance contracts so as to ensure that this new horizontal safety net also applies to all financial services offered off premises;
- It maintains all the relevant provisions of the DMFSD for instance the right of withdrawal for insurance and pension products. It stipulates for an easier access to 14-day right of withdrawal for distance contracts for financial services, including a requirement to be provided to the consumers with a withdrawal button. The proposal is at the appropriate level of protection and ensures that the level of harmonisation does not lead to lower consumer protection at national level;
- It is adding provisions on comparison tools, automated advisors and advertising in the financial services chapter, especially when it comes to the use of social media to advert high-risk products such as crypto assets. Special rules on concluding financial services contracts online are introduced, requiring financial services providers to submit to consumers an adequate explanation, including

[16] European Commission, 2020, Evaluation of Directive 2002/65/EC on Distance Marketing of Consumer Financial Services

by using robo advice or chat boxes. However, the consumers will have rights to request to speak to a person;

- The proposal provides for clarification of the rules on what, how and when pre-contractual information has to be provided. This includes an obligation on the service provider to inform consumers on potential hidden costs or on the risk related to the financial product. Consumers will have a right to reflect on the pre-contractual information, which is to be received at least a day before signing a contract;
- Stronger penalties, in line with those that already apply to other widespread cross-border infringements of consumer rights, with a maximum penalty of at least 4 % of a trader's annual turnover are introduced.

The proposal ensures consistency with the current rules in the area of financial services, because the relationship between the two areas is regulated by the principle if any provision of this Directive conflicts with a provision of another Union act governing specific sectors, the provision of that other Union act shall prevail and shall apply to those specific sectors.

5.2. Financial competence framework for adults

Financial literacy is a substantial part of the overall framework for financial consumer protection. According to the 2020 OECD Recommendation on Financial Literacy, „financial literacy refers to a combination of financial awareness, knowledge, skills, attitudes and behaviours necessary to make sound financial decisions and ultimately achieve individual financial well-being". However, the level of financial literacy among individuals still remains low, making the promoting of the financial literacy and financial education priority for policymakers and other stakeholders in the EU. The European Commission also recognised the importance of the topic and included two measures in the 2020 Capital Markets Union Action Plan which aim at increasing the financial literacy levels of citizens in the EU. The first measure is to conduct by the end of the first half of 2021 a feasibility assessment on the development of an EU financial competence framework. The feasibility assessment for the development of a financial competence framework in the EU was published in April 2021 and supported the creation of EU-wide financial competence frameworks in collaboration with the OECD-INFE. The second measure is in case of a positive impact assessment to prepare a legislative proposal requiring Member States to promote measures that support the financial education of consumers.

In January 2022 the European Commission together with the OECD's International Network on Financial Education published the joint EU/OECD-INFE financial competence framework for adults[17], a measure announced in Action 7 of the 2020 capital markets union action plan.

This framework aims at improving the consumers' financial skills so that they can make sound informed decisions in line their personal finances. That would support development of public policies, financial literacy and educational programs and

[17] EU/OECD-INFE (2022) Financial Competence Framework for Adults in the European Union

materials by Member States, NGOs, educational institutions and industry. It will also promote the exchange of good practices among policy makers and stakeholders in the EU.

Having a better understanding of their personal finance helps individuals in managing their personal budget (assets and liabilities) and allows them to more safely and confidently use financial products and participate in financial markets. The joint financial competence framework for adults outlines key skills that will help individuals to make their own sound financial decisions. The framework is built upon the competences defined in the G20/OECD INFE core competencies framework on financial literacy for adults, adjusting them to the EU context, and further integrating the digital and sustainable finance skills.

The framework is not intended to be used as a curriculum, but rather as a conceptual basis on which to build the different financial educational materials, policies and measures. The framework provides a set of outcome-based competences that can be used to support the development, implementation and update of national financial literacy strategies and also support the design of financial education programs and the development of financial education learning materials and tools. The framework could support the inclusion of financial education in curricula for higher education institutions, inform the design of teachers' adult trainings and support learning materials and programs specifically designed to help financially vulnerable groups. It could also underpin the setup of private or public awareness-raising campaigns. The framework will facilitate the assessment of the levels of financial literacy among the population and the evaluation of financial literacy initiatives. For example, it can be used as a basis to develop financial literacy indicators that could assess the effectiveness of the national financial literacy initiatives.

The finalisation of the EU/OECD-INFE financial competence framework for adults is only the beginning of the process. The next step is dissemination and facilitation of the uptake of the framework amongst Member States and stakeholders, including through targeted exchanges. The objective is to support the use of the framework in financial literacy policies, tools and educational materials, and to offer a platform for policy makers and stakeholders to exchange good practices and lessons learnt when developing the framework. Developing a financial competence framework for children and youth is the next step. In 2022, the Commission services and OECD, in cooperation with Member States, started working on the financial competence framework for children and youth (individuals under 18). The framework is expected to be finished by the end of 2023.

6. Conclusion

The European Union continues to focus its efforts and to prioritise financial consumer protection, introducing new regulations and initiatives to ensure the well-being of consumers in the financial marketplace. Through the newly introduced measures the EU is promoting transparency, empowering consumers, and fostering responsible financial practices. The new EU initiatives aim at building on what has been achieved so far in the area of consumer protection of financial services.

Undoubtedly, better protection of users of financial services will create conditions for increasing their confidence in these services and in the financial sector as a whole, which in turn will strengthen financial stability at the national and European level. Moreover, consumer protection and financial stability are very closely linked.

Furthermore, the better protection of users of financial services leads to the achievement of better results from the financial business itself and the various financial intermediaries - banks, payment institutions, investment intermediaries, insurance companies and others. These advancements not only strengthen consumer rights but also contribute to the overall stability and integrity of the European financial system. As technology evolves and consumer expectations change, the EU remains committed to adapting and refining its regulatory framework to meet the evolving needs of financial consumers.

Another advantage of the new EU initiatives is that the changes and the increase in consumer protection standards apply horizontally to all financial sectors. The significant changes affect both banking and payment services, as well as insurance services, investment services and all other areas where financial services are offered to consumers.

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EU FUTURE'S DEBATE IN LIGHT OF AN ECONOMIC CRISIS

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Abstract

During the last three years, the complex process of development and functioning of the EU faced a lot of challenges and experienced some difficulties, such as the economic crisis caused by energy and supply problems and the post-Covid-19 problems. The war in Ukraine and the sanctions against Russia also have strong implications for the EU. In this dynamic environment the problem of divisions and „speaking with one voice" arise between the member states. These issues reopen the debate about the future of Europe in a new perspective. The focus of the present study is the prospects for the development of the Union through the prism of its economic integration.

Key words: European union, crisis, debate, economy

> *„United we stand, divided we fall... It must be made crystal clear that the disintegration of the European Union will not lead to the restoration of some mythical, full sovereignty of its member states, but to their real and factual dependence on the great superpowers: the United States, Russia and China. Only together can we be fully independent."*
>
> Donald Tusk[1]

1. Introduction

Since its creation, the European union has been viewed as a „sui generis structure", i.e., a unique structure, of its own kind – it is similar to an international organisation, but is more than that, it has the elements of statehood but is not yet a state. The Union is indeed based on classic international treaties, which are such only as form and methods of contracting and signing, but from the moment of their entry into force they constitute the material constitution of the EU.

In 2013, in its opinion, the Court of Justice of the EU defined the founding treaties as the „constitutional charter"[2] of a legal union. Today, several decades after the

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[1] Donald Tusk was the president of the European Council during the period 2014-2019 Source: Official website of the European Council, (31.01.2017), Letter by President Donald Tusk to the 27 EU heads of state or government on the future of the EU before the Malta summit, available online at: https://www.consilium.europa.eu/en/press/press-releases/2017/01/31/tusk-letter-future-europe/, last visited 01.05.2023.

[2] Court of Justice of the EU, Opinion of the Court, 23.08.2013, Case Avis 2/13, available online at: https://curia.europa.eu/juris/liste.jsf?pro=AVIS&num=c-2/13, last visited on 10.05.2023.

creation of the EU, it is irrelevant whether we call it a union or a legal community. The EU is an amalgam in which we can find a number of elements of international law, as well as an understanding of a process that continues to flow, which we will not call federalisation, but rather constitutionalisation – as a form of organising public power. In order to examine its essence, it must be considered that integration begins with the means and rules of international law and that is a genetic inheritance within the Union itself, that is why it gives a number of characteristics within it. This process, however, does not stop there and has continued and continues to develop as such outside of the international law, relying on its own legal order, creating conditions for consistent and deep political and economic integration.

Over the years, integration within the union has faced a number of challenges, including the entry of new member states, which has raised a lot of questions about its future development. The economic crisis caused by energy and supply problems and the post-Covid-19 problems, the war in Ukraine and the sanctions against Russia also have strong implications for the EU. The aim of this paper is to analyse the prospects for the development of the Union in this environment through the prism of its economic integration. The paper is structured as follows. The next section describes in brief the dimensions and nuances of the debate on the future of the European Union over the years. The section afterwards analyses the effects caused by energy and economic cries on Union's integration and stability. The last section concludes and gives outlines of the new perspectives.

2. The debate

Before presenting the main analysis in this part of the report, a semantic clarification should be made. One of the meanings of the verb „debate" is „to turn over in one's mind: to think about (something, such as different options) in order to decide"[3]. In 2016, on the eve of the 60th anniversary of the Treaties of Rome, the functioning of the Union has faced a number of challenges such as:

- External: the dynamic geopolitical situation in the world and around the European borders – annexation of Crimea by the Russian Federation and the conflict in Donbas in 2014; bilateral trade sanctions between EU and Russia; China's aggressive trade policy; conflicts in Africa and Middle East caused by radical Islam; the domestic and foreign policy of the United States led by President Trump.
- Internal: Brexit and the upheavals in the political and economic integration of the Union caused by it; the rise and development of the nationalist and anti-EU political parties in member states.

As a result, the member states and EU institutions begin to consider different options, in order to decide the direction of the Union's development. On 1 March 2017, the President of the European Commission, Jean-Claude Juncker, presented a White Paper outlining five scenarios for the future of the EU27 until 2025, including different options for the development and levels of integration of the Union.

[3] According to online dictionary Merriam-Webster. Available at: https://www.merriam-webster.com/dictionary/debate. Last visited on 15.05.2023.

Box 1 „Five scenarios for the future of the EU27“ [4]

Scenario 1: „Carrying on“ – implies preserving what has been achieved so far in terms of European integration and continuing in the same direction.

Scenario 2: „Nothing but the Single market“ – focus only on deepening certain key aspects of the single market.

Scenario 3: „Those who want more do more“ – groups of Member States agree on specific legal and budgetary arrangements to deepen their cooperation.

Scenario 4: „Doing less more efficiently“ – focus and limited resources on a reduced number of priorities.

Scenario 5: „Doing much more together“ – cooperation between all Member States further than ever before in all fields.

The debate on the future of Europe puts on the agenda a number of issues that directly affect the functioning and development of the European Union as a whole. The controversy surrounding this topic brings to the fore some differences in views on the deepening of integration processes between member states. In one form or another, at certain periods of its development, the EU has been torn apart by internal divisions, during which the inability of the member states to speak with one voice is clearly visible.

In the period from April 2021 to May 2022, the Conference on the Future of Europe was held, with a series of debates and discussions initiated by citizens with the aim of shaping a common framework for the development of the Union. Such an initiative demonstrated the effectiveness of the pan-European democratic process and resulted in a final report with 49 proposals covering nine themes: climate change and environment; healthcare; a stronger economy, social justice and jobs; EU in the world; values and rights, rule of law, security; digital transformation; European democracy; migration; education, culture, youth and sports. The focus of the debates is also the process of economic recovery after the pandemic.

At the core of the debate, as well as of each of these scenarios, is the question of the subsequent development of the European economy, which in an internal aspect is directly linked to the dynamics of the integration process. Two aspects can be found in the essence of the concept of European economy: on the one hand, this is the so-called technological aspect - the fact that the European economy represents a single economic space (formed on the basis of the free movement of goods, services, capital and people), within which economic entities operate. On the other hand, there is the political aspect representing the mechanisms for reproduction, distribution and redistribution of value within the single economic space and the emerging economic union based on it.[5] However, in order to achieve full economic integration[6] in the

[4] Source: European Commission, White Paper on the Future of Europe, Reflections and scenarios for the EU27 by 2025, COM (2017)2025 of 1 March 2017.

[5] Hadjinikolov, D. (2016), European economy, Sofia: Publishing complex UNWE.

[6] For the purposes of the present study, the concept of the five-phase division (Free Trade Zone, Customs Union, Common Market, Economic and Monetary Union and Full Economic Integration) of the economist Bela Balasva has been adopted. It should be noted that each higher phase of integration contains the previous ones, which continue to develop as an integral part of it.

Union, a single internal market and an Economic and Monetary Union should first be fully established. An extremely strong influence on these processes in the period after 2020 is caused by the unstable external environment – the consequences of the COVID 19 pandemic and the war in Ukraine. The following point will examine and analyse the dimensions of the energy and economic crisis caused by these events and their impact on integration.

3. Time of crisis

The Union's economy is one of the largest in the world, being a leading exporter and importer, an investor and recipient of foreign investment and one of the largest aid donors. The coronavirus pandemic, however, represents a „shock of historic proportions for Europe's economies", as stated in the European Commission's Spring Economic Forecast: Rolling Up Our Sleeves (2021). The negative consequences are expressed in the following:

- A significant slowdown in the growth of the member states' economies, respectively of the Union's economy as well as a serious recession.
- Limitations in the application of the basic principles of the European economy – liberalism; non-discrimination; exclusive competence; rule of EU law; enhanced cooperation; proportionality and subsidiarity.

The statistical data presented in the following analysis (also Table No. 1), including forecasts for 2023 and 2024, are based on the regular seasonal economic forecasts of the European Commission.[7] Purposefully, the author has presented in a footnote the titles used by the European Commission for each of the forecasts. They contain the

[7] European Economy Institutional Papers are reports analysing the economic situation and economic developments prepared by the European Commission's Directorate-General for Economic and Financial Affairs, which serve to underpin economic policymaking by the European Commission, the Council of the European Union and the European Parliament.
European Commission, Spring 2021 Economic Forecast: Rolling up sleeves, available online at: https://economy-finance.ec.europa.eu/system/files/2021-05/ip149_en.pdf
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European Commission, Winter 2023 Economic Forecast: EU Economy set to avoid recession, but headwinds persist, available online at: https://economy-finance.ec.europa.eu/system/files/2023-02/ip194_en_1.pdf

logic and dynamics of the development of the European economy for a three-year period saturated with a number of turbulences: from the process of „rolling up sleeves" in order for „reopening and recovery" after the COVID, to the war's reality and „worsens" of the outlook; from testing EU „economic resilience" to avoiding recession.

In 2020, the EU economy shrank by 6.1% and the Eurozone economy by 5.7%. For comparison, in 2019, the EU economy grew by 1.8% and the Eurozone's by 1.6%. The reason for this is the fact that a large part of enterprises, as well as entire sectors (such as tourism, restaurants and others) have not been able to adapt to the restrictions introduced as a result of the anti-epidemic measures. Countries such as Greece, Italy and Spain, whose gross domestic product is largely dependent on tourism, saw their economies shrink between 9% and 11.3%. In comparison, Ireland is the only member state that have a positive economic growth for 2020 (Table No. 1). This is a logical consequence of the fact that it is among the leading countries in the import and export of services with third countries, which is due to the following: the Irish services sector is highly developed in the field of cyber security, eHealth, smart cities, etc.; it is the only European country whose market is both part of the internal market, the Eurozone and English-speaking; the Irish economy has been one of the fastest growing in the last ten years, making it highly attractive for investment. Before the creation of the so-called „green corridors", through the measures imposed in the area of „Borders and Mobility", the free movement of people and goods is hindered. In addition, the provision of a number of services that do not exist in a digital environment is restricted. This leads to a real impossibility to guarantee the availability of basic goods and services. In turn, the safety mechanisms introduced in the areas of „Economic Measures" and „Public Health" threaten equality between economic operators, leading to a violation of the rules of fair market competition.

The consequences of the pandemic discussed so far have a negative impact on the development of the integration processes of the European economy. In practice, the functioning of the internal market during this period is under real threat.

Table 1 No. „Gross domestic product, volume (Percentage change on preceding year, 2019-2024)"[8]

				Winter 2023 Interim Forecast			Autumn 2022 Forecast		
	2019	2020	2021	2022	2023	2024	2022	2023	2024
European Union	1.8	-5.7	5.4	3.5	0.8	1.6	3.3	0.3	1.6
Euro area	1.6	-6.1	5.3	3.5	0.9	1.5	3.2	0.3	1.5
Belgium	2.2	-5.4	6.1	3.1	0.8	1.6	2.8	0.2	1.5
Germany	1.1	-3.7	2.6	1.8	0.2	1.3	1.6	-0.6	1.4
Estonia	3.7	-0.6	8.0	-0.3	0.1	2.8	-0.1	0.7	2.1
Ireland	5.4	6.2	13.6	12.2	4.9	4.1	7.9	3.2	3.1
Greece	1,9	-9,0	8,4	5,5	1,2	2,2	6,0	1,0	2,0

Spain	2.0	-11.3	5.5	5.5	1.4	2.0	4.5	1.0	2.0
France	1.8	-7.8	6.8	2.6	0.6	1.4	2.6	0.4	1.5
Croatia	3.4	-8.6	13.1	6.3	1.2	1.9	6.0	1.0	1.7
Italy	0.5	-9.0	6.7	3.9	0.8	1.0	3.8	0.3	1.1
Cyprus	5.5	-4.4	6.6	5.8	1.6	2.1	5.6	1.0	1.9
Latvia	2.6	-2.2	4.1	1.8	0.1	2.7	1.9	-0.3	2.6
Lithuania	4.6	0.0	6.0	1.9	0.3	2.5	2.5	0.5	2.4
Luxembourg	2.3	-0.8	5.1	2.0	1.7	2.4	1.5	1.0	2.4
Malta	7.0	-8.6	11.7	6.6	3.1	3.7	5.7	2.8	3.7
Netherlands	2.0	-3.9	4.9	4.4	0.9	1.3	4.6	0.6	1.3
Austria	1.5	-6.5	4.6	4.8	0.5	1.4	4.6	0.3	1.1
Portugal	2.7	-8.3	5.5	6.7	1.0	1.8	6.6	0.7	1.7
Slovenia	3.5	-4.3	8.2	5.1	1.0	2.0	6.2	0.8	1.7
Slovakia	2.5	-3.4	3.0	1.7	1.5	2.0	1.9	0.5	1.9
Finland	1.2	-2.4	3.0	2.0	0.2	1.4	2.3	0.2	1.4
Bulgaria	4.0	-4.0	7.6	3.9	1.4	2.5	3.1	1.1	2.4
Czechia	3.0	-5.5	3.6	2.5	0.1	1.9	2.5	0.1	1.8
Denmark	1.5	-2.0	4.9	3.1	0.1	1.6	3.0	0.0	1.3
Hungary	4.9	-4.5	7.1	4.9	0.6	2.6	5.5	0.1	2.6
Poland	4.5	-2.0	6.8	4.9	0.4	2.5	4.0	0.7	2.6
Romania	3.9	-3.7	5.1	4.5	2.5	3.0	5.8	1.8	2.2
Sweden	2.0	-2.2	5.1	2.4	-0.8	1.2	2.0	-0.6	0.8

In 2021, after measures taken by the European institutions and the subsidence of the pandemic, a period of recovery of the European economy begins. The EU economy grew by 5.4 % and the Eurozone's by 5.3 %, which means that there is a real rebounding from the pandemic recession.

Unpredictably a new challenge has been posed – the war in Ukraine. In February 2022, the Russian Federation invades Ukraine – an event that has been leading to serious negative effects on European economy. The EU response to the war was to adopt new series sanctions (the first restriction measures were taken after the annexation of Crime in 2014), followed by contra-measures from Russian Federation towards the Union. As a result, a number of issues arise in various spheres such as trade, agriculture, security and others which call into question the unity between the member states and create preconditions for disagreements and nationalistic sentiments.

One of these areas has been energy. For many years, Russia was the main exporter of crude oil, natural gas and solid fossil fuels for the Union. This strong dependence means that EU's economy relies on Russia's imports to meet more than a half of its energy needs. As a response to EU's sanctions, the Russian Federation use that dependence as „weapon". During the middle of 2022, the coming winter was seen as „perfect storm" - economic growth in EU was slower; in 12 member states gas supplies were stopped or reduced; energy prices have been increasing; energy-saving measures on citizens and business were imposed; according to Russian's President Decree was adopted an obligation to pay for gas in Russian roubles when the buyers are from so called „unfriendly states" (the list of „unfriendly states" includes all EU member states) or when gas is supplied to such state.[9]

In this current context of great uncertainty, solidarity between EU countries was very important. Active actions were taken in the direction of strengthening the energy sustainability and autonomy of the EU countries. The member states began to speak in unison.

4. Conclusion – New perspectives

Over the past three years, the functioning and stability of the European Union has faced a number of unprecedented challenges. Both the core values of the Union and its integrity are put to the test. In this environment, the answer to the question of the extent to which Member States are willing to cede competence or are more likely to close themselves within their national borders becomes increasingly important. Raising European integration to the next level and deepening the integration process will make the Union economy much stronger and more competitive in world markets.

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A NEW TYPE OF FOREIGN RELATIONS? ENHANCING EUROPE'S RESILIENCE AND ITS IMPACTS ON THE EU'S EXTERNAL ACTIONS

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Abstract

The „polycrisis" Europe has been undergoing for over a decade has called for a more robust, more resilient European Union. Resilience is now a key element of policy design on the EU level and will have ground-breaking effects in all policy fields. Yet, surprisingly, the impact of this transformation on the foreign relations of the Union (and its member states) in terms of trade relations and security has hardly been discussed and understood. The article will analyse the evolution of this concept in EU Policy and its effects on reshaping EU external policies. Three dimensions of resilience: democracy promotion, trade relations and green transformation are taken as case studies. The analysis aims at contributing to a better understanding of the future of international relations and the need for modernising the toolset of the EU as a unique actor in global policies.

Key words: Resilience, International Relations, Sustainable Development, Democracy, European Union

Introduction

The ongoing Russian war against Ukraine has become a leap-frogging moment in Europe's Strategic Culture.[1] For the first time, the European Union decided to supply lethal arms and military equipment to a third country, Ukraine. This strategic turning has come with member states massively increasing their military spending. Never before has Europe engaged on such a large scale in hard power, massively stretching its limited constitutional competencies in foreign and defence relations.[2] This is a remarkable development given the history of EU foreign relations since the end of 1950. For decades, economic relations had overwhelmingly dominated foreign

[1] (Hefele and Novaky, 2022); (Lenne, 2022).

[2] For an overview on the evolution and instruments of EU foreign policy see (Keukeleire & Delreux, 2022).

relations – and by diplomacy, development and cultural cooperation, defining the EU as a self-restrained, rule-based normative power.[3]

The hybridisation of warfare, particularly the „energy weapon" by Russia, has ruthlessly opened the eyes of the Europeans in terms of their dependence on monopolistic suppliers of fossil energy and raw materials. Moreover, the „weaponisation of connectivity"[4] calls for systematically reducing Europe's vulnerability and enhancing its resilience to (politically) induced shocks. As a result, basic assumptions on global exchange, even globalisation itself, are now questioned.[5]

From a long-term perspective, sustainable transformation, as conceptualised in the European Green Deal (EGD), is a core component of a future resilient Europe. Immediate threats and slow-offset effects call for a new calibration of the external relations *and* adjustments of the internal decision-making processes of the European Union. These objectives can be summarised under the overarching target of the European Commission to create a more resilient Europe. The concept of resilience is relatively new and still needs to be translated into practical policies.

This article will analyse *three policy fields which play a crucial role in developing a European Policy of Resilience*: *the defence of democracy; the concept of sustainable transformation; and the reshaping of trade relations and value chains*.

In all these policy fields, the European Union has either constitutionally exclusive rights (*trade*); has acquired a lot of competencies over the last years (*EGD*) or is trying to extend its competencies (*democracy promotion*).

The findings will be „read" against a framework of different theories of (see Chapter 1) international relations (IR), but also in the light of the discussion of evolving integration and policy coordination instruments inside and between the European institutions (and with the member states).

The Concept of Resilience

The concept of resilience has become a strategic dimension or a „new compass" of EU policies at the latest with the 2020 Strategic Foresight Report.[6] Resilience is *„the ability not only to withstand and cope with challenges but also to undergo transitions in a sustainable, fair, and democratic manner*."[7] According to this concept, resilience is not only a *re*action and policy concept to the poly-crisis Europe has been facing since 2007. It is considered an integral and necessary part of the highly ambitious project of the sustainable transformation of the EU (*transitional resilience*). As Ana E. Juncos rightly observed: „*The concept of resilience has gradually colonised the foreign policy discourse and practice of most Western states and international*

[3] (European Union External Action, 2016).

[4] (Leonhard, 2022).

[5] (Posen, 2022).

[6] European Commission (2020). An overview on the history of the concept of resilience provides (Juncos, 2017) and (Rita and Manca, 2017).

[7] (European Commission, 2020a).

organisations [...]".[8] It would be too easy to denounce *resilience* as another buzzword, e.g., *sustainability*. But despite all criticism, Juncos correctly reminds us that those concepts usually *„have important implications on the EU's identity as a normative power in the medium and long term."* [9] And not only in terms of normative power, as the current reactions to the Ukraine war show. In the author's opinion, it provides a) more flexibility in reacting to internal and external shocks; b) from the point of political communication, this concept is easier to sell to the European electorate, as it is can be better linked to the idea of „a Europe that protects";[10] c) and from a more conceptual perspective, it can also be seen as a sign of an ongoing „realistic turn" in EU policy. After backslashes in recent years in highly ambitious projects born out of a normative approach, calls for a humbler objectives in EU's outreach become louder.

The consequences for the European Union's foreign relations and the internal policy coordination mechanism will be far-reaching. If taken seriously, *resilience* can become a common denominator of EU policies and a strong momentum to the evolution of the EU policy system.[11] As explained later, this does not mean that the EU will now retreat into a shell and stand aside from any international responsibilities of the EU – quite the contrary. It will instead open new opportunities for cooperation with external partners based on shared interests.

As complex as resilience might be, there is no immediate need for any constitutional changes to the Treaties of the European Union so far. The future will show whether we will see an internal power shift between the Council, the European Commission, and the European Parliament. But as we could observe in the case of the Green Deal, there are good reasons to assume that it will provide a powerful tool for the Commission to increase its power of policy coordination.

Reshaping EU's Foreign Relations and Internal Policy Coordination Mechanism

The characteristics of the „Project Europe" are reflected in its institutional settings both for internal coordination and foreign relations. Attempts to find adequate descriptions and explanations for these unique concepts and behaviour of the EU as a (global) actor *sui generis* are myriad.[12] Plenty of IR theories and of internal integration processes compete. None of those theoretical frameworks has delivered a comprehensive and satisfactory understanding; in reality, one always had to rely on complementary concepts. With this caveat, this article chooses a rather eclectic and pragmatic approach to understand the challenges, processes, policy tools, and limitations of enhancing Europe's resilience. While focusing on external relations, the implications of a new resilience policy on the EU's internal integration cannot be

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[8] (Juncos, 2017), p.1.

[9] (Juncos, 2017), p.14.

[10] (Molthof, 2019a).

[11] Current updates on what resilience means for different policy fields can be found at (European Commission, 2023).

[12] See among many (Keukeleire and Delreux, 2022), Chapter 13; (Bindi, 2022).

left out of this analysis. In its conclusion, this analysis will shortly tap into major EU foreign and integration policy theories such as functionalism, new institutionalism and neo-liberalism.[13]

Fields of Enhancing Resilience

Three policy fields have been chosen to show the range and challenges of a comprehensive policy of Resilience of the European Union: the defence of democracy, the concept of sustainable transformation, and the reshaping of trade relations and value chains. These cases show the complexity of resilience and the need for different policy approaches and instruments, increasing the challenges for policy coordination even more.

Protecting and Promoting European Democracy

Never since the end of the Cold War has the European way of living been under such comprehensive and sophisticated threats as during the last ten years. A „third wave of autocratism"[14] is weeping away progress made in democratisation after 1990. Even within the North-Atlantic region, the global stronghold of democracy, developments in the field of political polarisation and weakening of the rule-of-law principles have raised many concerns about the resilience of democratic systems, not only in the former communist countries of Central and Eastern Europe (CEE).

Attacks by external actors on the „democratic infrastructure" of Europe, such as interference in election campaigns or hidden party funding, had been known for many decades. Cyberattacks and disinformation in social media have aggravated the situation and multiplied the challenges but not created them *ex nihilo,* addressing both state and non-governmental and private actors. Within a comparatively short period, the EU has launched an ambitious set of anti-interference tools.[15] These tools are not only designed to protect the institutions of the European Union. They aim to complement similar activities on the member states' level, which are often incapable (or unwilling?) of defending the integrity of their core democratic institution and processes. Next to enhanced resilience of institutions, civic education of European citizens is key. As the main challenge lies in balancing freedom of expression and fighting its abuse, resilience also has to grow out of society. And it can never be successfully defended only on its own turf.[16]

At the same time, the Union has stepped up its engagement in actively and pre-emptively promoting democracy outside its territory in third countries. For example, the 2020 - 2024 EU Action Plan on Human Rights and Democracy[17] is based on the Union's self-perceived role as the world's leading advocate of democracy. As many member nations are already engaging in those activities, a major function of the EU

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[13] For current European Integration Theories, see (Wiener et al., 2018).

[14] (Lührmann & Lindberg, 2019).

[15] A good overview provides (European Parliament, 2023).

[16] Among many (Alliance of Democracies, 2023); (Global Democracy Coalition, 2023).

[17] (European Commission, 2020b).

is to coordinate those existing programmes better. However, lack of coordination is well-known, in European development cooperation, which always aimed at strengthening accountability and good governance in their partner countries.[18]

Sustainable Transformation and European Green Deal

When presenting the European Green Deal in 2019 as its core political project, the European Commission did not put the dimension of enhanced resilience into the centre of its communication. Admittedly, resilience has always been part of this concept and of some of its precursor projects. But it has quite lately used resilience as a core argument for the Green Deal. This observation reflects two characteristics of the Green Deal. Firstly, climate change and environmental perspectives have for (too) long dominated public communication and perceptions of the EGD. And secondly, it indicates a structural weakness of EU politics: it shows how difficult it is to implement a cross-sectoral, „unifying" concept that enhances the understanding and propagation of complex interactions and effects between different policy fields.

The EGD is a multi-layer and multi-dimensional policy project also in the foreign relations of the European Union.[19] The green transformation will have ground-breaking effects on the geopolitical system. It goes beyond the traditional discussions, e.g., of the new „geopolitics of energy transition"[20], and is neatly linked to internal changes in the European Union's policy-making systems.

Following the announcement of the Green Deal in September 2019, it soon became apparent that this ambitious concept has massive impacts on major dimensions of external policies, in particular in the field of security. In 2020 the Council of Europe released a resolution on climate diplomacy,[21] followed quickly by a communication on Defence Policy. This is a clear indicator of an increasing integration of different foreign policy dimensions. And in her latest State of the Union Address in September 2022, the President of the Commission, Ursula von der Leyen, emphasised this comprehensive understanding of security and resilience.[22]

To promote resilience, the EU can build upon an impressive range of conceptual approaches and a set of tools, which the Union has developed over the last few years.[23] This offers various options for engagement and cooperation with partners outside the EU as the debate on reducing vulnerabilities has also gained momentum, e.g. in the Indo-Pacific region.[24] But in the past, there was sometimes too much optimism on the part of the EU when trying to forge global alliances or partnerships. Resilience as a complex social phenomenon requires a detailed and realistic view of national interests and preferences, strategic cultures and political or cultural restraints.

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18 (Furness *et al.*, 2020); (Delputte and Orbie, 2019).

19 As an example of this approach, see (Chikh M´hamed, 2022); (Leonard *et al.*, 2021).

20 (Hübner, 2016).

21 (Council of Europe, 2021).

22 (European Commission, 2022).

23 For an overview on Foreign Policy Instruments see: (European Commission, 2023).

24 (Huang and Saxena, 2021).

The case of stalled EU Free Trade Agreements (FTA) with several countries (e.g., India) also shows the limitations and danger of overburdening the trade policy instrument as one-catches-all agreements, including social and environmental aspects.

To some extent, these caveats are relevant for the whole project of sustainable transformation *per se*. How, e.g., shall different political and administrative levels within the EU interact? Acknowledging that enhancing resilience often requires a bottom-up approach[25], the principle of subsidiarity of the EU demands a „unity in diversity" approach. And this motto should make it into the foreign relations of the Union, too, where usually claims for unity and „one voice" prevail.[26] EU Foreign Policy should tap into Europe's diverse capacities in its third-party relations to make „resilience policy more resilient", mainly when predicting economic, social and political change is increasingly difficult.

The European Green Deal aims to harmonise its internal and external policies under the idea of sustainability. But there remain severe differences and contradictions with other objectives and restraints of external relations, at least in short and even mid-term perspectives.[27] The EU still has a long way to go in better integrating its highly complex domestic and foreign policy instruments, let aside its often weak presence on the ground and the lack of capacity to coordinate and complement already existing member states' initiatives.

Reshaping Trade Relations and Creating Resilient Value Chains

As one of the three largest trading blocks in the world[28], the European economy is particularly vulnerable to external shocks.[29] Events such as COVID, sanctions (and counter-sanctions) in the Russian-Ukraine war or the threats of China towards Lithuania on the Taiwan question have opened the eyes of EU policymakers and business leaders about the systemic risks and nanve assumptions of globalisation.[30] Hedging those risk factors become a significant determinant in the EU's domestic and external economic policies. Trade and industrial policies are key areas in which we could see comprehensive and quick adaptation processes in recent years; and in which the constitutional competencies of the EU can make a significant difference.

In May 2021, the European Commission launched an update of its industrial policy strategy to reduce the vulnerability of the European economy in four key

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[25] Among many the Global Resilience Partnership (Global Resilience Partnership, 2023).

[26] For the case of dealing with China, Angelos Chryssogelos correctly pointed out the strategic advantages of *not* having always one European voice (Chryssogelos, 2023).

[27] The most current dilemma is between securing Europe's energy supply „by all means" and emission reduction due to the Russian war.

[28] The annual trade volume of the EU is 4.3 trn USD and second only to China. The EU is leading in terms of services (Eurostat, 2022).

[29] (European Commission, 2021a). For example, see (United Nations Trade Organisation, 2019) for calculating the vulnerabilities of nations.

[30] See the speech of Christine Lagard, President of the Europe Central Bank, on 22 April 2022 in Washington (European Central Bank, 2022).

sectors: finance, industrial ecosystems and alliances, technology transfer, and strategic autonomy.[31] Resilience, in this understanding, means protecting the single market mechanism and strengthening Europe's role in leading industries and services while, at the same time, contributing to its sustainable transition. The European Commission is aware of the risks of further defragmentation and industrial protectionism and emphasises, therefore, its „open strategic autonomy" concept.[32] But only the years to come will show whether Europe will find the right balance between protection and maintaining a high level of international exchange.

In terms of a broader understanding of resilience, implementing environmental and social standards in the Free Trade Agreements (FTA)[33] can contribute to enhancing resilience in EU trade relations. They will de-risk economic exchange and contribute, e.g., to carbon emission production through upgrading production technologies.

A landmark in defending the functioning of EU's internal market was the decision on an anti-coercion instrument (ACI)[34] in November 2022. For the first time, the EU introduced a measure of active deterrence in its trade relations with third parties, which goes beyond the tools of the World Trade Organisation (WTO), e.g., anti-dumping measures. At the same time, the EU tries to revitalise the functioning of the WTO, acknowledging that bilateral agreements, such as FTAs, cannot sufficiently contribute to preserving a rule-based international economic order.

Conclusions and Recommendations

Linking the concept of resilience and the experience in three main dimensions of EU foreign relations – democracy promotion, Green Deal, and trade relations – provides some interesting insights into the evolution and future of EU policymaking. But what do these results tell us when read against the currently dominating foreign and integration policy theories, such as *new functionalism* and *neo-liberalism*?

As the analysis has shown, there is no need for a fundamental revision of the European Treaties for the foreseeable future. The evolution of the political system of the European Union will rather proceed within the current constitutional framework, which is more flexible than often stated. Recent (external) shocks have proven that, contrary to conventional wisdom, the EU bodies can quickly use existing or create new instruments for collective decision-making and acting. What we have recently seen in the defence field can be applied to respond to other crises. There are good reasons for neo-functionalists' assumptions that we will see further integration steps. That does not mean that the member states or subnational entities should now abdicate their responsibility for enhancing the resilience of their respective societies. But in terms of preventing, mitigating or adapting external shocks, Brussels will increasingly execute actions and go beyond simple inter-governmental coordination.

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[31] (European Commission, 2021b); (Pilati & Mollet, 2021).

[32] (Van den Abeele, 2021).

[33] For an overview of recent FTAs see (Blot & Kettunen, 2021); (Garcia-Duran & Eliasson, 2022).

[34] (Duchâtel, 2022).

Given the current international crisis, *realists of International Relations* now feel the upper hand. And yes, if resilience is perceived as a defensive reaction against external threats, one might conclude that International Relations is a kind of anarchic, zero-sum game as assumed by realist approaches to IR. But this axiom is neither an accurate description of the nature of the threats and the policy concepts of the EU nor – at least in most cases – the most efficient ways to cope with those challenges. In times of hybridisation, lines between economic and military measures are blurred. In contrast to this perspective, advocates of neo-liberalism in IR have never excluded the dimension of conflict-driven inter-state interaction, nor have they been naive about the weight of state interests. But they have equally emphasised the importance of institutions, a multilateral system of norms and procedures and the long-term gains of cooperation. This is a very accurate description of the European concept of resilience in its foreign relations. European policymakers know that long-term resilience cannot be achieved by retreating „behind the walls". Contributing to common global goods, creating alliances with like-minded countries and searching for joint solutions are more than ever crucial given the nature of the threats. Following a realist approach would not lead to zero but to minus for all players. It is no contradiction that unilaterally hedging risks has to be part of a European resilience strategy, but it must always be accompanied by continuous engagement abroad.

It is no exaggeration to say that resilience will remain a core concept in European policy given the tectonic shifts in the geopolitical landscape and the need for revising the fundaments of our way of life under the auspices of sustainable development. Moreover, the „resilience" is less politically „tainted" and can create broader political support across different political camps. Furthermore, it is a more comprehensive approach that includes social policy dimensions, e.g., demography or just transition.

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BACK TO ITS ROOTS? THE WAR IN UKRAINE AS A 'CHANCE' FOR THE EUROPEAN UNION

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1. Introduction

The full-scale Russian invasion of Ukraine in February 2022 represents the most serious challenge to the European security order since the end of World War II. More specifically in relation to the European Union, it has brutally exposed the EU's strategic weakness when it comes to security and its inability to anticipate crises. As such, the war represents both a practical challenge – what should the organization do, in practical terms about, and for, Ukraine – as well as a strategic and normative one: What can the EU do to better prepare for, and prevent, such crises from occurring in the first place and what does this conflict mean for what the European Union is there *for*?

In this paper I will look at these questions utilizing the conceptual framework of Complexity, with particular emphasis on the idea of 'coherence', which I will define below. I will argue that, in fact, the full-scale invasion of Ukraine seems to be moving the European Union towards a much more coherent posture when it comes to European security. This coherence offers the chance for some significant reforms of the EU approach towards security both in a strategic and a procedural sense. Yet, in order to take this chance, this emerging coherence needs to be maintained. To be able to do so, though, certain things need to happen within the European Union, as I will discuss below. However, it is far from certain that the EU will succeed in maintaining current coherence, which would be potentially disastrous for the EU, and the continent as a whole.

2. The invasion of Ukraine as a 'wake-up' call for the EU

In this paper I do not want to get into the details of the war, how it is going, who might win etc. I simply do not understand enough about war as an event or a process to give commentary on it. I am also a bit reluctant to talk about this war as an 'opportunity' for anything other than death and destruction. Furthermore, it is very difficult to make any accurate predictions about how the war will change the world, and Europe within it, in the long term. I am always reminded of the late Robert Fisk who argued that the consequences of the Arab Spring will take generations to work out (Cockburn and Fisk 2017).

However, despite all of this, there are a couple of general predictions we can make about this conflict: It will significantly change the way the European Union thinks about security. Second, it does at least provide an opportunity for the European Union to regain some kind of strategic coherence which, I will argue, it lost in the early 2000s and which, despite some considerable efforts, it has not regained since.

In relation to the first point, the full-scale invasion of Ukraine came as a shock to the European Union which had, until then, always bet on both engagement with, and containment of, Russia. Yet, at the same time, the invasion exposed deep divisions within the European Union which, as will be shown below, have played themselves out in the open ever since.

The shock of the European Union was evident in the first statements coming out of the Commission and the Council following the full-scale invasion and attack on Kyiv. The European Union, on 24th February 2022, condemned

> *'in the strongest possible terms the Russian Federation's unprovoked and unjustified military aggression against Ukraine. By its illegal military actions, Russia is grossly violating international law and the principles of the UN Charter and undermining European and global security and stability'*
> *(European External Action Service 2022a).*

By EU standards, this is quite a strong statement. It acknowledges the illegality of the invasion; it states clearly that it is an act of unjustified aggression which was initiated by one side only and it acknowledges that the invasion undermines European and global security and stability. The statement reflected a broad consensus between EU-member states that the invasion did, indeed, represent a turning point in European security and that it would, in all probability, fundamentally alter the European security system as it had existed since the end of the 2nd World War.

This is important since it shows that there was never any ambiguity about who is right and who is wrong here. Rhetorically and politically, the EU 'took sides' from the very beginning. Yet, it is interesting to see what this has actually meant in practice over time to see the evolution of EU policy and discuss what this means for the EU in the longer term. Critically, here, we see enormous tensions within the EU which, I would expect, will play themselves out over many years and will, perhaps fundamentally, alter the internal dynamics of the EU, both in terms of *what* the EU does and *how* it does so.

It is worth looking at this in a little more detail.

At the very beginning of the full-scale invasion a clear, and deep division became obvious between those member-states who wanted a response which was as hard and as practical as possible with the specific aim of having Russia lose the war and those who essentially aimed to end the war as quickly as possible as a result of negotiations between the two sides (Dempsey 2022; Lange 2022).

This division can be explained by a number of factors, ranging from the historical to the practical. For the first group of countries, the full-scale invasion was essentially *confirmation* of long-held views, and long-held fears, about Russia. In very simple terms, countries like the Baltic Republics, Poland and several others *always* saw

Russia as a threat to their security and their very existence which, rather than be contained, needed to be *confronted* (Dempsey 2022). One only has to look at the declarations about Russia by the leaders of these countries over the years to be able to clearly identify this posture (Deutsche Welle 2022).

Therefore, the full-scale invasion of 2022 was *confirmation* of a long-held view (and fear) about Russian behaviour. The *actions* taken in response must be seen in this light: Poland, the Baltic Republics and Finland were amongst the first to react to the invasion, either by supplying military support for Ukraine or by, in Finland's case, abandoning decades of foreign policy doctrine, dispensing with neutrality and applying to join NATO (Henley 2022).

For the second group, the full-scale invasion also represented, in the words of German chancellor Scholz, a 'turning point' ('Zeitwende') but such recognition was perhaps psychologically harder to process since it represented a monumental policy-failure (Scholz 2022). Over 30 years, the EU had tried to deal with Russia the way it tends to want to deal with third countries. It 'engaged' in 'areas of common interest' in the hope of influencing Russian behaviour, bring it 'into the family of democratic nations' and, therefore contain it.

For example, the 1997 Cooperation and Partnership Agreement between the two focusses on the promotion of bilateral trade and investment, whilst talking about a 'shared belief' in international peace and security (European Union 1997).

In 2003, in St. Petersburg, Russia and the EU agreed to the so-called 'Four common spaces', cooperation in the areas of the economy; freedom, security and justice; external security; and a space of research, education, and cultural exchange (European Commission 2004).

This partnership was renewed as the 'Partnership for Modernization', signed in 2010 in Rostow. In this partnership, the number of priority areas for cooperation was, in fact, expanded:

- expanding opportunities for investment in key sectors driving growth and innovation;
- enhancing and deepening bilateral trade and economic cooperation, and also creation of favourable conditions for small and medium-sized enterprises;
- promoting alignment of technical regulations and standards;
- high level of intellectual property protection;
- transportation;
- promote the development of sustainable low-carbon economy and energy efficiency;
- support international negotiations on combating climate change;
- enhancing cooperation in innovation, research and development, and space;
- ensuring balanced development by taking measures in response to regional and social consequences of economic restructuring;
- ensuring the effective functioning of the judiciary and strengthening the fight against corruption;
- promote the development of relations between people and

- the strengthening of dialogue with civil society to promote the participation of people and business (European Commission 2010).

In many ways, there is nothing particularly innovative about this. These agreements are firmly placed in the EU's 'comfort zones' of policy action. Yet, as mentioned above, in the case of Russia at least, these agreements have been a monumental, and catastrophic, policy-failure. They failed to bring Russia into 'the European family' and they failed to contain the country militarily. Worse still, this failure has been a consistent feature over the last 30 years, with the European response to repeated military action by Russia – in Georgia, in Chechnya, or indeed in Ukraine in 2014, as well as many others – having repeatedly been to seek more 'engagement' with Russia (European Commission 2021).Over the years, France and Germany were key drivers of this 'engagement' approach. Successive French Presidents were loath to criticize Russia openly and publicly, whilst the current German chancellor's two immediate predecessors both had close political, personal and, in Schrföder's case, business ties (Kornelius 2014; Bennhold 2022).

Furthermore, we need to consider Germany's post-World War II foreign policy history – which has been focused essentially on using diplomacy to resolve international problems – and also attaches great importance to using foreign policy for economic advancement. Taken all these points together, it should come as no surprise that, whilst strongly condemning the invasion, there was still a strong urge to use diplomacy as a way of resolving the crisis. In the early part of the full-scale invasion, Macron, in particular, was a frequent visitor to Moscow for numerous meetings with Putin, hoping to find a diplomatic solution to the war. This was in stark contrast to leaders from the Baltic Republics and Finland, who visited Kyiv, not Moscow, to show their support for Ukraine.

As a result, the institutional EU response was, initially, based on what the EU historically likes to do because it is politically less controversial and it is what is possible without opening up big public rifts within the organization and between its member states: it imposed several rounds of economic sanctions on Russia across a number of 'sanction packages', focused mainly on financial transactions, the freezing of Russian assets abroad and specific economic sectors, such as aviation, as well as many others (European Council 2023).

Yet, today, the EU has, at least publicly, shifted significantly in the direction of the first group of countries, which have always seen Russia as a direct, and lasting, threat not just to their security, but Europe's security as a whole. Voices demanding that 'Ukraine must win' have gained prominence whilst those seeking an end to the war as quickly as possible have become quieter. The EU has essentially decided that, for its own interests, as well as those of Ukraine, Ukraine must win (European Commission 2023).

To explain this shift, and what it means for the EU in both the short and long term, I will now introduce the conceptual framework of Human Systems Dynamics and the concept of coherence. I will argue that the EU has progressively shifted towards more coherence in response to the invasion of 2022 and that this coherence has allowed it to act more decisively. However, problems remain and there is a danger that this coherence

will not last to allow the EU to undertake serious long-term structural reforms in response to the new security environment that it finds itself in.

It is these issues that I will turn to now.

3. Conceptual framework: CDE model and the importance of coherence

What I, as a German, have been noticing since the beginning of the full-scale invasion of Ukraine is the number of questions regarding Germany's (initial) reluctance to provide arms and other military hardware to Ukraine and its reluctance to state clearly that it wants Ukraine to win this war.

Whilst I share these frustrations – which have been aired publicly, and repeatedly, by many East European leaders in particular, I argue that they are based on an incomplete reading of Germany's (or, for that matter, France's) particular circumstances (or, as the specialized literature calls it: local boundary conditions). To understand these, and how they impact, the EU's evolution in response to the invasion, we need a different conceptual framework: Complexity and Huan System Dynamics.

From a Complexity/HSD perspective, the war in Ukraine, for all its normative simplicity (there is clearly right and wrong here), and the EU's response to it, is clearly the expression of a deeply complex patterns of conditions. In other words, it can be characterized by:

- The presence within the system of a large number of elements;
- These elements interact in a rich manner, that is, any element in the system is influenced by, and influences, a large number of other elements.
- These interactions are often non-linear.
- There are multiple short feedback loops in the interactions.
- The openness of the system and its elements to their environment;
- These systems operate in a state far from equilibrium.
- These systems have a history.
- The elements of the system are ignorant of the behaviour of the system as a whole.
- (adapted from Geyer and Rihani 2010)

Eoyang (2010: 466) has defined problems with such characteristics as complex-adaptive, 'a collection of semi-autonomous agents with the freedom to act in unpredictable ways and whose interactions over time and space generate system-wide patterns.' As Edwards (2002: 17) observed, such systemic patterns 'have remarkable resilience in the face of efforts to change them.' This is partly due to the fact that the system's agents 'are constantly changing, as are the relationships between and amongst them' (Eoyang and Holladay 2013: 16-17). There is, then, significant *interdependence* not just between agents within a particular system, but between the individual agents and the system as a whole. The system as a whole self-organizes, self-organization here being defined as a process by which the internal interactions between agents and conditions of a system generate system-wide patterns (Eoyang 2001). Such a process

of self-organization is ongoing. In other words, it does not stop. The result is that Complex Adaptive Systems are both full of uncertainty *and* stability and resilience. There are constant changes, but similar effects.

To act in a system with such characteristics, Eoyang and Holladay (2013, 30) propose what they call 'Adaptive Action' as a way to exercise '[c]onscious influence over self-organizing patterns.' It permits 'seeing, understanding, and influencing the conditions that shape change in complex adaptive systems.' These conditions, as will be shown below, interact within a framework of fundamentally stable simple rules. In order to be able to do this, 'Adaptive Action' is based on three questions:

What?

The 'what' question identifies the current state of the process of self-organization, which, according to Eoyang (2001), is based on three conditions: elements which hold the system together (such as shared objectives), differences between the agents of the system which generate tensions that allow for change and channels through which these differences can be expressed (elements Eoyang (*ibid*) calls 'Containers', 'Differences' and 'Exchanges' (CDE)). These conditions are interdependent and influence each other across time and space and are the guiding factors to self-organization.

Questions that might be asked to reveal the current state of self-organization include: What do we see? What containers are the most relevant? What differences exist and what impact do they have? What exchanges are strongest and what are the weakest? What has changed and what has stayed the same and, critically, What do we want these patterns to look like in the future?

So, what (does it mean)?

The 'so, what' question tries to make sense of what has been observed. What do the patterns we observe mean for any possibility of action? Such a question is critical in that it generates options for action but also allows for the adaptation of action to different circumstances across time and space which, as will be further discussed below, is crucial in responding effectively to both the risk of disaster, as well as disasters themselves. In other words, the 'so what' question is crucial to make actions adaptable to the variable particular circumstances within which they have to be applied.

Questions might include: So, what does the current state mean to you, to me and to others? So, what does that mean for our ability to act? So, what options do we have for action? So, what option is best suited to the means I/we/they have available at this particular time in this particular context?

Now what (do we do)?

The 'now what' question, finally, allows for the taking of action having considered the current state of self-organization and its implications. Crucially, this question allows for the consideration of different actions across time and space. The focus is on what *can* and what *should* be done across time and space.

Questions may include: Now what will I/you/we/they do? Now what will be communicated to others? Now what will the results and the consequences be? Now what will be done in response to these results?

These three questions - what? So what? Now what? - can be applied at all levels of analysis across time and space. They allow for the identification of patterns that are scaled across the various levels of a Complex Adaptive System. Recognizing systemic patterns, in turn, greatly facilitates the taking of action as 'parts interact to generate emergent patterns while the patterns influence parts and their interactions. The result is a self-generating, self-organizing reality of human systems dynamics' (Eoyang and Holladay 2013, 18), based on the interdependence between the parts and the whole of the system.

In this particular case, they allow for the identification of the conditions and patterns that give rise to, and sustain, violence. As such, it is useful to define more precisely what we mean by conditions and patterns.

Conditions

Conditions are the elements of the social system which, individually and in interaction with one another, determine the speed, direction, and path of a social system as it evolves (i.e., self-organises) into the future. As stated above, there are three conditions which determine self-organisation: containers, differences, and exchanges (or connections).

Patterns

As these different conditions interact, they form patterns, here understood as the similarities, differences and connections that have meaning across time and space. In other words, patterns are the expression of the interaction between the three different conditions just outlined above (Eoyang and Holladay 2013: 30). The interesting thing, though, is that processers of self-organization often take place within a framework of often enduring systemic stability. As Eoyang and Holladay (2013, 17) put it, interactions 'simply change the conditions and relationships among the parts and the whole; they do not change the system in any fundamental way.'

This is crucial for identifying and addressing problems within social systems. It requires policymakers to ask the question what explains the persistence of patterns despite concerted efforts to change them?

It is critical to bear this question in mind when looking at the EU's response to the full-scale invasion of Ukraine. It is this that we shall turn to now.

4. The EU response – From incoherence to coherence

As shown, at the beginning of the full-scale invasion in February 2022, whilst there was widespread condemnation of Russia's actions, there were fundamental disagreements between EU member states about what this meant in practice. Whilst some, like France, launched into frenzied diplomatic activity, particularly with Russia,

to end the war as quickly as possible others, like Poland, were very clear that the war could, and should, only end with Russian defeat and Ukrainian victory. Others still, like Germany, talked about the fundamental transformation this war would bring about whilst, at the same time looking for a negotiated settlement and warning against 'escalation' of the war (Gehrke 2022).

These differences had the practical consequence of creating various exchanges both inside and outside the structures of the European Union itself. Onn the one hand, both the Council of the European Union and the Council of Ministers were hyperactive whilst, at the same time, various EU member states conducted their own national diplomacy which, in many cases, ran across each other. In simple terms, whilst the group of countries around Poland, trod a path to Kyiv to ascertain how they could help Ukraine, the French President was regularly travelling to Moscow to negotiate with President Putin. There were hence divergent paths.

The practical result of this was that, early on, the policy process at EU level was marked by a considerable degree of *incoherence*, here defined as the state of the system in which the parts of a (social) system do *not* fit together, making it impossible to establish system wide patterns (Eoyang 2001).

Therefore, what the organization initially produced in policy terms in response to the full invasion should not come as a great surprise: the organization imposed a series of packages of economic sanctions on Russia. At the time of writing, we are onto package number 11, targeting everything from the financial to the energy sector to people closely associated with Vladimir Putin, who saw their assets in Europe frozen (European Council 2023).

In many ways, these actions were of the type the EU is comfortable in taking and what was politically possible at the time without causing major internal divisions. It is possible to illustrate this pattern of conditions visually:

Figure 1:
CDE model-The EU's initial response to the full Russian invasion of Ukraine

Conditions for Self-organisation	
Container	Condemnation of Russian actions by EU and its member states
Difference	Objective of EU policies Policy approach towards Russia Best way to achieve policy objective
Exchange	European Council meetings European Commission Visits by political leaders to Moscow/Kyiv Public opinion
Emergent Behaviour	Incoherent: Deep divisions between member states; difficulty in developing policy

In many ways the interesting part of this story is what has happened since: Essentially, the EU, collectively, has shifted *not* towards the position of its two historic powerhouses, but towards the 'Ukraine must win' position. Not only that, but that position has been defended at EU institutional level by the leaders of those very institutions. This has, potentially, huge implications for the EU which go far beyond the war in Ukraine, but for which the EU needs to prepare *now* in order to avoid a significant internal crisis in the future.

During the year of the full Russian invasion of Ukraine, there have been a lot of internal arguments between EU member states about the depth and speed of the EU's response to the invasion. Most prominently, perhaps, has been Polish criticism of Germany's (initial) reluctance to provide military hardware, including its most advanced tanks, to Ukraine (Collis 2022). Yet, there is no doubt that, during this year, the EU has shifted significantly. This became most evident when the President of the European Commission – Ursula von der Leyen – stated publicly that 'Ukraine must win' (European Commission 2023). At the same time, the EU and its member states have significantly increased its provision of military hardware- including Germany's most modern tanks (Le Monde 2023). Finally, there have been no more visits by top EU officials or leaders of EU countries to Moscow. By contrast, the number of visits to Kyiv have increased significantly.

What has brought about this change? Whilst there are many reasons – and it is beyond the scope of this paper to go into all of them – five key developments stand out.

First, there has been a consistent, and persistent, push on the part of the first group of countries discussed at the start of this paper, to move the EU's position to an explicitly pro-Ukrainian position. This has been done both through diplomatic means but also through 'shaming' those EU member states who, according to this line of argument, have not moved 'fast enough' to recognize the reality of the war and what it means (Collis 2022).

This push has, secondly, been aided by public opinion within the European Union which has shown strong support for the argument that Russia, and only Russia, is to blame for this war and that, as such, Ukraine has a right to defend itself and should be aided in this effort (European Parliament 2023).

This leads to the third key factor, which is the political leadership provided by the leaders of the EU's institution. Here, the public posture adopted by Ursula von der Leyen as President of the European Commission, and Josep Borell, as Head of the European External Action Service can be considered critical since, between them, they have managed to align the EU as a whole behind this position. Interestingly, there has also been a division of labour between the two, with von der Leyen in her speeches consistently stressing the normative and moral dimension of the EU's response to the invasion (European Commission 2023). Meanwhile, Borell has been very clear in his public manifestations about the *practical* implications of the war for the EU and its member states, be it in the question of energy security, food security or the need for European strategic autonomy (European Union External Action Service 2023).

Fourthly, I do believe that the EU's shift is, at least in part, the consequence of an element of luck. Specifically, Europe had a comparatively mild winter 2022/23, which

meant that worries about energy shortages proved unfounded, which may have had a significant impact on public opinion.

Finally, and this has been widely pointed out by military analysts, Ukraine has shown that, with the support provided, it knows how to conduct a war and recapture territory. In other words, Ukraine has shown that, with the right support, it can fight its own wars and do so successfully, allowing Europe (and the United States, for that matter) to not have to think about crossing their crucial red line: the non-involvement in direct combat operations (Obrien 2023).

In combination, these factors allowed for the emergence of a much more coherent pattern of conditions which has allowed for quicker, and more coherent, decision-making at European level. We can visually demonstrate this as follows:

Figure 2: C
DE model-The EU's response to the full Russian invasion of Ukraine today

Conditions for Self-organisation	
Container	Ukraine must win The EU as a peace actor
Difference	Best way of achieving Ukrainian victory
Exchange	European Council meetings European Commission Visits by political leaders to Kyiv and Ukrainian leaders to EU Public opinion
Emergent Behaviour	More coherent: Clear container; few policy divisions, institutional leadership at EU level

5. What does this mean? The implications for the EU into the future

The short-term implications of this coherence, as described above, have been clear and relatively easy to identify. However, the implications go far beyond this and can, with the right actions, point to a longer-term change within the EU.

Critically, the invasion of Ukraine has finally forced the EU to face up to the 'mission' question which it has been steadfastly been avoiding ever since, at the very least, the conclusion of the Eastern enlargement process at the end of the first decade of the 21st century: What is the EU *for*? This is a question which, for many years, the EU has been unable to answer with any clarity. Whilst, for its global actions, the organization often *proclaimed* its normative credentials – particularly in its dealings with the developing world – in practice it has been, for the most part, a quite realist organization which defends and furthers its particular interests in a particular part of the world at a particular moment in time. In practical terms that has meant that, in many cases, the EU has been quite happy to ignore blatant abuses of its values by some leaders in the name of 'stability' (Lehmann 2016).

This has tied in with a second characteristic of the EU since the beginning of the 21st century: the avoidance of conflict in the name of political expediency. The EU has, on the whole, been loath to have conflicts, either internally or externally, if it meant one could 'muddle through' for a little bit longer. The European Sovereign Debt crisis is one classic example of this, but the organization's dealings with Putin's Russia are also clear evidence of this approach (Lehmann 2018).

It *seems*, at least, that this these contradictions and ambiguities, and the tensions they create, may finally be addressed. For the moment the EU, just like NATO, seems to have rediscovered its sense of mission. Von der Leyen, in particular, together with some member states, has succeeded in framing the EU's action for Ukraine in clear moral terms and in terms which define the EU, once again, as a peace actor, in many ways reaching back to its historic roots. There appears to be a moral clarity about what the EU is doing and why, which has been absent from the organization for many years. Critically this has allowed the EU to construct a clear (normative) Container to frame its policies for Ukraine and allowed it to act practically, i.e. through the provision of military hardware.

Longer-term, this normative clarity has meant that certain topics that were, at the very best, on the back burner have become 'live' again: For instance, the EU is now actively talking about what to do in the sphere of defence, security and foreign policy in much clearer terms than it was before. These areas have become critical to the very security and existence of (some of) its member states. These issues are no longer abstract and hypothetical, they are very, very real (European Union External Action Service 2022b).

Linked to this, the EU is once again seriously talking about enlargement. Not only are there several states, including Ukraine, which *want* to join the organization as a matter of urgency, the EU has, it seems, seen clearly how such a process is both a moral, and political, imperative. It would be, politically, unthinkable to pour in the resources that the EU and its member states have into a war which 'Ukraine must win' only to then shut the door on the country when it has won. The pressure from other East European countries will surely be too great for the EU as a whole to resist. Ukraine, as well as Moldova, for instance, will become an EU member in the foreseeable future.

Such process of enlargement will, then, almost inevitably, lead to pressure for reforms of both the EU's policy processes and policies. More broadly, the outcome of the war in Ukraine may well lead to a more permanent shift in the political dynamics within the organization. I would be very surprised if we didn't see, over the next 10 years, a much more prominent, and permanent, role for countries like Poland or Finland who will claim, with some justification, that they were 'right' when it came to Russia and should, therefore, be listened to when it comes to question of security and defines. It seems highly unlikely to me that they will simply slide into the background and stay quiet. We may well see a more permanent shift in power dynamics within the EU as a result of the invasion of Ukraine.

With all of this in mind, the question then become what the EU has to do to be prepared for these changes. This is what we will turn to now, in the final part of this paper.

6. Challenges ahead: Uncertainty in terms of war outcome and its own coherence. What needs to be done?

What I have argued so far is that, over the duration of the full-scale invasion of Ukraine, the EU's position has moved from quite incoherent to far more coherent. As a result, the EU's policies in response to the Russian invasion have become progressively bolder and clearer, both in practical and normative terms. This, finally, has opened up the possibility, one might argue the necessity, for future significant changes within the EU.

However, for these changes to occur without causing a major crisis certain things need to happen *now*.

On a practical level, the EU needs to *prepare for enlargement*. As ever, enlargement has political and processual implication which should be considered now. Informally, talks about the impact of enlargement on the treaties, decision-making processes etc. need to begin as soon as possible. Treaty changes are, in my view, as inevitable as enlargement itself.

With these talks, several possibilities might actually open up to strengthen the normative aspect of the EU treaties. If and when Ukraine is admitted to the EU, the organization will have to deal with its 'Hungary problem'. It seems, to me, inconceivable that the EU admit Ukraine but leave Hungary untouched, a fully-fledged member of the European Union, in receipt of financial benefits and with full voting rights within the Council. There have been some moves by the Commission to confront Hungary's slide into an authoritarian regime in recent months, but it is still moving too slowly and too cautiously. The EU has to decide what it stands for and will have to defend what it stands for not just to the rest of the world but also vis-à-vis its own member states.

A lot of these issues will obviously be influenced by what happens in Ukraine. Can Ukraine win the war and expel Russia from all its territory? Or, at least, can it have enough successes on the battlefield to make Russia want to negotiate? The EU should not only continue its support for Ukraine to bring such an outcome about but prepare for what follows afterwards now. I consider it highly likely that there will come a point, possibly still this year, when the call for some kind of negotiations will grow louder, following the long-awaited Ukraine offensive. This will, I suspect, cause some tensions and ruptures within the EU, with some countries pushing Ukraine to enter into negotiations with the invader.

In this respect, it is critical that the EU institutions hold the line and reinforce the line: Ukraine must win. The strategic argument about why this is the only good outcome for the EU must be made, over and over and over again, be it by the Commission, be it by the EEAS, be it by the Council or the member states. There cannot, and must not, be any ambiguity on this point, but this point needs to be 'sold', both internally and to the public at large.

These tasks, as well as others, are often cumbersome. They are difficult. They require clear communications, both in practical and normative terms. They have to

be undertaken in a context of extreme uncertainty and volatility. In other words, the hard-won coherence the EU is currently displaying, despite Hungary's best efforts, is fragile. But, as the last 15 months have shown, the establishment and maintenance of coherence has real practical impact and benefits for EU policymaking. The EU cannot, and must not, throw them away.

7. Conclusions

In this brief paper I have used the HSD framework to trace how the EU's response to the full-scale Russian invasion of Ukraine has evolved from incoherence to coherence over 15 months. It has also been shown that this coherence has allowed the EU to act far more decisively in pursuit of a, now, clearly defined goal: Ukrainian victory. This, in turn, has opened up significant opportunities for the EU to 'return to its roots' of being an organization with strong normative principles which is, above all, dedicated to peace and security for, and between, its member states. The EU, therefore, could recover something essential which it has lost for a couple of decades now: an overarching purpose.

Yet, to be able to do so, and sustain current coherence, it has to prepare for a series of difficult scenarios now: Europe in a post-war scenario, quite possibly with a defeated Russia on its doorstep. An enlarging EU, taking in states with enormous needs. The need to reform treaties in light of enlargement. The need to reform its policies, particularly as they pertain to external, defence and security policies.

The task is daunting, but the scenario is currently favourable. Just like NATO, the war has the chance to give the EU back its 'sense of mission'. It should make the most of this moment and do it now.

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PARLIAMENTARISATION AND POLITISATION OF THE EUROPEAN UNION IN THE LIGHT OF THE RISE OF EUROSCEPTICISM

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Abstract

Over the last decade, two concepts have gradually come into focus of the European integration studies. The first is related to the 'politicisation of the EU' - a complex theory that aims to link a number of political and public issues underlying the growing contradictions of multi-level decision-making in the EU. The second line of analysis concerns the 'parliamentarisation' of the EU, referring to the changing institutional role of the European Parliament and its interaction with member state legislatures.

The main thesis of this paper is that we need to consider parliamentarisation as a salient but yet insufficient component of a broader process of politicisation. This goes far beyond the standard theoretical concepts and urges a new reading of the consequences, connected to this reality, contributing to a more complete understanding of the EU decision-making process and increasing its legitimacy and transparency in the context of crises, the new role of the European Parliament and growing Euroscepticism.

Keywords: European Union, European Parliament, parliamentarisation, politisation, euroscepticism

1. Introduction

Central place in the debate on the political system of the European Union is undoubtedly „occupied“ by the capacity of European Union to deal with crises of different nature. For the past 20 years, the EU has indeed been in a constant state of crisis and crisis management. This we must not forget in any way, as the crisis are usually the ones that modify the structure of the EU on many levels.

First – as with the national level of government – they tend to favour the executive power, as they require quick, decisive and often unpopular decisions. The need for urgent actions is not favourable for the legislative body - therefore for the parliaments - as well as for adequate, timely and constructive inter-institutional interaction.

Second, at the EU level the phenomenon is even more obvious, since the European Council is the only institution capable of acting, even when the EU lacks clear

competences, by developing ad hoc intergovernmental instruments. Crises have an impact on the functioning of institutions, as was the case with the Covid-19 pandemic. All institutions had to urgently agree on new ways of organising remote work and perfect the necessary digital tools.

Even here, the effect has been rather asymmetric, as the pandemic posed a greater challenge to the 705-member European Parliament than to the College of Commissioners, the Council of the European Union or the European Council, all made up of a limited number of key players.

The need to make urgent decisions in a very restrictive context seriously challenges the democratic legitimacy of policy-making processes. This not only gives a kind of superiority to the executive bodies (the European Commission and the Council) over the legislative ones (the Parliament, together with the Council)[1]; but it profoundly affects the functioning of institutions.

Decision-making becomes much more centralised and opaque, neglecting to some extent the principles of openness, transparency, deliberation and accountability. The Conference on the Future of Europe precisely highlighted these challenges and discussed ways to improve the EU's capacity to act quickly and efficiently in its areas of competence – and even in others – as well as to increase the democratic legitimacy of EU decision-making procedures, especially by improving citizens' participation.

This key task implies clarifying the current 'state of affairs' within the EU, which is guided by three different decision-making logics: the community method, the intergovernmental and the parliamentary approach.

Currently, the EU's institutional system is still based on the one created by the Treaty of Paris in 1951. It is 'sui generis' in that it is the only one of its kind, and does not in any way reproduce an already existing model.

Determining the EU's overall action, developing, and maintaining its policies involves three main institutions: The Commission, the EP and the Council. The Commission is the EU's executive branch. It must act in the European „common interest" and be completely independent of the member states, but accountable to the parliament. Parliament has a leading role in adopting EU legislation. It also adopts and manages the EU budget and ensures that EU law is properly applied.

2. Parliamentarisation of the EU as a factor of stability

Parliamentarisation is a concept that is increasingly influencing EU decision-making and the Community approach. Initially, in the early 1970s, it was the result of growing concerns about the democratic deficit and legitimacy of the European project. In 1976, the leaders of the member states agreed on direct elections of parliament - as the members of the EP requested this since the beginning of the 1960s of the last century. After the first direct elections in 1979, the EP quite naturally sought new powers, as the only institution that is constituted by the direct will of the citizens.

[1] In the institutional structure of the EU the Council has both legislative and executive functions

In reality, the reforms of the founding treaties never intended to completely transform the institutional model of the European Communities. They are rather focused on overcoming the democratic deficit by streamlining the institutional system and clarifying its underlying goals and values. However, there is a cumulative effect over time that we can define as gradual and continuous „parliamentarisation“: increased powers and influence of Parliament; European citizenship; strengthening European political parties; tying the composition of the Commission to the results of the EP elections, etc.

Since the 1980s, the parliamentary model has been an implicit reference to treaty reforms. The Treaty of Lisbon confirms this trend by providing that the functioning of the Union be based on representative democracy and establishing the concept of dual representation of citizens within the Parliament, on the one hand, and the Council and the European Council, on the other.

This evolution is defined by two theories. The first is post-functionalism: it aims to integrate recent developments in European integration and strive to combat growing Euroscepticism[2]. It highlights the growing tension that exists between the need for deepening European integration declared by the EU and national leaders and the concerns that integration raises among citizens. This is especially because of the austerity policies that is increasingly imposed in the future.[3]

Political integration brings together a number of sensitive issues – such as defence, justice, migration, health care and taxation. The debates they spawn address fundamental issues such as religion, culture, sovereignty and identity. In this way, the EU's actions create strong political divisions both domestically and at the European level.

To make sense of the relationship between European integration and national political systems, the concept of „Europeanisation“ is often used, defined as „a gradual process changing the direction and form of politics to the extent that the political and economic dynamics of the EU become part of the organisational logic of national politics and policymaking“[4].

When the object of Europeanisation is the national parliamentary system, some authors argue about the degree of „parliamentarisation“ of the EU. It often defines parliamentarisation as the more active participation of parliaments in controlling and shaping regional and global governance. In this case, 'more active participation' refers to the institutional capacity to participate in the shaping and control of governance) as well as to the actual practice of shaping policy, in terms of control, coordination or communication. These „institutional“ reactions, on the one hand, and „attitudinal“ and „behavioural“ reactions on the other, are elements of the Europeanisation of national parliaments.

Some authors comment on the opposite process - deparliamentarisation of the EU: a diminishing and eroding role of national parliaments, which are increasingly unable to carry out European governance[5].

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[2] Hooghe & Marks, 2018

[3] Hobolt, De Vries, 2016

[4] Rozenberg, Hefftler, 2016

[5] Raunio, 2009

The main argument is that national parliaments are either not interested in dealing with EU issues or do not know how to do it effectively. However, other studies argue that national parliaments are actively beginning to „fight back" by adapting institutionally to meet the challenges of European integration.[6]

One approach is to form special committees on European affairs so that they are in a better position to monitor their governments. A consensus is emerging on the issue that national institutions have made significant efforts to cope with the Union's requirements. National parliaments are now, at least most of them, in a much stronger position to control their governments than they were in the 1990s. Several provisions in the Treaty of Lisbon regarding national parliaments (such as the creation of the so-called „early warning system") further reinforce this development of institutional parliamentarisation.

Therefore, the more important question is whether national parliaments actually use these provisions to entrench themselves in the EU's multi-level system[7]. In fact, institutional possibilities remain hypothetical. In order to analyse the parliamentarisation of the EU, it is necessary to take into consideration:

- the attitudes and roles of members of parliament
- their EU-related behaviour and activities over an extended period of time.

Changes in attitudes and conceptions of MPs' roles may lead to an increased willingness to actively participate in 'policymaking' at the EU level or to seek accountability from government.

It is logical to turn to traditional parliamentary functions to see how they have developed in the European context: electing governments, passing legislation, controlling the executive, communication with citizens. The focus falls on the control functions of parliaments, and increasingly on the communication function. There can be little doubt that effective democracy increasingly depends on effective communication with voters. When it comes to parliamentary control and oversight, the main conclusion is about time and country differentiation.

The communication function has come into focus in the last ten years. The quality of democracy depends on an active and focused public debate in which citizens are given political alternatives in order to make the most informed choice. That is why national parliaments are in a unique position to 'translate' EU policies, to 'bring the EU home' and explain in accessible language its aims, values and tasks.

National parliaments can significantly contribute to the democratic legitimacy of the EU and the European political system as a whole. However, while it is theoretically true that „national parliaments provide a large space for public debate and are therefore ideal arenas for discussing important European issues"[8], we do not have enough empirical knowledge about whether they really do. National parliaments can play this role in different ways: informing citizens, asking parliamentary questions or making transcripts of meetings publicly available.

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6 Raunio, Hix, 2000

7 Gheyle, 2019

8 Auel, Kinski, 2018

However, a major role is meant for the plenary debates. The plenary hall is a very good forum for defending specific positions on various European issues. The role of the media is also key here, to direct the attention of citizens to these debates and make them visible.

In a special study devoted to the communication role of national parliaments, Auel and Raunio (2014) summarise that, generally speaking, national parliaments „do not seem to be up to the task of bringing 'Europe' closer to citizens or enabling them to make an informed political choice and exercise democratic control over EU affairs'. Especially in the plenary debates, the EU remains a „rare guest". Although some institutional indicators seem important (such as the protection of fundamental rights, or the existence of a „working" rather than a „speaking" parliament), intra-party struggles and efforts to attract voters take centre stage in the debates. Often the criterion of „public significance" reappears in analyses of the communication function, „disguised" in a variety of topics. The process of institutional parliamentarisation of the EU is definitely happening, while raising a number of questions related to the existence of different models of this concept.

3. Politisation of European integration

Over the past 10 years, the so-called „permissive consensus" regarding European integration has finally ended. Both declining approval and growing Euroscepticism are gradually becoming inseparable components of contemporary social and political life. This has profound consequences for European integration and its democratic functioning. On the one hand, the fact that the public is already „watching more closely" the actions of elites and that the EU has become an integral part of politics has a limiting effect on further integration.

On the other hand, this same process has serious democratising potential, because debates on European topics provide citizens with alternatives, different points of view and opportunities – all being elements of good governance[9].

The politicisation of European integration undoubtedly has a profound impact on further European (dis)integration, making it a key research topic for years to come. From an academic point of view, the first tasks are therefore to conceptualise the phenomenon of politicisation and its relation to 'politics', as well as to analyse its various manifestations. From a conceptual point of view, politicisation implies „turning an issue into politics", combining the visible and contested aspects of the „political"[10].

The main idea is that the EU, its policies and decisions, are discussed and no longer escape the attention of the wider public. This means that the usually executive-led process of European integration is no longer taken for granted and is often the victim of heated and public debate. De Wilde (2014) in turn defines politicisation as „increasing the polarisation of opinions, interests or values and the extent to which they are publicly advanced towards the policy formulation process within the EU".

[9] Statham, Trenz, 2015

[10] Palonen, Wiesner, Selk, Kauppi, 2019

The broad scope of this definition gives rise to a debate about how to „measure“ and make sense of politicisation, particularly in terms of the manifestations it entails. It is about the ways in which the phenomenon becomes visible to researchers to study its existence and degree of development.

Some authors argue that politicisation consists of three main elements: salience of the specific topic, influence of the holder of executive powers and degree of polarisation of opinions [11]. Nevertheless, the different interpretations that can arise from these terms lead to two leading approaches to analysing politicisation: as a purely (or primarily) discursive concept, or as a much more comprehensive phenomenon.

In the first, widespread approach, politicisation is as an essentially discursive phenomenon, based on political communication. With this approach, it is not enough for the participants to be aware or to be able to form opinions, but the topic must become a leading one for political communication and influence the making of one or another decision. The focus is on „communicative processes that lead to the increasing intensity and contradictions of debates“ [12].

When we talk about politicisation from this point of view, we have to keep in mind the existence of two main prerequisites:

- executive agents are present and they raise issues
- questions are public and become public knowledge.

Politicisation does not happen automatically but is based on public or political actors seeking publicity and interaction with a wider audience. The place where these discursive interventions can take place - and therefore, we can see evidence of politicisation - is in these spaces of public debate in which it can actively unfold. Parliaments, the media, 'the streets', assemblies or scientific conferences fit this description. This is also the reason why some researchers classify three types of spaces in which we can find and study politicisation: institutional, mediating and civil environments[13].

The institutional environment consists mainly of the parliaments of the member states, where the people's representatives participate in political debate on issues on the EU agenda. Therefore, the length and dynamics of parliamentary debates or the polarisation between different parties on EU main policies are sometimes used as indicators of politicisation. The second so-called an intermediary environment serves as a link between political decision-making and representatives of civil society. With their ever-widening reach and centrality in modern democracies, mass media and social networks serve as a site for studying politicisation[14]. This is due to the structural barriers, such as language differences or nationally structured media systems, still hinder pan-European debates. For this reason, it is argued that multiple institutional variables lead to a „differentiated politicisation of European governance, where patterns vary widely“[15].

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[11] De Wilde, 2023

[12] Schmidtke, 2014

[13] Baglioni, Hurrelmann, 2016

[14] Gheyle, 2019

[15] De Wilde, Lord, 2016

According to another approach, politicisation implies much more than public debate or political communication[16]. Changing attitudes and perceptions about the EU and its policies, various activities such as lobbying, coalition formation, voting trends, parliamentary control over European issues in this sense are also evidence of its deepening politicisation.

The parliamentary communication function logically overlaps with political communication in the institutional environment. Increased parliamentary scrutiny of the EU is less visible to the general public, but it is a political activity anyway. Even MPs' growing awareness of their role in multi-level policymaking or of the importance of a particular EU policy can be seen as evidence of politicisation (in the broader approach).

In summary, the different types of EU parliamentarisation can be conceptualised as necessary but insufficient components of a broader politicisation dynamic. This means that choosing a narrow or broad approach to politicisation is important for assessing the relationship between parliamentarisation and politicisation.

In the broad approach, parliamentarisation of attitudes and the control aspect of behavioural parliamentarisation can be defined as concrete manifestations of EU politicisation. While this clearly has its advantages for analysing longer-term dynamics in the multi-level EU polity, it can also lead to contradictory trends.

Institutional parliamentarisation and related control functions may also lead to increased bureaucratisation and depoliticisation, as tighter control practices might favour bureaucrats at the expense of more visible and active policy discussions in the plenary. For this and other reasons, it is more useful to think of politicisation in the narrow view set out above, as a primarily discursive concept. This limited approach is also better suited to dealing with short-term politicisation concepts, as is the case when we focus on EU policy analysis. It also clarifies the relationship between (the communicative aspect of) behavioural parliamentarisation and politicisation. It is visible, polarised, parliamentary communication (most often observed in plenary debates) that is considered a component of the wider (discursive) politicisation of an EU issue.

In addition to theoretical and analytical reasons, there are also purely normative considerations that justify the closer relationship between behavioural parliamentarisation and politicisation. Both politicisation and parliamentarisation imply a normative, democratic component: widespread public debate and the concrete translation of this in parliament are considered a constitutive force of democratisation. Here again, however, it seems insufficiently justified to suppose that these far-reaching beneficial results are the result of only their partial manifestations. For national parliamentary debates, this is relatively clear: if parliamentary debates do not resonate beyond the legislature, it is quite difficult for the public to even realise that they have taken place.

As Auel succinctly puts it: „Despite the remarkable increase in parliamentary involvement in EU affairs, the added value in terms of democratic legitimacy will remain limited if citizens are not aware of these activities"[17]. Social media may play

[16] Hooghe, Marks, 2009

[17] Auel, Eisele, Kinski, 2018

an important role, but mainstream media remains the main channel for promoting these debates to the wider public.

What deliberative, normative implications might debates have for and between foreign or European actors, making EU topics seem distant, or as if they are played out between others rather than concerning us? Arguably, what matters is the relationship between the deliberative process of opinion-making and the decision-making level.[18]

MEPs and the Parliament as a whole play a fundamental role in increasing the resonance of this public debate, as well as in making the implementers more accountable. External debates (as European issues are often perceived) need internal translation or they could sink into the already complex public sphere. What is lacking is not democracy at the EU level, but a sufficiently sustainable connection between the European and national level.

However, normalisation means discussion of alternative EU policies by non-Eurosceptic parties, in line with their characteristic ideological commitments. It is necessary to analyse parliamentarisation and politicisation together because it helps us to achieve a more adequate understanding of the two complex processes. This means, first of all, identifying the conditions under which a spillover from broader public to parliamentary debates occurs (or vice versa).

Several variables have already been mentioned but not put into a common framework due to the separate development of these strands in the literature. When it comes to the conditions generally considered necessary for political parties to openly communicate on EU issues, four variables stand out:

- the problem must be important and salient;
- the party's position must be in line with the voters;
- the party must be internally united on the subject;
- debaters must take alternative positions[19] (Miklin, 2014: 84)

Interestingly, the transition from parliamentary to wider public discussions (eg. mass media) is based on precisely such considerations.

The media is certainly interested in parliamentary debates on EU issues, but first of all such events must actually take place. Therefore, political parties and people's representatives are key players in this process. However, there are a range of trade-offs before MPs that influence their decisions to bring European issues to the fore, take opposing positions and try to influence the outcomes of the Union's policies.

It is important to pay attention not only to whether plenary debates are held or there is political communication on European issues, but also what is the main motivation to do so and when MPs tend to abstain. The reasons can be diverse – party specifics, ideology, whether they are in power or opposition, but also with perceptions of the division of roles with the European Parliament or issue-specific variables such as distinctions between distributive, regulatory or foreign policy issues. Parties can, of course, react to socially relevant topics, which means that we also

[18] Papadopoulos, 2013

[19] Miklin, 2014

need to consider how public debate expands from initial discursive interventions to its entry into legislatures.

4. Conclusion

Parliamentarisation and politicisation of the EU are two related processes. The key point is that we should see parliamentarisation as a necessary but still insufficient component of a broader concept of politicisation, rather than as separate processes that influence each other.

The dynamics between these different levels is complex, even without questioning how a multi-level politicisation would look like. Civil society is also a key factor in the unfolding of politicisation. Topics of social and political life, which are discussed simultaneously in the parliament and in the mass media, quite logically fall into the focus of attention of the voters. The integration of citizens' attitudes, along with the media and debates in the legislative body, not only helps to understand the depth of politicisation, but also shows that these processes have their own specifics in every EU member state.

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„EUROPEANIZING“ THE EUROPEAN ELECTIONS.

THE CASE FOR A PAN-EUROPEAN CONSTITUENCY IN THE CONTEXT OF THE EUROPEAN PUBLIC SPHERE DEBATE

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Abstract

The European Union today is facing multiple challenges with long-term economic, but also societal effects, which require unity and solidarity more than ever to safeguard common European interests, but also pragmatic approaches to consider and respect Member States' diversity. However, worrying trends show that democracy is sliding in some EU Member States, while radicalisation, disinformation and populism is reshaping the political landscape in practically all countries. The paper explores the role of the public sphere is shaping democracy and legitimacy of the supranational institutions and processes of European integration at times of crisis. The analysis draws from the theoretical research on public spheres and the European Union context in particular (Habermas, Risse, Eriksen and Fossum) to emphasize the role of unconstrained debate and democratic discussion for the formation of broader public consensus on key EU integration issues. From this theoretical perspective, the recent initiative (2022) by European Parliament to revisit EU's election laws and to establish a pan-European constituency, is analysed. The paper ends with discussion on whether such developments can be a step towards bringing the EU closer to a true parliamentary democracy and solving some of the transparency and accountability challenges faced by the Union, and what the main current challenges are.

Key words: public sphere, EU, elections, constituency, transnational lists

1. Introduction

Europe today is facing multiple challenges with long-term economic, but also societal effect for the future of the continent – the difficult recovery from the Covid-pandemic, the Russian invasion of Ukraine, refugee and migrant pressures, need for systemic restructuring of economic and social systems in the context of the digital transformation and worsening demographics, climate change and other major issues. Those challenges require unity and solidarity more than ever to safeguard common European interests, but also require pragmatic approaches to consider and respect Member States' diversity. A unified EU at the face of current geopolitical and socio-

economic odds requires strengthened respect for democracy, individual rights and freedoms and the rule of law as core European values among all EU members.

However, worrying trends show that democracy is sliding in some EU Member States, while radicalisation, disinformation and populism is reshaping the political landscape in practically all countries. Contemporary populism is now deeply rooted in many European societies, transforming party systems and changing the foundations of European democracies. Populism in Europe becomes an important component of EU politics with European populists ever more interested in influencing the political process in the EU and its institutions from within[1].

Europe is also becoming increasingly vulnerable to disinformation – a phenomenon which is not so much a threat from outside but rather „an internal reality"[2]. The distinction between foreign and domestic disinformation is becoming ever more blurred across the EU as messages serve diverse stakeholders across national borders[3]. And while the debate on disinformation in the EU often focuses on external state actors such as Russia and China, or on transnational networks of conspiracy theorists, internal sources of disinformation such as political parties and national government are often left unnoticed. Increased centralisation and/or state capture, censorship in key media sources and attacks against independent media threaten European media pluralism[4].

The above challenges must be interpreted in the context of declining trust in institutions in EU, despite lower unemployment rates and the phasing out of pandemic restrictions. According to Eurofound, recorded trust in institutions such as national governments, the EU, the police and news media has deteriorated across the European Union over the past few years, with those who previously expressed higher trust levels, such as those in financially secure positions, now becoming less trusting. Declines in trust are being driven, in part, by the spread of misinformation on social media, and take place in the context of high levels of inflation, rising energy costs and increasingly difficult economic circumstances[5].

This paper will look at the challenges of strengthening public trust and engagement with the EU from the perspective of participation and debate as means for countering populism and disinformation. We will first review the key dimensions of the theoretical debate on the EU as „discursive interaction"[6]. It proceeds as follows: the first part investigates the main dimensions of the discussion on EU democratic legitimacy from the perspective of the public sphere theories. The next part of the paper focuses on a recent initiative at EU level – a legislative initiative report adopted by the European Parliament in 2022, proposing to repeal the 1976 European Electoral Act and replace it with a new Council regulation on the election of the Members of the European Parliament by direct universal suffrage. The political, legal and societal dimensions of the proposal will be presented. The paper will conclude with a discussion on whether these developments

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1 Lazar, 2021
2 Colomina, 2019
3 Véritер, 2021
4 Heinrich-Böll-Stiftung, 2021
5 Eurofound, 2022
6 Risse 2000, Weiler, 2000

can be a step towards making the EU a true parliamentary democracy and solving some of the transparency and accountability challenges faced by the Union.

2. EU Democratic Legitimacy from the Perspective of the Theoretical Discussion on the European Public Sphere

The discussions of the European democratic deficit dilemmas have always been interpreted – among other paradigmatic approaches – through the lens of the ***public sphere theories/deliberative theories***[7]. According to E. Eriksen „the development of post-national democracy in Europe depends not merely on rights but also on the emergence of an overarching communicative space that functions as a public sphere"[8]. The public sphere is seen as a condition for realization of the public sovereignty, as it gives each individual the right to participate in the public debate without any restrictions regarding topics, participants, time and resources. The public sphere is the communicative space, guaranteed by individual rights and liberties such as the freedom of speech and association, in which problems and issues are uncovered, presented, but also thematised, relived, re-experienced and voiced in the form of opinions and wills. Decision-makers are accountable for taking those opinions and wills into consideration and for transforming them into political action[9].

According to Jürgen Habermas, solving the legitimacy deficits of the EU is not possible in the absence of a public sphere of a European scale – defined as a network/nexus which provides citizens of all Member States with equal opportunities for participation in a large-scale process of focused political communication. The European public sphere, according to Habermas, should not be seen merely as a projection of familiar formats from the national to the European level. It should rather emerge from the mutual opening of the existing national public spheres towards one another, leading to mutual penetration of translatable national communications[10].

Thomas Risse outlines the concrete dimensions of a European public sphere in the process of formation, beyond the national ones. His view is that we can speak of a EU-wide public sphere if and when European discuss the same European issues at the same time and at similar levels of attention in the contexts of the national public spheres and media; if and when similar frames of reference, meaning structures and patterns of interpretation are used across national public spheres and media; if and when a transnational community of communication emerges, in which speakers and listeners recognize each other as legitimate participants in a common discourse. Each of the mentioned factors is a social construct, developed through discursive practices[11]. But if the existing empirical practices of the European public sphere are interpreted through the above conditions, according to Risse, European do not talk about Europe too often, but if they do, they establish a community of communication across borders. The issues of European integration are penetrating national

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7 Habermas 2001, van de Steeg 2002, Risse 2003, Eriksen & Fossum 2002, Trenz & Eder 2004

8 Eriksen, 2009

9 Eriksen & Fossum, 2002

10 Habermas, 2001

11 Risse, 2003

communications remarkably quickly, with shared reference frameworks taking shape, and shared integration challenges becoming salient among the different national publics. The media, which cover EU subjects, also do not dramatically differ in the interpretative frameworks used from one national public sphere to another. According to Risse these trends have clear effects on the policy level. Many political and business leaders may believe that controversial issues endanger the European unity and so the elite consensus should be maintained, however according to the author contestation and politization are constitutive for a democratic polity therefore the salience of European issues and shared challenges should not be discouraged, but actively promoted by both European and national institutions and actors[12].

Other theories of the public sphere however offer a „fundamental critique of the deliberative public sphere model"[13], confronting the deliberative theory's disregard for antagonism in its conceptualisation of the public sphere[14]. According to the ***agonistic*** theorists (from Greek, agon, „struggle"), conflicts within the political systems should be given due voice and inclusion of adversaries and conflicts is to be done by institutions like political parties and by building institutions like those of the European Union that are capable of such transformation[15]. The role of the public processes and institutional settings is to „bring together multiple conflicting interests, take account of power relations, and achieve a consensus, moral compromise, or resolution"[16].

Yet other perspectives on the European public sphere build upon Rokkan's ***cleavage theory*** (1970, 1975) and define it as a composite architecture of communicative networks of ideological groups structured around Europe-wide political cleavages[17]. Sicakkan and Heiberger point out that since the 90s many authors have considered EU integration processes from a cleavage perspective: the cleavage opposing the new middle-class winners of the transformation of Western European societies to the group of losers of this process[18]; Europe as part of a larger cultural conflict[19]; European integration as a constitutional revolution[20]; transnational cleavage of libertarian, universalistic values against the defence of nationalism and particularism[21].

Whichever way one looks at the prospects for development of a truly European public sphere – whether focusing on perspective of deliberation and communicative action, or emphasizing conflict and the role of existing and emerging cleavages – the uniting argument remains that the development of supranational democracy in Europe depends on the development of a communicative space which can function as a public sphere, a pan-European discourse[22], a viable public sphere in which unconstrained

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12 Risse, 2003
13 Sicakkan & Heiberger, 2022
14 Mouffe 1999, 2007; Crowder 2013
15 Sicakkan & Heiberger 2022, Mouffe 2012
16 Motion, 2005
17 Sicakkan & Heiberger, 2022
18 Kriesi, 1998
19 Evans, 1999
20 Marks & Wilson, 2000
21 Golder 2016; Höglinger, 2016
22 Eriksen, 2005

debate, analysis and criticism of the political order can take place[23]. As democratic politics are moving beyond the nation-state[24]), the so called „permissive consensus"[25] which largely accompanied the process of integration since its inception, is no longer a sufficient framework for public support. The European project cannot draw legitimacy from its capacity for effective problem-solving. Moreover, in an increasingly complex global scene, its capacity to solve complex problems effectively will be ever more challenged, particularly when faced with multiple crises, many of which have no unifying solution effective for all Member States and societal groups.

The integration process has reached a turning point when its legitimacy deficits can only be successfully addressed by increasing – not decreasing or mediating – politicisation and political contestation of proposed solutions. EU policy and politics need to become more politicized – issues need to become more salient, public opinion needs to become more polarised, and actors and audiences need to develop greater ownership on European governance, thus strengthening the European political sphere as the foundation for democratic and legitimate decision-making.

In the next section, we will review in more detail the initiative for common EU electoral rules and transnational lists for MEPs and how this can contribute to solving the above challenge.

3. Europeanizing the Elections: Towards a Pan-European Constituency

The European Parliament elections determine the representatives of European citizens at EU level, but the process according to which they are organised is largely decided at national level and rules differ in many aspects. For example, EU countries vote on different days, only national political parties appear on the ballots and voting age varies.

The establishment of ***trans-national lists*** for the European elections has been among the main contentious points in the debate for reform of EU electoral law. Although the idea had seemed Utopian for a long time, in the late 90s there was some progress made with the European Commission strongly backing up the proposal[26]. However, it was not included in the proposal for European Constitution in the early 2000s, which itself was never ratified. More than a decade later, in the context of Brexit and the vacated seats of the British MEPs, French President E. Macron put forward a proposal that starting with the 2019 elections, transnational lists can be created that allow Europeans to vote for a consistent common project. Yet the proposal for transnational lists prior to the 2019 European elections did not receive support from EU heads of state and government. At a meeting in February 2018, they decided to review the issue at a later stage „with a view to the 2024 elections".

After the European elections in 2019, the Committee on Constitutional Affairs, AFCO, resumed work on the idea, this time based on a detailed proposal. Series of amendments were made, and in July 2021 the Committee approved the proposal and

[23] Fossum & Schlesinger, 2007
[24] Conrad, 2009
[25] Lindberg & Scheingold, 1970
[26] Crego, 2021

submitted it to the plenary. The proposal was adopted on 3 May 2022 by a sufficient majority of 323 votes to 262.

The proposal foresees that the EU-wide constituency has 28 MEPs, elected through a closed-list-proportional system (seats allocated to lists in proportion to the votes cast on them). In order to guarantee the trans-national character of the lists, each of them shall be formally supported by parties or movements significantly present in at least 7 member states. The election of candidates from smaller member states is also guaranteed – 3 groups of member states are formed according to the size of their population, and each sequence of three candidates on each list must contain one candidate from each group.

The idea of the so-called ***Spitzenkandidaten*** should be discussed when the concept of pan-European constituency is concerned, as the *Spitzenkandidaten* was indeed one of the two most prominent proposals for „Europeanization" of the EU elections and parliamentary system. The aim of the proposal was to promote an open contest for the position of Commission President. It was believed that if rival candidates were openly presented and publicly visible, they would be „suitable vehicles to better aggregate and present the political programs of the European parties, to focus political attention towards the levels of EU politics, and to inject a dose of politicisation into the election contests" [27]. However, the lead candidate process is insufficiently embedded in the Treaty of the EU and hence has weak legal foundation. So, despite some success in 2014, the process was rigorously opposed by the Council in 2019 and was thereafter left behind. Thus, the new initiative for trans-national lists, adopted in May 2022 makes numerous references to the idea of Spitzenkandidaten, but it does not stipulate that the leader of the winning list is to be elected President of the Commission.

What is the significance of these developments and what effects for EU democracy and legitimacy should be expected? The adoption of the proposal for a Union-wide constituency by the European Parliament is no small step forward, but there is still a long road ahead. The proposal must be unanimously approved by the European Council, amendments may be made which then need to be agreed upon by the EP. And it must subsequently be ratified in all Member States.

Despite remaining procedural challenges, the achieved majority in support of the proposal, reached in the Parliament, is of significance and can signal growing (albeit still insufficient) political consensus for the idea. An effective representative democracy requires an arena for political debate and contestation and the political realization of the outcomes of this debate in the form of electoral decisions. To this end, the boundaries of *electoral space and demos* must overlap. The Union-wide constituency has the potential to strengthen the European public sphere while in turn the emerging European public sphere will galvanize the pan-European election debate. As the Parliament stipulates in its motives for the proposal, „the voter turnout registered in the 2019 European elections was the highest of any elections to the European Parliament in the last 20 years (...).the participation rate hides existing wide disparities between Member States, [nevertheless] the increased turnout is a positive signal and shows that citizens, and in particular the youngest voters are taking an increasing interest in the development of integration[28]".

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[27] Auel & Tiemann, 2020

[28] Eurobarometer, 2021

Given the fact that still only half of the Union citizens took part in the 2019 vote, efforts must be made to increase citizen's interest in European issues and voter participation. According to the EP, the trend of a growing voter turnout can be improved if the connection and accountability between voters and candidates is strengthened and the Union-wide dimension is fostered. Notably, the proposal specifically includes a recommendation to establish a European public sphere within which deliberative, representative, and participatory democracies are clearly defined like rights and responsibilities.

We are yet to see the development of the process, heading towards the 2024 elections. However, it is already clear that if finally adopted, it will allow headway in tackling two key challenges – electoral law fragmentation in the 27 member states (by ensuring more uniform rules) and the stronger emancipation of the European elections form the narrowly focused national debates (through the Union-wide constituency).

4. Discussion

The proposed electoral measures may have significant effects towards the strengthening of the European public sphere. Allowing citizens to vote for transnational lists by creating a joint European constituency for the European elections is an important step towards a stronger public and political debate on the key issues faced by Europe today.

However, several challenges need to be considered.

Firstly, ***institutional changes take time,*** and their effects may be delayed or weakened due to occurring circumstances of international or internal nature. As the authors of an important study on the topic „Europeanising European Public Spheres", commissioned by the AFCO Committee of the European Parliament, note, „institutional reforms and innovations take time to fully unfold their effects, especially if not based on clear legal or constitutional rules. As the fate of the Spitzenkandidaten process illustrates, until they do, they remain vulnerable and can easily be undermined"[29]. But the challenges to EU democracy and accountability are very real and the public discourse vis-a-vis the EU integration is becoming easily contested and polarized, particularly in times of global challenges and instabilities. The European democracy needs quality public discourses that form basis for political mobilization for the values and principles that the EU stands behind, and it needs those now.

Secondly, ***changing the rules of the game is often more realistic*** than changing the substantive content of the game, so EU political elites may find it easier to reform electoral procedures but more difficult to achieve qualitative transformation of the nature and content of the public and political discussion in the Union. Nevertheless, „electoral engineering" should not remain the sole purpose of the proposed amendments. They should be preceded and followed by the necessary formats for public discussions and mobilizations towards collective action at EU level. European politics and policies are increasingly becoming the subject of public debate, which is an important corrective to the expert-technocratic decision-making, but as Rauh (2015) warns, discussion alone does not make a supranational democracy. It is about the quality of the discussion, but also about the institutional and policy response stemming from it – the communicative action that follows. European publics, alongside the

[29] Auel & Tiemann, 2020

institutions of the supranational and national levels need to find an institutional response to the new public attention directed at the EU and its policies.

Thirdly, the ***current communicative environment*** should be considered, with all its opportunities for dialogue between citizens and institutions, but also with its risks, such as populisms, extremisms, disinformation and fake news. As suggested by Habermas, the idealized public sphere may not be possible in an environment where political elites have better access to media, are able to control their messages, and exert power over ordinary citizens[30]. Kermer and Nijmeijer (2020) warn that social media and the rising tide of information disorder have worsened this dynamic through their exploitation of human cognitive functions and prioritising virality over factuality.

Lastly, in terms of the academic discussion on the issue of the formation of a European public sphere, ***more and more robust empirical analyses are needed*** on the unfolding national and transnational public debates on issues of key European relevance, in order to measure the extent to which similar issues are salient across Member States and are being discussed with similar frames of reference. This will help both the academic community, and more importantly, EU and national decision-makers establish the processes and forums needed to strengthen the formation of common European communicative action that can bring the Union forward to address the pressing challenges it will continue to face in the future.

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[30] Zúñiga 2015, Habermas, 2006

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SECOND PANEL

EUROPEAN IDENTITY, EDUCATION, SKILLS AND CULTURE

BULGARIANS IN THE EU: IDENTITIES AND POLITICAL MOBILISATIONS

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Abstract

The notorious „foot voting" from the initial years of the democratic transition has undergone its transformations and nowadays the departure from the geographic boundaries of Bulgaria does not involve a refusal to participate in the political entity. On the contrary, there are ever more numerous examples of civil commitment of Bulgarians abroad and the formation of a new citizenship beyond locations. The image of people waiting on long lines to vote in front of the state's embassies and the multitude of initiatives in support of distance voting – by mail or via electronic medium – are some of the visible manifestations. Another is a multitude of solidary initiatives related to protests against the corruption and the „state captured". The aim of the present text is to analyse the processes of emigration of Bulgarian citizens after 1989 through the prism of changing perception of identities and political activity.

Key words: (e)migration, political (e) engagement, citizenship, Bulgaria, voting

Bulgarian Emigration after 1989

The changes which occurred after 1989 have altered Bulgaria dramatically. Bulgaria's closed society in the years of state socialism before 1989 experienced mobility and migration as either a privilege or a trauma. A select few had the right to travel; those who managed to escape had to carry the stigma of defectors (non-returnees); and eventually, the end of the regime was precipitated by the massive, forced emigration of Bulgarian citizens of Turkish background resulting from what became one of its most felonious acts - the so-called „Revival process". These processes have left their mark on the country's migration profile, despite the sharp differences in both understanding of migration and policies in the area. It is no surprise that in the first years following the fall of the communist regime, Bulgarians have construed migration and mobility within the political discourse in terms of an expression of freedom. Even to this day, Bulgaria remains predominantly a country of emigration. These processes, however, are already being perceived in the political talk, media interpretations and public opinion mostly in terms of a national catastrophe condemning the nation to extinction.

The dynamics of emigration in the post-1989 years varied. The factors can be grouped in two areas. Some are structural, among them high unemployment rates, risk of poverty and discrimination, the disintegration of the main social systems in the aftermath of the political and economic changes. These are some of the reasons for under-qualified and disqualifying labour migration which may have steady or circular character. The second set of factors is connected to the consummation of the „freedom to travel" in the 1990s; transformation of migration into mobility; especially after the factual EU membership achieved in 2007 and the lifting of travel restrictions. The two sets of factors, however, involve an observable transformation of the notion of citizenship, and to a large extent there is also apparent disappointment with the institutions and the government and the state.

The total number of Bulgarian nationals living abroad, by various estimates, vacillates between a little over 1 million and nearly 2 million and a half. In fact, Bulgaria has one of the largest diasporas in Europe and the Central Asia region. According to UNDESA, approximately 1.7 million Bulgarians lived abroad in 2020, with the majority staying in the European Union. The Bulgarian emigrant population in the EU is estimated at over 800.000 people[1]. The largest Bulgarian community in the EU, lives in Germany. They are followed by Bulgarians in Spain. In third and fourth place are Italy and France. Large Bulgarian diasporas traditionally also exist in Greece, the Czech Republic and Austria[2]. Turkey is another major destination country hosting over 300.000 Bulgarians. The remaining live primarily in the USA, Canada and Israel[3].

The group of Bulgarian emigrants includes two categories:

1. Bulgarian citizens residing temporarily or permanently abroad:
   - Contemporary („young") Bulgarian emigration
   - „Old" Bulgarian emigration.
2. „Historical" Bulgarian communities abroad and persons of Bulgarian origin and with Bulgarian national identity and possessing foreign or dual foreign-Bulgarian citizenship.

Concerning the dynamics of emigration, it is worth noting that although after 1989 there were estimates of the number of people who have left the country varying between 600,000 and over 1 million, in subsequent decades there has been a significant decrease in the number of departures. The average net annual rate of migration, which added up to 66,000 departures in late 1980s, has dropped to about 27,000 people in the 1990s and to 17,000 people between 2001 and 2011[4]. Eurostat data indicates that between 2013 and 2019 the number of Bulgarians leaving the country has registered a gradual increase, with the number doubling over a five-year period - from 16,000 in 2013 to 31,000 in 2018[5]. It is noteworthy that 2020 has seen an

[1] Pragprocess 2022

[2] BNR 2023

[3] Pragprocess 2022

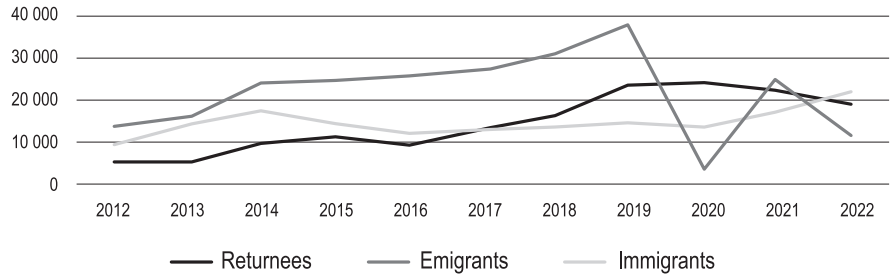
[4] Angelov, G.& M. Lessenski 2017

[5] Eurostat 2020

unprecedented decline in the numbers of people leaving the country – from over 37,000 for 2019 to a little over 3,600 for 2020. This is the first time that those who have left were less in numbers than migrants arriving to the country.

In the following two years, the number of people arriving in the country continued to be higher than those deciding to leave. This is an occasion to consider the possibility that Bulgaria is going through the same migration cycle that has been observed in other EU countries, which are gradually turning from typical countries of emigration into countries of immigration.

Dynamics of Bulgarian emigration, immigration and return migration (2012 - 2022)



Source: The authors according to data from the National Institute of Statistics, 2023

In addition to migrant and immigrant flows, it is important for the analysis to consider the growth of returnees. The number of returnees has been rising steadily in recent years, and the COVID-19 pandemic has even reinforced these trends.

In recent years, there has been a trend of people returning to Bulgaria for a short period of time to join the civil protests against the government. There is another trend, which is also part of the phenomenon of returning migrants who are becoming political flag bearers of change through their direct involvement in the political process as MPs, ministers, etc.

Citizenship as mobilisation

The dynamics of the last decades have challenged a number of classic notions and perceptions of modern society. Citizenship has been for a long time among the basic institutions of the (national) state – accepted as a legitimate, juridical link between the individual and the political entity. The processes of migration and mobility have shaken this normative understanding as a legal status. That is why the concept itself requires constant ideological, philosophical and substantive rethinking[6]. At the same time, citizenship is also understood in terms of participation. Nowadays, it has more than one dimension – it can be in equal measure local and global, political and economic, culture- and value-oriented[7]. Also, a new geography of identities and affiliations is

[6] Janowitz 1980, p. 1 in Staykova 2012, p. 48

[7] Dichev 2009, p. 16

being created. Formerly conceived within the dual imagery of movement from point A to point B, of receiving and sending society, of here and there, of before and now, today migration is much more complex, multi-layered and multidirectional. Therefore, it can be said to evolve and upgrade within many forms of mobility. But to what extent is the individual, who can leave at any time, willing to commit? The dilemma, faced by the individual liberated from the location, is defined by Albert Hirschman in terms of „voice or exit": shall I raise my voice to defend my rights, or I would simply exit the situation[8]. In the Bulgarian post-communist context of the early years of democratic change this dilemma was given a rather distinctive answer – many opted for foot voting and sought opportunities for realisation beyond the recently opened borders. This question is valid, however, if migration is conceived in the traditional image of an arrow indicating one-directional movement with return as the only alternative to departure. Nowadays, however, mobility presupposes many more opportunities. „Where I am is where I am active", as shared by one of our respondents. In recent years we have been increasingly witnessed processes which indicate that migration is not understood as a disclaimer of participation in the political entity. Exit does not signify renunciation of voice, but in the contrary – it can add value. Those compelled to leave due to disagreement and discontent with the political situation, wish to return so that they can change the future of the state. Democracy itself is at the heart of the issue of participation. It is generally accepted that there can be no democracy without participation. If we look back to the twentieth century, the analysis of civil society follows two main directions. The first one relates to its role in the formation of values, norms and identifications. Civil society is the sphere of constructing collective identities, which are more or less contestatory. In this respect it has a definite structuring function. The second relates more to its informal aspect – the formation of social movements, networks and initiatives. In recent years, more and more citizens understand participation as transcending conventional forms, and it also becomes increasingly possible via the virtual format. The evolution of technologies and in particular, of Internet, was conducive to the formation of such *cross-border* networks of individuals and groups, sharing common interests which have shaped an alternative understanding of community membership. This has given a reason for a number of researchers to view the possibility of post-national form of citizenship[9]. The focus of our analysis, however, is not so much on post-national citizenship, but on the commitment to the nation, extended beyond the factual territorial borders of the state. Although based on the example of Bulgaria, these processes are relevant for a number of contexts on a global level as well. The commitment of the diaspora, understood not necessarily and only within cultural parameters, is equally interesting with respect to the Eastern and Central European states and the post-soviet space, as well as in post-colonial context, but also as a result of events from the recent decades such as the Arab Spring.

Emigrants as a resource for the „Motherland"

Considering the migration phenomenon through the lens of its potential and addressing it as a resource for development is well known. While emigration is more

[8] Hirschman 1970

[9] Saysal 1995, 1997; Jacobson 1996

often perceived traumatically as a loss, it should be noted that this is not the only possible perspective. The relationship between emigration and development has been abundantly studied by scientists for the last 50 years or so. Causality between these variables runs in both directions: development affects emigration, and emigration affects development[10].

Usually, the focus of the Emigration-Development nexus analyses is on economic effects. For the present study, however, the social potential of these dual relationships, and more specifically, their political aspects, is of interest.

From the perspective of the change in the form and content of citizenship, as already described, it should be noted that emigrant communities are most often seen in the literature as examples of these changes. In the age of globalisation, the maintenance of multiple identities is aided by cheap air travel and telephone calls, the Internet and satellite television. These same factors also facilitate the transformation of diasporas into essential actors in the domestic political life of their countries of origin through return migration, voting abroad, and political mobilisation.

Another development in the research linked to this analysis moves away diasporas from pre-conditioned ethnic commonality to take into account more complex identity processes, a shift toward post-national and transnational practices and their effects, which more adequately capture recent mobility experiences. Brubaker[11] (2005), who detached the diaspora from ethnocultural assumptions almost two decades ago, did so to capture the stance-taking and claim-making capabilities of the diaspora and its ability to mobilise around shared interests and projects viewed from a transnational perspective[12].

Recent studies on the temporalities of diaspora mobilisation identify 'diasporas as agents in transitional justice processes, contested sovereignty, and fragile and de facto states, as well as in civic and ethnic-based activism' [13]. It seems that diasporas react with mobilisations to events that occur in host-states and home-states as well as in other locations to which diasporas are transnationally linked[14].

Curiously, states do not sufficiently recognise this potential for engagement and mobilisation at this stage. However, it is visible among migrants, especially in times of crisis. The Arab uprisings, which provided first and second generations living abroad a chance to assert their sense of belonging to their home countries or claim their own identity amidst host societies, is a relevant example[15].

The Syrian uprising in 2011 can be considered another event that prompted unprecedented levels of collective action and organisation, particularly among the opponents of the current government of Syria, among the Syrian diaspora and emigrant communities[16].

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[10] Docquier 2017
[11] Brubaker 2005, p. 13
[12] Vathi&Trandafiou 2022
[13] Koinova 2018, p. 1251
[14] Ibid.
[15] Colombo&Gozzini 2021
[16] Diker&Ragab 2019

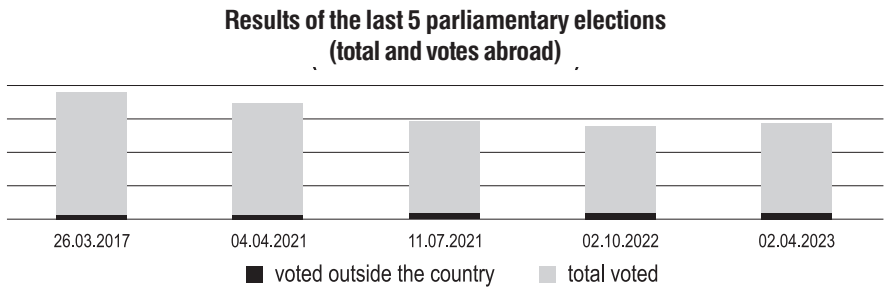
These examples are not the only ones but are highly vivid and significant. What is essential is that diaspora activism depends on the socio-spatial context in which diasporas are embedded. Here is the place to note one assumption: the long-standing attempts to bring Europe closer to citizens, revitalise democracy, stimulate civic activism, and ultimately stimulate mobile Europeans' engagement with their countries of origin.

That emigrant engagement could assume direct and indirect modes of engagement through digital, civic, associational, and epistemic fields. Direct forms of diaspora mobilisation comprised financial support to political parties or NGOs, returning from exile to participate in the protests, national dialogue processes, political negotiations, or to run for elections. The next part of the text will examine the example of Bulgarian migrants in the EU, who have demonstrated increased interest and solidarity with what is happening in recent years in the context of a deepening political crisis in the country.

From foot-voting to civil (e)engagement

Bulgaria is not just the poorest EU member state, but also occupies the frontline positions by its levels of corruption and lack of confidence in the institutions among the citizens. The notorious foot voting from the initial years of the democratic transition has undergone its transformations and nowadays the departure from the geographic boundaries of Bulgaria does not involve a refusal to participate in the political whole. On the contrary, there are ever more numerous examples of civil commitment of Bulgarians abroad and the formation of a new citizenship beyond locations.

The image of people waiting on long lines to vote in front of the state's embassies and the multitude of initiatives in support of distance voting – by mail or via electronic medium – are some of the visible manifestations. Another is a multitude of solidary initiatives related to protests against the corruption and the „state captured". Such were for instance the protests under the slogan #DanceWithMe in 2013 - 2014. The civil mobilisations of 2020 and 2021 have brought Bulgaria to serious political instability and several premature elections, but it was also the first time that votes from abroad actually have played a truly decisive part in the outcome. The different forms of civic engagements of the Bulgarians abroad are interconnected. After the anti-government protests held in Bulgaria in 2020, which were strongly supported by students returning home due to the Covid-19 pandemic as well as solidary supported at cities with a large Bulgarian diaspora, such as Brussels, Paris, Madrid, Barcelona, Berlin and London, Bulgarian emigrants showed unprecedented interest in voting in the 2021 election.



Source: The authors according to data from the Central Election Commission, 2023

While the overall turnout is declining, that of voters abroad is increasing and has remained despite the many parliamentary run-off elections. The role of Bulgarian emigrants is much more than electoral[17], Ivaylo Dichev believes. In them is concentrated the hope for change, which in an interesting way connects with the traditional expectation of Bulgarian society that aid will come from outside.

There are some recent studies on Bulgarian diaspora, which state that migration and intra-EU mobility affect the political participation and activism by transforming the well-known Hirschman dichotomy „exit-voice" into a more complex scale of forms of protest organisation and participation, facilitated by social media and the freedom of movement within the EU [18]. The evidence for that the scholars found in the 2013 protest waves.

While in the political discourse emigration is being presented as a part of some „national catastrophe" and „nation extinction", not without help from other power holders such as scientists, analysers, media, etc, and the majority of people experience it traumatically, Bulgarian expatriates have demonstrated that emigration can actually constitute a resource. Not so much because of the importance of money remittances to national economy and to the essential survival of many Bulgarian families, as for the social capital for transformation of society through a new kind of citizenship.

Although in the first years after 1989 civil society and civil participation were understood as unconditional factors in the democratisation process, their development, as with many other sectors, has also been marked more or less by the corrupted transition to a market economy and within the context of deformations of the political process. It is in this context that the concept of citizenship acquired a special significance. A relatively novel topic for the Bulgarian domain of research, it was introduced and asserted by Anna Krasteva. Citizenship pertains not just to legal status, but is also loaded with commitment, action and activity. This juncture coincided with the advent of digital technologies, the development of social networks and their increasing significance in politics „Technology becomes socially condensed and acquires sense only by becoming implicated in political transformation", writes Anna Krasteva[19], who believes that the 'digital citizen' is the political project of the Internet. He/She will eventually emerge as the key actor, who strives to revitalise the democratic processes, rationalising them through the new digital prism.

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[17] Ivaylo Dichev 2020

[18] Rone&Junes 2021

[19] Krasteva 2013

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BUILDING EUROPEAN IDENTITY THROUGH FOREIGN LANGUAGE EDUCATION: A CASE STUDY OF THE NETHERLANDS

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Abstract

Promoting mutual understanding among European Union member states and building European identity in the process has been playing a significant role in European integration from the beginning. Communicating through common language(s) further contributes to the deepening of the consciousness of shared cultural roots and to the expression of shared interests by the member states. Foreign language education is thus a keystone that upholds such capacity of a member state. The current study takes the case of the Netherlands on and argues that in order to facilitate communication between member states and the people in the EU, a practical standpoint of foreign language education is beneficial. Analysis of the Dutch foreign language education policy of the primary, secondary and higher education is done in order to prove this point. Furthermore, building on the existing objectives of the EU is also a key feature of the case of the Netherlands which in turn integrates foreign language education and European identity building as one.

Key words: Language Policy, Language Capacity Building, European Identity, European Studies, Dutch Studies.

Introduction

As the European Union is a 'Unity in Diversity', moderating between different traditions and traits among the member states and promoting their shared values and roots among said countries have been a cornerstone for the foundation of the EU from the very beginning. Thus, in-depth discussion between governments and people within the EU is of the uttermost importance. During this whole communication process, language is one of the key factors.

In the perspective of language policy studies, the official language of a country is usually identified by the constitution. For example, the Dutch is the national language of the Netherlands and one of the three official languages in Belgium. That said, an EU member state relies on national language(s) and/or official language(s) to embody

culture and the way of life known to its people and pass them down through education, while it also pays attention to foreign language capacity building to facilitation the communication across borders. One might argue that the policy in place to promote the study of foreign languages aligns with the national governments to drive international trade, technological advancements and realizing a nation's interests, but such policy will inevitably result in the change of ideas conveyed in foreign languages, which further contributes to the European identity building process when the communication happens among EU member states.

The case of the Netherlands provides a salient example. On the one hand, the tradition of international trade and entrepreneurship are what the Netherlands is known for. On the other hand, the modern Dutch society is an open and multicultural one. The two sides combined grant the Dutch education sector an advanced position in promoting the learning of foreign language. The results are also prominent. According to the 2016Eurostat results concerning EU citizens' foreign language proficiency, 36.7% of the working-age Dutch adults defined their command of the best-known foreign language as proficient[1], which put the Netherlands among the top-ranking countries in this category. It is also important to point out that this survey was conducted in 2016 and that the participants were to be speakers of more than one foreign language. In this light, this study raises the question: which key characteristics does foreign language education in the Netherlands have and how do they contribute to the building of the European identity?

The Dutch education system

To provide an answer to these questions, the current study takes the education policy of foreign language(s) in the Netherlands as a starting point. In order to make an analysis of said policy, an overview of the Dutch education system is needed. The following brief overview is based on the Nuffic (the Dutch organization for internationalization of education) introduction of the Dutch System.[2] As in many other European countries, the Dutch education system consists of primary education, secondary education, and higher education, with the possibility of re-training and skill advancement as part of the life-long learning sector. Primary education provides school education for children from the age of 4 to 12. Apart from regular primary education, special schools also provide education to students of special needs. The Dutch secondary education and higher education are built on a relatively comprehensive structure. As shown in figure 1, after graduating from primary school, a Dutch student may choose between 'hoger algemeen voortegezet onderwijs' ('havo', higher general advanced education), 'voorbereidend middelbaar beroepsonderwijs' ('vmbo', preparatory secondary vocational education) and 'voorbereidend wetenschappelijk onderwijs' ('vwo', preparatory academic education) based on school results and advice given by instructors. Both

[1] Eurostat, (2016), Distribution of the level of command of the best-known foreign language, https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Foreign_language_skills_statistics#Level_of_command_of_best_known_foreign_language (Retrieved on 17 May 2023)

[2] Nuffic, *Education in the Netherlands*, https://www.nuffic.nl/en/subjects/study-in-nl/education-in-the-netherlands (retrieved on 17 May 2023)

havo and vmbo have a schooling period of four years. Havo graduates can advance to 'middelbaar beroepsonderwijs' ('mbo', secondary vocational education) and later 'hoger beroepsonderwijs' ('hbo', higher vocational education). Vmbo graduates are expected to enter hbo. 'Wetenschappelijk onderwijs' ('wo', academic education) is usually the first choice of vwo students. It is also important to note that it is still possible for a student to flow between different forms of secondary education after enrolment. The student's will and prior results are usually the determined factors.

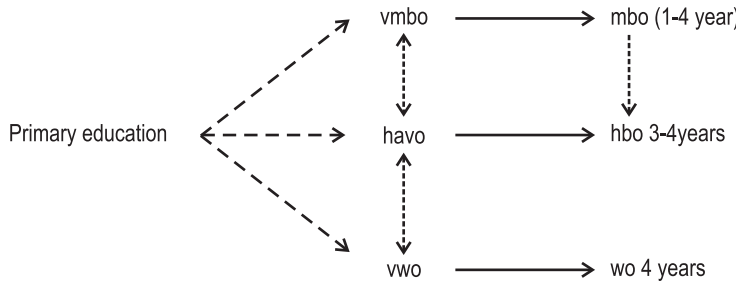

Figure 1. Basic structure of the Dutch education system

This complex education system grants the Dutch education sector more possibilities in foreign language education but also places high demands. The Dutch education policy has responded with three focus points when developing foreign language education policies.

Multilingualism

As multilingualism 'one of the EU's founding principles'[3] and making sure that the EU retains its position as one of the most active participants in the global political, economic, and cultural arena, one of the major objectives of the language policy of the European Union is for each EU citizen to master two additional languages besides the language native to them.[4] To achieve this goal, the Dutch education system has detailed policies put in place on each level.

During primary education, a regular elementary school is obliged to provide teaching of the English language. The subject of English is seen of the same importance as Dutch, physical exercise and counting and mathematics.[5] If an interest is expressed by students, the subjects of German and/or French can also be added on the curriculum.

Although the general goals of different forms of secondary education institutions vary, emphasis on foreign language proficiency is showed throughout the schooling

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[3] European Union, *Multilingualism*, https://european-union.europa.eu/principles-countries-history/languages_en#:~:text=Multilingualism%20is%20enshrined%20in%20the%20EU%E2%80%99s%20Charter%20of,summaries%20are%20available%20in%20all%20official%20EU%20languages. (Retrieved on 17 May 2023)

[4] European Commission, (2008), *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Multilingualism: an asset for Europe and a shared commitment*, Brussels.

[5] Ministerie van Onderwijs, Cultuur en Wetenschap, (2023), *Wet op het primair onderwijs*, Den Haag, 9.1.

period. English remains a compulsory subject in all three forms of the Dutch secondary education. In addition to English Language and Literature, students of *havo*, should they choose to pursue the culture and society track (profiel cultuur en maatschappij), are also required to take one Language and Literature course in a modern foreign language or in the Frisian language, which is a regional language of the Netherlands. *Vwo* schools can take a step further than that and offer courses in both modern and classical languages such as Latin and Greek.[6]

On the higher education level, foreign language education results translate to two aspects: major programs in foreign languages and degree programs with English as the language of instruction. The first aim to educate language professionals for international relations, trade and cultural interactions. The latter aims to attract international talents which could further enrich the multilingual landscape of the Netherlands.

When taking a closer look at the three stages of the Dutch education system, continuity in government's effort to achieve the objective of EU language policy can be easily observed. The Dutch language is native to students at elementary schools. At this level, the foundation of the ability to communicate in English in the future is laid. Since its EU citizens are expected to master two foreign languages, Dutch students can begin with the learning of these two languages fairly early: at primary school or during secondary education. Should students become especially interested in a foreign language, they can pursue a degree program in one or several foreign languages (Table 1).

Table 1. Foreign language education at top Dutch universities (in brief)[7]

Higher education institution	Bachelor program in language study and/or research	Courses offered by university language centres
University of Amsterdam	Arabic Language and Culture German Studies English Language and Culture Hebrew Language and Culture Italian Studies Modern Greek Language and Culture Russian and Slavic Studies Scandinavian Studies Spanish and Latin-American Studies	English Spanish Italian French German Portuguese Swedish Russian Chinese Arabic Japanese

[6] Ministerie van Onderwijs, Cultuur en Wetenschap, (2022), *Wet op het voortgezet onderwijs*, Den Haag, 13.1c, 13.1e, 13.2c, 14.5b.

[7] For a complete overview, see: Zhang, J. (2023), *A Study on the National Language Capacity of the Netherlands*, Beijing: Foreign Language Teaching and Research Press, p. 134-135.

Utrecht University	German Language and Culture English Language and Culture French Language and Culture Islam and Arabic Italian Language and Culture Celtic Language and Culture Spanish Language and Culture	English Chinese German French Indonesian Italian Japanese Korean Norwegian Portuguese Russian Spanish Swedish (offered by Babel)
Leiden University	African Studies Chinese Studies German Language and Culture English Language and Culture French Language and Culture Greek and Latin Language and Culture Japanese Studies Korean Studies Latin-American Studies Middle East Studies Russian Studies South and Southeast Asian Studies	Arabic Chinese German English French Italian Japanese Korean Croatian Persian Russian Spanish Swedish

Table 1 gives a brief view of language study or degree programs offered by top Dutch universities. From the distribution of where these languages taught at higher education institutions are spoken, it can be inferred that a majority of these languages are essential to communicating between EU member states. Moreover, languages such as Greek and Latin are also indispensable in research of the common European roots. Last but not least, graduates of these programs can not only function as bridges between languages and cultures within the EU, once choosing a political career, one can embody the European identity and represent the interests of the EU on international politic occasions.

To put it shortly, the major advantage of such continuity in the foreign language education throughout the Dutch education system is pursuing the national interests of the Netherlands and the European Union alike. On the national level, the open character of the Dutch society requires its citizens to be able to communicate in foreign language(s) and language skills and cultural knowledge can further facilitate international trade as it is one of the most important drives for the Dutch economy.[8]

[8] Wennekers, A., J. Boelhouwer, C. van Campen & J. Kullberg (eds.), (2019), *De Sociale Staat van Nederland*, Den Haag: Sociaal en Cultureel Planbureau.

On European level, EU citizens who have foreign language skills can fully realize the possibility of mobility within the EU by profiting from top education resources, the Dutch higher education being one example, and pursue career opportunities both in the EU and for the EU itself.

Emphasis on intercultural communication

In the process of building European identity, the ability to communicate with others is undoubtfully crucial. Yet, it is not only important to be able to express one's thoughts, but also convey messages that can, at the same time, facilitate cultural mutual understanding. In 2019, the National Expertise Centre for Curriculum Development (Nationaal Expertisecentrum Leerplanontwikkeling, SLO) in the Netherlands, which is responsible for translating the national education goals into practicable course planning, led a project joined by a number of national education consortia and produced an advisory report on the education section English and Modern Foreign Languages ('Engels/Moderne Vreemde Talen').

In this report, five tasks were set for education foreign language(s) at the primary and secondary education level: effective border-crossing communication, mastering creative forms of language(s), the ability to communicate cross-culturally, consciousness of language and multilingualism.[9] The last task is apparently set to collaborate with European language policy and the relevant points are analysed in the previous section.

All tasks are to be carried out at primary school and different forms of secondary education institutions. Effective cross-border communication aims at grooming students to become efficient language users. At elementary schools, pupils are encouraged to reach certain goals using language skills after understanding simple instructions in English or even other foreign languages. On secondary level, this task demands the students should still be able to cross the language boarders when the context, circumstance, medium and/or goal of communication vary. The ability to communicate cross-culturally plays a crucial role in how students can discover the differences and similarities between cultures (elementary level) and how these factors can influence the process of communication (secondary level). These two tasks serve the same purpose: preparing the students for intercultural communication which could already play a role in their daily life and certainly will, at different degrees, take up parts of their social life in the future.[10]

It is obvious that the starting point of such tasks is not making sure that every student can write and speak in flawless English or other modern foreign languages. The ability to comprehend complexed cultural and social information, construct appropriate message and successfully achieve communicative goals are valued more than grammatical accuracy and school results. While it is indeed the question if

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[9] Corriculum.nu, (2019), *Engels/Moderne Vreemde Talen*, Enschede: Nationaal Expertisecentrum Leerplanontwikkeling, p. 6.

[10] Corriculum.nu, (2019), *Engels/Moderne Vreemde Talen*, Nationaal Expertisecentrum Leerplanontwikkeling, Enschede.

these set tasks can be accurately carried out in the education practice, it is the practical and intercultural starting point of the foreign language education policy that deserves attention from a European identity building perspective. Moreover, it can also be argued that these two tasks also pave the way for the student to prepare themselves linguistically for the possible challenges of the future. Such preparation is discussed in the next section.

Beyond language skills

Language can construct societies. When it comes to building European identity, tapping into the shared historical roots and enriching it with modern interpretation should also considered to be beneficial. The task of mastering creative forms of language(s) is being set so that students can put themselves in the place of characters in poetry, literature, drama, films or even podcast episodes to experience a foreign culture as if they live in it. When coming into contact with creative texts, students will be showed how reading and listening to such creative materials can provide an exciting experience and thus they grow to be fonder of reading and listening in foreign language(s). It is also important to point out that the Dutch media policy also contributes to this habit-building process: public broadcasting networks are only obligated to provide original content in Dutch (and/or Frisian) for 50% of their total airing time, while the requirement by law for private broadcasting networks is merely 40%.[11] Adding on that fact that media content in foreign languages aired by Dutch public broadcasting networks are only required to have Dutch subtitles, the inherent advantage of learning language from creative materials for Dutch students and other groups of language learners is quite extensive.

Moreover, the world is a rapidly evolving with technological advancements changing people's way of life in a growing tempo. The ways of communication and platforms on which messages are exchanged renew themselves by the year, if not by the month. In the eyes of the Dutch government, helping students finding their place in a digital society with sufficient foreign language skills is also a part of the language education goals.

Conclusion

After a brief overview of the Dutch policy on foreign language teaching, two key features presented stood out. The first is student centred. Not only do students have the possibility of decidedly, to some degree, which form of secondary education to choose and flowing between different forms, the evitability of living in a technically advanced, culturally diversified, and communicative skills required society is also considered to be a tone-setting factor of foreign language education policy. This has a strong tie to the building of European identity. If all members of the European community are exposed to the fact that the community is still striding towards a culturally rich yet diversified future and can be showed that many of the cultures in this community share the same cultural, philosophical, historical or even religious

[11] Ministerie van Onderwijs, Cultuur en Wetenschap, (2023), *Mediawet 2008*, Den Haag, 2.70.

roots, one can expect that the European identity becomes part of the personal one. The second feature is to be looking beyond language itself. When teaching foreign language, education objectives are often specified in certain aspects of language proficiency. Yet it is precisely the traditions and traits, the way of life, the metaphor with historical significance that make a language unique to the people using or learning it. Building European identity through foreign language education should respect this unique role of language to both culture and society. What is being exchanged, is not only texts on paper of sound coming out of people's mouth, but also the way of life and wisdom gained by generations.

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INCLUSIVE EDUCATION AS A CHALLENGE FOR UNITING EUROPE – POLISH EXPERIENCE

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Abstract

This paper aims to point out the importance of inclusive education for building social cohesion in a united Europe. Inclusive education is understood here as a model, the full implementation of which requires continuous efforts to adapt the educational system to the special needs of all children, especially those at risk of marginalization and social exclusion, including children with disabilities. Inclusive education is discussed through the prism of the Convention on the Rights of Persons with Disabilities, which became the basis for the analyses. In the example of Poland, the key tasks for implementing inclusive education are indicated, starting with training teaching staff and ending with structural changes. An important conclusion is to show the fields of cooperation common to all EU member states, which can be effectively implemented and can contribute to strengthening the principle of equality and non-discrimination, not only in an educational dimension.

Key words: social inclusion, inclusive education, human rights-based model, social cohesion

Education and its social significance

Education is a comprehensive and ambiguous concept that does not refer only to learning processes but is also a process deeply immersed in social life and culture. It can reinforce, reproduce and perpetuate existing social structures and dominant values, thus contributing to inequality and exclusion. However, it can also be a field for critical reflection on reality and a tool for triggering social change to level out negative phenomena and make the world a more welcoming and inclusive place for all[1]. Equal access to education understood as a fundamental right of every human being, has its roots in the Universal Declaration of Human Rights or the International Convention on the Rights of the Child. One of the important international documents indicating the importance of education for all is the Convention on the Rights of Persons with Disabilities. The Convention was adopted by the UN General Assembly in 2006. It took the international community two years for the Convention to come

[1] Pawlik, S.; Rzeźnicka-Krupa, J.; Gierczyk, M.; Hornby, G. (2023), The Voices of Autistic Adolescents on Diversity, Education and School Learning in Poland, Educ. Sci. no. 13, 2023, p. 1. DOI: 10.3390/educsci13040368.

into force and the human rights-based model of disability to be adopted [2]. Currently, there is a global consensus on the importance of the full realization of the rights of people with disabilities, as evidenced, among other things, by the number of ratifications of the document (the Convention is ratified by 186 parties [3] out of 193 UN members). Notably, the European Union is also a party to the Convention. This document is significant for people with disabilities, who often remain socially, economically, and developmentally disadvantaged. Implementing the Convention's provisions at the national level can counteract social marginalization, discrimination against people with disabilities and enable them to fully influence the shaping of their own lives.

The right to education is probably the most effective means to achieve equal opportunities for groups at risk of social exclusion[4]. The right to quality education for all is a fundamental right, the actual realization of which gives an individual the knowledge, skills, and competencies to navigate the modern world. A person deprived of educational opportunities is in a situation that limits his actual realization of other human rights and freedoms[5]. It is realized through inclusive education, understood as a set of processes for the formulation of the totality of human abilities, taking place in non-segregative and non-separative conditions, i.e., in the circumstances devoid of categorization features, respecting and taking into account the diverse abilities and needs of the educated subjects. Its essence is to work in the mainstream of education, and an important task is to develop all students and increase their social participation, especially those of them who are developmentally or socially disadvantaged. Its leading element is to anticipate, identify and eliminate barriers (awareness, cultural, architectural) that impede the processes of constructing quality education for all students[6]. It is important to look at education as a system that supports the future functioning of a person. The perspective of the long-term consequences of the functioning of the nationally adopted educational system allows for a fuller understanding of the importance of this process. „Inclusive education is a model whose realization enables a good start to the full inclusion of people with disabilities already outside the educational system, in a heterogeneous society that accepts and affirms individual differences"[7]. A society that is open to diversity, in which everyone, regardless

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[2] Degener, T. (2017), A human rights model of disability, in: P. Blanck, E. Flynn (eds.), Routledge Handbook of Disability Law and Human Rights, Routledge, London, pp. 31-49.

[3] Poland ratified the Convention in 2012, the same year Bulgaria also ratified the Convention.

[4] de Beco, G. (2016), Transition to Inclusive Education Systems According to the Convention on the Rights of Persons with Disabilities, „Nordic Journal of Human Rights" no. 1 (34), pp. 40-59. DOI: 10.1080/18918131.2016.1153183.

[5] Widawska, E. (2014), Implementation of the right to education for persons with disabilities considering the provisions of the Convention on the Rights of Persons with Disabilities, in: E. Widawska, K. Skotnicki (eds.), Social and legal aspects of the functioning of persons with disabilities, AJD Publishing House, Częstochowa, pp. 11-25.

[6] Gajdzica, Z.; Skotnicka, B.; Pawlik, S.: Belza-Gajdzica, M.; Trojanowska, M.; Prysak, D.; Mrózek, S. (2021), Analysis of school practice and characteristics of a school effectively implementing education inclusive education in practice - research report, MEiN, Warsaw, p. 7. https://us.edu.pl/wydzial/wns/wp-content/uploads/sites/17/Nieprzypisane/analiza-praktyki-szkolnej-i-charakterystyka-szkoly-efektywnie-realizujacej-edukacje-wlaczajaca-w-praktyce.pdf

[7] Widawska, E. (2012), The principle of equal treatment for people with disabilities and inclusive education, in J. Jaskiernia (eds.), Effectiveness of the European system of human rights protection. Areas of analysis of the effectiveness of the European system of human rights protection, Adam Marszałek Publishing House, Toruń, pp. 827-847.

of their level of ability, has the opportunity to exercise their rights and freedoms equally with others.

Thus, inclusive education is a process that requires continuous efforts to adapt the education system to the special needs of all children, especially those at risk of marginalization and social exclusion, including children with disabilities. According to the cited definition, inclusive education is not about „placing" children with disabilities in mainstream schools but designing entire education systems to accommodate the diverse needs of children from the very beginning. Thus, a profound culture change is needed to make schools inclusive, resulting directly from a change in the public perception of education. Therefore, the goals of education and the entire way children are taught must be revised[8]. The right to inclusive education is enshrined, among other things, in Article 24 of the Convention on the Rights of Persons with Disabilities. It also stems from the European Pillar of Social Rights endorsed by the European Council, the European Parliament, and the European Commission[9].

According to the first principle of the European Pillar of Social Rights: „Everyone has the right to quality and inclusive education, training and life-long learning in order to maintain and acquire skills that enable them to participate fully in society and manage successful transitions in the labor market"[10].

The Polish experience

Realizing the right to inclusive education poses a particular challenge for the Polish educational system. From 1945 to 1989, the education of students with disabilities in Poland was implemented only within a separate, parallel system of special education (kindergartens, schools of various levels, and special education centres), adapted to the needs of students depending on the type of disability[11]. Only the sociopolitical changes after 1989 gave rise to intensive changes in educational law, enabling the gradual development of inclusive education. It became possible to create inclusive institutions (branches) and integrate students with disabilities into the mainstream school system. Since then, the percentage of students with disabilities in non-segregated education (integrative and inclusive) has steadily increased[12]. According to data from the 2022/2023 school year, the enrolment rate of students with official certification of special educational needs in mainstream and inclusive schools was about 65%[13].

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[8] de Beco, G. (2016), Transition to Inclusive Education Systems According to the Convention on the Rights of Persons with Disabilities, „Nordic Journal of Human Rights" no. 1 (34), p. 41. DOI: 10.1080/18918131.2016.1153183.

[9] European Commission (2021), The European pillar of social rights action plan Employment, Social Affairs and Inclusion, https://commission.europa.eu/publications/european-pillar-social-rights-action-plan_en.

[10] Ibidem, p. 44.

[11] Pawlik, S.; Rzeźnicka-Krupa, J.; Gierczyk, M.; Hornby, G. (2023), The Voices of Autistic Adolescents on Diversity, Education and School Learning in Poland, Educ. Sci. no. 13, 2023, p. 2. DOI: 10.3390/educsci13040368.

[12] Marcinkowska, B. (2015), Education of students with disabilities in Poland-past, present, future, „Psychologia wychowawcza" no. 7, pp. 205-219, DOI: 10.5604/00332860.1161613.

[13] Students with a statement on the need for special education by school type and province in the school year 2022/2023, https://dane.gov.pl/pl/dataset/182,dane-statystyczne-uczniow-z-orzeczeniem-o-potrzebie-ksztacenia-specjalnego.

Poland's accession to the European Union in 2004 and the ratification of the Convention on the Rights of Persons with Disabilities in 2012 became the milestones in implementing the idea of inclusive education. Since 2006, Poland has also been a member of the European Agency for Special Needs and Inclusive Education and regularly publishes detailed reports on the education of students with diverse needs at different stages of education.

One of the key conditions for implementing the idea of inclusive education is the adequate preparation of teaching staff for the new tasks and challenges arising from its implementation[14]. The 2011 World Report on Disability World Health Organization, referring to people with disabilities as a group particularly vulnerable to educational exclusion, points to the importance of proper training of teachers in mainstream schools to ensure that they feel competent and equipped with the skills necessary to teach groups of students with diverse needs. Beata Jachimczak, referring to the report, stresses the need for teacher education to focus not only on skills and knowledge but also on attitudes and values: „For as important as the formation of practical competencies of future personnel for education is the development of directional competencies related to attitudes of tolerance, understanding of the nature of social problems underlying all processes of marginalization and exclusion," notes Jachimczak[15].

A similar position is presented in the document entitled „Teacher Education for Inclusion. Key Policy Messages," which presents conclusions and recommendations from the European Agency for the Development of Education of Pupils with Special Needs project on teacher preparation education for inclusive education (TE4I): „Most importantly, the TE4I project findings argue for the need to improve teacher competences and promote professional values and attitudes"[16]. The document defines four core values that underpin the competencies of teachers working in an inclusive model:

- Valuing pupil diversity;
- Supporting all learners;
- Working with others;
- Continuing personal professional development[17].

According to Jachimczak[18], the above principles are often overlooked in theory and school practice (including higher education). Preparation of teachers to work in inclusive classrooms should equip them with such knowledge, skills, and attitudes that they are ready to work with a diverse group of students[19]. To achieve this goal,

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[14] Jachimczak, B. (2019), Teacher in inclusive education, in: I. Chrzanowska, G. Szumski (eds.), Inclusive education in kindergarten and school, FRSE Publishing House, Warsaw.

[15] Jachimczak, B. (2018), Teacher Education for Inclusive Education [Teachers Education for Inclusive Education], Educational Studies no. 48, p. 37. DOI: 10.14746/se.2018.48.3.

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[17] Ibidem.

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content on the theoretical assumptions of inclusive education and methodology of working with diverse groups should be included in the curricula of studies preparing teachers for the profession.

Relating the above guidelines, derived from several international documents to the standards of education preparing for the profession of special education teacher issued by the Polish Ministry responsible for the implementation of state policies in the field of education and higher education, it can be noted that the issue of inclusive education has been taken into account in a wide range[20]. Each future teacher, a graduate of the special education faculty[21], will have qualifications and competencies in the field of inclusive education obtained during the study through the implementation of a compulsory educational module on inclusive education of no less than 510 hours. The content of the module, according to the standard, concerns: the theory and organization of inclusive education, diagnosis of special educational needs, planning, implementation, and monitoring of support activities, methodology of education in diverse groups, and educational programs in inclusive education[22]. However, before graduates of the reformed teacher education system find employment in educational institutions, solutions are being implemented to strengthen the knowledge, skills, and competencies in working with a group of students with diverse developmental and educational needs of teachers already working in schools. Selected universities in Poland provide free postgraduate training in this area. Its primary purpose is to improve skills in the adequate provision of psychological and pedagogical assistance, develop a teacher's workshop and enrich it with attractive ways of conducting classes in a group with diverse educational needs. Graduates of the improvement studies gain competence in, among other things:

- practical implementation of the model of inclusive education as quality education for all learners,
- practical application of educational legislation in the organization and implementation of inclusive education;
- working with a class with diverse educational needs and creating conditions for effective learning for all students using the principles of universal design;
- application of educational strategies for building a class team conducive to implementing inclusive education and integrating a group with diverse needs and abilities[23].

Implementing the Convention requires not only the preparation of teaching staff but also extremely important people, putting into practice the principles of quality

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[20] Regulation of the Minister of Science and Higher Education of July 25, 2019, on the standard of education preparing for the teaching profession, Dz.U. 25.07.2019, item 1450. Currently, the government administration department - higher education and science is headed by the Minister of Education and Science.

[21] The first graduates of the reformed programs will graduate in Poland in 2024.

[22] Regulation of the Minister of Science and Higher Education of July 25, 2019, on the standard of education preparing for the teaching profession, Dz.U. 25.07.2019, item 1450.

[23] Improving Postgraduate Studies, University of Silesia, https://www.studiapodyplomowe.us.edu.pl/doskonalace-studia-podyplomowe-dla-nauczycieli-szkol-podstawowych-i-ponadpodstawowych-prowadzacych-zajecia-z-uczniami-o-zroznicowanych-potrzebach-rozwojowych-i-edukacyjnych-edycja-2023/.

education for all. Equally important is building a system where educators could effectively carry out their tasks. Because these people, deprived of structural support and a view of education from the point of view of law and humanity, cannot perform their tasks effectively[24]. This applies both to activities undertaken at the national level and those undertaken at the local level.

The main challenges concerning implementing inclusive education in Poland include sectoralism and siloed implementation of needs at the local level. Separately, the education, social welfare, and health sectors are dealing with this issue. The lack of standards for cross-sectoral management of the inclusion process at the national level results in individual parts of the system with their tools and separate budgets implementing activities devoid of coordination. The fragmentation of support leads to less adequacy and efficiency in implementing inclusive solutions at the local level. An attempt to respond to the diagnosed problem is to develop model solutions for coordinated activities for inclusive education in Poland[25].

We are currently working on a model of intersectoral cooperation for the benefit of children, students, and families, notably support for processes taking place in local communities, such as creating and coordinating local support networks. A well-conducted diagnosis of the resources of the local environment is the foundation for implementing measures to support inclusive education. Cooperation of advocacy organizations, and NGOs with public institutions, taking into account the voice of the stakeholders themselves, is the starting point for further actions. It is also important to prepare local government managers, directors, and educational, social welfare, and healthcare unit staff, forming local support networks.

By way of conclusion

Taking into account the issues indicated earlier, the following key elements can be identified for the effective implementation of solutions for quality education for all:

- analysis of institutional resources, forms of community support, and programs implemented at the local level by public institutions and NGOs jointly in the health, education, and social welfare sectors,
- integration of activities around the child, student, and family, understood as combining into a single instrument of support the many existing organizational forms of support for the development of children from birth to the end of compulsory schooling, taking into account the transition to subsequent educational stages in a smooth manner,

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[24] Widawska, E. (2022), Human rights-based model of disability in the light of the Convention on the Rights of Persons with Disabilities, in: M. Bernasiewicz, M. Noszczyk-Bernasiewicz (eds.), Wyzwania pedagogiczne w XXI wieku: Zagrożenia społeczne - Edukacja - Terapia (Jubilee volume on the 35th anniversary of the scientific work of Professor Anna Nowak), Wydawnictwo Edukacyjne „Akapit", Toruc, pp. 287-304.

[25] An innovation and implementation project on functional assessment. The project consists of research and development of model solutions for locally provided intersectoral support for children, students and families based on functional assessment methodology using the International Classification of Functioning, Disability and Health - ICF. Contract No. MEiN/2022/DWEW/1070 Funded by the Ministry of Education and Science.

- implementation of intersectoral cooperation and coordination of activities, especially in the areas of health, family assistance, and social assistance with the forms of support offered in the educational system, in which the child functions continuously for many years of his life,
- activation of support resources located in the environment of the child, student, and family on the principle of empowerment,
- implementing a process of personalization of support by adjusting the type and scope of assistance to the actual needs of the child, student, family, and non-family environment,
- reducing procedural burdens in accessing support,
- effective use of local resources and increasing the quality of the assistance provided, thanks to the consistency of goals and synchronization of assistance interventions (synergy effect).

Referring to the theme of the 10th International Conference, within the framework of which this discussion is presented, „The State of the European Union - a need for unity and solidarity", the need for unity and solidarity concerning the issue of inclusive education should, in our opinion, be a priority topic. Their implementation can be carried out in the framework of international cooperation and concern, among other things:

- European programs of methodological support for teachers and educators in mainstream institutions,
- raising the competence of teachers to work in a diverse group,
- shaping social attitudes that support inclusion processes, for example, through transnational campaigns or social advertising.

Building social cohesion, shown in the above text on the example of inclusive education, has a much broader dimension. This is particularly evident now in the ongoing full-scale war in Ukraine and the situation of a group of almost 190,000 Ukrainian children and young people studying in Polish schools. Education that ensures inclusion and equal rights for every person (whether this applies to a person with a disability, a migrant experience, or any other differentiating characteristic) is vital for individual countries and the European Union system as a whole.

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DEVELOPMENT OF FINANCIAL LITERACY IN BULGARIA IN THE CONTEXT OF EUROPEAN PUBLIC POLICIES

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Abstract

The paper examines the Financial competence framework for adults in the Republic of Bulgaria approved by the Council of Ministers in early May 2023. It was developed based on the 2022 joint Financial competence framework for adults of the European Union and the International Financial Education Network of the Organisation for Economic Co-operation and Development and is in implementation of the National Financial Literacy Strategy and Action Plan (2021 - 2025). The main objective of the paper is to establish the extent to which the learning outcomes at the end of secondary education reflect the conceptual understanding of the financial competence set out in the European Framework, as well as to identify potential gaps in specific thematic areas. For this purpose, the existing curricula for general educational training in technology and entrepreneurship and for profiled training in entrepreneurship for upper secondary level of education were examined. The results of the analysis can serve as a starting point for the development of curricula and the creation of appropriate educational content for adults to compensate for the identified gaps. The research methods used include a desk study, a comparative analysis and a mapping.

Key words: education, financial literacy, entrepreneurship, financial competence framework, mapping

1. Introduction

The Financial competence framework for adults in the Republic of Bulgaria, adopted by a decision of the Council of Ministers on May 3, 2023, was developed in implementation of the first priority of the National Strategy for financial literacy of the Republic of Bulgaria and the Action Plan (2021 - 2025) to it.[1] It is based on the joint European Union/OECD-INFE Financial competence framework for adults, which aims at promoting „a shared understanding of financial competences for adults amongst Member States and national authorities, educational institutions, industry and individuals.

[1] Ministry of Finance *(2023), Ramka za finansova kompetentnost za vazrastni na Republika Balgariya (Financial competence framework for adults in the Republic of Bulgaria)*. https://www.minfin.bg/bg/1488

In addition, it provides a basis for a more coordinated approach among EU and national policymakers. By supporting efforts to improve financial literacy, the framework aims at contributing to the overall goal of improving individual financial well-being."[2]

The OECD defines financial literacy as: „a combination of financial awareness, knowledge, skills, attitudes and behaviours necessary to make sound financial decisions and ultimately achieve individual financial well-being."[3] This definition corresponds to the understanding of competence: „as a combination of knowledge, skills and attitudes" as adopted in the EU[4]. It should be underlined that financial literacy is used in the context of personal finance and includes only competences relating to it.

2. The financial competence frameworks for adults of EU/OECD-INFE and Bulgaria

The joint EU/OECD-INFE financial competence framework for adults was developed in cooperation with the Member States and stakeholders and was presented in 2022. This framework, together with that for children and youth (individuals under 18), expected to be finished by 2023, build on the existing OECD/INFE financial literacy core competences frameworks[5]. The important updates to the existing frameworks are the horizontally incorporated digital and sustainable finance competences and competences relevant for resilience. The competences can be also categorised as „essential," i.e., related to the daily lives of most adults, and more „advanced" or „expert" competences, which are relevant only for certain groups or aspects of life.

The framework is intended to serve as a conceptual basis for developing education policies and measures to improve financial literacy and individual financial well-being. It is undoubtedly one of the most important steps taken on pan-European level that coordinates the efforts of the actors in the field of financial literacy including public authorities, private bodies and the civil society. The framework can be used for the development of financial literacy strategies, the assessment of financial literacy levels or the evaluation of initiatives. Although not intended as a curriculum, the framework presents outcome-based indicators, which „support the design of financial education programmes and the development of financial education learning materials and tools", for higher education institutions as well as financially vulnerable groups.[6]

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[2] European Union/OECD (2022), *Financial competence framework for adults in the European Union*. https://finance.ec.europa.eu/system/files/2022-01/220111-financial-competence-framework-adults_en.pdf

[3] OECD, *Recommendation of the Council on Financial Literacy* (2020), OECD/LEGAL/0461. https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0461.

[4] European Commission (2018), *Council Recommendation of 22 May 2018 on key competences for lifelong learning*. https://eurlex.europa.eu/legalcontent/EN/TXT/?uri=uriserv%3AOJ.C_.2018.189.01.0001.01.ENG.

[5] OECD (2016), G20/OECD INFE Core Competencies Framework on financial literacy for Adults (aged 18+): https://www.oecd.org/daf/fin/financial-education/Core-Competencies-Framework-Adults.pdf and OECD/INFE Core Competencies Framework on financial literacy for Youth (aged 15 to 18): https://www.oecd.org/daf/fin/financial-education/Core-Competencies-Framework-Youth.pdf.

[6] European Union/OECD (2022), *Financial competence framework for adults in the European Union*. https://finance.ec.europa.eu/system/files/2022-01/220111-financial-competence-framework-adults_en.pdf

The joint EU/OECD Financial Competency Framework for Adults contains four content areas and a total of twenty-two topics. There are subtopics as well which are not included in the mapping since the current paper does not analyse the framework in exhaustive approach.

Each competence in the framework falls into one of three dimensions: (i) awareness/ knowledge/understanding – competences related to knowledge or informational aspects; (ii) skills/behaviour – competences related to actions and skills improving the individual financial well-being; and (iii) confidence/motivation/attitudes – competences related to financial behaviour.

The structure of the Bulgarian framework is in line with the EU/OECD-INFE framework. It is organised around the same four content areas and cognitive domains of the competences. The competences in the Bulgarian framework have been revised and adapted so that they reflect more closely the specific circumstances in the country and the overall level of financial literacy of the people taking into consideration the findings of recent OECD/INFE studies[7].

3. Framework against syllabuses mapping

Although the framework is intended to provide a basis for policies and measures in the area of financial literacy for adults, it can be considered from another perspective as well – the level of financial literacy expected to be achieved at the exit of secondary education and entry of adulthood. This will be achieved through a mapping of the content areas in the framework against the current syllabuses for upper secondary students (ISCED 3[8]). The analysis refers only to formal general education. Vocational and special needs education is not part of the mapping and will be subject to another research. Electives or non-formal education initiatives[9] such as optional subjects or extra-curricular activities, are not discussed either.

It should be noted that in Bulgaria topics related to financial literacy can be found mainly within the subjects technologies and entrepreneurship (studied in grades 8 and 9) and entrepreneurship for profiled education (studied in grades 11 and 12). Both subjects aim at developing economic knowledge and entrepreneurial culture. Consequently, most of their learning outcomes are in the domain of corporate finance (and startup finance) while the competences in EU/OECD Financial competence framework for adults are in

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[7] OECD (2020), Financial Literacy of Adults in South East Europe. www.oecd.org/daf/fin/financial-education/south-east-europe-financial-education.htm; OECD (2020), OECD/INFE 2020 International Survey of Adult Financial Literacy. www.oecd.org/financial/education/launchoftheoecdinfeglobalfinancialliteracysurvey report.htm.

[8] In Bulgaria ISCED 3 is divided in two sublevels - first, comprising grades 8-10, and second - grades 11-12.

[9] There are several recent studies on financial literacy in Bulgaria. However, they have not been analysed from the perspective of the content areas and competences included in the framework. See: Vartonik, R, Hristov, L. & Panayotova, T. (2016). *Byala kniga na finansovata gramotnost v Balgariya (White Paper on Financial Literacy in Bulgaria)*. https://finance.ec.europa.eu/system/files/2022-01/220111-financial-competence-framework-adults_en.pdf; Delinesheva, M. & Jolovski, J. (2021). *Mapping report of initiatives in Bulgaria for adolescent skills development through innovation, social entrepreneurship and financial literacy*. https://www.unicef.org/bulgaria/en/documents/mapping-report-initiatives-bulgaria-adolescent-skills-development-through-innovation.

the domain of personal finance. Financial literacy is also referred to in the syllabus for civic education in grade 12 but only in the context of public finance.

The aim of the mapping is to identify whether the current syllabuses of these subjects include the necessary financial competences that young people will need when they finish school. „Programmes at ISCED level 3, or upper secondary education, are typically designed to complete secondary education in preparation for tertiary education or provide skills relevant to employment, or both."[10] At this point of life, young people are already considered of full legal capacity and of age and are expected to be able to participate in and contribute to all aspects of economic, social and cultural life. Whatever their choice will be – to continue their education or join the workforce, it will have long-term financial implications. Therefore, they should have already developed certain financial competences in order to make sound decisions on personal finance. The question is to what extent the syllabuses address that need.

The chosen approach for the mapping is to identify the links between the learning outcomes in the Bulgarian syllabuses for upper secondary level and the content areas of the Bulgarian financial competence framework for adults. Its structure is similar to that used in the design of syllabuses in Bulgaria. They consist of three columns – content area with different topics, learning outcomes and new concepts related to the competences. However, the different levels of cognitive domains are not distinguished in separate columns. Since the financial competence framework does not include specific concepts such as these in the Bulgarian syllabuses, they are not considered in the analysis.

An alternative approach is to compare the expected learning outcomes in syllabuses with the specific competences in the framework. However, such detailed mapping requires a comprehensive analysis and significantly broader research. This is required because of the methodological challenges to determine a level of similarity and correspondence between the two types of documents. Using this approach will result in a separate extensive paper. Nevertheless, the method preferred in the current study provides a sound basis to extend the research in this direction. The results of the mapping are presented in Table 1.

Table 1. Mapping of the Bulgarian syllabuses for technologies and entrepreneurship, entrepreneurship for profiled education and civic education against the Financial competency framework for adults

Financial competency framework for adults topics	Competence / Learning outcome in Bulgarian syllabuses	Grade, subject*
1. Money and Transactions		
1.1 Money and Currencies	Understands the functions of money	**8th, T&E**
	Knows the nature of money and explains the functions it performs	**11th, EPE-M2**

[10] UNESCO Institute for Statistics (2011), *International Standard Classification of Education*, p. 84. http://uis.unesco.org/sites/default/files/documents/international-standard-classification-of-education-isced-2011-en.pdf

1.2 Income	Explains the sources and types of income	**8th, T&E**
	Demonstrates risk-taking skills and orientation in conflict situations	**11th, EPE-M1**
	Justifies undertaking of a particular business behaviour and possible consequences	**11th, EPE-M1**
	Evaluates advantages, disadvantages and challenges when choosing a career	**11th, EPE-M1**
	Analyses and makes career choices in view of social and technological changes	**11th, EPE-M1**
	Understands the relationship between the personal choice of entrepreneurial career, risk and consequences and demonstrates willingness to respond to change	**11th, EPE-M1**
	Explains wage formation as the price of labour	**11th, EPE-M2**
	Discusses the jobs in the highest demand and how this affects the size of wages	**11th, EPE-M2**
	Knows and analyses the relationship between economic conditions, personal business initiative and standard of living	**12th, CE**
	Knows the main characteristics of the labour market and how to present oneself to an employer	**12th, CE**
	Knows basic labour, social and insurance rights	**12th, CE**
1.3 Prices, Purchases and Payments	-	
1.4 Financial Records and Contracts	-	
2. Planning and managing finances		
2.1 Budgeting	-	
2.2 Managing Income and Expenditure	-	
2.3. Saving 2.4. Investing 2.7 Credit 2.8 Debt and Debt Management	Defines the differences between consumers, savers and investors	**11th, EPE-M2**
	Distinguishes between different sources of funding	**8th, T&E**
	Summarises how a saver becomes an investor	**11th, EPE-M2**
	Explains the differences between the main financial instruments - loans, shares, bonds	**8th, T&E**
	Explains the differences between the main financial instruments - shares, bonds, investment loans.	**11th, EPE-M2**

	Explains types of savings accounts	**8th, T&E**
	Distinguishes between different types of loans	**8th, T&E**
	Knows the specificities of financial markets and how they support businesses to raise capital resources	**11th, EPE-M2**
	Recognises opportunities to acquire resources and start a business	**11th, EPE-M3**
	Identifies opportunities for resource provision of the entrepreneurial activity	**11th, EPE-M3**
	Knows the opportunities and forms of raising finance	**11th, EPE-M3**
	Discusses the advantages and disadvantages of possible forms of financing	**11th, EPE-M3**
	Evaluates and selects an opportunity and form of raising finance	**12th, EPE-M3**
	Distinguishes between short-term and long-term funding	**9th, T&E**
	Evaluates and characterises sources of financing their own business	**9th, T&E**
	Describes financial markets and analyses their activity	**9th, T&E**
	Explores other forms of financing	**9th, T&E**
	Explains the involvement of banks in economic life. Describes the structure of the national banking system	**9th, T&E**
2.5 Longer-Term Planning and Asset Building 2.6 Retirement	Understands the need for a social security system	**9th, T&E**
	Knows the principles of organisation of the social security system	**9th, T&E**
	Distinguishes between the different types of pensions	**9th, T&E**
	Distinguishes between the main instruments of social policy	**12th, CE**
3. Risk and reward		
3.1 Identifying Risks 3.2 Financial safety nets and insurance	Explains insurance as a means of protection against various risks	**9th, T&E**
	Compares advantages and disadvantages of different types of insurance.	**9th, T&E**
3.3 Balancing Risk and Reward	Presents arguments for financial justification of their ideas	**12th, EPE-M3**

4. Financial Landscape		
4.1 Regulation and Consumer Protection	Lists the main functions of the state as a consumer and producer.	**9th, T&E**
4.2 Rights and Responsibilities	Points out and analyses the main functions of the state as consumer and producer	**11th, EPE-M2**
4.6 Tax and public spending	Describes laws setting standards and rules for the protection of consumers.	**9th, T&E**
4.7 External Influences	Describes laws setting standards and rules for the protection of competition, consumers and the environment	**11th, EPE-M2**
	Understands the role of the state in the circular flow	**9th, T&E**
	Evaluates how the state raises and spends funds	**9th, T&E**
	Knows how the different types of government functions are funded and managed	**9th, T&E**
	Explains the role and structure of the state budget	**11th, EPE-M2**
	Understands the nature and role of taxes as the main source of public revenue	**11th, EPE-M2**
	Knows the tax regulations and differentiates between types of taxes	**11th, EPE-M2**
	Explains the principles of monetary policy	**9th, T&E**
	Considers the public budget as the main instrument for conducting economic, financial and social policy of the public authority (the state and municipalities).	**12th, CE**
4.3 Financial Education, Information and Advice	-	
4.4 Financial Products and Services	-	
4.5 Scams and Fraud	-	

**Legend:*
***T&E** - technologies and entrepreneurship*
***EPE-M1** - entrepreneurship for profiled education, module 1 „Entrepreneurship and Career Development“*
***EPE-M2** - entrepreneurship for profiled education, module 2 „Market Economy“*
***EPE-M3** - entrepreneurship for profiled education, module 3 „Starting-up an Own Business“*
***CE** - civic education*

The mapping has identified 50 learning outcomes in the syllabuses under review, which have different levels of relevance to financial literacy. The formulation of these learning outcomes is not always explicit or precise – some of them can be associated with more than one topic in the framework or even refer to areas other

than personal finance. For this reason, some of the topics in the mapping are combined and covered with numerous results from the syllabuses. At the same time, other topics are referred to with only 1 or 2 learning outcomes (1.1. Money and currencies 2.5 Longer-Term Planning and Asset Building; 2.6 Retirement; 3.1. Identifying risks; 3.2. Financial safety nets and insurance; 3.3. Balancing risk and reward) or not covered at all (1.3 Prices, Purchases and Payments; 1.4 Financial Records and Contracts; 2.1 Budgeting; 2.2 Managing Income and Expenditure; 4.3 Financial Education, Information and Advice; 4.4. Financial Products and Services; 4.5 Scams and Fraud).

As is evident from the mapping, the learning outcomes in the syllabuses are unevenly distributed across the content areas in the framework, and there are important topics which remain outside the scope of the syllabuses under review.

It should be underlined, that in addition to the subjects technologies and entrepreneurship, entrepreneurship for profiled education and civic education, financial literacy can be taught in the class hour – a special hour per week „used for the consistent development of the class, for patriotic upbringing and for building civic competencies, including through student self-government."[11] Financial literacy is referred to in the State Educational Standard (SES) on civic, health, environmental and intercultural education[12] as part of the Framework Requirements for the class hour, which is one class per week. According to the requirements set out in the SES, the topic „Financial and legal literacy incl. „My first job" is given 2 hours per year in grades 8, 9, 10 and 11, and 12 in grade 12.

The schools have the right to develop their own syllabuses and educational materials for the topics envisaged for the class hour. This means that there are no syllabuses or standards defined by the Ministry of Education and Science and it is up to the teachers to plan their work for the class hour in the beginning of the school year and design their own (or find existing) syllabuses and materials for the whole range of topics in the Framework Requirements. Their contents are approved only by the principal.

Schools also have the right to incorporate various elective subjects including financial literacy in their curricula.[13] However, these opportunities can be used at the discretion of the school. The educational materials are usually developed and provided by external organisations within different projects. The level and scope of financial literacy topics covered by them is yet to be investigated.[14]

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[11] *Zakon za preduchilishtnoto i uchilishtnoto obrazovanie (Preschool and School Education Act)* (2015). https://www.lex.bg/bg/laws/ldoc/2136641509

[12] *Naredba No. 13 ot 21.09.2016 g. za grazhdanskoto, zdravnoto, ekologichnoto i interkulturnoto obrazovanie. (Ordinance No. 13 of 21.09.2016 on civic, health, environmental and intercultural education*). https://lex.bg/bg/laws/ldoc/2136914662.

[13] *Naredba No. 4 ot 30.11.2015 g. za uchebniya plan (Ordinance No. 4 of 30.11.2015 on the curriculum).* //www.mon.bg/bg/59.

[14] Delinesheva, M. & Jolovski, J. (2021). *Mapping report of initiatives in Bulgaria for adolescent skills development through innovation, social entrepreneurship and financial literacy.*

1. Conclusions

The school has the significant role of preparing students to be full-fledged participants in all spheres of life and be ready to contribute to the economic and social processes in society. In that sense, financial literacy encompasses competences vital for their personal fulfilment and development. However, financial literacy so far is not included as a separate subject in the compulsory curriculum in Bulgaria. Only a limited number of topics related to it are part of the syllabuses for technologies and entrepreneurship, entrepreneurship and civic education at upper secondary level. The competences as learning outcomes are formulated from the perspective of business rather than personal finance. In addition, these competences are rather randomly spread through the content lacking internal organisation and overall objectives.

Therefore, it can be concluded that financial literacy as defined by competences related to financial awareness, knowledge, skills, attitudes and behaviours necessary to make sound financial decisions and ultimately achieve individual financial well-being is not successfully incorporated in the curricula at upper secondary level.

However, the integration of financial literacy competences in general compulsory subjects in Bulgaria could be considered important in the European context. It provides empirical data on the ability of different age groups to acquire knowledge, to demonstrate skills and to build attitude in the field. Thus, as a good practice it could be used as a basis for other EU members that are planning to introduce financial literacy in their educational system.

There are different approached and a couple of opportunities to achieve that. Firstly, financial literacy can be integrated in another subject. This is the case in Bulgaria with technologies and entrepreneurship, entrepreneurship for profiled education, civic education. It is a centralised approach in accordance with the strategic goals of the government.

Secondly, financial literacy can be taught as a separate individual subject. In Bulgaria this is possible in section B (elective subjects) and section C of the curricula (optional subjects). There is a couple of projects and initiatives of the non-governmental sector that provide educational content. It is widely used for the second approach as separate modules on financial literacy are developed and integrated locally in schools.

Lastly, an interdisciplinary approach could be applied. There are different opportunities in that domain, but it suggests teachers on different subjects to collaborate and develop together their materials.

This analysis can serve as reference guidance for the Bulgarian version of the financial competence framework for children and youth and facilitate the process of developing it. The next step will be to develop relevant syllabuses based on the framework in order to fill in the gaps in the existing education materials or introduce financial literacy as a separate subject the curricula at all levels. The latter approach is considered more efficient as it will ensure consistent and structured approach to developing the financial competences young people will need at the exit of secondary education.

The joint European Union/OECD-INFE Financial competence framework for adults had a significant impact on the development of financial literacy policy in Bulgaria. It was translated and adapted by the joint working group on financial literacy, led the

Ministry of Finance. Then it was officially approved by the Council of Ministers. This mapping will serve as a basis for future efforts in this educational domain. In addition, the presence of financial literacy competences in the compulsory subjects in Bulgaria provides important empirical data. Thus, it could be used as a basis for other EU members that are planning to introduce financial literacy in their educational system.

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EUROPEAN UNIVERSITIES INITIATIVE

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Abstract

The EU brought a new player to the European Higher Education Area (EHEA). The so-called European Universities Initiative (EUI) challenges all its components from students, academics, and higher education institutions to EU institutions and national governments to create the „European universities of the future". The biggest concern of the EU remains if this idea has the potential to revolutionize higher education across Europe by promoting cross-border collaboration and innovation.

Key words: education, European universities, perspectives, challenges

The main idea of the article is to introduce the reader to the power of EU initiatives in the field of higher education. This is the type of introduction that always works when we want to „smooth talk" our reader into a sensitive discussion, especially when we do not have relevant information to offer.

The EU introduces the academic community to the European Universities Initiative, a program/project/initiative that does not manage to bring sufficient trust in the hearts and minds of the so-called beneficiaries due to the lack of transparency and bad promotion. Most of the questioned academic members during my activities in 2023 (conferences, seminars, and discussions) recognized their absence of information on this subject.

One of my biggest surprises was the response of the amazing ChatGPT to the question: „*What is EUI?" „As of my knowledge cut-off in September 2021, there is no specific program or initiative known as the European Universities Initiative. However, I can provide you with information on the European Universities project, which might be what you're referring to"*[1].

This article is based on exploratory research, using only secondary research methods like online and literature research. This subject should be the focus of future analysis with primary research methods, but for the moment, I managed to discover only one relevant survey conducted in early 2020 by the European University Association (EUA) on international strategic institutional partnerships and the European Universities

[1] ChatGPT, reply to the question: „What is EUI?", 19.06.2023, https://chat.openai.com/, accessed on 19.06.2023. The program ChatGPT was used to obtain a reply to the mentioned question.

Initiative that gathered responses from 219 higher education institutions from 34 systems across Europe[2]. There are no other relevant signs of exploratory attention.

The EU is always busy with new visions and trends for education and culture.

In November 2017, the 28 European Union (EU) leaders outlined initiatives to prove that the education landscape is changing and debated the future of education at the Gothenburg Social Summit in Sweden. In the same month, the European Commission set out a vision for a European Education Area to be built by 2025 „in which learning, studying and doing research would not be hampered by borders"[3].

The European Universities Initiative, which started officially in 2019, is a flagship initiative of the European Education Area to enable a new generation of Europeans to cooperate across languages, borders, and disciplines, developing a strong European identity[4]. The new actor of the EUI is the European Universities, referred to by the European Commission as „transnational alliances that will lead the way towards the universities of the future, promoting European values and identity, and revolutionizing the quality and competitiveness of European higher education"[5]. The definition has become immediately adopted by the participating institutions.

In 2019, Ursula von der Leyen, president of the EC, addressed in the mission letter to Mariya Gabriel, Commissioner for Innovation, Research, Culture, Education and Youth, the headline missions for education, research, and innovation. One of them is referring „to promoting excellence and networking among European universities"[6]. There should be „a focus on the full implementation of the European Universities Initiative, learning the lessons from the current pilot phase. This will enable students to obtain a degree by combining studies in several European countries and contribute to the international standing and competitiveness of our universities"[7].

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[2] A.-L. Claeys-Kulik, Th. E. Jørgensen, H. Stöber, et al., (2020), *International strategic institutional partnerships and the European Universities Initiative. Results of the EUA survey*, European University Association, 27 April, https://www.eua.eu/resources/publications/925:international-strategic-institutional-partnerships-and-the-european-universities-initiative.html, accessed on 05.06.2023.

[3] European Commission, (2017), *COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS EMPTY. Strengthening European Identity through Education and Culture. The European Commission's contribution to the Leaders' meeting in Gothenburg, 17 November 2017*, 14.11.2017, COM(2017) 673 final, Strasbourg, p. 11, https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52017DC0673, accessed on 10.06.2023

[4] European Commission, (2022), „Factsheet - European Universities: A key pillar of the European Education Area", *European Education Area. Quality education and training for all*, 27.07, https://education.ec.europa.eu/sites/default/files/2022-08/european-universities-factsheet-2022%2008-22.pdf, accessed on 03.06.2023.

[5] European Commission, „European Universities Initiative", *European Education Area. Quality education and training for all*, https://education.ec.europa.eu/education-levels/higher-education/european-universities-initiative, accessed on 01.06.2023.

[6] U. von der Leyen, (2019), Mission letter-Mariya Gabriel, Commissioner for Innovation, Research, Culture, Education and Youth, 1 December, Brussels, https://commissioners.ec.europa.eu/document/download/efeec75e-3062-4700-b181-a8b5c6c6f298_en?filename=mission-letter-mariya-gabriel-2019_en.pdf, accessed on 10.06.2023

[7] *Ibidem*

A strong reaction to Ursula von der Leyen's mission letter belongs to the European Civil Society for Education or the Lifelong Learning Platform (LLP). Under the title: *Ursula, where did you hide education?,* the LLP observes that the term education is understood as solely serving markets and competition, and research and innovation are considered useful tools to achieve excellence and inform policymaking[8]. The EUI increases the worries of LLP and makes it reject the vision of education envisioned in terms of innovation, excellence, and competitiveness, disregarding its social dimension - which outnumbers its economic by-products. Also, the EUI leaves a strong impression that education is only possible for young people, thus „violently ignoring the millions of adult learners in Europe, which are confined to labour perspectives"[9].

The EUI signals an interest in the integrated use of the instruments at the disposal of the EC, at the same time as it demonstrates an interest in the potential of university alliances as an organizational solution to the challenges of effective policy coordination. It is important to remind the desire of the Council of the EU to build bridges for higher education, research, innovation, and society to discover a new dimension in European higher education.

The EU institutions aim to unlock the full potential of the higher education sector as the promoter of skills and knowledge, and as an engine for innovation and solving societal challenges. Incentives for the transformation of universities take a central place in the strategy, which is partly built on the first lessons learned from the EC's program to establish European university alliances that is the European Universities Initiative (EUI)[10].

European Universities have several components, like students, academics, higher education institutions, EU institutions, and national governments that need constant interaction both in virtual and physical spaces, to survive. The EC described smartly in the original communication about the initiative from 2018 that these university alliances should be geographically balanced and socially inclusive. For funding to be sustainable, these universities should be able to draw from a combination of EU and national resources[11].

Charret and Chankseliani remind us that the EC indicated in the same document mentioned above, that there would „be no one-size-fits-all model". Institutions can propose a model that suits their needs through a bottom-up, open, and transparent

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[8] Lifelong Learning Platform, (2019), „Ursula, where did you hide education? - REACTION TO NEW COMMISSIONERS' PORTFOLIOS", *Education as a public good*, 10 September, Brussels, http://lllplatform.eu/lll/wp-content/uploads/2019/09/LLLP-Reaction-to-new-Commissioners-Sept-2019.pdf, accessed on 10.06.2023

[9] *Ibidem*

[10] P. Maassen, B. Stensaker and A. Rosso, (2022), „The European university alliances - an examination of organizational potentials and perils", *Higher Education*, p. 2, https://doi.org/10.1007/s10734-022-00951-4, accessed on 01.06.2023

[11] European Commission, (2018) COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE EUROPEAN COUNCIL, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE, AND THE COMMITTEE OF THE REGIONS. Building a stronger Europe: the role of youth, education and culture policies, Brussels, 22.5.2018, COM(2018) 268 final, p. 8, https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52018DC0268, accessed on 01.06.2023.

approach and develop the level of ambition gradually. [12] The authors argued that the European Universities were seen as an experiment rather than a reproduction[13].

In 2019, the Council of the European Union underlines the mission of the *pilot* European Universities' experiences and lessons learned to inform policymaking and the further development of related cooperation in education and training, and by exploring the need to take forward appropriate policies for the European Universities[14]. In 2021, the Council describes European Universities as:

- „testbeds" for innovative teaching and research, including academic career assessment and rewarding systems that take into account inter alia open science practices, quality of teaching, transfer of knowledge, and outreach;
- „testbeds" for the development of interoperability and promotion of cooperation between Member States regarding European research, teaching, and staff career development practices;
- different models for cooperation and being thematically open;
- pilot alliances[15].

The European Universities Initiative: main challenges and perspectives

To assess the future development of the EUI, the European Parliament created three scenarios that reflect the main driving forces behind the shaping of higher education in Europe: the Bologna Process, the development of the EEA, and innovations in learning and teaching[16].

Scenario Orange emphasizes the force of the Bologna Process and the role of the national governments in shaping the EHEA and the future conditions for the university alliances. This scenario would require at least some kind of legal status for the alliances to institutionalize. There are two possibilities for institutionalization, not mutually exclusive. One is establishing European Universities by intergovernmental treaty, build upon the regulative framework developed by the Bologna Process. The

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[12] A. Charret, M. Chankseliani, (2022), „The process of building European university alliances: a rhizomatic analysis of the European Universities Initiative", *Higher Education*, p.1, https://doi.org/10.1007/s10734-022-00898-6, accessed on 01.06.2023.

[13] *Ibidem*, p. 14

[14] Council of the European Union, (2019), „Council Resolution on further developing the European Education Area to support future-oriented education and training systems", *Official Journal of the European Union*, 18.11., (2019/C 389/01), https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32019G1118(01)&from=EN, accessed on 01.06.2023

[15] Council of the European Union, (2021), *Council conclusions on the European Universities initiative - Bridging higher education, research, innovation, and society: Paving the way for a new dimension in European higher education*, 17 May, 8658/21, Brussels, https://www.consilium.europa.eu/media/49659/st08658-en21.pdf, accessed on 03.06.2023.

[16] Craciun, D., Kaiser, F., Kottmann, A. and Van der Meulen, B., (2023), *Research for CULT Committee - The European Universities Initiative, first lessons, main challenges and perspectives*, European Parliament, Policy Department for Structural and Cohesion Policies, Brussels, pp. 56-57, http://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL_STU(2023)733105, accessed on 11.06.2023.

governments involved in the treaty can adapt the regulations to the specific aims and mission of the alliance. The second option is that the European Commission creates a legal statute for a European University, to facilitate these intergovernmental treaties. These options have clear implications for the governance of an alliance, as they require much more involvement of national governments in the governance of the university. It is uncertain whether universities will accept such an influence[17].

Scenario Pink offers a stronger role of the European Commission, implementation of its current strategy for universities, followed by extending the strategy to further shape the European Education Area. This scenario will require increased resources, also as support schemes for students. For the European Universities Initiative, a mix of EU and national funding is needed to cover extra costs due to the inclusion goals of the policy instrument and to counterbalance the financial limits of HEIs from economically disadvantaged Member States[18].

Scenario Blue presents the idea of a disruption or full transformation of the current higher education, creating a new academic model to which higher education institutions need to adapt. According to experts, the main opportunity of this scenario is that it is very student-centred. It also makes the HEIs more responsive to the labour market needs[19].

The EP also has considered a null scenario in which the European Universities' alliances do not survive because the Commission and Member States do not create a facilitative, regulative framework for the alliances. In such a scenario HEIs within EUAs must conclude that the transaction costs exceed the benefits[20].

The Future of the European University Initiative

From 2019 until 2023, 44 European Universities' alliances were created, with 340 participating higher education institutions.

The EU institutions presented their main assessments of the main benefits and challenges of the current EUI. One common ground is that it is too early to assess the impact of the EUI at the national and EEA level. EUI is still considered a pilot with the mission to innovate education and improve transnational collaboration. The developed activities foster mutual learning, sharing best practices, and experiencing new educational approaches.

The European Parliament considers the current model of operation of the European Universities as unsustainable. The funding from the EUI does not cover actual transaction costs and the options to use other funds are unclear. Transaction costs are unnecessarily high due to incompatible regulatory frameworks. Also, European Universities face serious obstacles in realizing the ambitions of the EUI. The challenges include finding an appropriate governance structure, ensuring long-term funding, having clarity about awarding credits and degrees, and removing the legal and administrative barriers[21].

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17 *Ibidem,* pp. 56-57.
18 *Ibidem*, pp. 57-59
19 *Ibidem,* p. 60
20 *Ibidem,* p. 56
21 *Ibidem*, p. 64

The Council of the European Union underlines in the *European strategy empowering higher education institutions for the future of Europe*[22], the importance of the EUI for accomplishing key objectives like strengthening the European dimension in higher education, research, and innovation as well as the synergies between them; driving Europe's global role and leadership; bolstering Europe's recovery and response to the digital and green transitions; deepening the European sense of belonging based on common values.

The Council acknowledged that European Universities should develop a common agenda, shared infrastructures, and resources as well as establish ever stronger alliances by exploring the feasibility of joint enrolment of students and joint recruitment of academics and researchers, within the different national systems, to make their education and research careers more attractive, sustainable, and flexible within the alliances. It also invited the Commission and the Member States to consider more sustainable funding instruments for the European Universities, including through exploiting synergies of regional and national with European schemes, so that they can deliver on their ambitious strategy as well as develop clear proposals[23].

The European higher institutions perceive the need to provide additional resources, considerable amounts of co-funding, and ensure long-term sustainability as the most challenging for participating in the European Universities Initiative. The lack of resources is also high on the list of reasons for institutions to not participate in the European Universities Initiative, together with time constraints as well as the difficulty to find partners[24].

Among mentioned challenges, we should put on list language and cultural barriers; institutional autonomy and diversity; unequal participation; inclusivity and accessibility. The initiative must address barriers to participation and ensure inclusivity and accessibility for all students and staff, including those from underrepresented backgrounds or disadvantaged regions.

Conclusions

I continue to sustain that „as members of the European Union, we share a common identity, values, dreams, and a list of priorities. Nevertheless, the EU has a major problem in developing citizen-oriented and barrier-free information and communication"[25].

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[22] Council of the European Union, (2022), *Council conclusions on a European strategy empowering higher education institutions for the future of Europe*, 6 April, 7936/22, Brussels, https://data.consilium.europa.eu/doc/document/ST-7936-2022-INIT/en/pdf, accessed on 11.06.2023.

[23] *Ibidem*

[24] Claeys-Kulik, A.-L., Jørgensen, Th. E., Stöber, H. et al., (2020), *International strategic institutional partnerships and the European Universities Initiative. Results of the EUA survey*, European University Association, 27 April, pp. 23-26, https://www.eua.eu/resources/publications/925:international-strategic-institutional-partnerships-and-the-european-universities-initiative.html, accessed on 11.06.2023.

[25] M. A. Balosin, (2022), „Today's EU: „Sexy" or „Dull"?", *Papers from the Ninth International Scientific Conference of the European Studies Department, Jean Monnet Centre of Excellence, Faculty of Philosophy at Sofia University „St. Kliment Ohridski" RE-NEW EU - RECOVERY, REOPENING AND REVIVAL*, Sofia University „St. Kliment Ohridski", Hanns Seidel Foundation, Wilfried Martens Centre for European Studies, Sofia, p. 215.

A vision for 2025 would be a Europe in which learning, studying and doing research would not be hampered by borders. A continent, where spending time in another Member State – to study, to learn, or to work – has become the standard and where, in addition to one's mother tongue, speaking two other languages has become the norm. A continent in which people have a strong sense of their identity as Europeans, of Europe's cultural heritage and its diversity.

The biggest concern of the European education civil society remains if the notion of protecting and promoting European values and identity, or the 'European way of life' will be able to involve all people and civil society in Europe. The purpose of all EU educational programs is not to be limited to a decadent system, complying with market needs and fulfilling economic desires, but to serve the learners, empower the teachers and educators, and represent a solid tool for the inclusion of all[26].

European Universities should become key elements of the European Education Area by driving excellence and acting as models of good practice for other higher education institutions, progressively increasing the international competitiveness and attractiveness of European higher education. Overall, the European Universities Initiative is crucial in promoting collaboration, mobility, and excellence in European higher education. By fostering transnational partnerships and emphasizing interdisciplinary approaches, innovation, and entrepreneurship, the initiative strives to create a more connected, competitive, and dynamic European higher education landscape.

We need to remember that the 'European Universities' are still in their early stages and more evaluation and evidence-based information is needed on the selected 44 pilots and their outcomes to support coherent and forward-looking policies.

Among the well-known recommendations, we should remind that the EUI needs to improve the financial position of the participants; develop a consistent regulatory framework; reconsider selection criteria and expected impacts; maintain benefits and monitor progress; foster inclusivity and diversity; expand collaboration beyond Higher Education; assure continuous monitoring and feedback.

The European Universities Initiative has the potential to revolutionize higher education across Europe by promoting cross-border collaboration. The goals of the initiative are aligned with the vision of a unified European education area, which aims to enhance the mobility of students and researchers, promote innovation, and increase competitiveness in higher education.

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[26] Lifelong Learning Platform, *op. cit.*

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BULGARIAN EUROATLANTISM: ONE OF THE MAIN PRINCIPLES BEHIND KEY FOREIGN POLICY DECISIONS AFTER 1989

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Abstract

The current paper examines Bulgarian foreign policy after 1989 and aims to answer the scientific question: „What is the main principle of the decision-making processes concerning Bulgarian foreign policy?". The research period is from 1989 – the beginning of transition towards democratic governance and market economy, until 2022 – the end of the post-Cold War security architecture in Europe, marked by the Russian invasion in Ukraine. The research resources are decisions made by the political elite that demonstrate Bulgarian geopolitical position as part of the value-based Euro-Atlantic Community. The actuality of the paper originates from the political instability in Bulgaria, as we have 5 parliamentary elections in 2 years, and the observation that some political actors are disputing our geopolitical orientation in order to gain more electoral votes.

Key words: foreign policy, decision-making process; European Union; NATO; geopolitical orientation

The current geopolitical context is characterized by worsen security situation in Europe and contestation of key values of the Western societies by undemocratic and revisionist power – the Russian Federation. The current security architecture in Europe is shaped by the loss of the Cold war by the Soviet Union and logical disintegration of its sphere of influence in Eastern Europe. As a result, all of the countries started a process of geopolitical reorientation towards the Euro-Atlantic community.

In this perspective the Eastern enlargement is a security question and to be effective it should be value-based so to be sustainable solution to prevent destabilization in the region. For the countries in Eastern Europe to be part of the Euro-Atlantic community, formed by the European Economic Community/European Union and NATO, is a civilizational choice for new identity – European identity. The geopolitical shock of the disintegration processes in the Eastern part of Europe is strong and in time the Eastern enlargement is seen an instrument to stabilize the post-communist countries to restrict possible spill-over effect of soft security challenges in the Western part of Europe (O' Brennan, 2006). There is only one but key impediment for the sustainability

of the European integration and it is the deep-rooted pro-Russian sentiments in some post-communist countries – for example Bulgaria.

The beginning of Bulgarian reorientation towards Euro-Atlantic orientation is with the decisions of the Parliament for full membership of Sofia in the European economic community (EEC) and the Council of Europe, voted in 1990. Up to now, 2023, Bulgaria has more than 30-year-long history of foreign policy decisions that make us part of the Euro-Atlantic community. As they are based on a conscious and strategic decision-making process, we can say that they are an expression of the Bulgarian Euroatlantism – a guiding principle of our foreign policy. It is important to outline it because this principle sometimes contradicts to popular pro-Russian sentiments in some parts of our society. These feelings are a result of the Bulgarian history and the role of Moscow in it.

The so called „Satellite syndrome“ or how to manipulate history

There are scholars (Kramar, 2022) that define Bulgaria as the most loyal satellite of the Soviet Union during the Cold War as we are supporting Moscow‘s policy undeniably. Although, this statement is far too strong as the Bulgarian foreign policy after1989 shows because of it undoubtable and quick reorientation of Sofia towards European integration in the post-Cold war geopolitical situation. For decades, the well-established Russian propaganda machine shaped extremely positive sentiments in the Bulgarian society towards the Moscow. One of the main narratives is that the Russian empire liberated Bulgaria from the Ottoman rule and the Soviet Union liberated Sofia form the morachy-fashism of tzar Boris III. So obviously the purpose of such propaganda was to deeply root the sense of thankfulness and appreciation towards the Russia as guardian of Bulgaria‘s well-being as every time we face an existential threat, Moscow intervenes to protect Sofia.

But historical evidence gives us examples, related to those two major events in Bulgaria, used by the Russian propaganda, that contradicts to Moscow‘s narratives. First, concerning the Bulgarian liberation from the Ottoman empire. In 1895 during a meeting of the so-called European concert of Great powers, the Russian empire agrees that a large Slavic country on the Balkan peninsula would never be consolidated irrelevant of Russian war success. The reason is the fear of the European Great powers that such a state will be Moscow‘s instrument for access and control over the Bosporus and Dardanelle. So, the proposal of the so-called San Stephano treaty that suggests large Bulgarian state is not realistic and it is well known in the Russian empire. This treaty is used as a propaganda instrument.

The second example is from the end of the Second World War. Bulgarian political elite tries to obtain for Sofia the same status as Italy has – a state that participated in the war against the Nazi. Actually, exactly the Soviet representative during the meeting when this issue was discussed – Andrej Vishinski, opposed to this possibility.

To summarize, based on the historical events, we can extrapolate that obviously the Russian policy is not in favour of Bulgarian national interest although parts of our society are clearly with strong pro-Russian sentiments. But decades-long Russian

propaganda during socialist Bulgaria and our transition to democracy is probably one of the reasons behind the results of a survey of Eurobarometer on the occasion of one year of the Russian aggression towards Ukraine. According to it while average support in the whole European Union for the sanction policy of Brussels towards Moscow is 74%, for Bulgaria it is 47%. Giving humanitarian support for the Ukraine refugees in the EU is 91%, in Bulgaria is 81%. Financial assistance to Kiev is approved by 77% in the EU, while in Bulgaria – 55%. The support for financial aid of the EU that is specifically for military assets is approved by 65% in the EU and only by 33% in Bulgaria.

But it must be noted that this data that shows pro-Russian sentiments in our society, even during obvious Moscow's deviation from the international rules-based order, do not interrupt Bulgarian Euro-Atlantic orientation. The explanation is that although there are strong pro-Russian feelings in some people, most of the Bulgarian society is purely pro-European and exactly it has strong political representation as the Bulgarian institutions.

But first, what is Euroatlantism?

For the purpose of this research, we can define it through the treaties that form the Euro-Atlantic community – the North Atlantic Treaty Organization and the European Union. Both are consolidated after the end of the Second World War, and this is why their most important objective is to guarantee peace and stability on the continent. This is the reason their enlargement is seen as an instrument for extension of the security community (O' Brenna, 2006). In this context it is important to outline that without security there is no possibility for economic prosperity. This is the nexus between the organizations – without the security provided by NATO, the common market of the EU is not possible. This is the logic behind the unofficial precondition for NATO membership before the EU membership for the post-communist and Western Balkans states – only in secure environment free market competition and democratic rule can exist.

According to article 1 of the North Atlantic Treaty „the parties undertake, as set forth in the Charter of the United Nations, to settle any international dispute in which they may be involved by peaceful means in such a manner that international peace and security and justice are not endangered, and to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes of the United Nations" and article 2 states „the Parties will contribute towards the further development of peaceful and friendly international relations by strengthening their free institutions".

According to article 2 of the Treaty on the European Union „The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail."

Based on these articles from both treaties of the organizations that form the Euro-Atlantic community, we can define Euroatlantism as **a value-based foreign policy principle:**

- that promotes a political system that is pluralistic and representative of all of the interest groups in the society;

- that is based on rule of law that guarantees respect for human rights including minority rights and justice;
- that uses dialogue as a key foreign policy instrument and respects the territorial integrity of other countries.
- Only this model of governance can ensure sustainable economic prosperity based on the right of private economic initiative.

Bulgarian Euroatlantism in practice

As far as Bulgarian foreign policy after 1989 is concerned, we can definitely conclude that the political elite makes decision based on the principles of the Euro-Atlantic community even before Sofia is officially part of it. The most prominent examples for the strong Euroatlantism of Bulgaria are to defend the values on which this community is based in contradiction with the strong pro-Russian sentiments in out society. The examples for this that can be divided in two groups:

- decisions that are against undemocratic regimes that does not respect human rights and
- decisions that oppose Bulgaria to Russia.

In the first group we can include a decision taken during Sofia was a member of the Warsaw Pact in 1990. Bulgaria becomes part of the international coalition, leaded by the United States, against the invasion of Iraq in Kuwait. Although Bulgarian troops do not participate in the war and our input is logistical support, Bulgarian president attended the Victory Parade in the USA the same year. In 2001 and 2003 Sofia supported the efforts of Washington to democratize Afghanistan and Iraq as their undemocratic regimes pose serious threat on other states through their support of terrorist organizations and potential to elaborate weapons of mass destruction.

In the second group of foreign policy decisions that are markers of Bulgarian Euroatlantism concerns Russian policy. In 1999 Bulgarian parliament gives air corridors to NATO forces participating in operation „Joint Force“ against the Serbian autocrat Slobodan Miloshevish and refuses to allow Russian military airplanes to pass the Bulgarian air space. The situation is decisive as Moscow supports a regime that in 1995 committed genocide in Srebrenica in Bosnia and Hercegovina against Muslim men and boys. Operation „Joint Force“ was launched only after the ambassador of the United States went to a village in Kosovo – then part of Serbia. He acknowledged that a genocide was committed again by the Serbian army against Kosovo Albanians. The Bulgarian decision was value-based as we were part of the democratic community as candidate state for EU and NATO. Even though there were protests in Sofia in support of Serbia and Russia, the political elite of our country demonstrates Bulgarian Euroatlantism as a principle of foreign policy decision-making and the geopolitical orientation of Bulgaria.

As a member state of the EU and NATO in 2022 Bulgaria stays firmly in the Euro-Atlantic community with the decisions to not allow the foreign minister of the Russian Federation to fly in our air space towards Serbia for a work visit. Another key decision is the approval of the Parliament to give Ukraine humanitarian, financial and military-technical support for its self-defence war against Russia.

Bulgarian Euroatlantism – Responsibility for strategic governance

In conclusion we can summarize that Bulgarian political elite after 1989 takes decision with responsibility for the future of our country which is in the European union and NATO. This why Bulgarian politicians pursue foreign policy, based on the principle of the Bulgarian Euroatlantism. Although due to the communist rule in Bulgaria (1944-1989), with the adherent pro-Russian propaganda, in our society there are groups with strong pro-Russian sentiments. They see Moscow as a friend, saviour, and defender of Sofia. These individuals are in their active years and this why their voice and opinion are so strong – as is obvious in the Eurobarometer survey. But we should outline some specific generational fault line in the Bulgarian society – the younger the people, the more pro-Western they are. So, in the years ahead the cleavage based on pro-Russian sentiment will be closed and Bulgarian Euro-Atlantic orientation will be undisputable in the public narratives, as it is indisputable in the political decision-making process.

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THIRD PANEL

EU MEDIA POLICY AND HOW TO PROTECT FREEDOM OF EXPRESSION IN THE DIGITAL AGE

INFORMATION CRISIS AND POST-TRUTH REALITY: THE COMPLEX RELATIONSHIP BETWEEN JOURNALISM AND FACT-CHECKING

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Abstract

European Union's policies to address multifaceted and ever evolving problem of disinformation have been consolidating over the past five years. The European Commission's 2018 Communication introduced the „European approach to tackling online disinformation", which puts forth inclusive and adaptable policy measures recognising the intricate nature of the phenomenon and the swift changes occurring in the digital landscape. This paper specifically focuses on fact-checking, which plays a pivotal role within the European approach to combating online disinformation. Over the past years fact-checking has been growing as a successful market, supported also by EU policies and public financing. At the same time, media organisations appear to be less prominent or are even completely absent from some relevant policy and financial streams. The discussion focuses on potential implications that such separation between fact-checking and the media may have for sustainability of journalism and the public interest – having in mind that fact-checking is primarily debunking disinformation that is already out there, while strengthening the media and professional journalism could prevent some deceiving narratives from reaching wider public in the first place, and in any case to counterbalance disinformation.

Key words: information crisis, disinformation, fact-checking, journalism, EU policies

Introduction

The information environment has been changing profoundly and rapidly in recent years. As social scientist and philosopher Philippe Van Parijs said at a small event in spring 2023, in a lifespan of one generation we came from news shortage, where only few TV channels and daily newspapers were available to citizens, to news abundance. Technological advancements, along with the proliferation of online platforms, initially seemed to offer the potential for a greater variety of voices and perspectives in the realm of news. Instead of fulfilling this promise, it has predominantly resulted in what

is commonly referred to as „information disorder“ (Wardle and Derakhshan, 2017). Within this disorder, citizens face challenges in distinguishing reliable information from misleading content (Grbesa and Nenadic, 2022), leading to a significant rate of news avoidance among individuals (RIDNR, 2022). Furthermore, young people, in particular, have become increasingly disengaged from traditional news sources and rely more heavily on social media for their news consumption (Eddy, 2022).

The erosion of trust in the media, experts, and democratic institutions has emerged as a significant concern. When confidence in traditional media and institutions declines, alternative sources of information gain prominence, particularly online (Nenadic and Vuckovic, 2021). Notably, the Reuters Digital News Reports 2021 revealed that individuals who rely on specific social media platforms, such as TikTok, prioritize personalities and influencers over mainstream news sources. Influencers have assumed the role of interpreting meaning and shaping new value systems, often promoting their personal experiences as the sole valid truth. Liesbet van Zoonen (2012) calls this cultural process I-pistemology – in which opinion and personal experience became more important than facts. It is a process that has grown into a modern phenomenon, and Van Zoonen (2012) believes that this process arose as a result of critical theory and movements that identified „knowledge“ as an instrument of power that needs to be challenged. The consequence of this avoidance of encountering information that is the result of scientific knowledge and analytical interpretation based on knowledge, and not on intuition and emotions, puts an end to any critical thinking.

Such fragmented audiences that are exposed to contents that do not encourage them to develop critical thinking but to continuously confirm their own views, are fertile ground for disinformation and misinformation. In periods of economic, social, or political crises (such as the Covid-19 pandemic, or Russia's aggression against Ukraine in 2022), small groups and close connections online remain the primary source of information for an individual with more potential for suggesting content which advocates a certain constructed reality that is not based on accurate, verified facts (more in: Car and Jurišić, 2021).

These developments and conditions pose many challenges in ensuring informed citizenship, a key condition of a functioning democracy. While the role of the media remains vital in such process, other actors are entering the field and gaining importance. One of them are fact-checking organisations, whose rise is attributed to the interplay of socio-political crises, technological change, and decline in the quality of journalism (Amazeen, 2020). As pointed out by Grbesa and Nenadic (2022: 77): „This process of „deprofessionalisation“ of journalism and the inability of the media to respond adequately to technological changes and disinformation challenges, has opened the space and need for specialised fact-checking organisations“. In this paper we discuss the relationship between the media and fact-checking organisations in the European context and with a specific emphasis on how this relationship is potentially shaped by the European policies against disinformation.

Journalism as a discipline of verification

The American Press Institute, an educational non-profit organization established more than 70 years ago, describes journalism as a „discipline of verification“, arguing

that the confirmation of truth or authority is what makes journalism different from other forms of communication and, hence, distinguishes journalists from other, similarly acting communicators. A similar view is shared by Alfred Hermida (2012b: 659), who claims that „through the discipline of verification, the journalist establishes jurisdiction over the ability to objectively parse reality to claim a special kind of authority and status". The discipline of verification has always been a normative essence of journalism (Kovach and Rosentiel, 2001), a core argument through which to claim special status and authority in society. Reuters Handbook of Journalism highlights that accuracy is at the heart of what journalists do. „It is our job to get it first, but it is above all our job to get it right" (Reuters Handbook, Accuracy, n.d.).

The quest for validity has grown in relevance in an environment characterised by information abundance and concerns over the scope and impact of disinformation and viral hoaxes. There is more emphasis and the need for the media to ensure complete and reliable information in counterbalancing misinformation and helping citizens to navigate an increasingly complex information environment. And yet the media continue to negotiate the tensions between being first and being right (Hermida, 2012a), frequently at the expense of accuracy.

Even before the rise of social media, some scholars have questioned whether verification, as a time-consuming activity, is even a feasible goal for time constrained daily journalism. Lewis et al. (2008) found that only half of the stories analysed in British outlets made any visible attempt to contextualise or verify their main source of information, and in less than one in five cases was this done „meaningfully". Shapiro et al. (2013) interviewed Canadian journalists to find out that verification is often a circular process, meaning that the quest for accuracy sometimes rests in knowledge that is derived from a reporter's earlier work and that continues after the act of reporting.

Traditionally, fact-checking has been an integral part and inseparable from journalism and media work. However, what we are observing in recent years is a boom of specialised fact-checking organisations which are increasingly establishing themselves as self-standing organisations and projects, often with little or no links with the legacy media. Today's information overload and the new means to spread disinformation at scale, grew a need for a systematic, specialised, tech-savvy, and independent approach to fact-checking, especially in the digital space. Nevertheless, an important question arises on why there is a separation of fact-checking from journalism and what are the possible consequences of this for the information environment and an informed citizenship. This paper delves into this consideration.

Fact-checking in or out of the media

Some of the leading media companies and journalism associations are developing projects, units, and initiatives to strengthen the fact-checking component within journalism. The American Press Institute, for instance, by 2020 led a programme to increase and improve practice of fact-checking in journalism and to make accountability journalism in general more effective for audiences[1]. The British

[1] See: https://www.americanpressinstitute.org/category/fact-checking-project/

Broadcasting Corporation (BBC), as the United Kingdom's public service media and one of the leading media globally has a BBC Reality Check, which is a BBC News service dedicated to publishing fact-checked content[2]. Agence France-Presse (AFP), as one of the most renowned news agencies supplying thousands of media clients around the globe, established a department specialised in fact-checking. AFP collaborates with the biggest online platforms, including Google, Meta, TikTok, and Twitter[3], in an attempt to minimise misinformation online, and is a very active member of the European Digital Media Observatory (EDMO) network as a member of European fact-checking community[4] and as a partner in several local EDMO hubs[5].

While there is more consideration for fact-checking within journalism, there seems to be even more separation of fact-checking from journalism. Fact-checkers are often (former) journalists, but fact-checking is also different from other forms of journalism. For instance, while journalists should check information before publication, fact-checkers check and debunk stories that are already circulating in the public space. The number of fact-checking organisations has doubled globally in the past six years. According to the latest report by the Duke Reporters' Lab (Stencel et al, 2022), there were close to 400 active fact-checking organisations around the world, which is twice as much as in 2016 when the disinformation problem came into spotlight with the Brexit vote and the U.S. presidential elections. Fact-checking organisations exist as both for-profit and non-profit entities, and their association with traditional journalism outlets is weakening, as warned already in 2019 by Emily Bell[6]. The Duke Reporters' Lab report from June 2022 shows that about 40 percent of fact-checking organisations are not affiliated with media organisation. In addition, UNESCO pointed out a complex and at moments problematic relationship between the media and fact-checkers, the actors that are supposed to be partners, especially in Southeast Europe[7].

Disconnection between traditional journalism outlets and fact-checking organisations may be happening for various reasons, including the lack of economic resources for investment in technology and practice of fact-checking, as well the low professionalism and professional dissatisfaction of journalists who migrated from the media to fact-checking organisations. Furthermore, there is also a need to focus on fact-checking, in addition to journalism. Specialised fact-checking organizations can dedicate all their resources and efforts to the task of verifying information, without being concerned with the pressures of producing news content or generating revenue from advertising. This allows them also to develop and employ technology solutions and related skills. By operating independently, fact-checking organizations can attempt to establish themselves as trustworthy sources of information, which may be especially important in an era where trust in traditional media outlets has been declining or is

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2 See: https://www.bbc.com/news/reality_check

3 See: https://factcheck.afp.com/about-afp

4 See: https://edmo.eu/fact-checking-community/

5 See: https://www.afp.com/en/agency/press-releases-newsletter/afp-joins-five-new-european-hubs-fight-disinformation

6 See: https://www.cjr.org/special_report/fact-check-industry-twitter.php

7 See: https://www.unesco.org/en/articles/strengthening-relationship-between-independent-fact-checkers-and-media-outlets-promise-quality

in general low. They can collaborate with a variety of media outlets and other partners, without being seen as being aligned with any particular media organization. Then, there is also a non-negligible dimension of funding. Being smaller organisations, rather than departments of larger media organisations, may help in securing funding from a variety of sources, including foundations, philanthropic organizations, and individual donors. Additionally, some funding schemes available lately and with explicit focus on fact-checking may not be available to large media companies[8].

Journalism – fact-checking relationship in the EU policy against disinformation

Fact-checking takes a prominent role in the European Union's policy against disinformation. In this paper we specifically explore the articulation of the relationship between traditional journalism outlets and fact-checking organisations in documents and instruments that form a base of the EU's anti-disinformation policy. The tone and scope of the EU policy to tackle disinformation is first set by the EC Communication on Tackling Disinformation (EC, 2018a), which is operationalised in the Action Plan Against Disinformation (EC, 2018b), and in the key policy instrument in this area is the Code of Practice on Disinformation (2018, 2022). We primarily look at these three documents to examine how they frame the relationship and weight importance of fact-checking and media organisations in counteracting disinformation.

The Communication (EC, 2018a) emphasized the need for a „dense network of strong and independent fact-checkers", and the Commission committed itself to supporting the „creation of an independent European network of fact-checkers to establish common working methods, exchange best practices, achieve the broadest possible coverage across the EU, and participate in joint fact-checking and related activities". The document is also concerned with the support for quality journalism, which the Commission considers to be an essential element of a democratic society. It calls on journalists and media professionals to „further embrace the opportunities offered by new technologies and develop the necessary digital skills to enable them to use data and social media analytics, with a view to enhancing fact-finding and verification", and promises to explore funding opportunities to support quality news media and journalism. The Action Plan (EC, 2018b) puts forward the importance and the role played by fact-checking organisations, requiring online platforms to „cooperate with independent fact-checkers and researchers to detect and flag disinformation campaigns in particular during election periods and to make fact-checked content more visible and widespread". The Action plan also promotes strengthening the capacity and cooperation between independent fact-checkers and academic researchers in furthering the understanding of the different facets and mechanisms that shape how disinformation is disseminated online. At the same time, it does not explicitly promote cooperation between the media and fact-checkers, nor between platforms and the media.

The Code of Practice on Disinformation, which was first agreed by the leading online platforms, advertisers, and advertising industry in 2018, in its updated 2022 version includes a wider array of signatories, more detailed commitments, and some

[8] Such as the European Media and Information Fund: https://gulbenkian.pt/emifund/who-can-apply/

performance indicators. Fact-checking organisations are among the signatories of the updated Code, while the media are not. The Code establishes remunerated cooperation between the online platforms and fact-checking organisations as one of the key pillars. No similar commitment regarding cooperation with media organisations.

As per Commitment 30 of the 2022 Code of Practice on Disinformation, relevant Signatories commit to establish a framework for transparent, structured, open, financially sustainable, and non-discriminatory cooperation between them and the EU fact-checking community regarding resources and support made available to fact-checkers. In concrete measures, relevant Signatories (which are primarily online platforms) commit to setting up agreements between them and independent fact-checking organisations to achieve fact-checking coverage in all Member States, and to provide „fair financial contributions to the independent European fact-checking organisations for their work to combat disinformation on their services". The text of the Code further notes that „those financial contributions could be in the form of individual agreements, of agreements with multiple fact-checkers or with an elected body representative of the independent European fact-checking organisations that has the mandate to conclude said agreements". In terms of transparency of such financial transactions, the only commitment at the moment is to report on the „fairness of individual compensations provided" to via these agreements. It is not clear who and based on what criteria will assess fairness in this context. Although the cooperation between platforms and fact-checking organizations is a desirable step, it can also have unwanted consequences considering that it does not consider the media and their role both in verifying information and in amplifying verified information. Moreover, there is an important market dimension and considerations market position of journalism if fact-checking is funded exclusively and separately as a result of EU-level policy.

The signatories of the Code further recognize the importance of providing fact-checkers with automated access to information on the actions they have taken with respect to fact-checked content and the fact checks, and also to other information that is pertinent to help them maximize the quality and impact of fact-checking. Again, fact-checking organisations being active participants in drafting such an agreement, and media organisations being out of it, may widen a gap in the potentials and potential for collaboration between the two important actors in the information environment.

Concluding remarks

The contemporary debate surrounding the problem of disinformation evolves around the balance between addressing the detrimental effects of disinformation and safeguarding the principles of free speech. The line between the two is not always clear and can hardly be unanimously established in various political, legal, and cultural systems. What is clear is that once disinformation is published and becomes viral – the damage is done. Academic and policy discussions have focused on evaluating the effectiveness of proactive and reactive responses, along with their respective methods. In this brief paper we opened four key questions.

First, why has journalism as a profession globally found itself in such a crisis that necessitates the establishment of additional organizations, such as fact-checking

organizations, to perform tasks that have been at the core of journalists' job. What should be done to tackle lack of professionalism in newsrooms and to protect media accountability and trustworthiness?

Second, the scope and influence of fact-checks are aspects that merit additional examination. The question arises as to the most appropriate platform for fact-checkers to publish the outcomes of their investigations. If they solely rely on their webpages, which have a limited readership, what implications does this have on the impact of their work? Therefore, it is crucial to gain a deeper understanding of the audiences of fact-checkers and the extent and dynamics of their reach.

Third question relates to the responsibility of an individual, of a citizen, its agency in obtaining media literacy and its responsibility in selecting contents to use and share. To what extent should citizens be object of fact-checking? The present reality, wherein nearly anyone can engage in public and potentially wide-reaching discussions on a wide array of topics without possessing substantial expertise, has given rise to a novel entity: influential individuals online. These individuals may shape public opinion, and thus, it becomes increasingly important for them to assume responsibility alongside exercising their right to free speech. The differentiating factor between online platforms and traditional physical gatherings lies in the potential reach they offer, which encompasses both the power to shape opinions and the potential for harmful consequences.

And the fourth question emerges on who fact-checking organizations should serve - citizens, media or institutions and companies? And in that light, who should pay for their service, ensuring sustainability, while guaranteeing quality and independence?

The relationship between media and fact-checking organizations can be collaborative or adversarial, depending on the specific circumstances and the nature of the organizations involved. Many media outlets rely on fact-checking organizations to provide them with accurate information and to help them verify the accuracy of claims made by politicians, public figures, and others. Some media outlets have formal partnerships with fact-checking organizations, in which they agree to publish fact-checking reports or to work together on specific projects. Furthermore, it is not uncommon that fact-checking organisations are established and populated by journalists who left media in disappointment with working and professional conditions and from the new workplace negatively view the media world they left behind.

Overall, however, the relationship between media and fact-checking organizations is an important one, as it helps to ensure that accurate information is disseminated to the public and that false or misleading claims are exposed and corrected. There is a room and need for both types of organisations to exist, but even more to cooperate and collaborate.

As the importance of fact-checking organisations is growing, so should also their accountability. It is crucial that fact-checking organisations are transparent about their organisation, funding and working practices. And that their relationship with the media is more of collaborators than of competitors. This is in the public interest.

The media bears a substantial responsibility in adapting to the challenges presented by evolving technologies and shifting audience habits. Academic research demonstrates

how the proliferation of inaccurate and misleading information online is partially attributed to declining standards and poor practices within mainstream media (Allen et al., 2020; Tsfati et al., 2020; Wardle, 2018). Furthermore, this phenomenon is exacerbated by the fact that almost anyone can lay claim to being a journalist or media source today. While it is crucial to acknowledge new forms and actors that have the potential to contribute to public discourse in the contemporary information landscape, the Council of Europe's 2011 Recommendation on a New Notion of Media underscores that, despite changes in tools and the news ecosystem, the role of media in a democratic society remains largely unchanged. Therefore, it is imperative to foster an environment that facilitates a diverse range of reliable voices. As stated in the CoE standards, *all actors whether new or traditional who operate within the media ecosystem should be offered a policy framework which guarantees an appropriate level of protection and provides a clear indication of their duties and responsibilities in line with Council of Europe standards*. This allows for a more granular approach towards protecting and strengthening media and professional journalism as crucial components of democratic societies and encourages complementary policy framework for other actors relevant in today's information environment.

While it is clear that not all actors who operate within the media ecosystem are the same and they perform different roles, it should be the role of policymakers and policies to take full account of these dynamics, relationships, and future developments in order to encourage cooperation and synergies, not separations and divergences. The role of policymakers and policies should be to support strengthening of fact-checking capacities in journalism at least the same extent, if not more than specialised fact-checking has been encouraged in recent and prominent policies against disinformation.

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LEGAL ASPECTS OF CONTENT MODERATION ON SOCIAL MEDIA PLATFORMS: A COMPARATIVE PERSPECTIVE

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Abstract

The paper analyses in a comparative perspective the legal aspects of content moderation on social media platforms, including its specificities in the context of the rule of law standards. The study compares the legal frameworks governing content moderation in the EU and the US, focusing on the role of government regulation and self-regulation by the platforms as well as the implications of content moderation concerning free speech, censorship, and privacy.

Additionally, the paper focuses on the obligations and responsibilities of social media platforms when moderating content, as well as the rights and freedoms of users and the procedures for appealing moderation decisions. The practical application of the two regulatory models is explored through the practice of the Meta Oversight Board and their adopted approach to resolving controversial cases and the new EU Digital Services Act.

Key words: social media, online platforms, regulation, soft law, content moderation

At the beginning of the 21st century, social media platforms represent a widely accessible technological communication environment that enables billions of users to share, create, and modify content in various forms and in real time. Besides being an economic driver and a successful business model, they are also recognized as a primary forum where modern individuals exercise their right to freedom of expression and access to information. Although there is a fast-growing international consensus that fundamental human rights, as established and protected in the territorial space, should be projected into the digital environment, the specificities of the online space, and particularly social media platforms, pose challenges to legal regulation.

The present publication aims to analyse, from a comparative legal perspective, the regulatory models in the United States (USA) and the European Union (EU) concerning the moderation of content on social media platforms. In this regard, the fundamental specifics of the digital environment and the combination of regulatory factors interacting within it will first be outlined.

1. Specifics and normative layers of the digital environment

The digital environment, often referred to as cyberspace, is characterized by specific features concerning normative layers and the effectiveness of regulatory mechanisms within it compared to the physical or territorial space. In the digital space, law, social norms, and markets as regulatory layers are complemented by technological architecture. While some theories suggest that technological innovations solely act as a driving force that alters future expectations, thus challenging the social consensus embedded in regulation,[1] other authors argue that technology represents a distinct normative level that dynamically interacts with other regulatory factors.[2] In their various combinations, these normative layers shape the regulatory models within the digital realm.

Law, as a form of public regulation, and technological architecture, as a form of private regulation, have their own advantages and disadvantages when it comes to regulating the digital space. The legitimacy of law as a social regulator is linked to the concept of the rule of law, which encompasses requirements for the laws such as generality and formal justice, clarity, precision, comprehensibility, absence of contradictions, limitations on retroactive norms, stability, consistency, publicity, and accessibility. The law should be adopted through a transparent law-making process, based on the principle of separation of powers, publicly promulgated, equally enforced, and independently adjudicated, ensuring equality before the law. However legal regulation is associated with certain drawbacks given the specifics of the digital space. The reach of legal rules is limited to the jurisdiction of the state that has enacted them, while digital networks have a global scope. The duration of procedures for adopting, amending, or repealing regulatory legal acts restricts the ability to timely respond to risks and hazards arising from rapidly evolving technologies. This is why legal regulation is often associated with a rigidity that restricts or diminishes the effectiveness of regulatory responses. Additionally, the abstraction inherent in legal norms can lead to ambiguities in the process of their application.

The technological architecture of the digital environment is constructed by the software and hardware that define its capabilities and functionalities available to its users, thereby directing their behaviour. Unlike legal rules, whose adoption is associated with a lengthy public process, technological standards embedded in networks can be easily and rapidly changed as they are determined by technology developers. The application of technological rules is not functionally limited to the territorial borders of a specific state jurisdiction but is determined by the scope of the network upon which they are applied, which is often transnational. Contrary to legal rules, where enforcement relies on subsequent coercive action through the state institutional mechanism in case of violation, the technological architecture can ensure ex ante rule enforcement by defining technical parameters for network usage and restricting

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[1] Santos, B. de S. (2020). *Toward a new legal common sense law, globalization, and emancipation* (Third edition.). Cambridge University Press, p. 3

[2] Lessig, L. (1999). The Law of the Horse: What Cyberlaw Might Teach. *Harvard Law Review*, Vol.113(2), 501-549.

users' ability to modify them.[3] Aligning user behaviour with the rules of the technological architecture can be effectively achieved through integrated technological mechanisms such as filtering or tracking.

However, the regulations embedded in the technological design of Internet architecture predominantly reflect the interests of their developers, who are primarily commercial companies or corporations. Consequently, technological regulation tends to prioritize private interests that may not always align with the values agreed upon in society. The regulatory framework implemented through technological architecture often lacks transparency, leading to information asymmetry and unfairly positioning users at a disadvantage vis-a-vis private entities engaged in technological development. Furthermore, the enforcement of technologically embedded rules, relying on tracking and monitoring mechanisms, can pose substantial threats to fundamental social values, such as the freedom of expression and the right to privacy.

The effectiveness of regulatory mechanisms in the digital space largely depends on the interaction between legal norms and technological rules with the aim of leveraging their advantages and mitigating their shortcomings. The complexity faced by contemporary society is to achieve regulation of transnational technological networks that effectively reflects the balance of values around which different societies have reached a consensus. Although human rights are perceived as fundamental standards in international instruments, their specification and the balance between them largely depend on national political, economic, and legal traditions. In this context, the regulatory approaches of the USA and the EU regarding content moderation on social media platforms can be examined and analysed from a comparative legal perspective.

2. Regulatory approach to content moderation on social media platforms in the US

The evolution of the Internet and Internet services in the United States during the 1990s highlighted the necessity of introducing legal regulations concerning the liability of Internet service providers. Considering the specific characteristics of the digital landscape and the emerging business model of Internet platforms and other intermediary services, section 230 of the Communication Decency Act (CDA) was enacted in 1996, granting them immunity with regard to content created and shared by third parties. The adoption of Section 230, DCA is justified by the significant importance of the Internet and other interactive computer services, as they provide a platform that enables diverse political discussions, facilitates cultural development, and fosters intellectual engagement. The main purpose of the law is to promote the development of the Internet and other interactive computer services and media, as well as to preserve a dynamic free market unrestricted by legal regulations. Additionally, the aim is to promote the development of technologies that enable user control over content, including blocking and filtering mechanisms, to safeguard children from inappropriate online content.

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[3] Reidenberg, J. (1998). Lex Informatica: The Formulation of Information Policy Rules through Technology. *Texas Law Review*, Vol.76(3), 553-594.

Section 230 of the CDA grants immunity to providers of interactive computer services, shielding them from civil liability, provided that they act in good faith when removing or moderating third-party content that they or a user find to be obscene or offensive, even if it involves constitutionally protected speech. The case law surrounding Section 230 takes a broad interpretation, acknowledging its explicit prohibition on courts considering lawsuits that would cast computer service providers as publishers. It is understood that the primary objective of this legislation is to incentivize providers of online interactive services to actively monitor the Internet for harmful content and remove obstacles to implementing self-regulatory measures. Consequently, the court maintains that Section 230 bars the imposition of publisher liability on online service providers for their exercise of editorial and self-regulatory functions, as the potential legal risks would discourage them from blocking and screening offensive materials.[4] As a result, legal actions seeking to hold service providers accountable for engaging in traditional editorial functions of a publisher, such as making decisions regarding publication, withdrawal, postponement, or modification of content, are prohibited.

In accordance with Section 230 of the CDA, providers of interactive computer services are exempt from liability even when they are notified of the presence of potentially harmful content. The court acknowledges that imposing such liability, based on information or notification, would hinder providers from regulating the dissemination of content within their own services, as it would place them in a constant dilemma between suppressing controversial speech or assuming responsibility. In this context, it would contradict the purpose of the legal provision, which is precisely to shield providers from such obligations.[5] For users whose rights are violated by other users on social media platforms, there remains the possibility of direct legal action against the infringing party. In cases of anonymous speech, the court must assess, based on the evidence presented by the complainant, whether there is sufficient grounds to believe that a legal violation (defamation or invasion of privacy) has occurred in order to request the intermediary to disclose the identity of the user who posted the content.[6]

It should be noted that the immunity granted under Section 230 is limited regarding the obligation to remove content that infringes copyright, sexually explicit material, and other content that violates federal criminal laws. In 1998, the Digital Millennium Copyright Act (DMCA) was enacted, providing safe harbours for Internet service providers, including social media platforms, against copyright liability for infringing material uploaded by their users under specific conditions. Unlike the regime under Section 230 of the CDA, where regardless of whether the service provider has been notified of the harmful content, they are exempt from liability, to apply the immunity under the DMCA exemption regime, it is required that upon receiving a notice, the provider removes the material claimed to infringe copyright. Furthermore, although federal law provides a range of protections that can grant social media platforms immunity against claims based on the conduct of their users, this immunity is not

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[4] Zeran v. Am. Online, Inc. - 129 F.3d 327 (4th Cir. 1997); Blumenthal v. Drudge - 992 F. Supp. 44 (D.D.C. 1998)

[5] Zeran v. Am. Online, Inc. - 129 F.3d 327 (4th Cir. 1997).

[6] John Doe No. 1 v. Cahill - 884 A.2d 451 (Del. 2005)

universal and can be lost under certain circumstances. Additionally, the immunity does not shield social media platforms from liability arising from their own conduct.

The legal immunity granted to social media platforms along with other internet intermediary service providers aims to incentivize them to develop self-regulatory policies. Furthermore, various agencies are responsible for overseeing the activities of social media platforms to ensure compliance with legislation, issuing advisory opinions and assessments regarding the operations of social media platforms.[7] The U.S. Federal Trade Commission (FTC) oversees compliance with numerous laws related to personal privacy and online advertising and also possesses the general authority to investigate unfair or deceptive trade practices. The FTC develops and publishes guidelines on how it will exercise its authority and encourages organizations to adopt their own policies in this area within the context of self-regulation. Although the guidelines issued by the FTC constitute soft law and have a quasi-legal nature, they help the addressees by providing clarity regarding the Commission's requirements.

In 2018, leveraging its regulatory freedom, Facebook, currently Meta company, undertook measures to create an Oversight Board as a means of legitimizing its content moderation practices. The Board, comprised of representatives from the international academic community and civil society, has the primary task of assisting the social platform in content moderation. The Board's decisions are binding on the company unless they violate established laws in any of the jurisdictions where the company operates. The objective of the Board is to promote freedom of speech and safeguard it by making principled and independent judgments on Facebook and Instagram content, while also providing recommendations on the applicable Facebook Company Content Policy.

The Oversight Board makes decisions regarding the removal or preservation of content based on Facebook's Community Standards, Facebook's values, and the Relevant Human Rights Standards. These standards include the UN Guiding Principles on Business and Human Rights (UNGPs), which were endorsed by the UN Human Rights Council in 2011 and establish a voluntary framework for businesses' human rights responsibilities. Additionally, the Board considers the International Covenant on Civil and Political Rights (ICCPR), the Human Rights Committee General Comment No. 34 on freedom of opinion and expression (2011), and the reports of the UN Special Rapporteur on freedom of opinion and expression.

According to Article 19, paragraph 3 of the International Covenant on Civil and Political Rights (ICCPR), restrictions on freedom of expression are permitted when the following three conditions are met: legality, legitimacy, and necessity. When resolving disputes related to content moderation, the Oversight Board consistently assesses whether each of these standards has been upheld. With regard to the legality standard, the Oversight Board conducts an evaluation of the Meta policy rule to assess its compliance in terms of clarity and specificity. In its Case Decision 2020-006-FB-FBR, dated January 28, 2021, the Oversight Board highlighted certain concerns regarding Facebook's patchwork of rules and policies displayed on various sections of its website. The lack of

[7] For ex. the National Labor Relations Board, the Securities and Exchange Commission

clear definitions for key terms, such as „misinformation," and the varying standards regarding whether a post „could contribute" or actually contributes to imminent harm, create difficulties for users in understanding the prohibited content.

When assessing the legitimacy standard, the Oversight Board evaluates whether Facebook's decision to moderate content is driven by a legitimate aim. When applying the necessity and proportionality standard, the Oversight Board assesses whether Facebook has chosen the least intrusive measures to achieve its legitimate public interest objective. In order to meet this requirement, Facebook must demonstrate that the public interest objective cannot be achieved without limiting speech, that it has chosen the least intrusive measure among those that restrict speech, and that the selected measure is effective and not counterproductive in achieving the intended goal.

The approach adopted by the Oversight Board in resolving content moderation disputes reflects the methodology commonly employed by international courts in addressing cases related to freedom of expression. The issue lies in the fact that only a limited number of disputes are examined by the Oversight Board, leaving the decisions of content moderators practically final and without the possibility to be effectively challenged in the remaining cases. In conclusion, we can highlight that the regulatory approach in the United States towards content moderation by social media platforms provides a substantial degree of freedom. It primarily relies on self-regulation by online service providers and soft legal instruments.

3. Regulatory approach to content moderation on social media platforms in the EU

In 2000, the EU adopted Directive 2000/31/EC on electronic commerce,[8] in which social media platforms, along with internet search engines, blogs, discussion forums, wiki applications, and photo and video-sharing social networks, are recognized as services of the information society. The directive aims to harmonize the national legislation of the Member States in the field of the Single Digital Market. According to Article 14 of the Directive, online service providers functioning as mere conduits, caching, or hosting service providers are not held accountable for the information they transmit or host. To qualify for liability exemption, two conditions must be satisfied: 1) they must lack actual knowledge of illegal activity or information, and 2) if they become aware of such content, they must promptly remove or disable access to it. Additionally, the Directive prohibits national governments from imposing a general monitoring obligation on these intermediaries. The primary goal is to establish efficient procedures for swiftly and reliably removing and disabling access to illegal content. Online intermediaries are encouraged to proactively implement measures while retaining their liability exemption under the e-Commerce Directive.

Regarding content moderation on social media that is not illegal but falls within the scope of harmful content, the European institutions initially undertake initiatives

[8] Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce'), OJ L 178, 17.7.2000, p. 1-16

for self-regulation, aiming to engage social media platforms in these efforts. In September 2018, the Code of Practice on Disinformation was published, joined by Facebook, Google, Twitter, Mozilla, representatives of the advertising industry, and later by Microsoft and TikTok. In December 2018, an Action Plan against Disinformation was adopted, which provided for the European Commission (EC) to continuously monitor and analyse the implementation of the Code in collaboration with the Group of European Regulators for Audiovisual Media Services (ERGA) and the European Audiovisual Observatory. The EC report for the first year reached positive conclusions that the Code provides a valuable framework for a structured dialogue between online platforms and the EC, enhancing transparency and accountability in their disinformation policies.[9] However, further analyses revealed significant shortcomings, such as the inconsistent and incomplete application of the Code by platforms and Member States, lack of uniform definitions, and other limitations pertaining to insufficient public protection.[10] In accordance with the recommendations, the measures in the Code should be reviewed and supported by new guarantees, while simultaneously inviting a broader range of organizations to join.

As an indication of the inefficiency of the existing self-regulation mechanisms, the dissatisfaction expressed by Meta - Facebook users in Bulgaria in 2022 regarding the established content moderation mechanisms on the platform can be highlighted. The war in Ukraine has elicited a strong reaction in Bulgarian society, often expressed on social media platforms, especially on Facebook, which currently is the most used social media with the greatest influence in Bulgaria. The dispute arose over numerous cases of blocked civil voices and journalists on the social media platform, whose profiles were blocked mainly for posting against Vladimir Putin and the war that Russia is waging in Ukraine. In January 2023, representatives from Meta and TELUS Bulgaria (responsible for content moderation in Bulgarian, Russian, and Turkish languages) were invited to the National Assembly for a hearing.[11] During the hearing, Meta explained that their platform utilizes a blend of artificial intelligence and over 15,000 content reviewers, who are native speakers of the respective languages. These reviewers operate in over twenty global locations and to ensure linguistic comprehension, local residents serve as moderators for specific languages, including Bulgarian for local content oversight. After the hearing, in February 2023, Bulgarian media reported that Meta will terminate its contract with TELUS Bulgaria, with content moderation being relocated to Germany starting in July 2023. While some media have presented the outcome as a victory for civil society, there are still concerns regarding the evaluation in Germany of the content generated in Bulgaria to combat effectively the dissemination of disinformation and hate speech.

Parallel to the self-regulatory regime concerning the moderation of harmful content on social media platforms, the EU adopts a distinct approach regarding the moderation

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[9] European Commission. SWD (2020)180 final. Assessment of the Code of Practice on Disinformation.

[10] European Commission. COM (2021) 262 final. *Guidance on strengthening the Code of Practice on Disinformation*

[11] Комисия в НС претупа скандала с „Фейсбук“. Сега [онлайн], 26.01.2023 [прегледан на 20.05.2023]. Достъпен на: https://www.segabg.com/hot/category-bulgaria/komisiya-ns-pretupa-skandala-feysbuk

of content associated with the right to be forgotten, specifically when media platforms or intermediary service providers act as data controllers. In its judgment on the Google Spain Case (Case C-131/12),[12] the Court of Justice of the European Union (CJEU) establishes that the activity of search engines can be considered as the processing of personal data on its own grounds, even though they act as intermediaries and that this activity relates to information that has already been published and remains unchanged. As the processing of data, including searching for individual names and obtaining structured results of published information, can have a significant impact on individual's rights to privacy and data protection, the Court held that a fair balance must be struck between the legitimate interests of search engines and the rights protected under Article 7 and 8 of the European Convention on Human Rights (ECHR). The individuals have the right to ask search engines like Google to delist certain results for queries related to a person's name. The responsibility for decision-making is assigned to the data controller, in this case, the search engine, and their decision is subject to appeal before national supervisory authorities for personal data protection or through judicial proceedings.

Despite some concerns that this approach would have a chilling effect on freedom of speech, as data controllers would prefer to delete information rather than be responsible for their decision, the EU reaffirms its approach in the adopted General Data Protection Regulation in 2016 (article 17, Right to be forgotten). In its judgment of 8 December 2022 in Case C-460/20,[13] the CJEU provides guidance on the burden of proof on the individuals requesting de-referencing, as well as the obligations and responsibilities of the search engine operator. According to the guidance provided by the CJEU the individual requesting de-referencing based on the grounds of inaccurate content is required to demonstrate the clear and evident inaccuracy of the information contained in that content, or at least a substantial portion thereof that is not insignificant in relation to the content as a whole. The individual is only expected to provide evidence that, considering the specific circumstances of the case, can reasonably be expected of them to seek to establish the manifest inaccuracy. Regarding the data controllers, the court's guidance is that they should consider all the rights and interests involved, as well as the particular circumstances of the case. However, the data controller cannot be obligated to actively search for facts that are not substantiated by the de-referencing request in order to assess its validity. Additionally, the data controller is not required to investigate or engage in an adversarial debate with the content provider to obtain further information regarding the accuracy of the referenced content. In case of rejecting the request, the data subject must be able to bring the matter before the supervisory authority or the judicial authority competent to conduct appropriate investigations and order the data controller to take the necessary actions.

In cases concerning the protection of personal data, the objective of the regulatory approach in the EU is to combine self-regulation with opportunities for administrative, civil, and criminal legal protection in case of violations. A specific feature of the European model for personal data protection is the requirement for states to establish

[12] Judgment of the Court (Grand Chamber), 13 May 2014, Case C 131/12.

[13] Judgment of the Court (Grand Chamber) of 8 December 2022; Case C-460/20.

an independent authority responsible for monitoring compliance with the legal framework. In practice, this helps to address the shortcomings associated with self-regulation, such as impersonal decision-making or indefinite timelines for resolving cases.

With the adoption of the Digital Services Act[14] in October 2022, the EU embraces a comprehensive approach that combines private and public legal regulations regarding the moderation of content by online platforms and other providers of intermediary digital services. The EU Regulation provides for measures against illegal as well as harmful content, including disinformation. The aim is to create the so-called „co-regulatory backstop" that supplements self-regulatory mechanisms with legal safeguards, ensuring transparency and accountability on behalf of the digital platforms to regulators and users, without censoring the content.[15] The Digital Services Act introduces requirements regarding the handling of user notifications regarding illegal content, which must be addressed promptly, diligently, impartially, and objectively. Providers are obligated to inform both the user who submitted the moderation request and the user who uploaded the moderated content about their decision, including information about legal remedies. Specific requirements are outlined for online platforms regarding the establishment of an Internal Complaints Handling System, which allows users to challenge decisions made by the online platform. Additionally, provisions are made for out-of-court dispute resolution by certified bodies, as well as general oversight of platform activities by designated Digital Services Coordinators in each EU member state. The practical implementation of the provisions of the Digital Services Act is yet to be discussed among the Member States of the Union.

Conclusions

The Internet's worldwide reach and its vast user base, consisting of both service providers and end-users, diminish the efficacy of conventional legal frameworks, necessitating more adaptable and responsive regulation that accounts for participants' behaviour and the rapid pace of technological advancements. Concerning content moderation on social media platforms, two distinct regulatory approaches are currently emerging in the US and the EU. While in the US, the focus remains on self-regulation and soft law as primary regulatory instruments, in the EU, attention is directed towards the combined use of a common legislative framework aimed at addressing the limitations of self-regulation in the context of the digital environment. Despite the differences in regulatory approaches, which can largely be explained by variations in legal traditions, both jurisdictions share the view that the digital space should be regulated in accordance with internationally recognized human rights. This shared idea is likely to contribute to finding effective solutions in moderating the content on global social media platforms to support freedom of speech while ensuring that users are protected from illegal and harmful content.

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[14] Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act)

[15] Огнянова, Н. Няма да има Министерство на истината в ЕС. Публикувана в: „Дезинформацията: новите предизвикателства", Изд. СУ „Св. Климент Охридски", 2021 (Международна научна конференция - октомври 2021)

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THE ROLE OF THE MEMBER STATES' DIGITAL SERVICES COORDINATOR FOR ENSURING COORDINATED AND CONSISTENT ENFORCEMENT OF THE DIGITAL SERVICES ACT

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Abstract

In 2020, European Commission proposed a legislative package (Digital Services Act and Digital Market Act) to reform the rules governing digital world and to achieve some of the goals set in the Digital Single Market strategy. The regulations aim to create a safer digital space where the fundamental rights of users are protected in the online environment. The Digital Services Act was published in the Official Journal of the EU on the 19th of October 2022. To ensure largely consistent enforcement of the Digital Services Act throughout the Member States, the Act contains extensive enforcement provisions and mechanisms and foresees Digital Service Coordinators to enforce its rules. By 17 February 2024, the Member States will need to communicate the names of their Digital Service Coordinators to the European Commission and to make sure that the appointed Digital Service Coordinators have the capacity to effectively implement the new EU regulation.

This article aims to compare the different approaches chosen by the Member States to ensure coordinated enforcement of the Digital Services Act. This paper argues that the decision for the appointment of the national DSCs is of high importance for building the countries' enforcement capacity and it is indicative for the way each Member State perceives the scope and the implementation of the DSA. Although the DSCs should fulfil specific requirements, the exact approach chosen by the Member States in the designation process will determine the consistent enforcement of the DSA in all EU countries. Something more, the paper argues that in all Member States is coming the time to debate how to regulate our information ecosystem because the mechanisms and the instruments that once were put in place to manage and to regulate the media and the information system, nowadays, are not well equipped to do so.

Key words: Digital Services Coordinators, Digital Services Act, coordinated and consistent enforcement, regulatory authorities

Introduction

The world is experiencing information crisis[1]. In this context, the European Union (EU) understands the need for change and what is at stake in our information society. EU is one of the first to point out the problems related to online disinformation and in general the crisis of trust in information in the democratic states. The EU's efforts to create a new adequate information system for today realities and a disinformation-proof media ecosystem are fundamental to Europe's digital future.

EU is not a passive on the matter of protecting freedom of expression in the digital age. On a contrary, it is quite active in the field of digital transformation. Many examples could be pointed out like the European Data Protection Regulation (GDPR) that is applicable as of 25th May 2018 in all Member States to harmonize data privacy laws across Europe. In 2022, European Commission (EC) adopted a legislative package (Digital Services Act (DSA)[2] and Digital Market Act (DMA)[3]) to reform the rules governing digital world and to achieve some of the goals set in the Digital Single Market strategy. The same year EC proposed European Media Freedom Act (EMFA) with the aim to protect media pluralism and independence in the EU. With the highly discussed EU Artificial Intelligence (AI) Act, the Union wants to regulate Artificial Intelligence in order to ensure better conditions for the development and use of this innovative technology.

These are just some of the many more European regulations and policies related to the digital world. All these ambitious and new regulations need effective institutional authorities to implement them at national and at supranational level. In addition, it is raising a debate related to the capacity of the regulatory bodies across the Member States to effectively implement the new regulations. National media regulation authorities are facing unprecedented challenges in recent years, notably due to the complexification of the media ecosystem and the changing nature of regulation[4]. The monopole of some global market players and the changes in the policies managing digital services highlight the differences between the national regulatory authorities in the field of media and communication in Europe. In this context, the national media regulatory bodies must adapt to numerous technological, market-related, and legislative changes, taking over new tasks and responsibilities, and even develop new approaches to regulation, including self- and co-regulation, so that they remain relevant and effective in an online environment[5]. In the online environment the DSA point out the need for better cooperation and coordination not only among national sectoral regulators, but among regulators across the EU Member States, and between EU

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1 Mansell, R., Livingstone, S., Beckett, C. Tambini, D. (2019). *Tackling the Information Crisis: A Policy Framework for Media System Resilience*. London School of Economics

2 Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act)

3 Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act)

4 Cabrera Blázquez F.J., Denis G., Machet E., McNulty B. (2021) *Media regulatory authorities and the challenges of cooperation*, IRIS Plus, European Audiovisual Observatory, Strasbourg

5 Ibidem.

and the regulatory bodies. DSA is extending the competences of the regulators in the media sector, both at national and at European level.

This report is comparing the different approaches chosen by the Member States to ensure coordinated enforcement of the DSA by focusing on analysing the appointed Digital Service Coordinators (DSCs) and their capacity to implement effectively the new European regulation. Not all the Member State appointed their DSCs yet and these unknowns are considering as a limitation of the methodology used in this report.

This paper argues that the decision for the appointment of the national DSCs is of high importance for building the countries' enforcement capacity and it is indicative for the way each Member State perceives the scope and the implementation of the DSA. Although the DSCs should fulfil specific requirements, the exact authorities chosen by the Member States in the designation process will determine the consistent enforcement of the DSA in all EU countries. Something more, the paper argues that in all Member States is coming the time to debate how to regulate our information system because the mechanisms and the instruments that once were put in place to manage and to regulate the media and the information system, nowadays, are not well equipped to do it.

Digital Services Act and Digital Service Coordinators

The DSA sets out a detailed regulatory framework to protect consumers' rights online. The Act regulates the obligations of digital services that act as intermediaries in their role of connecting consumers with goods, services, and content. The DSA is directly applicable in all the EU Member States, but in order the rules to be implemented in the counties there are many actions to be taken before that by the national governments. One of them is that by 17 February 2024, the Member States will need to appoint and to communicate the names of their DSCs to the EC. To ensure largely consistent enforcement of the DSA throughout the Member States, the Act contains extensive enforcement provisions and mechanisms and foresees DSCs to enforce its rules at national level. All the DSCs across the EU Member States will form the European Board for Digital Services, which should ensure consistent implementation at EU level. An oversight structure is trying to match the complexity of the online space. The Member States will have a major role, supported by this new coordinated European Board for Digital Services.[6] Each Member State will have a direct channel to report issues arising on their territory and will be able to request assistance from the competent DSC in the country where the online platform is established or has a legal representative. For

[6] The tasks of the Board will be the following: support the coordination of joint investigations; support the competent authorities in the analysis of reports and results of audits of very large online platforms to be transmitted pursuant to the DSA; issue opinions, recommendations or advice to DSCs in accordance with the DSA; advise the Commission and, where requested by the Commission, adopt opinions on draft Commission measures concerning very large online platforms in accordance with the DSA; support and promote the development and implementation of European standards, guidelines, reports, templates and codes of conduct as provided for in the DSA, as well as the identification of emerging issues, with regard to matters covered by the DSA. Source: Cabrera Blázquez F.J., Denis G., Machet E., McNulty B. (2021) *Media regulatory authorities and the challenges of cooperation*, IRIS Plus, European Audiovisual Observatory, Strasbourg

violations of the very large online platforms (VLOPs), the EC can provide direct supervision and sanctions. In addition, day-to-day cooperation within the European Board for Digital Services is envisaged to play an important role in ensuring the flow of information between Member States and the EC so that they could learn from the experience of the others.

The new rules create mechanisms to coordinate the actions of the EC and the Member States and to ensure fair implementation across the EU, but still there are many challenges[7] in front of the consistent enforcement of the DSA.

First, under DSA the EC aim is to achieve a transparent environment by creating a clear framework for accountability of the online platforms. This is not an easy goal to achieve for a lot of reasons and one of them is because in many countries so far there is no responsible authority with such or even similar tasks. The regulatory framework is giving the rules but who is going to implement them rightfully is another question. The capacity of the stuff in some authorities to regulate the digital space are insufficient.

Second, the Regulation introduces a horizontal framework for all categories of content, products, services and activities related to intermediary services. It sets out horizontal rules that are trying to cover all services and all types of illegal content, and does not replace or amend, but complements sector-specific legislation. The complex approach is adequate for the realities but so far in many countries these sectors are regulated by sectoral regulatory bodies, not by a complex authority. In this regard, the need of efficient communication between these regulatory institutions is becoming crucial for the implementation of the DSA at national level.

Third, there are serious concerns regarding the effectiveness of the DSA in all EU countries, related to the national legislators and regulators. In addition to the risk of limited enforcement of the DSA in some countries, the danger of over-enforcement, which may affect the right to freedom of expression of both users and platforms, should not be forgotten as well.

Requirements for Digital Services Coordinators

The DSA provides that each Member State designates one or more competent authorities for the specific sectors covered by the regulation and introduces the figure of the DSC identified by each Member State among the competent national authorities, which is entrusted with the task of facilitating the coordinated application of the provisions of the regulation in the various States. One of these competent authorities will have to be designated as their Digital Services Coordinator, which should be responsible for all matters related to the application and the enforcement of the DSA in that Member State. The DSCs should be responsible for ensuring coordination at national level and for contributing to the effective and consistent application and enforcement of the DSA throughout the Union[8]. Their role will be important for the

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[7] This is not a full list of the challenges in front of the consistent enforcement of the DSA and this paper does not pretend to cover all the aspect of the implementations, but just some related to the DSCs.

[8] Cabrera Blázquez F.J., Denis G., Machet E., McNulty B. (2021) Media regulatory authorities and the challenges of cooperation, IRIS Plus, European Audiovisual Observatory, Strasbourg

cross-sectoral and cross-border issues for administrative and coordination purposes[9]. It is a task of each Member States to choose its DSC, but in order to do so, the future DSCs should meet some mandatory requirements.

First, the DSC should be an independent body appointed by the EU Member States. In order to carry out their tasks and exercise their powers in accordance with the DSA, DSCs should act with **complete independence**. According to DSA, DSCs should remain fully independent in their decision-making, should remain free from any external influence and should not seek instructions from their governments, other authorities or the online platforms or in other words from any other public authority or any private party.

Second, Member States should ensure that their DSCs **perform their tasks** under this Regulation **in an impartial, transparent and timely manner.**

Third, EU countries will have to ensure that the DSC has **adequate financial, technical and human resources to carry out its tasks**.

Fourth, each country is left to choose by itself **one such authority, creating a new body or expanding the powers of the existing one, ensuring its independence and resources**. This is an important decision for the better implementation of the DSA.

Fifth, to carry out their tasks, DSCs should have some **specific powers** listed under DSA. DSCs should have a set of investigation and enforcement powers under the jurisdiction of their Member State.

The DSCs are obliged to draw up an annual report on their activities under DSA. These reports should be available to the public and should be communicate to the Commission and to the Board[10]. The principles for accountability and visibility of the work to the DSCs are foreseen in the DSA and this means that these principles should be respected as well by the appointed national authorities. The Member States must ensure that any exercise of their powers is subject to adequate safeguards laid down in the applicable national law in conformity with the Charter of Fundamental Rights of the European Union and with the general principles of Union law[11].

Overview of the regulatory systems in media sector in Europe and DSA as an accelerator for the cross-sectoral cooperation between regulators

Appearing in the 1980s the independent media regulatory authority is a success story and gradually became the default model to regulate audiovisual media in Europe. But still in Europe there are probably as many regulatory systems as there are countries,

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[9] Cabrera Blázquez F.J., Denis G., Machet E., McNulty B. (2021) Media regulatory authorities and the challenges of cooperation, IRIS Plus, European Audiovisual Observatory, Strasbourg

[10] Guide to the Digital Services Act

[11] Cabrera Blázquez F.J., Denis G., Machet E., McNulty B. (2021) *Media regulatory authorities and the challenges of cooperation*, IRIS Plus, European Audiovisual Observatory, Strasbourg

depending on the legal system, democratic and cultural traditions and the economic and media situation.[12] Several comparative studies have already pointed out the diversity in their formal structure, competences, and powers, and also how differently they operate in practice[13]. Traditionally, in Europe the various sectors that make up „the media" were regulated separately[14]. One authority could be responsible for the content monitoring and broadcasting regulation, another for the transmission and the spectrum, third for the Protection of Competition or for Consumers and Markets etc. In the last around fifty years the convergence has brought with it a review of the regulatory systems and some countries have therefore reviewed and adapted their regulatory regimes[15]. It is fair to point out that merging sectoral regulatory authorities is not a new phenomenon. But the creation of a new horizontal policies and laws necessary for regulating the digital space is demanding to think once more how to adapt the regulatory regimes and the authorities that should implement them. We are once more witnessing a trend of changing the way the regulatory bodies are functioning in the context of the rapidly changing media ecosystem in Europe and all over the world. The enforcement of the DSA is again raising the questions regarding the necessary process of rethinking media regulation so that it remains relevant and effective in an online environment.

The DSA is expected to have a positive effect in the process of changing the role of the regulators. The DSA is considered to act as an accelerator for the cross-sectoral cooperation between regulators. The implementation of the Act needs substantial structural collaboration between media regulators and authorities from adjacent regulatory sectors. The DSA puts special emphasis on cross-border cooperation between DSCs. Such a broad scope of rights and interests at stake will inevitably require gathering a broad range of expertise, traditionally residing in distinct regulatory actors[16]. Structural cooperation mechanisms are likely to be required for efficient enforcement of the regulation, to ensure a smooth channel of communication between competent authorities.[17] The role of the DSC would be to coordinate and ensure cooperation between all other competent national authorities, and to act as a single point of contact.[18] This is way the designation of certain authority that is lacking a capacity to do implement this task, in fact could threaten the whole implementation of the DSA.

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[12] Fell, J. (2008), *Media convergence and the implications for media regulation*, In: Converging media - convergent regulators? The future of broadcasting regulatory authorities in South-Eastern Europe. Printed at the Council of Europe.

[13] Cappello M. (ed.), (2019) *The independence of media regulatory authorities in Europe*, IRIS Special, European Audiovisual Observatory, Strasbourg

[14] Fell, J. (2008), *Media convergence and the implications for media regulation*, In: Converging media - convergent regulators? The future of broadcasting regulatory authorities in South-Eastern Europe. Printed at the Council of Europe.

[15] Ibidem.

[16] Cabrera Blázquez F.J., Denis G., Machet E., McNulty B. (2021) *Media regulatory authorities and the challenges of cooperation*, IRIS Plus, European Audiovisual Observatory, Strasbourg

[17] Ibidem.

[18] Ibidem.

Classification of the appointed DSCs in the European countries

The Member States' approaches for ensuring coordinated and consistent enforcement of the DSA is determined by the national specifics including the performance and the characteristics of the national regulatory bodies appointed for DSCs. The countries are having different approaches for implementing DSA and the designation of the DSC confirms this trend. The approach of each country is the way it is for many reasons – the traditions and the culture in the country, the information and media policy in the country, the actual structure of the regulatory authority, the willingness of the country to govern their online environment etc.

This paper uses typology to create categories for systematisation of the authorities that will eventually serve as DSCs. In order to better analyse the Member States' approach in appointing the national DSCs and to compare the institutional bodies, in this paper it is used classification such as by their competences and by time of existence.

- **According to the competences** of the authority appointed to serve as DSCs two types of bodies are categorised – 1) **Complex institution** (like in Spain) or 2) **the regulator of a specific sector** – the media regulator (like in Ireland), the regulator of the telecommunications sector (like in Bulgaria), the authority responsible for Consumers and Markets (like in Netherlands), etc.

In some countries like Spain, the body chosen to play a relevant role in the application of the DSA is complex institution. In Spain prospectively as Coordinator of Digital Services is going to be the *Spanish National Markets and Competition Commission / La Comisión Nacional de los Mercados y la Competencia* / (CNMC)[19]. A Body that in 2013 integrated the functions of six pre-existing bodies. A big regulatory body with different directorates regulating sectors form energy to telecommunication market, National Postal Sector, Audiovisual Media and others. The CNMC is the body that promotes and ensures the proper operation of all markets in the interest of consumers and corporations. It is equipped with different regulatory, supervisory and instruction units that carry out their task of monitoring the markets from very different but complementary perspectives. It is a public body with its own legal personality. It is independent from the Government and subject to parliamentary oversight.

In other countries, a **regulator for a specific sector** is chosen to be the DSC under DSA. In countries like Belgium, Hungary, Ireland, Slovakia, Ireland and other as DSC is going to be pointed out the **media regulator**. Other Member State like Bulgaria, Czechia, Germany, Greece, Italy, Poland, Slovenia and Sweden is more likely to choose for this purpose the **regulator of the telecommunications sector**. The **authority responsible for Consumers and Markets** is going to be appointed for DSCs in countries like Netherlands and Finland.

- **According to the time of existence** of the authority appointed to serve as DSCs three types of countries are categorised – 1) **appointing an existing**

[19] CNMC (2023) *Plan de actuaciones de la CNMC 2023*, p. 51

body (Bulgaria, Spain, Germany, Slovakia, Netherlands); 2) **creating a new body** (Ireland); 3) **reforming existing body or bodies into a new one** (France and Slovakia did that but before DSA come into force).

Some of the appointed authorities are recently reformed ones. For example in France since the 1 January 2022 the *High Audiovisual Council / Conseil supérieur de l'audiovisuel (CSA)* and the *High Authority for the Distribution of Works and Protection of Rights on the Internet / Haute Autorité pour la diffusion des oeuvres et la protection des droits sur internet (Hadopi)* merged into *The Regulatory Authority for Audiovisual and Digital Communication /Autorité de régulation de la communication audiovisuelle et numérique* (ARCOM). ARCOM is responsible for both audiovisual and digital communications.

The long-awaited systematic reform of Slovakia's media legislation was finally completed in 2022. The parliament approved a platform-neutral law on media services to replace the existing broadcasting law. Designed to adapt the state's regulatory instruments to a digital media ecosystem, it obliges anyone who uses content-sharing platforms for profit-making purposes, including influencers, to apply to a new Council for Media Services for authorisation[20].

In Ireland last year, they established a new Media Commission so that to be responsible for regulating online intermediaries under the EU's DSA. *The Media Commission* (Coimisiún na Meán) assumed responsibility for regulating broadcast and online media in Ireland on 15 March 2023 when the Online Safety and Media Regulation Act 2022 took effect. Now the Irish government has confirmed that the regulator will take on the role of DSC for Ireland under the DSA.[21] In Ireland, the Media Commission is currently led by an executive chairperson and three other commissioners with responsibilities for broadcasting, media development and online safety respectively.[22] The Irish government has confirmed that a fifth commissioner responsible for overseeing the new digital services functions is to be appointed to the Commission.

In Italy Giacomo Lasorella, the president of the *Authority for Media and Communication/ L'Autorità per le Garanzie nelle Comunicazioni* (AGCOM) stated that the independent Authority has all the credentials to be the Italian DSC.[23] As a „convergent" authority, AGCOM „*carries out regulatory and supervisory functions in the sectors of electronic communications, audiovisual, publishing, postal services and more recently online platforms. The profound changes brought about by the digitisation of the signal, which has standardized the transmission systems of audio (including voice), video (including television) and data (including Internet access), are at the*

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[20] Hečková, A. and Smith, S. (Published on 14th June 2023) *Country report: Slovakia.* In Newman, N. et al. Reuters Institute Digital News Report 2023. University of Oxford. Available from: https://reutersinstitute.politics.ox.ac.uk/digital-news-report/2023/slovakia

[21] The Digital Services Bill 2023, p. 88

[22] Henry, A. (Published on 4 April 2021) *Media Commission to have Digital Services Act role in Ireland*, In:Pinsent Masons, Available from: https://www.pinsentmasons.com/out-law/news/media-commission-digital-services-act-role-in-ireland

[23] Meta, F. (Published on 15 June 2021) *Lasorella: „Agcom has the requirements to fill the role of Italian Digital Service Coordinator"*, In:CorCom, Available from: https://www.corrierecomunicazioni.it/digital-economy/lasorella-agcom-ha-i-requisiti-per-ricoprire-il-ruolo-di-digital-service-coordinator-italiano/

basis of the choice of convergent model, adopted by the Italian legislator and shared by other sector Authorities at European and international level. Like the other Authorities envisaged by Italian law, AGCOM is answerable for its actions to Parliament, which established its powers, defined the statute and elected its members"[24].

The Communications Regulation Commission (CRC) / Комисия за регулиране на съобщенията is expected to be the DSC under DSA for Bulgaria. CRC is a specialized independent state authority that is set up to regulate and control the electronic communications and postal services. It is the national regulator of the telecommunications sector and is empowered to enforce the laws governing the development of electronic communications (Electronic Communications Law, Law on Electronic Document and Electronic Signature Act etc.). CRC plays a decisive role in shaping the markets of mobile and fixed telephony, Internet access, broadcasting of radio and television programs, as well as postal services.

Some countries propose new ideas. To make the national law fit for the DSA, Germany proposed an advisory board that monitors the EU regulation's implementation and enforcement. According to the German Digital and Transport Ministry's draft amendment bill, the advisory board will consist of „*ten representatives of science, civil society, including consumer associations, and business representatives*."[25] The idea is this advisory board to serve as a coordinating body for enforcing the regulation, raising scientific questions and ensuring the effective and uniform implementation of the DSA. According to the bill, the board should also assist the DSC. This role will likely be entrusted to the Germany's telecom regulator – *Federal Network Agency* (BNetzA).

By contrast of the majorities of the EU Member States, Germany already have legislation that regulates the online space (the Network Enforcement Act (NetzDG)). Many in Germany perceive the DSA as a softer version of the NetzDG. The German law allowed direct supervision of all providers, including the big online giants based in Ireland. By contrast, under the DSA, German regulators will not be able to issue fines directly. They will have to initiate cooperation with the DSC of the country where the company has its European headquarters or the EU Commission if the company is a very large online platform.[26].

In some countries the establishment of the DSC has been put on hold until possible for political reasons. For example, in Poland they are waiting until the parliamentary elections that will be held on 15 October 2023.

The different by nature authorities expected to became DSCs attest that the approach of the individual Member States in the appointing process differs. The lack of constructive discussion about the reformation of the regulatory framework in some EU countries raises concerns. Again, the Member States could be divided into groups. One of them are more active in preparing the right approach for implement DSA in their country (Germany,

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[24] Official site of The Communications Regulatory Authority, Italy, Available from: https://www.agcom.it/che-cos-e-l-autorita

[25] Clasen, A. (published on May 9, 2023; updated: on May 11, 2023) *Digital Services Act: Germany proposes creation of advisory board*, In:Euroactive.de, Available from: https://www.euractiv.com/section/platforms/news/digital-services-act-germany-proposes-creation-of-advisory-board/

[26] Ibidem.

Ireland, France) and other are choosing without any further thinking or public debate a DSC among the existing regulatory authorities (Bulgaria). In fact, it's not only a matter of appointing the DSCs, but to create a structure with capacity to fully implement the DSA.

Risks and opportunities

Many of the appointed regulators in some of the countries have no experience in regulating the digital space. The lack of expertise, knowledge and capacity of the appointed authorities is rising concerns about the effective implementation of DSA. The Requirements for the DSCs under the DSA are stating what it is needed but the realities diverge from the actual capabilities of the appointed regulators.

First, at the national level, some countries are introducing ambitious legal reforms to tackle harmful content online and envisage granting new responsibilities to media or other sectoral regulators in order for example to protect children and vulnerable people when they are online. However, there is a lack of adequate financial and more importantly human resources among the future DSCs. Indeed, a national regulatory authority that regulates with old tools and mindsets and ensures compliance strictly of domestic and traditional broadcasters is doomed to become useless and not respected.[27] The regulatory authorities will need to adapt to new tasks and responsibilities and develop new approaches to regulation. This process requires the development of new tools, as well as the hiring or training of staff[28]. In this regard, the DSA creates an opportunity to train qualified staff who understand how digital services work.

Second, the regulatory authorities have to cope with a lack of accessible data from online actors, a heterogeneous legal framework, the cross-border nature of content and, depending on the national context, a potential lack of financial resources. In this sense the cooperation, both formal and informal, and the sharing of experience between regulatory authorities is crucial if they want to adapt to the changed environment while remaining relevant and coherent. The opportunity to overcome not only the cross-border challenges but also the cross-sectoral ones should be a priority in EU.

All these factors listed earlier in the text explain why cooperation between regulators is vital. The DSA provides a reliable and secure information-sharing system supporting communications between DSCs, the Board and the Commission. So far, the European Regulators Group for Audiovisual Media Services (ERGA) is the example for cooperation between the national independent regulatory bodies in the field of audiovisual media services aiming to advise the EC on the implementation of the Audiovisual Media Services Directive (AVMSD). How to enforce effective compliance in the online sphere will be a major challenge for the DSA. Cooperation

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[27] 44th EPRA meeting, Keynote speech for the plenary session on Compliance & Enforcement, Policies, Strategies & Methods of NRAs put to test by Jean-François Furnémont, 2016, https://www.epra.org/attachments/yerevan-plenary-ii-compliance-enforcement-policies-strategies-methodsof-nras-put-to-test-part-ii-keynote-jean-francois-furnemont.

[28] Cabrera Blázquez F.J., Denis G., Machet E., McNulty B. (2021) *Media regulatory authorities and the challenges of cooperation*, IRIS Plus, European Audiovisual Observatory, Strasbourg

mechanisms will play a key role. For the effectiveness of rules and ultimately the benefit of consumers and citizens, it is key that the authorities in charge cooperate with each other in an effective manner. A failure to effectively cooperate can lead not only to an inability to develop effective governance but also an inability to effectively enforce the rules[29].

Third, on the matter of independence of media regulatory authorities in Europe it is concluded in recent papers that de jure independence does not always coincide with de facto independence[30]. Some regulatory authorities have politicised appointment procedures, which can expose the authority to a degree of political influence. Some regulatory authorities receive their budgets from the government. The resources of regulatory authorities in terms of staffing and budget, as well as funding sources, also vary greatly across Europe. The majority of media regulators in Europe are small to middle-sized organisations, predominantly funded by state budget[31]. In this term, it is truth that the core requirement for the DSC under DSA is to be independent body, but the problem in some country and the legally banded independence is compromised in practice. For the DSCs is going to be a primary task to guarantee its independence in enforcing the DSA.

Fourth, the different approach to the Member States in appointing the DSCs and in reforming the way the designated authority performs its duties could lead to a difficult cross-border cooperation and in this manner could undermine the effectiveness of the act.

Conclusion

The understanding in DSA and EMFA, that we need better cooperation between the national sectoral regulators and between the Member States and the national regularity authorities, is a step in the right direction, but it is primarily in the hands of the EU Member States to equip their regulators with capacity, tools and instrument, in a way to be adequate in the digital world. If the Member States do not reform their regulatory bodies in order to be possible for them to effectively implement the DSA, even the coordinated EU approach will not help to win the fight for quality information, and it will get more difficult to protect freedom of expression in the digital age and to fights phenomena as disinformation.

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[30] Cappello M. (ed.), (2019) *The independence of media regulatory authorities in Europe*, IRIS Special, European Audiovisual Observatory, Strasbourg

[31] Ibidem.

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REVISING PRIORITIES: HOW CAN WE MOST EFFECTIVELY BALANCE DISINFORMATION NARRATIVES AND FREEDOM OF EXPRESSION WITHIN EU MEDIA POLICY?

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Abstract

The paper offers a perspective on the growing challenge of balancing disinformation narratives and freedom of expression within European Union (EU) media policy. It claims that within current approaches such a balance cannot be achieved and that a serious look at the drivers of media consumption trends and EU media policies on disinformation is required. Within the current frame of reference there is a need to carefully consider what we mean by freedom of expression. This paper argues that one aspect to consider is how current EU media policy, online media consumption and monetisation models create a space where attention-grabbing and emotionally charged content is favoured. This viewpoint might shed light on how these trends may potentially be overshadowing important but less attention-grabbing voices or perspectives. The article contends that one possible approach would be policies which encourage prioritising and investing in not-for-profit and participatory media systems built on community ownership and grassroots input.

Key words: disinformation, freedom of expression, EU, media policy

Introduction

The proliferation of disinformation is a significant threat to democratic institutions and societal cohesion globally. The European Union has attempted to respond to and counteract disinformation through legislative and regulatory measures, including the EU Code of Practice on Disinformation adopted in 2018 and the strengthened Code of Practice in 2022. These efforts have the stated aim of increasing transparency and the accountability of online platforms, supporting media literacy programs, increasing transparency around political advertising, encouraging independent fact-checking, and promoting cooperation between tech companies, researchers, and media outlets. Early evaluations of the original Code of Practice on Disinformation claimed, somewhat understandably, that the Code has failed to satisfy such lofty goals or to significantly mitigate the disinformation phenomenon (Durach et al., 2020).

The current EU approach is one of self-regulation and co-regulation, where there is an effort to encourage private stakeholders to work with public bodies to establish and implement rules and policies. As such, broad objectives and principals have been set by the European authorities, and online platforms and companies are tasked with implementing specific rules and procedures to achieve these broad objectives. This is a middle ground approach between self-regulation and direct regulation in order to address disinformation in the online space. This approach requires careful management and monitoring to ensure accountability and transparency. However, there are various concerns over both the lack of transparency and effective action from online providers on disinformation. There are also concerns over how EU policies and positions might represent a threat to freedom of expression, a point emphasised by the fractured nature of member state policies with some EU countries implementing direct regulatory measures. For example, Germany and France enacted restrictive national laws against election misinformation in 2018 and online hate speech in 2017. These measures heighten concerns around censorship and often serve to legitimize criticisms and distrust of national governments and the EU. There are also legitimate concerns that such regulations could ultimately be used as suppressive measures which could be abused for political purposes (Durach et al., 2020).

What is often missing in such discussions is an appreciation of the limits of our ability to tackle the issue of disinformation without rethinking both our current relationship with media consumption and current media business models built upon the monetisation of information. The dominance of digital media and the internet have fundamentally altered the way that media is produced, distributed and consumed. The abundance of free content available has made it increasingly difficult for traditional media outlets to generate revenue and sustain their business models (Napoli 2019; Andrejevic 2013). The media industry continues to face challenges due to the shift from print to digital advertising. This has resulted in a decrease in advertising revenues, which is a long-standing source of income for media companies. As more ad dollars are diverted to online platforms and social media, traditional media outlets are under financial pressure to find new sources of income and modify their business models. This change is also linked to concern surrounding the reliability and accuracy of news and information due to the monetisation of information. In the struggle to draw attention and clicks, media outlets are incentivized to favour sensationalism and clickbait over precise and informative reporting. The monetisation of information has led to concerns about the reliability and accuracy of news and information. Media outlets are incentivized to prioritize sensationalism and clickbait over informative reporting in order to draw attention and clicks. This demand for page views and advertising revenue has also allowed for false news, disinformation, and propaganda to spread. The current business model makes it difficult for large for-profit media platforms to willingly or enthusiastically jeopardize their revenue streams.

Responses to these issues must go further than the basic need for algorithmic transparency, Fact checking and media literacy programs. If we are genuinely cognizant of the importance of accurate information to societal cohesion and democratic institutions, then maintaining the current status quo and tackling disinformation through the methods listed are at best reactive approaches, analogous

to treating symptoms and not the illness. It is here that the EU can take a leading position by encouraging efforts to democratise the media and to offer alternatives to the centralised power of dominant media outlets and platforms in conjunction with measures like media literacy. One possibility is that this could be achieved by prioritizing and investing in not-for-profit and participatory media systems built on community ownership and grassroots input. The digital age provides opportunities for citizens to become producers and distributors of media content, fostering grassroots journalism, citizen reporting, and community media. What Hardt & Negri (2004) refer to as decentralized horizontal networks can help provide the theoretical framework and principles which can aid in the development of a democratization of media production by coordinating efforts across local, regional and transnational spheres.

1. Defining Disinformation and the Digital Media Space

1.1. Defining Disinformation

A starting point of the discussion is effectively defining the term disinformation. In the popular mind, disinformation has more prominently been associated with the term 'Fake News' a catch all phrase which has simplified the discussion and has been adopted as a rhetorical political weapon (Durach et.al, 2020). For the purposes of this paper, disinformation is defined as any type of information that is false, inaccurate, or misleading and has been created with the intention of causing harm to the public or for financial/political gain (Durach et al., 2020). This paper takes the position that disinformation is a political, social or economic tool, one which is directly derived from society's existing political and economic structures. It is an effective device which can operate at both local and international levels (Boyd 2017). It is important to avoid overly simplistic understandings of disinformation, which are in themselves barriers to the effective creation of countermeasures. As Durach et al., (2020) point out the first of these misunderstandings is a focus on ad hoc standalone disinformation instances, (such as Russia's efforts at disinformation) or contexts which underplay the larger issue of digital media consumption. Secondly, Durach et al., (2020) also note that placing the responsibility on mainstream media outlets to educate the public to identify disinformation is misguided. This aspect is particularly problematic as the core problem is with the way the new digital ecosystem works, and mainstream media outlets are part of that. This ecosystem is generally driven by platforms, algorithms, big data, and artificial intelligence, and relies on emotions and visual discourse to disseminate and amplify disinformation. The current focus on fact-checking and debunking specific content is simply not enough to combat digital disinformation.

1.2. Digital Media Environment

In his book: *Infoglut: How too much information is changing the way we think and know*, Andrejevic (2013) posits that having too much information creates a paradox. Despite having access to a lot of information, our ability to process and evaluate it is often hindered by factors such as information overload, the speed at which information is shared, and the lack of reliable filters to distinguish between trustworthy and untrustworthy sources. The emergence of digital media conveyance methods such as

online platforms and media outlets, have fundamentally altered the way information is accessed, disseminated and consumed. This shift has rendered traditional media less influential in shaping public opinion, with social media platforms taking on a greater role in the spread of disinformation and propaganda (Andrejevic 2013). As such disinformation can be understood as an:

> ...outgrowth of these changes in news production and consumption patterns. It is a direct response to the new informational environment, where old norms, routines, and gatekeeping functions are no longer effective in defining news and information. (Bennett 2012: 26)

As Allcott & Gentzkow (2017: 211-236) note, social media platforms are different from traditional media technologies because content can be shared among users without any third-party filtering, fact-checking, or editorial judgment. This means that anyone can potentially reach as many readers as mainstream media outlets. Tufecki (2018) argues that the structure of social media platforms, which are algorithmically driven and characterised by network effects, can amplify the spread of false information and make it difficult for corrective information to gain traction. Likewise, Boyd (2012:71-76) argues that the structure of social media is characterised by what she refers to as „context collapse", in which social norms and expectations are destabilised by the presence of multiple audiences and contexts. In terms of the impact of social media and disinformation, Bennett (2016) and Andrejevic (2013) both suggest that contemporary disinformation serves to personalise political communication, reinforce ideological polarisation, and undermine critical thinking and open debate, leading to the subversion and dismissal of opposing voices and institutions. This observation is repeated by Flaxman, Goel & Rao (2016) in their quantitative data analysis on the relationship between personalised algorithms, filter bubbles and online news consumption (2016:298-320). These findings also support the conclusion that individuals exposed to such information bubbles are less likely to engage with diverse perspectives than those who got their news from traditional media or television (2016:318).

1.3. Monetisation and the Media Industry

Andrejevic (2013) also explores the important aspect of commodification of personal information through the digital economy. The digital monetisation of information is closely connected to the challenges that the media industry has faced over the last few decades. The abundance of free content available on the Internet has made it increasingly difficult for traditional media outlets to generate revenue and sustain existing business models. A key challenge for the media industry in the digital age has been the shift from print to digital advertising. Advertising revenues, which have traditionally been a significant source of income for media companies, have declined as digital advertising has grown in popularity, with more and more ad dollars flowing to online platforms and social media (Andrejevic 2013). This has put pressure on traditional media outlets to adapt their business models. The easiest way to do so is to adopt paid premium services or to attempt to influence how people digest media content and information.

The desire to make money from online platforms is directly linked to the spread of disinformation, as people create and promote misleading content to increase web

traffic and advertising revenue (Allcott & Gentkow 2017). Click-driven models that generate revenue based on the number of clicks an article or content receives, for example, incentivize sensationalism, clickbait, and provocative or controversial content. This can lead to a focus on generating clicks at the expense of quality and accuracy of information presented (Zannettou et al., 2019). Additionally, online advertising platforms use advanced targeting techniques based on user preferences and behaviour. As discussed earlier, this can result in filter bubbles and echo chambers, where users are exposed to content that aligns with their existing beliefs, reinforcing biases and limiting exposure to diverse perspectives (Pariser 2011). The creation of native advertising and sponsored content practices further muddy the waters by blending with regular content, making it hard for users to differentiate between them. This can lead to biased or misleading information being disseminated, blurring the line between objective journalism and commercial interests (McAlpine 2019).

The emergence of the digital environment and the challenges and pressures this has placed on media outlets has aided in the creation of a specific type of contemporary media consumption culture. It is a symbiotic relationship in which both elements have evolved in tandem, each having a significant impact on the other over the years. Online content is created to capture attention and generate revenue through click-driven revenue or targeted advertising. This has led to the proliferation of clickbait and sensational content. User preferences for personalised experiences have also driven the development of monetisation strategies, shaping the way we consume media online. This reciprocal relationship has created a culture of media consumption that is highly dependent on attention and revenue. Such a media culture has significant implications for genuine freedom of expression. Monetisation models that prioritize click-driven revenue or user engagement may lead to the promotion of sensationalist or controversial content over more substantive or nuanced information (Tufekci 2014). This can create an environment where attention-grabbing and emotionally charged content is favoured, potentially overshadowing important but less visible voices or perspectives.

2. European Union Media Policies and Strategies to tackle disinformation

2.1. General Approach to Disinformation

The European Union (EU) has taken a multi-faceted approach to combat disinformation online. This includes the EU Code of Practice on Disinformation and the European Democracy Action Plan, both of which aim to improve the detection and analysis of disinformation, coordinate and strengthen EU-wide responses, and mobilize a private sector approach. Furthermore, the EU has reiterated its commitment to promoting transparency, enhancing media literacy, and supporting independent quality journalism in order to ensure that freedom of expression and media pluralism are protected. To this end, the EU has attempted to engage stakeholders from various sectors, such as policymakers, civil society, media, and online platforms, to help tackle the problem on multiple fronts. These initiatives involved the development of a Rapid Alert System, The Code of Practice for online platforms, and various levels of support for media freedom and independent journalism. All excellent aims, however,

unlikely to have a significant impact so long as media consumption culture continues to be dependent on sensationalism, attention and monetisation.

In addition, assessments of the EU's performance in regulating the digital space and effectiveness of its regulatory efforts note that there remain significant challenges, not least of which are the rapid pace of technological change, the dominance of a small number of large, multinational companies, the fragmentation of national regulatory approaches, and the potential trade-offs between regulating the digital space and protecting individual rights and freedoms (Satariano 2019). Despite these challenges, it should be noted that the EU has taken significant steps to regulate the digital space including the General Data Protection Regulation (GDPR) and the recently adopted Digital Services Act. The DSA aims to modernise the EU's regulatory framework for digital services and promote transparency, accountability, and user trust. The EU's approach to regulating the digital space favours a principle-based, rather than prescriptive, approach, which it claims leaves room for innovation and flexibility while maintaining accountability and protecting consumer rights. However, more work needs to be done to address concerns around market concentration, platform responsibility, and content moderation. As such the EU's regulatory framework for the digital space remains very much a work in progress.

2.2. The Code of Practice

The Strengthened Code of Practice on Disinformation 2022 is a set of measures aimed at combating disinformation online. Like its original 2018 variant it is a voluntary framework which follows a co-regulatory approach and encourages online platforms, social media firms, advertisers etc., to adopt self-regulatory measures to tackle disinformation. The Code seeks to increase transparency in political advertising and fact-checking, defund the dissemination of disinformation, and empower users to identify and flag false information. The Code also outlines commitments for digital advertising industry players, online platforms, and fact-checkers to prevent and combat the dissemination of harmful disinformation. Fact checking is a key activity advocated by the code, along with the development of quality indicators for online content which can improve the accuracy and reliability of information and reduce the spread of disinformation motivated by monetisation. The European Commission regularly evaluates and monitors compliance with the Code and encourages reporting and data sharing. This is important for identifying areas that need improvement and adapting the Code to address new challenges.

An important aspect of the discussion is a recognition of the limitations of the Code. L. Gordon Crovitz (2022) writing for *Politico* has referred to the strengthened Code of Practice on disinformation as a 'fail' and missed opportunity, and claims that it is no less than a direct capitulation to online media platforms, claiming that it essentially:

> Inoculate(s) platforms from the known harms they cause, as each one has now been allowed to pick and choose which sections of the code it will be bound by. The result is that the large platforms – except for Microsoft – have all declined to follow key „user empowerment" steps that would sharply limit the spread of disinformation (Crovitz 2022).

Mr. Crovitz, who is the CEO of NewsGuard, an organization that rates news and information sources on how they adhere to basic apolitical criteria of journalistic practice, claims that they agreed to become a signatory in the hope that platforms would incorporate tools like theirs available to their users. He claims however that „platform representatives watered down user-empowerment commitments paragraph by paragraph, word by word. And in the end – besides Microsoft – they refused to sign anyway" (Crovitz 2022). This user empowerment provision is absolutely essential in order to go beyond the steps which have proven ineffective by themselves which platforms have already implemented. Fact-checking, for example, does not prevent disinformation since fact-checking can only take place after the false information has already been spread. It is by its very nature reactive to the issue. Moreover, the products that high profile media platforms have designed prioritize maximizing engagement and expanding advertising revenue rather than ensuring the accuracy of the information they are sharing (Crovitz 2022). It is further claimed that if these products were made by another industry, they would be held accountable to basic liability laws and required to take reasonable steps to prevent known harms. While platforms have agreed to abide by the EU's revised code, they have neglected to include the critical provisions that are necessary for successful implementation. If these requirements are not adopted, it is likely that platforms will continue to operate in the same manner, failing to alert their users of false sources and become unwitting accomplices of disinformation campaigns.

Conclusion

In conclusion, the issue of disinformation in the context of European Union media policies provides a clear picture of the varied array of challenges faced by policymakers in addressing this phenomenon. The present approach of co-regulation, which encourages public and private stakeholders to collaborate and establish policies against disinformation, seems to be a compromise that intends to balance freedom of expression and effective regulation. However, as the current co-regulatory approach continues to be rolled out and implemented, it has struggled to achieve its objectives. It therefore behoves the EU to consider alternative approaches. This paper posits that addressing the monetisation of information should be considered as a crucial aspect of effectively tackling disinformation. The shift from print to digital advertising has put traditional media outlets under enormous financial pressure, incentivizing media outlets to prioritize clickbait over informative, accurate reporting. A successful response requires a significant rethink of our current media consumption relationship and business models built upon monetisation. One proposal is to prioritize and invest in not-for-profit and participatory media systems, democratizing media production and fostering grassroots journalism, citizen reporting, and community media. The EU has the opportunity to take a leading position in this regard by encouraging such efforts to develop and coordinate across local, regional, and transnational spheres in line with the principles of decentralized horizontal networks.

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THE BULGARIAN-ROMANIAN OBSERVATORY ON DISINFORMATION (BROD): A BRIDGE TO THE FUTURE

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Abstract

The European Union is currently facing multiple crises, not restricted to but including the COVID19 pandemic, the conflict in Ukraine, ecological and energy-related challenges, immigration pressures, and internal social and political issues. However, Europe and the EU are also defined by their know-how, culture, multilingualism, and contributions to the evolution of Western civilisation, a legacy that should be honoured and progressed to meet contemporary challenges. Our responsibility and hope lie in transforming society sustainably and intelligently in order to respond to anticipated and unanticipated changes. One possible instrument to do so is through European media observatories like the European Media Observatory (EDMO), which can serve as hubs for this purpose. The Bulgarian-Romanian Observatory on Disinformation (BROD) is one of the hubs collaborating with EDMO, which brings together journalists, fact-checkers, public figures, and academic researchers to work towards a society better prepared to tackle disinformation. This paper provides a broad overview of its setup and discusses some of the current challenges in monitoring the progress in counteracting disinformation.

Key words: disinformation, European Media Observatory (EDMO), Bulgarian-Romanian Observatory on Disinformation (BROD), fact-checking, media literacy

Background
Disinformation as a societal challenge and the challenges in Bulgaria and Romania

Bulgaria and Romania have common problems in the fight against disinformation – the pan-European propaganda narratives and poor media and information literacy (MIL) affect both countries. Citizen susceptibility to conspiracies and misinformation in Romania and Bulgaria is the worst in Central and Eastern Europe, as shown in reports from 2020-2022. Assessing 10 EU countries, GLOBSEC established

that 48% of respondents in Bulgaria and 39% in Romania believed conspiracy theories and misinformation.[1] They found that anti-EU and anti-NATO misinformation is particularly rife, with 50% of Bulgarian respondents believing NATO is an American scheme to keep Europe subordinate. Common misinformation narratives typically focus on an ethnic minority group, representatives of a country or nation that is distant ideologically or geographically, or a group on the other end of the society's ideological, social or financial spectrum.

In this study, we focus on the situation in Bulgaria. Below we provide some examples of the key areas influencing the overall societal attitudes toward disinformation.

The pandemic as an example of societal impact

The misinformation and infodemic, linked to the COVID-19 pandemic, caused an unprecedented increase in mortality, leading to a decrease in life expectancy worldwide, and Bulgaria is one of the countries severely.[2] A declining confidence in childhood vaccination rate associated with the COVID-19 pandemic on a global scale had been recently reported by UNICEF[3]; however, we still are not able to quantify what is the impact of misinformation on such processes with a huge societal impact – the assessment of the global childhood vaccination is that the progress of a decade had been lost with these latest developments.

Media freedom

Bulgaria has moved up by an impressive 20 positions in the Reporters Without Borders (RSF) media freedom rankings – from 91st to 71st place, but *Media freedom in one of the poorest and most corrupt countries in the European Union is fragile and unstable*, is written in the report. *The few independent voices in Bulgaria still work under constant pressure*.[4]

Fact-checkers density

The Balkan region, in general, has a very low number of fact-checkers compared to other parts of Europe. In 2021 AFP - a leading global news agency, providing 24/7 fast, comprehensive and verified coverage of world news across all fields, opens its fact-checking section in Bulgarian - https://proveri.afp.com/list, approved by the International Fact-Checking Network (IFCN) at Poynter. In 2022 Factcheck.bg, is also approved by IFCN. More and more media are making efforts and introducing

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1 GLOBSEC (2020) *Voices of Central and Eastern Europe: Perceptions of democracy & governance in 10 EU countries*. p.60 Available on https://www.globsec.org/what-we-do/publications/voices-central-and-eastern-europe-perceptions-democracy-governance-10-eu

2 Schöley, J., al. (2022). *Life expectancy changes since COVID-19*. Nature human behaviour, 6(12), p.1649-1659.

3 UNICEF (2023) *New data indicates declining confidence in childhood vaccines of up to 44 percentage points in some countries during the COVID-19 pandemic*. Available on https://www.unicef.org/senegal/en/press-releases/new-data-indicates-declining-confidence-childhood-vaccines-44-percentage-points-some

4 Reporters without borders (2023) *Bulgaria*. Available on https://rsf.org/en/country/bulgaria

columns related to fact-checking, like Bulgarian National Television (BNT), which is making a special team of factcheckers.

Low level of media literacy

In addition, Bulgaria is traditionally at the bottom of the EU countries ranking.[5] Although there are numerous training initiatives in this domain, there is no positive dynamics in moving up. Bulgaria is traditionally ranked last among the EU countries in this list in the years it had been compiled. Media literacy is not integrated into the educational system. At the same time, the Bulgarian Media Literacy Coalition[6] is making tremendous efforts to improve understanding of the importance of media literacy and support practical skills. This area is also an example of dispersed efforts as multiple organisations are trying to raise media literacy which is commendable. Still, there is no unified policy, quality standards and exchange of good practices.

These examples illustrate the complexity of the societal processes and the involvement of a complex system of stakeholders from the media, including the growth of fact-checking activities and education. In addition, research into the dynamics of the spread of information and disinformation and the technological companies' involvement in developing tools helping to identify disinformation are adding to a complex domain in need of a robust collaboration platform that would allow combining the efforts of different stakeholders.

The effort of the EU – EDMO and the hubs

In order to respond to this challenge, the EU is implementing a complex set of measures, including but not limited to the 2022 Code of Practice on Disinformation[7], strengthening media literacy skills, and supporting technological developments of tools that help identify disinformation. EDMO (The European Digital Media Observatory)[8] coordinates these efforts with the inputs of 14 regional hubs, which cover the whole EU. For Bulgaria and Romania, the EDMO-associated Bulgarian-Romanian Observatory of Digital Media (BROD)[9] started its activities in December 2022.

The importance of measuring progress

The efforts to coordinate efforts in tackling disinformation took shape with the development of EDMO. One issue which still does not have a straightforward answer is how to monitor and measure the dynamics in the disinformation domain. What

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[5] Lessenski, M. (2022) How It Started, How It is Going: Media Literacy Index 2022. Available on: HowItStarted_MediaLiteracyIndex2022_ENG_.pdf (osis.bg)

[6] Media literacy coalition (n.d.) website. Available on https://gramoten.li/en/about-us/

[7] https://digital-strategy.ec.europa.eu/en/policies/code-practice-disinformation

[8] https://edmo.eu/

[9] The project BROD (Bulgarian-Romanian Observatory of Digital Media) funded by the Digital Europe programme of the European Union under contract number 101083730 and under GATE „Big Data for Smart Society" project, funded by the Horizon 2020 WIDESPREAD-2018-2020 TEAMING Phase 2 programme under grant agreement no. 857155. GATE project is funded by Operational Programme Science and Education for Smart Growth under Grant Agreement No. BG05M2OP001-1.003-0002-C01.

societal changes would support the argument that an observatory (or other efforts) is succeeding – and in what way?

The current instruments to measure information across the EU are mostly related to the monitoring of the implementation of the Code of Practice and also in creating fact sheets on the various countries, which can be accumulated and would show the dynamics of change in each particular country over time. Within this context, BROD will contribute both to monitoring the Code of Practice and also to producing factsheets on Bulgaria. In addition to these monitoring activities, there is also a long-standing discussion among the stakeholders working on tackling disinformation on how to create monitoring tools. As this is still not implemented, we can expect that a new technological monitoring system will be developed in the near future.

Research design: research question and methodology

Our primary interest in this paper is to explore how Bulgaria develops alongside the main pillars of activity in EDMO. Our methodology is based on desktop research and observation of practices from different countries, complemented by the experience of the first five months of work within the BROD project. Although this is an early stage of the project, the reflection and the discussion with the broader community of the issues around monitoring are critical.

Literature review

The digital strategy against disinformation, developed by the European Commission[10], defines disinformation as *„false or misleading content that is spread with the intention to deceive or secure economic or political gain, and which may cause public harm; misinformation is false or misleading content shared without harmful intent though the effects can be still harmful.* "[11] The main point that makes disinformation and misinformation extremely dangerous is that they can have a range of harmful consequences as threatening democracies, polarising debates, and putting the health, security and environment of EU citizens at risk, is said in the document of the European Commission (*ibidem*).

The European Commission developed several initiatives to tackle disinformation: the European Democracy Action Plan[12] with guidelines for obligations and accountability of online platforms in the fight against disinformation; the 2018 Code of Practice on disinformation was the first time worldwide that industry has agreed, voluntarily, to self-regulatory standards to fight disinformation[13]; the COVID-19 disinformation monitoring programme[14], carried out by signatories of the Code of Practice, acted as a transparency measure to ensure online platforms' accountability in tackling

[10] https://ec.europa.eu/commission/presscorner/detail/en/ip_21_2585

[11] https://digital-strategy.ec.europa.eu/en/policies/online-disinformation

[12] https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/new-push-european-democracy/european-democracy-action-plan_en

[13] https://www.cem.bg/displaynewsen/802

[14] https://digital-strategy.ec.europa.eu/en/policies/covid-19-disinformation-monitoring

disinformation. EDMO[15] is an independent observatory bringing together fact-checkers and academic researchers with expertise in online disinformation, social media platforms, journalist-driven media and media literacy practitioners. The Strengthened Code of Practice on Disinformation[16], signed on 16 June 2022, brings together a wide range of stakeholders with voluntary commitments to tackle disinformation.

In addition to institutional efforts are those of various companies and organisations. Some of them are funded via the Horizon programme. For example, WeVerify[17] is a Horizon 2020 project[18] which had launched the development of a secure and highly scalable *Database of Debunks and Known Fakes*.[19] It currently indexes over 50,000 fact-checks published worldwide (including those by AFP Fact Check (available in 26 languages), AFP Proveri (in Bulgarian), AFP Factuel, Correctiv, Full Fact, and the BBC. In particular, WeVerify enhanced both TrulyMedia (the EDMO CSP) and the InVID-WeVerify browser plugin as complementary tools for content verification. The plugin is a popular verification tool used in 197 countries worldwide by more than 57.000 (41% of them in Europe) journalists, fact-checkers, human rights activists and NGOs, media literacy scholars and researchers to debunk disinformation.

While the development of instruments which also would work with Bulgarian language is beneficial, it is not going to answer all issues around disinformation. The problem with the prevalence of misinformed beliefs in Romania and Bulgaria is exacerbated by the insufficient actions taken by the online platforms towards curtailing misinformation in these two countries and providing tools analysing Bulgarian and Romanian languages. Therefore, urgent action is needed to strengthen and promote fact-checking and research on disinformation campaigns in both EU Member States

At the same time, the 2023 World Press Freedom Index has placed Romania 53rd[20] and Bulgaria 72nd.[21] Bulgaria also had the lowest level of GDP per capita in the EU in 2021,[22] with Romania, according to the statistics of the World Bank. With the prolonged COVID-19 crisis and its severe negative impact on the economies of these countries, the financial viability of the news media sector has become even more uncertain.

Moreover, a study by one of the Bulgarian partners Vitosha Research/CSD Group[23] confirmed the existence of patterns of ownership, economic dependency and (in)formal political links between media outlets in some Balkan countries and pro-Russian groups and interests, which are then correlated with corresponding trends of employing Russia-originating propaganda narratives.

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15 https://edmo.eu/

16 https://digital-strategy.ec.europa.eu/en/library/2022-strengthened-code-practice-disinformation

17 https://weverify.eu/

18 https://research-and-innovation.ec.europa.eu/funding/funding-opportunities/funding-programmes-and-open-calls/horizon-2020_en

19 https://www.veraai.eu/posts/dbkf-at-ebu-dts

20 https://rsf.org/en/country/romania

21 https://rsf.org/en/country/bulgaria

22 https://data.worldbank.org/indicator/NY.GDP.PCAP.CD?locations=EU

23 https://csd.bg/

The COVID-19 pandemic has further exacerbated these problems and negatively impacted press independence in Bulgaria and Romania by reinforcing the pre-existing internal and external factors. CSD's regional good governance network SELDI[24] further outlined the dangers of media capture, which exacerbates disinformation and media pluralism.

After the pandemic and the infodemic, the situation with disinformation did not improve, and the war against Ukraine enriched the environment with new narratives[25].

Findings

As a European Union country, Bulgaria faces many problems common to all European countries related to fact-checking, research and media literacy, but at the same time, Bulgaria has its own specifics. These specifics apply to all areas of activities addressed by the EDMO: Fact checking, Research, MIL, Collaboration with national regulators, and Policy analysis.

Fact-checking.

As already mentioned, there are two IFCN[26]-approved fact-checking organisations in Bulgaria: the Bulgarian version of AFP[27] and Factcheck.bg (with the Ukrainian version[28] and one more[29]). A number of other Bulgarian media are growing their capacity in fact-checking as well – lately, the trend for offering fact-checking sections on websites and designated coverage of checked facts by different types of media is very noticeable. Bulgarian National Television[30] (BNT) is in the process of establishing its fact-checking team, supported by the competencies within BROD. Since the beginning of BROD hub's work, in addition to the AFP fact-checks, the BNT team has been gaining strength and building its structure. It now has several fact-checked stories that are not just about politics – something that makes BNT unique among the Bulgarian fact-checkers[31]. BROD's efforts are about promoting an in-depth approach to news.

Fact-checking and disseminating reliable information have been at the very heart of all activities of AFP for many years. A global news agency with more than 2.000 journalists overall operating in six languages in its core news agency business enjoys a journalistic reputation that hinges on the factual accuracy of the news it publishes. AFP's statute and internal editorial charter guarantee accurate, independent reporting ever since the creation of this institution in 1835. AFP has a robust structure in Bulgaria. On top of these structures, the specialised fact-checking editors ensure that

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[24] https://seldi.net/

[25] https://edmo.eu/wp-content/uploads/2022/07/Periodic-insight-n.14-Disinformation-narratives-about-the-war-in-Ukraine.pdf

[26] https://www.poynter.org/ifcn/

[27] https://proveri.afp.com/list

[28] https://factcheck.bg/uk/

[29] https://factcheck.bg/factcheck-bg-veche-s-proverki-i-na-ukrainski-ezik/

[30] https://bnt.bg/

[31] https://bntnews.bg/news/proverka-na-fakti-otpravya-li-teritorialni-provokacii-kam-balgariya-osnovniyat-oponent-na-erdogan-1232829news.html

the story about to be published is accurate and well presented. These different layers ensure that the fact-checking is up to the best quality standards.

In addition to fact-checking organisations, there are also citizen-led initiatives, such as the Are you lying?[32] initiative of a group of active citizens who want to debunk disinformation in Bulgarian politics. During the parliamentary election campaign, between 03 March 2023 and 31 March 2023, they tracked the participation of 23 parliamentary candidates in national broadcasts and checked how often they spread false information.

Research.

As the topic of disinformation becomes critical, the number of academic and policy research organisations doing different types of studies in this area is also growing. One of the partners in BROD is the Center for the Study of Democracy (CSD). CSD's mission is to build bridges between scholars and policymakers. BROD's first achievement is a framework for analysing disinformation narratives on the example of perceptions around the Ukrainian Refugees in Bulgaria (Kiely and Gargova, 2023). The paper argues that the current approaches to understanding and examining disinformation narratives often lack a localised contextualisation considering cultural and historical factors that inform them. The Gramscian theory and a discourse analysis approach supplemented by Natural Language Processing (NLP) are proposed for multilayered informative, comprehensive and actionable results.

Media and Information Literacy.

The Media Literacy Coalition plays a significant role in Bulgaria regarding developing educational content and promoting media literacy, organising events related to the topic (https://gramoten.li/en/projects/). However, Bulgaria remains at the bottom of the media literacy ranking. A survey in 2020 shows that 60% of teachers did not set a task related to finding and assessing the reliability of a source of information and less than 1% set such every day after explaining to their students how to do that. Only 8% of all respondents conducted a lesson for this purpose; the same is the share of teachers that set the task of finding and verifying information sources weekly. Every second teacher declares that he has not set his students the task of working in cooperation. Only 2% described situations related to fact-checking in the media concerning the pandemic as examples of some tasks with information sources.[33] Furthermore, other NGOs in Bulgaria are aiming to tackle disinformation. One year ago, in April 2022, the Bulgarian Coalition against Disinformation[34] got launched.

Collaboration with national regulators.

BROD works to bring together the different actors in combating disinformation and has already had some meetings with the Council for Electronic Media, the national media regulator.

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[32] https://www.lazheshli.com/

[33] https://gramoten.li/en/2020/06/23/only-8-of-teachers-have-trained-students-to-check-sources-of-information/

[34] https://bulgaria.representation.ec.europa.eu/novini-i-sbitiya/novini-0/predstavyane-na-blgarska-koaliciya-sreschu-dezinformaciyata-2022-04-01_bg

Policy analysis.

Due to the overall political instability and lack of a democratically elected government, a coherent state policy against disinformation is currently lacking, which is a stark contrast to the significant efforts of the European Union. Some political parties are interested in legislation that obliges social networks to delete troll profiles. One of the proposed documents - Anti-Disinformation Bill, is inspired by the already existing Digital Services Act of the European Union, which requires more transparency and information from social media. As of 4 May 2023, the *law on the protection of persons submitting signals or publicly disclaiming information about violations* came into force. The purpose of the law is to ensure the protection of persons in the public and private sectors who report or publicly disclose information about violations of Bulgarian legislation or acts of the European Union, which became known to them during or on the occasion of the performance of their work or official duties or in another work context. This law regulates the conditions, order and measures for the protection of persons in the public and private sectors who report or publicly disclose information about violations of Bulgarian legislation or acts of the European Union that endanger or damage the public interest and the right of the European Union, as well as the terms and conditions for submitting and considering such signals or publicly disclosed information. Since it is a new law, no established practice exists yet.

The Commission produces an annual Strategic Foresight Report[35], which informs the Commission Work Programmes[36] and multi-annual programming exercises. These exercises are conducted through a participative and cross-sectoral foresight process, led by Commission services in consultations with Member States, discussion with the European Strategy and Policy Analysis System (ESPAS)[37] and external stakeholders.[38]

Conclusions

As the topic of disinformation is interdisciplinary, many different players are involved in it. The problem is how to consolidate efforts, create a sustainable and workable model that can continue to exist, and, most of all, address the whole of society to be sensitive and tackle disinformation.

The experience in a number of other countries shows (Germany, Finland, Sweden) that the question now is not *whether* to have media literacy classes but *how exactly* to have them. In many of the areas of intervention related to disinformation, Bulgaria lags behind, because it still configures the main tools and instruments to intervene.

Bulgaria is lagging when it comes to understanding the need for fact-checking – many editors, not without reason since fact-checking should be immanent for journalists, do not understand the additional, separate fact-checking. Simultaneously, journalists argue they cannot avoid spreading disinformation because politicians

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[35] https://commission.europa.eu/strategy-and-policy/strategic-planning/strategic-foresight/2022-strategic-foresight-report_en

[36] https://commission.europa.eu/strategy-documents/commission-work-programme_en

[37] https://www.espas.eu/

[38] https://commission.europa.eu/strategy-and-policy/strategic-planning/strategic-foresight_en

spread as much. At the same time, it is imperative that standards are set for fact-checking. Moreover, there is no specific legislation on the subject in Bulgaria.

In conclusion, there is substantial work to be done and BROD will continue working across the various key areas to tackle disinformation in the next two years.

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LEGAL IMPLICATIONS OF DATA MINING FOR JOURNALISTIC PURPOSES

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Abstract

Access to information, and data in particular, is a necessary condition for carrying out journalistic activity as an important pillar of free and democratic societies. And while freedom of expression and of the press traditionally may come into conflict with the protection of privacy or intellectual property as fundamental rights, the use of new technological forms such as text and data mining for journalistic purposes is creating an entirely new set of legal implications for the exercise of freedom of information. The present study focuses on the issues arising in the fields of copyright, personal data protection, open data, data governance etc. in connection with the use of data and creative materials as an input to machine learning models in the context of journalism.

Key words: Freedom of information; text and data mining; machine learning; copyright; privacy; journalism.

In recent decades, the journalistic profession was fundamentally impacted by technological developments. These new opportunities give rise to the so-called algorithmic journalism[1]. And while automated content production, also referred to as „synthetic media“[2] and „robojournalism“[3] steals the spotlight, new technologies are largely incorporated mostly in the context of journalistic investigations and research. Journalists often find themselves working with datasets too massive for humans to comprehend and data mining is the only viable option in order to uncover connections between variables with high significance. This, in turn, can allow journalists to test complex ideas and hypotheses and discover new social trends[4]. Covering the

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1 Kotenidis E, Veglis A. (2021) Algorithmic Journalism - Current Applications and Future Perspectives. *Journalism and Media* 2(2), p.244 <https://doi.org/10.3390/journalmedia2020014>.

2 See inter alia Ufarte-Ruiz, M.J., Murcia-Verdú, F.J. and Túñez-López, J.M. (2023) Use of artificial intelligence in synthetic media: first newsrooms without journalists. *Profesional de la informaciyón*, *32*(2).

3 For studies dealing with the copyright protectability of outputs generated by, or with the help of, Artificial Intelligence (AI), see Trapova, A. and Mezei, P. (2022) Robojournalism - A Copyright Study on the Use of Artificial Intelligence in the European News Industry. *GRUR International*, *71*(7), p. 589.

4 Kotenidis, Veglis (n 1).

world's largest whistleblower case to date – the *Panama papers*[5], would not have been possible without using data mining.

Notwithstanding whether certain data or content are publicly accessible or uploaded online with the initial consent of the concerned party or not, mining can still have legal implications in several aspects at both the EU and the national level.

This study focuses, without claiming to being exhaustive, on some of the normative requirements concerning the processing and use of data and content at the EU level. Thus, the research does not comprise an in-depth analysis of the legislation in other jurisdictions[6] or the potential use of private-ordering mechanisms to restrict mining of content, including for public interest purposes and for investigative journalism.

Text and Data Mining

The research technique of gathering information and extracting patterns from large amounts of digital data using automated software tools is called text mining or data mining, respectively. Commentators define data mining as the extraction of useful information from a larger subset of data and consider it a central part of a broader process called „knowledge discovery"[7]. Data mining is also defined as „the process of using computers and automation to search large sets of data for patterns and trends, turning those findings into business insights and predictions"[8].

In the field of copyright, the technique is referred to as „text and data mining" (TDM), however in practice, there is a difference between data mining, which is the computational process of discovering and extracting knowledge from structured data, and text mining, which is the computational process of discovering and extracting knowledge from unstructured data, usually referring to information created by a human in a natural language, representing unstructured data in a machine-readable format. Textual data can also be created and generated by software programs. The term „text and data mining" was recently granted a formal legal definition in the CDSM Directive

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[5] For more information regarding how repositories linked to Panama Papers LeaksDB uncovered patterns of relationships, see Zhuhadar, L. and Ciampa, M. (2019) Leveraging learning innovations in cognitive computing with massive data sets: Using the offshore Panama papers leak to discover patterns. *Computers in Human Behavior*, *92*, p. 507.

[6] For example, the legal source comprising the major potential chilling effect for 'algorithmic journalism' in the United States must be the Computer Fraud and Abuse Act (CFAA), which provides for both civil and criminal liability for unauthorized access to networked computers. According to Molly Shaffer Van Houweling, operators of internet platforms have argued, sometimes successfully, that the CFAA prohibits access *even to publicly accessible information* if that access violates a platform's terms of service or continues in the face of a cease-and-desist letter. See Yildirim, E., Van Houweling Shaffer, M., Lazarova, A. and Vézina, B. (2023) *Freedom to Share: How Government's Data Sharing Policies Concerning Publicly Available Data Impact Academic Research and Journalism in the Public Interest*. Creative Commons Medium Blog <https://medium.com/creative-commons-we-like-to-share/freedom-to-share-how-governments-data-sharing-policies-concerning-publicly-available-data-impact-d09cb736aebf>.

[7] Bramer, M. (2007) *Principles of data mining* (Vol. 180, p. 2). London: Springer.

[8] Rutgers Bootcamps (2022) What Is Data Mining? A Beginner's Guide <https://bootcamp.rutgers.edu/blog/what-is-data-mining/>.

of 2019[9]. The meaning is defined in para 2 of Art. 2 of the directive as „any automated analytical technique aimed at analysing text and data in digital form in order to generate information which includes but is not limited to patterns, trends and correlations". According to Recital 8, it is a technology that enables the processing of large amounts of information with a view to gaining new knowledge and discovering new trends. The recitals further describe the technology as enabling „the automated computational analysis of information in digital form, such as text, sounds, images or data".

The term that the proposal for an amendment of the Bulgarian Copyright and Neighbouring Rights Act (CNRA) uses to denote the technology is „automated text and information analysis". The new concept is defined in a proposed § 2, item 3a of the Additional Provisions of the CNRA, as „any automated analytical method used for the analysis of text and data in digital form, for the creation of patterns, trends, relationships and other information".

Processing of Personal and Non-Personal Data

Personal data[10], regardless of whether it was publicly available or if it was shared by users voluntarily, falls within the scope of the General Data Protection Regulation (GDPR)[11]. This means that whenever mining datasets of personal data, or even mixed datasets that include personal data[12], utilising such data will most likely constitute „processing"[13] and be scrutinised under the GDPR regime, notwithstanding the public availability of the data mined or the initial consent of the data subject to the publication of this data. This will also make the journalist or the respective organisation, i.e., news provider, a data „controller"[14]. In addition, mining can often

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9 Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC, OJ L 130.

10 Under art 4 of the GDPR, 'personal data' means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

11 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) OJ L 119, 4.5.2016, p. 1-88.

12 According to art 2, para 2 of the Regulation on free flow of non-personal data, 'In the case of a data set composed of both personal and non-personal data, this Regulation applies to the non-personal data part of the data set. Where personal and non-personal data in a data set are inextricably linked, this Regulation shall not prejudice the application of Regulation (EU) 2016/679.'

13 Under art 4 of the GDPR 'processing' means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

14 Under art 4 of the GDPR a 'controller' means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data; where the purposes and means of such processing are determined by Union or Member State law, the controller or the specific criteria for its nomination may be provided for by Union or Member State law.

involve sensitive personal data, the processing of which is subject to an even stricter regime[15].

The GDPR, however, acknowledges that journalistic expression is a form of protected expression and obliges Member States to reconcile the right to the protection of personal data with the rules governing freedom of expression and information as per Art.11 of the EU Charter of Fundamental Rights[16]. It is worth noting that in order to take account of the importance of the right to freedom of expression in the context of balancing fundamental rights, the GDPR sets a requirement for a *broad interpretation* of notions relating to that freedom, including the notion of *journalism*[17]. Furthermore, according to Art. 85 of the GDPR, the processing of personal data solely for journalistic purposes, including in the audio-visual field and in news archives and press libraries, is subject to derogations or exemptions from certain general provisions under the GDPR. The adoption of concrete legislative measures which lay down the exemptions and derogations necessary for the purpose of balancing fundamental rights – on, *inter alia*, general principles, the rights of the data subject and specific data-processing situations – is within the discretion of Member States.

The Bulgaria law handles the issue in Art. 25h of the Personal Data Protection Law[18]. The provision, introduced in 2019, states that „processing of personal data for journalistic purposes [...] is lawful when it is carried out for the purpose of exercising freedom of expression and the right to information, while respecting privacy." Furthermore, para 3 of Art. 25h introduces a derogation for journalistic uses from the obligations under Art. 6, 9, 10, 30, 34 and chapter five of Regulation (EU) 2016/679, as well as Art. 25c of the Bulgarian law. Also, the data controller or the data processor may in such cases refuse the full or partial exercise of the data subjects' rights under Arts. 12 to 21 of the GDPR. Moreover, para 4 limits the exercise of the powers of the European commission under Art. 58, para 1 of the GDPR in a way that may cause disclosure of information identifying a source. Lastly, according to para 5, when processing personal data for the purposes of creating a photographic or audio-visual work by photographing a person in the course of their public activity or in a public place, Arts. 6, 12 to 21, 30 and 34 of the GDPR do not apply.[19]

It must be taken into account, however, that GDPR exceptions do not always constitute blanket exemptions for the use of personal data, even for public interest

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[15] See e.g., art 9 of the GDPR on Processing of special categories of personal data.

[16] According to art 11 of the EU Charter, '(1) Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. (2) The freedom and pluralism of the media shall be respected.'

[17] See GDPR, Recital 153, *in fine* - 'In order to take account of the importance of the right to freedom of expression in every democratic society, it is necessary to interpret notions relating to that freedom, such as journalism, broadly'.

[18] See Personal Data Protection Law, amendment published in SG No. 17 of 2019.

[19] This study will not tackle the decision of the Bulgarian Constitutional Court of 2019, striking the provision of para 2 of art 25h of the Bulgarian Personal Data Protection Law as unconstitutional, because it only covers dissemination of personal data and does not directly concern data mining.

purposes. For example, under Art. 14 of the GDPR, data controllers have the obligation to provide information to the data subject. Para 5, p.(b) of Art. 14 sets an exemption to that requirement if „the provision of such information proves impossible or would involve a disproportionate effort, in particular for processing for archiving purposes in the *public interest*, scientific or historical research purposes or statistical purposes, subject to the conditions and safeguards referred to in Art. 89(1) or in so far as the obligation referred to in paragraph 1 of this article is likely to render impossible or seriously impair the achievement of the objectives of that processing". In the popular *Bisnode* case[20] the Polish DPA fined a company for scraping data from publicly available resources, finding that the fulfilment of its obligation to provide information *did not require a disproportionate effort*.

Furthermore, under Art. 35, para 3, a systematic evaluation of personal aspects relating to natural persons, based on automated decision-making, including profiling, is subjected to the requirement of a *prior assessment* by the controller of the impact of the envisaged processing operations on the protection of personal data. Although the provision of para 1 requires taking into account the nature, scope, context and purposes of the processing on a case-by-case basis, it does not exempt certain activities of the requirement solely based on the public interest nature of the activity or mission of the controller. In the *EU DisinfoLab* case[21] the Belgian DPA fined researchers for publishing raw data in a disinformation analysis on the possible political origin of tweets concerning the „Benalla affair" in France, without conducting a prior data protection impact assessment.

Finally, it should be mentioned that the collection and processing of non-personal data at the EU level are expected to also be affected by different legal instruments resulting from the European Strategy for data[22], such as the Regulation on free flow of non-personal data[23], the Open Data directive[24], as well as upcoming legislation such as the Data Governance Act[25], the Data Act[26], the Interoperable Europe Act[27], etc.

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[20] Polish Personal Data Protection Office (UODO) v. Bisnode, ZSPR.421.3.2018 (2019) <https://uodo.gov.pl/decyzje/ZSPR.421.3.2018>.

[21] Décision quand au fond 13/2022 du 27 janvier 2022 de la Chambre Contentieuse de l'Autorité de protection des données, N° de dossier: DOS-2018-04433 <https://www.autoriteprotectiondonnees.be/publications/decision-quant-au-fond-n-13-2022.pdf>.

[22] <https://digital-strategy.ec.europa.eu/en/policies/strategy-data>.

[23] Regulation (EU) 2018/1807 on a framework for the free flow of non-personal data in the European Union (Regulation on free flow of non-personal data).

[24] Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information (recast), OJ L 172, 26.6.2019.

[25] Proposal for a Regulation on European data governance (Data Governance Act) COM(2020) 767 final, 2020/0340(COD).

[26] Proposal for a Regulation on harmonised rules on fair access to and use of data (Data Act) COM(2022) 68 final, 2022/0047(COD).

[27] See proposal for a Regulation laying down measures for a high level of public sector interoperability across the Union (Interoperable Europe Act), COM(2022) 720 final, 2022/0379 (COD).

Use of Creative Content

Another crucial legal implication that has to be considered in the process of text and/or data mining is, of course, copyright and database protection regulations.

The relationship between mining and copyright is not always self-evident. The common conception is that once a subject has access to certain content and can read it physically, they should also be entitled to „read" it via a computer[28]. In other words, content that has been made publicly available, incl. online, should be also open to mining[29]. This intuitive approach can be legitimately applied or not depending on the level of formalisation of copyright protection across jurisdictions, the scope of the so-called ontological public domain[30] and the availability of a flexible (open) exception like the *fair use* doctrine.

In the U.S., in the majority of cases, text and data mining would not require the rightsholder's sanction. Some commentators argue that on fundamental level, transitory copies made in the process of TDM may not implicate the rightsholder's exclusive rights at all[31]. However, if they did, U.S. case law seem to consistently suggest, that such use would be *fair*[32]. When assessing the fairness of an unauthorised use, American courts tend to prioritise two of the four legal criteria of fair use, namely – for the use to be „transformative", and for it to not directly compete with the rightsholder's legitimate use of their work. The requirement for the transformative nature of the use has been evolving in recent years to include certain cases of direct reproduction. Fair use decisions have established[33] that reproducing copyrighted works as one step in

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[28] In the EU, prior to the adoption of the CDSM Directive, the slogan of the free TDM initiative was „The right to read is the right to mine".

[29] According to Peter Murray-Rust, representative of the ContentMine initiative, professor of molecular informatics at the University of Cambridge and one of the pioneers of open access, 'The Right to Read is the Right to Mine. Anyone who has lawful access to read the literature with their eyes should be able to do so with a machine. We want to make this right a reality and enable everyone to perform research using humanity's accumulated scientific knowledge.' See Joseph, H. (2015). The Right to Read is the Right to Mine... <https://sparcopen.org/news/2015/the-right-to-read-is-the-right-to-mine/>.

[30] See Dusollier, S. (2016) *Scoping Study on Copyright and Related Rights and the Public Domain*. World Intellectual Property Organisation Publication.

[31] See *inter alia* Carroll, M. (2019) Copyright and the Progress of Science: Why Text and Data Mining Is Lawful'. *UC Davis Law Review* 53: 893.

[32] According to the U.S. Copyright Act (17 U.S.C. § 107), „Notwithstanding the provisions of sections 17 U.S.C. § 106 and 17 U.S.C. § 106A, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include: (i) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes; (ii) the nature of the copyrighted work; (iii) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and (iv) the effect of the use upon the potential market for or value of the copyrighted work. The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.".

[33] See *Authors Guild, Inc. v. HathiTrust*, 755 F.3d 87 (2d Cir. 2014) and *Authors Guild, Inc. v. Google, Inc.* 721 F.3d 132 (2d Cir. 2015).

the process of „knowledge discovery" through text data mining was transformative[34] and thus have permitted copying that is necessary to use the information embedded in the copied works for „non-expressive purposes" – that is, not to supplant the works themselves but to generate insights *about* the works[35]. The last criterion, namely – „the effect of the use upon the potential market for or value of the copyrighted work", guarantees the absence of the so-called „market substitution" to the detriment of the rightsholder. According to some authors, this market substitution must be „substantial", i.e., unauthorised use should cause „cognizable market harm" to qualify as an infringement[36]. It should be safe to say that, barring the currently controversial cases of use for the purpose of generative AI, data mining, and especially mining for the purpose of investigative journalism should fall within the scope of fair use.

In the context of a highly formalised copyright protection in the European Union, however, certain acts involved in the process of extracting information from data, text, images etc. could formally constitute acts of use within the meaning of copyright. Accordingly, all these acts would formally require the permission of the author or, as the case may be, another rightsholder. Whether or not there is a risk of potential copyright infringement while mining will depend on the particular methods and tools used. In some cases, mining would not involve acts within the rightsholder's domain and therefore would not require the rightsholder's authorization. Thus, the unauthorised use cannot constitute an infringement. This is the case whenever mining uses tools that provide for minimal copying of a few words or the so-called „crawling" and processing pieces of information[37].

In many cases, however, the processing of large datasets for the purpose of extracting patterns and information would involve temporary or permanent reproduction – a type of use of data and content that is generally within the rightsholder's domain, provided, of course, that the content used is eligible for copyright protection. As a matter of principal, such protection is granted over works that are original, in the sense that they are „the author's own intellectual creation"[38] and the expression of their „creative ability in an original manner by making free and creative choices" giving the work a „personal touch"[39]. Copyright protection could be also granted to databases when the selection and arrangement of the database constitutes the author's own intellectual creation.

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[34] The case law is documented in Sag, M., (2018) The new legal landscape for text mining and machine learning. *J. Copyright Soc'y USA*, 66, p.291.

[35] See Yildirim, Van Houweling Shaffer, Lazarova and Vézina (n 6).

[36] Sun, H. (2021). Creating a Public Interest Principle for the Adjudication of Fair Use and Fair Dealing Cases. *The Cambridge Handbook of Copyright Limitations and Exceptions*, p. 233. Cambridge: Cambridge University Press. doi:10.1017/9781108671101.019.

[37] Communia Association (2020) Guidelines for Implementation of the DSM Directive <https://www.communia-association.org/2019/12/02/guidelines-implementation-dsm-directive/>.

[38] See e.g. Judgment of the Court of Justice of the European Union in Case C-5/08, Infopaq International A/S v Danske Dagblades Forening [2009] ECLI:EU:C:2009:465, and Judgment of the Court of Justice of the European Union in Case C-145/10, Eva-Maria Painer v Standard VerlagsGmbH and Others [2011] ECLI:EU:C:2011:798.

[39] Judgment of the Court of Justice of the European Union in Case C-604/10, Football Dataco Ltd et al. vs. Yahoo UK Ltd [2012] ECLI:EU:C:2012:115.

However, journalists should also be aware of the existence of related (also called neighbouring) rights for which the requirement of originality does not apply. On the contrary, in some cases, copyright and related rights protection can overlap and create layers of IP protection over the same material. This is the case with the press publishers' rights, introduced under Art.15 of the CDSM Directive, where journalistic publications can be both the subject of copyright protection and protection over „press publications" unbound by the concept of originality"[40].

This can be also the case for databases, which can be protected by both copyright and a *sui generis* right – a specific right for their „makers", which is similar to a producer's right and exists independently of the possible copyrighted status of both the database and its content. A database can qualify for the neighbouring-like right's protection whenever a qualitatively and/or quantitatively substantial investment has been made in either the obtaining, the verification or the presentation of the contents of said database[41]. In *Ryanair v. PR Aviation*[42], a case concerning screen scraping, the CJEU analysed the issue in terms of both copyright and database protection requirements, concluding that computer-generated airline schedules did not meet neither copyright's originality threshold nor the substantial investment requirement under the *sui generis* database right. The right protects the investment in the collection of data into the database but not the creation of data as a by-product of another economic activity. In *British Horseracing Board Ltd v William Hill*[43] the CJEU stated that „The expression 'investment in [the] verification [...] of the contents' of a database in art 7(1) of Directive 96/9 must be understood to refer to the resources used, with a view to ensuring the reliability of the information contained in that database, to monitor the accuracy of the materials collected when the database was created and during its operation. The resources used for verification during the stage of creation of materials which are subsequently collected in a database do not fall within that definition." However, commentators observe remaining uncertainty over the distinction between creation and obtaining data in the context of machine generated data[44]. In relation to live information from football matches (goals, times, scorers), the Court of Appeal in the UK found that investments necessary to record such data should be viewed as investments in obtaining the data and therefore the *sui generis* right should apply.[45]

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[40] Lazarova, A. (2021). Re-use the news: between the EU press publishers' right's addressees and the informatory exceptions' beneficiaries. *Journal of Intellectual Property Law & Practice*, 16(3) 236.

[41] See art 7 of Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases, OJ L 77, 27.3.1996, p. 20-28.

[42] Judgment of the Court (Second Chamber) of 15 January 2015 Ryanair Ltd v. PR Aviation BV, case C30/14 [2015] ECLI:EU:C:2015:10.

[43] Judgment of the Court of Justice of the European Union in Case C-203/02, British Horseracing Board Ltd v William Hill [2004] ECLI:EU:C:2004:695.

[44] See Escribano, B. and Fontanals, S. (2022) The Data Act: new EU rules for data sharing <https://www.ey.com/en_es/law/the-data-act-new-eu-rules-for-data-sharing>. The authors point out that, for example, if sensors are set up to measure meteorological data, that data could be said to be collected. But on the other hand, data internally generated by, for example, a machine in a manufacturing plant recording its own performance, could be said to be created. The distinction can, in some circumstances, be a fine one.

[45] Judgment of the Court of Justice of the European Union in Case C-604/10, Football Dataco Ltd et al. vs. Yahoo UK Ltd [2012] ECLI:EU:C:2012:115.

Copyright Exceptions and Limitations

It should be noticed that, not unlike privacy regulations, protection under both copyright and neighbouring rights is not absolute. There are certain cases where unauthorised use of protected content is permissible by law in the public interest – these carve-outs of the rightsholder's monopoly are called permitted or free uses, user rights or copyright exceptions and limitations.

On the EU level, there are several legacy exceptions that can be potentially used for the purposes of text and data mining (TDM) in journalistic investigations. Firstly, mining could fall under Art. 5.1.1. of the InfoSoc Directive[46], when the activity implies temporary acts of reproduction, which are transient or incidental and an integral and essential part of a technological process and whose sole purpose is to enable a transmission in a network between third parties by an intermediary, or a lawful use, and which have no independent economic significance. This possible application of said exception is expressly mentioned in Recital 18 of the CDSM Directive. Secondly, in some cases Art. 5.3.a. of the InfoSoc Directive can allow for mining – when the activity is performed for research and non-commercial purposes. Thirdly, mining can be covered by Art. 5.2.b of the Directive, where it is affected by physical persons for personal use. This exception can possibly be combined with the application of Art. 5.3.n., which allows libraries to make protected subject matter available to individual members of the public for research or private study. Lastly, under Art. 6.2.b of the Databases Directive, users can reproduce temporarily or permanently, translate, adapt, arrange, distribute and communicate, display or perform to the public, where other exceptions to copyright which are traditionally authorized under national law are involved.

In 2019, recognizing the need for a more consistent approach, the EU co-legislators introduced in the CDSM Directive two provisions dedicated to text and data mining specifically.

Art. 3 of the Directive provides a mandatory exception allowing research organisations and cultural heritage institutions to make reproductions and extractions, in order to carry out, for the purposes of scientific research, text and data mining of works or other subject matter to which they have lawful access. The exception under Art. 3 cannot be overridden by contract or by the so-called technical protection measures (TPMs)[47]. Nevertheless, Art. 2 of the CDSM Directive defines research organisations narrowly. Although subject to debate prior to the adoption of the directive, in view of the final wording of the provisions, investigative journalism would most certainly fall outside the scope of beneficiaries to the exception. However, individual journalists could possibly be able to benefit of this opportunity whenever mining would be carried out through the collections of libraries.

Furthermore, Art. 4 of the CDSM Directive introduces an exception concerning both commercial and non-commercial uses by any users. This exception is thus also

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[46] Directive 2001/29/EC of the European Parliament and of the Council on the harmonisation of certain aspects of copyright and related rights in the information society [2001] OJ L167/01.

[47] On the topic of contractual and technological override of exceptions, see Lazarova, A., (2022). Contractual override of copyright exceptions. *Contemporary Law*, 4/2021.

available to organisations mining for journalistic purposes. Its application, however, can be blocked unilaterally by the rightsholder by way of an express reservation of rights. Under Recital 18 of the CDSM Directive, the rightsholders should reserve the rights to make reproductions and extractions for text and data mining „in an appropriate manner." In the case of content that has been made publicly available online, it should only be considered appropriate to reserve those rights using machine-readable means. Notwithstanding the reservation regime, the application of this exception under Art. 4 is safeguarded against override by TPMs.

It is important to note, that both CDSM exceptions (Arts. 3 and 4) contain a requirement for the beneficiary to have *lawful access* to the respective materials as a prerequisite for the permitted use. This condition can impede mining in cases like the *Panama papers*[48], thus can be considered a hinderance to investigative journalism in and of itself. In addition, the concept of „lawful use"[49] and „lawful source"[50] in the EU *acquis* is a complicated one. It requires, in order for the use under an exception to be lawful, that the subject matter was made available with the consent of the rightsholder. It should be noted that there is no express legal definition for „lawful access" in the CDSM Directive, but according to Recital 14 „lawful access should also cover access to content that is freely available online."

Conclusion

When it comes to the automated processing of data and content, data mining can constitute a regulated activity depending on the sectorial legislation governing the handling of the relevant type of data or content. Firstly, the data used to derive patterns and information from, could be personal data. In such a case, its processing would be subject to privacy concerns. At the EU level, the General Data Protection Regulation (GDPR) would be applied to such uses. Furthermore, at the EU level a trend can be observed for the collection and processing of non-personal data to become more heavily regulated areas. Last but not least, mining creative materials, databases, software, etc., can be subject to copyright and related rights protection. In all these instances investigative journalists and research organisations, although often

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[48] According to some commentators in the US, TDM research conducted on infringing sources, such as Sci-Hub, is still lawful because the research provides transformative benefits without causing harm to the markets that matter. See Carroll (n 31).

[49] According to Recital 33 of the InfoSoc Directive, „A use should be considered lawful where it is authorised by the rightholder or not restricted by law."

[50] The „lawful source" concept was introduced by the CJEU. See Judgment of the Court (Second Chamber) of 26 April 2017 in the case C-527/15, Stichting Brein (Filmspeler) [2017] EU:C:2017:300, where the Court says that the use of hyperlinks to websites - that are freely accessible to the public - on which copyright-protected works have been made available without the consent of the right holders - is unlawful. See also Judgment of the Court (Fourth Chamber) of 10 April 2014 in the case C435/12, ACI Adam BV v. Stichting de Thuiskopie, Stichting Onderhandelingen Thuiskopie vergoeding [2014] ECLI:EU:C:2014:254. In § 38 the Court says that „national legislation, such as that at issue in the main proceedings, which does not draw a distinction according to whether the source from which a reproduction for private use is made is lawful or unlawful, may infringe certain conditions laid down by Article 5(5) of Directive 2001/29."

beneficiaries to certain exemptions of the heaviest obligations imposed on general actors in the respective sector, will overall need to account for the compliance with the relevant normative system.

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NON-DIGITALISATION OF THE RADIO BROADCASTING IN BULGARIA

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The digitisation of the transmission of radio and television signals is not only a technical and technological process – it is also one with many social and cultural dimensions. Media are cultural services, and offering a greater variety of media content to society is an important democratic value. Access to quality media content is part of the problem of access of the audience to cultural and creative products, so it is essential and necessary to provide such access free of charge to the end user/ recipient, without payment to the media distribution medium, in as much as possible a large degree.

The digitisation of the broadcast and, respectively, the transfer of media content is such a shortcut to the free reception and offering of media services as creators of cultural products.

Unlike the digitisation of the television broadcasting in Bulgaria, there is not much talk or action about that of the radio broadcasting. **The digitalization of the radio would shift the layers of the market of radio services, as new players will enter, with new technological methods, and this will multiply radioprogram offers.**

Against this background, little has been done at the institutional level in the field of radio spectrum management for the use of terrestrial networks for digital broadcasting of radio signals. And in fact, there are interested parties who want to make digital radio in our country - including the national public provider Bulgarian National Radio, and they systematically express their business intentions.

SOCIAL ASPECTS OF DIGITALISATION OF MEDIA CONTENT, INCLUDING RADIOBROADCASTING

The transition from analogue to digital terrestrial distribution of media content provides new opportunities for users by:

- providing access to digital content to the general public;
- increases consumer choice;
- creates an opportunity to increase the number of Bulgarian programs with a national scope;

- greater variety of television and radio programs; better picture and sound quality and more reliable reception;
- portable and mobile reception; a richer palette of information services - news, sports, „teletext", exchange rates, competition results, electronic program guides, Internet and e-mail, e-commerce, electronic banking operations;
- educational services, e-government, e-health;
- video on demand, interactive games;
- content enrichment with audio description, audio subtitles, specialized subtitles and sign language for the disabled.

Market overview

The European Media Industry Outlook builds on the analysis of the Media and Audiovisual Action Plan (MAAP) and provides more comprehensive and up-to-date data. **The market analysis shows that the three main media subsectors compete to a large extent on the same attention economy market**. Media companies seek to capture and monetise people's time. Growth is mostly driven by online players and the adoption of new distribution methods, while many traditional players struggle to adapt. In this context, the EU industries face growing competition from non-EU players (e.g. social media platforms, US-based streamers, gaming companies in China and Japan), which are present across sectors and value chains. In the meantime, consumers continue to shift online to consume more content on digital media, streaming or gaming platforms, although TV remains the preferred medium for most Europeans to watch films and series or to consume news.[1]

It is the responsibility of EU Member States to cooperate with each other and with the European Commission in the strategic planning and coordination of spectrum policy, avoiding harmful interference, through the Spectrum Policy Group (RSPG). The RSPG is a high-level advisory group assisting the Commission in the development of radio spectrum policy. The Group contributes to the development of a Radio Spectrum Policy in the EU taking into account not only technical parameters, but also economic, political, cultural, strategic, health and social considerations. The high-level advisory group also considers the various potentially conflicting needs of radio spectrum users with a view to ensuring that a fair, non-discriminatory and proportionate balance is achieved. The RSPG can also be requested by the European Parliament and/or the Council, in addition to the Commission, to issue an opinion or write a report on specific Radio Spectrum Policy issues relating to electronic communications.[2]

The Commission proposed a common EU position for negotiations at the World Radiocommunication Conference 2023. On 4 May, the Commission adopted its proposal for a Council Decision establishing the EU's position on issues related to spectrum use to be discussed at the World Radiocommunication Conference 2023 of

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[1] The European Media Industry Outlook, Official website of the European Commission, Retrieved from: https://digital-strategy.ec.europa.eu/en/library/european-media-industry-outlook;

[2] The Radio spectrum policy group, Official website of the European Commission, Retrieved from: The Radio spectrum policy group | Shaping Europe's digital future (europa.eu);

the International Telecommunication Union (ITU). A common EU Member States' position ensures that EU citizens and businesses have smooth access to services such as **5G, TV broadcasting and events,** as well as the **the Galileo global radio navigation system** and **maritime radio communications** without cross-border interferences. **Radio spectrum is the key resource that enables all wireless communications and it is the fundamental prerequisite for innovation in Europe's technology, industry and public services. Spectrum is also at the base of a booming global market for wireless connectivity and assigning spectrum for particular uses can impact manufacturing, operators, users and the environment.**

The Commission works with Member States to find a balanced position, so European countries can voice a common stance on spectrum matters and defend common EU objectives.

International negotiations on radio spectrum at the **World Radiocommunication Conference 2023 (WRC-23)** take place every four years with the participation of some 193 ITU Member States and 3000 delegates. The international forum aims to provide options for harmonised uses of radio spectrum across regions and globally to protect against radio interference. The resulting amendments to the ITU Radio Regulations (an international treaty) ensure cross-border functioning of different radio services which also underpin the EU's digital and green transition. It is now up to the Council to finalise the common EU position and to adopt its Decision in time for WRC-23, which will take place from November to December 2023.[3]

WHY RADIOBROADCASTING IS A CHALLENGE?

The introduction of digital television broadcasting has led to significantly higher efficiency in the use of radio frequency spectrum due to the possibility of distributing several television programs using the same channel. In this regard, it is planned to release a frequency resource after the transition to terrestrial digital radio broadcasting, the so-called digital dividend. The European Commission's Radio Spectrum Policy Group (RSPG) defines the digital dividend as a frequency resource in the VHF (III band: 174-230 MHz) and UHF (IV and V bands: 470-862 MHz) bands in excess of that required to bring of existing analogue television services into digital. This is the volume released from the radio spectrum as a result of the switch from analogue to digital broadcasting.

When television broadcasters switch from analog-only platforms to digital platforms, some of the electromagnetic spectrum is freed up because digital television needs less spectrum than analogue television. It provides a unique opportunity to meet the huge public demand for new wireless communications services, allowing broadcasters to significantly expand their services while providing adequate spectrum for social and economic purposes. Applications in

[3] Radio spectrum: the Commission proposes a common EU position for negotiations at the World Radiocommunication Conference 2023, Official website of the European Commission, Retrieved from: https://digital-strategy.ec.europa.eu/en/news/radio-spectrum-commission-proposes-common-eu-position-negotiations-world-radiocommunication

the latter category will include broadband applications to help bridge the „digital dividend".

Potential uses of the digital dividend

They are at least in two directions. The first is about radio broadcasting: more programs; improved coverage; local television and radio broadcasting; high-definition television broadcasting; mobile or portable reception; data broadcasting. The second is for electronic communications: mobile telephony/broadband services; broadband access for sparsely populated areas; ancillary activities in radio broadcasting; low-power devices; the protection of the population during disasters and accidents.

Bulgaria made some efforts to digitalize the television broadcasting.

While the Plan for the introduction of digital terrestrial television broadcasting (DVB-T) in Republic of Bulgaria has existed since 2012, the state policy and regulatory framework is scarce in the field of radio broadcasting.[4] And the reason that it is so important to have much more variety of radio programmes is – the radio frequency spectrum is state-owned and it should be efficiently regulated and exploited.

RADIO FREQUENCY SPECTRUM MANAGEMENT AND STEERING IN BULGARIA

Art. 18, para. 3 of the Constitution of the Republic of Bulgaria stipulates that „The State exercises sovereign rights over the radio frequency spectrum and the positions of the geostationary orbit determined for the Republic of Bulgaria by international agreements". The state holds the sovereign power over the frequency spectrum and positions of the geostationary orbit, and only it can determine, in compliance with international agreements, how this spectrum and positions will be allocated and used for civil, defence and security needs.

Only after the determination of these general conditions by the state, the regulatory authority has the opportunity to rule on requests to issue licenses for the use of the frequency spectrum for civil needs by individuals and legal entities, within the guidelines specified by the state.

EU DIRECTIVE 2018/1972 of the European Parliament and of the Council from 11 December 2018 established a European Electronic Communications Code (recast)

Competition rules alone may not always be sufficient to ensure cultural diversity and media pluralism in the area of digital television. Technological and market developments make it necessary to review obligations to provide conditional access

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[4] DECISION 494 of August, 22, 2013 on updating the Plan for the introduction of terrestrial digital television broadcasting (DVB-T) in the Republic of Bulgaria, adopted by Decision 604 of the Council of Ministers in 2012, Retrieved from The State Gazette, official edition of the Republic of Bulgaria, https://dv.parliament.bg/DVWeb/showMaterialDV.jsp?idMat=78459

on fair, reasonable and non-discriminatory terms on a regular basis, by a Member State for its national market, in particular to determine whether it is justified to extend obligations to Electronic Program Guides (EPG) – a software application that provides a list of television programs that are scheduled to be broadcast on various channels, and (APIs). APIs allow developers to sync data between multiple platforms and can facilitate communication among the various microservices in web applications.

According to the Electronic Communications Act in Bulgaria the state management of electronic communications is carried out by the Council of Ministers, the National Radio Frequency Spectrum Council and by the Minister of Transport and Communications. The Government, on the proposal of the National Radio Spectrum Council, adopts a policy on radio frequency spectrum planning and allocation. The Council of Ministers, on the proposal of the Council on the National Radio Frequency Spectrum, adopts the National Plan for Allocation of the Radio Frequency Spectrum.

The Electronic Communications Act stipulates that National Radio Spectrum Council is launched. According to art. 9. The Council on the National Radio Frequency Spectrum is an advisory and coordinating body to the Council of Ministers, which prepares and proposes for adoption by the Council of Ministers a state policy on the planning and allocation of the radio frequency spectrum and carries out its implementation. The Council prepares a draft of the National Plan for the allocation of the radio frequency spectrum. The plan is prepared and updated in accordance with the policy of the European Union, the documents of international organizations, as well as according to the proposals of the departments and services concerned with the aim of harmonized and efficient use of the radio frequency spectrum. The radio frequency spectrum is allocated to radio frequencies, radio frequency bands and radio services for civil needs, for the needs of state bodies and services related to national security, and for joint use between them. The allocation is carried out in accordance with the principles of the allocation and use of the radio frequency spectrum in the European Union and by the International Telecommunication Union.

In and outside Europe – countries with regular digital radio services, according to thewebsiteof the association WORLD DAB, are: Austria, Azerbaijan, Belgium, Croatia, Czech Republic, Denmark, France, Germany, Gibraltar, Greece, Holy See (Vatican City State), Italy, Malta, Monaco, Netherlands, Norway, Poland, Qatar, Slovenia, South Korea, Spain, Sweden, Switzerland, Tunisia, Ukraine, United Kingdom.

Bulgaria is in between Algeria, Belarus, Brunei Darussalam, China, Cyprus, Estonia, Indonesia, Ireland – that are pointed as countries with trials and/or regulation.[5]

[5] WorldDAB is the global forum for digital radio, facilitating the adoption and implementation of DAB digital radio. WorldDAB is the global industry forum for digital radio, facilitating the adoption and implementation of broadcast digital radio based on DAB / DAB+. It provides advice and support on all aspects of the switch from analogue to digital radio including regulation, licensing, technical trials, network build out, marketing and production of new digital radio content. WorldDAB is a not-for-profit association with legal personality governed by Swiss law and by its Statutes. Retrieved from the official website: https://www.worlddab.org/countries

The REGULATORY POLICY for the management of the radio frequency spectrum is in force from April 2, 2019. It was adopted by Decision 112 of 14.03.2019 of the Communications Regulation Commission (the CRC).

The regulatory policy sets the stage for future Communications Regulation Commission decisions that will contribute to the achievement of key spectrum management objectives over the next three years. The document describes the main activities ensuring the efficient use of the radio frequency spectrum. A review of the use of spectrum for civil needs over the past three years for different types of networks has been made. Emphasis is placed on upcoming policy changes in the field of electronic communications in the European Union and their implementation in Bulgaria. It outlines the next steps the Communications Regulatory Commission should take to ensure more competition, lower prices and more choice for businesses and consumers.

At the beginning of the process, during public consultations on the prospects for the introduction of terrestrial digital radio broadcasting of radio signals in the radio frequency bands 174-230 MHz and 526.5-1606.5 kHz, the enterprises showed principled interest in using only the 174-230 MHz band.

With successful coordination of the frequency resource in the range 174-230 MHz, it will be possible to form 6 national networks and 28 regional networks for the city of Sofia - 10 networks: for the city of Varna - 6 networks, and for the areas of Plovdiv, Smolyan and Stara Zagora - 4 networks each). The distribution of the frequency resource available to Bulgaria for the construction of digital radio networks (T-DAB/T-DAB+) depends on the policy and/or strategy of the country regarding the type and number of networks (national, regional or local), which is tied to the content of the programs and is directly dependent on the needs of our country.

PUBLIC CONSULTATIONS AS A TOOL FOR DECLARING INTEREST AND INTENSION FOR RADIO FREQUENCY SPECTRUM UTILIZATION

The consultation process for studying attitudes towards digital broadcasting of radio programs started back in 2014. With Decision 454/14.07.2014 the Communications Regulatory Commission launched a procedure for public consultations regarding the prospects for the introduction of terrestrial digital radio broadcasting of radio signals. Only 2 statements have been submitted to the CRC. With Decision 624 of 11.09.2014, the results of the consultations were accepted - there is no specific interest regarding the introduction of terrestrial digital radio broadcasting of radio signals in the bands 174 MHz – 230 MHz and 526.5 kHz – 1606.5 kHz.

The Association of Bulgarian Private Broadcasters (ABBRO) – the largest organization that unites the commercial providers of media services, and especially uniting radio stations, informs about the lack of interest in utilizing a limited resource - radio frequency spectrum for digital broadcasting of radio signals in Bulgaria.

The opinion of ABBRO members is that the conditions and success of the introduction of digital broadcasting of radio signals depends on the characteristics of the national market, therefore such a step should be carefully and thoroughly discussed with the parties involved in this process. According to the experts, this step should simultaneously take into account the interests and opportunities of at least the state, radio operators, users of radio services, manufacturers and/or importers of digital radio receivers and those of cars.[6]

With Decision 300 dated 08.06.2017 the Communications Regulation Commission (the CRC) accepts the results of new public consultations held regarding the prospects for the introduction of terrestrial digital radio broadcasting of radio signals in the radio frequency bands 174 – 230 MHZ and 526.5 – 1606.5 KHZ. Three years later, within the framework of the procedure, 3 opinions were received from interested parties. The results are similar - there is no interest from the largest organisation of private radio stations ABBRO, it reiterates that Bulgarian radio operators would not participate in a CRC procedure for terrestrial digital radio broadcasting of radio signals. The legal entity DIP TRADING – Pavel Kostadinov considers it expedient to use the DAB+ standard because it offers more possibilities and better sound quality, and also in Europe almost all car manufacturers implement DAB+ receivers in cars.[7]

It was just that 2017 when in March the first meeting on the topic of digital radio broadcasting was organized - CEM together with CRC held a kind of consultations with representatives of the Bulgarian National Radio, ABBRO and the radio chain „Focus". During the meeting attitudes towards future digital radio broadcasting in our country were discussed. The occasion was the stated intention and desire of the BNR, with General Director Alexander Velev at that time, to use this method of distribution. BNR presented will for experimental digital radio broadcasting. The representatives of the commercial radio stations expressed reservations and fears of inequality in the sector. CEM considers that the European experience in the distribution of digital radio is insufficient and declares its readiness to continue the dialogue in the direction of the development of the audiovisual media services market.[8]

In the following year, 2018, with Decision 258/05.07.2018, the Communications Regulation Commission re-opened a procedure for conducting public consultations on a draft position of the CRC regarding the issuance of permits for the

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[6] Decision 624 of 11, September, 2014, on accepting the results of the public consultations, Official website of the Communications Regulation Commission, Retrieved from: https://crc.bg/bg/statii/833/komisijata-za-regulirane-na-syobshtenijata-s-reshenie-624-ot-11-09-2014-g-prie-rezultatite-ot-provedeni-obshtestveni-konsultacii-otnosno-perspektivite-za-vyvejdane-na-nazemno-cifrovo-radiorazpryskvane-na-radiosignali

[7] Decision 300 of 08, June, 2017, on accepting the results of the public consultations, Official website of the Communications Regulation Commission, Retrieved from: https://www.crc.bg/bg/statii/1247/s-reshenie-300-ot-08-06-2017-g-komisijata-za-regulirane-na-syobshtenijata-prie-rezultatite-ot-provedenite-obshtestveni-konsultacii-otnosno-perspektivite-za-vyvejdane-na-nazemno-cifrovo-radiorazpryskvane-na-radiosignali-v-radiochestotni-lenti-174-230-m-hz-i-526-5-1606-5-k-hz

[8] First meeting for digital broadcasting in Bulgaria, Official website of the Council for Electronic Media, Retrieved from: https://www.cem.bg/displaynewsbg/468;

use of an individually determined limited resource - radio frequency spectrum for terrestrial digital broadcasting (T-DAB+). It states that: „Terrestrial digital radio broadcasting has not yet been introduced in Bulgaria, and therefore there is no wide supply of digital radio receivers in the commercial network of the country. Digital terrestrial radio trial/testing has two aspects – one is testing the performance of the network and/or facilities. The second aspect is related to testing the quality of electronic communications carried out by means of a digital platform, in order to show its advantages compared to the analog one. Such testing can be done most effectively when there is specific content to be broadcast that gives the audience a real idea of the sound quality of digital radio.

The distribution of the frequency resource available to Bulgaria for the construction of digital radio networks (T-DAB/T-DAB+) depends on the policy and/or strategy of the country regarding the type and number of networks (national, regional or local), which is tied to the content of the programs and is directly dependent on the needs of our country."[9]

At the present moment in Bulgaria there is no developed state policy and/or strategy regarding the digital broadcasting of radio programs. According to the Electronic Communications Act, the CRC controls the effective use of the radio frequency spectrum for civil needs.

In the specific case, the efficient use of the frequency resource for terrestrial digital radio broadcasting implies the distribution of radio programs. It can be seen from the provisions of Art. 47 of the Electronic Communications Act, at the moment there is the principal possibility for CRC to issue a permit for the use of an individually determined limited resource - radio frequency spectrum for terrestrial digital radio broadcasting (T-DAB+) but the issuance of such a permit is not an end in itself. Given the requests received in the CRC for issuing permits for terrestrial digital radio broadcasting using T-DAB+ technology and the availability of a free frequency resource, on the one hand, but also the lack of licensed content and a long-term strategy in the field of terrestrial digital radio broadcasting of radio signals, on the other hand, the CRC together with the Council for Electronic Media has taken action to adopt an official document reflecting state policy on the issue.

In Art. 109 of the Electronic Communications Act, amended in 2021, the conditions under which the Communications Regulation Commission can issue temporary permits for the use of radio frequency spectrum are listed: for experimental use; for short-term projects or for short-term events. A temporary permit is issued without conducting a competition or auction procedure and is granted for a period not longer than 6 months, once within a year.

The provided radio frequency spectrum can only be used for the purpose and manner expressly defined by the temporary permit. An enterprise that has been granted

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[9] Decision 258 of 05, July, 2018, a procedure for conducting public consultations on a draft position of the CRC regarding the issuance of permits for the use of an individually determined limited resource - Official website of the Communications Regulation Commission, Retrieved from: https://crc.bg/bg/statii/1405/s-reshenie-2

a temporary authorization to use radio frequency spectrum from an electronic communications network for terrestrial digital broadcasting of radio and television signals may broadcast a voice message „You are listening to a test broadcast" and/or a continuous tone beep, and/or test video table.[10]

In May 2018, the legal entity ET DIP Trading - Pavel Kostadinov started a digital radio broadcast in Sofia, using the DAB+ method. The transmitter is located on Vitosha, above the Simeonovo district and has coverage of the entire Sofia field. In the multiplex, 16 test channels are operating, broadcasting the sound message „DAB+ radio test".

In 2020 the Commission discussed several times the request of the same player, the most willing on that topic – ET DIP Trading – Pavel Kostadinov, and it wanted a temporary permit.[11] In August 2020, the CRC postponed the decision on the temporary permit twice.

Until 17 September 2020, the members of the CRC voted on a decision to grant ET DIP Trading – Pavel Kostadinov an individually determined limited resource - radio frequency spectrum for temporary use, issuing it a temporary permit № 02416/17.09.2020. The radio frequency spectrum is provided for use for the period from 20 September 2020 to 19 March 2021 – six months altogether.

In February 2022, with Decision 69/24.02.2022, the Communications Regulatory Commission opened a procedure for public consultation, on the basis of Art. 90, para. 2 in connection with Art. 89, para. 1 of the ECA, regarding the intention to limit the number of issued permits for the use of frequency resources from the radio frequency band 174.0-230.0 MHz, by issuing 2 permits with a national scope and 42 permits covering the territorial boundaries of the respective service areas.

In the Digital Plan Geneva 2006 for the introduction of terrestrial digital radio- and television broadcasting, at the radio frequency band 174 – 230 MHz, Bulgaria has protected 66 radio frequency blocks from which 2 national networks and 42 networks can be formed, covering the territorial boundaries of the following service areas - Varna city area – 2 networks, Sofia city zone – 10 networks, Strandzha zone – 2 networks and 4 networks each for zones Blagoevgrad, Burgas, Kardzali, Plovdiv, Smolyan, Sofia and Stara Zagora, for terrestrial digital broadcasting of radio programs. **At the moment the coordinated for ground digital radio broadcasting frequency resource for the Republic of Bulgaria is free.[12]**

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[10] Electronic Communications Act, Section VII., Temporary permits, Retrieved from: https://lex.bg/laws/ldoc/2135553187

[11] Official website of the Communications Regulation Commission, Agendas and Decisions from August 20, 2020, and August 27, 2020, Retrieved from: https://crc.bg/bg/statii/1919/avgust-2020-g

[12] Decision 69 of 24, February 2022, the CRC opens a procedure for public consultations on the basis of Art. 90, para. 2 in connection with Art. 89, para. 1 of the Electronic Communications Act, regarding an intention to limit the number of issued permits for the use of a frequency resource from the radio frequency band 174.0 - 230.0 MHz, Official website of the Communications Regulation Commission, Retrieved from: https://www.strategy.bg/PublicConsultations/View.aspx?lang=bg-BG&Id=6647

Letters of interest have been received from Digital Audio Bulgaria Ltd., Digital Communications Ltd., Bulgarian Radio Company Ltd., Bulgarian Telecommunication Company Ltd., ABBRO, Vitosha Agency Ltd., Atlantic Agency Ltd., Radio Express Ltd., Radio Vesselina Ltd., Metroradio Ltd., BTV Media Group Ltd. With Decision 160/12.05.2022. The CRC accepts that there are 7 applications with intentions to use the frequency resource, submitted by 5 persons – 4 applicants for issuing permits for Sofia-city and 1 for Varna-city, Plovdiv and Stara Zagora, i.e**. the number of letters of intention submitted is less than the number of permits that can be issued. And that is very indicative.**

THE COUNCIL FOR ELECTRONIC MEDIA (the CEM) – CONSISTENT REFUSALS TO ISSUE DIGITAL LICENSES FOR RADIO BROADCASTING

The Radio and Television Act postulates that one of the main activities of the regulator is voting of decisions - individual administrative acts granting licenses for both television and radio activities/broadcasting. Radio broadcasting in Bulgaria is carried out on the basis of licensing of radio and television operators. The procedure for issuing a license is described in Art. 116f of the media law, providing that it will be opened at the request of an interested legal entity or at the initiative of the Council for Electronic Media, or the Communications Regulation Commission. CEM motivated by a decision should coordinate the type and profile of the licensed radio and/or television programs that will be distributed through terrestrial digital broadcasting networks.

During the period 2018-2020, several interested legal entities have submitted requests to the CEM to open a procedure under Art. 116e of the RTA for issuing digital licenses for radio activity/broadcasting. There follow all the administrative acts that the Council issued:

Decision RD-05-109 of 17.10.2019 – the CEM refuses to initiate a procedure for digital radio broadcasting license for a regional programme of the legal entity ET DIP Trading - Pavel Kostadinov[13]. A similar decision of refusal for a regional radio programme was issued for another legal entity - Digital Audio Bulgaria Ltd. (Decision RD-05-110 of 17.10.2019).[14]

Decision RD-05-123 of 20.11.2019 – it is at the request of Chrisi Vrazheva Ltd. to open a procedure under Art. 116e of the RTA for issuing a license for radio broadcasting for a program with a regional territorial scope for the Sofia region, CEM also decrees refusal.[15]

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[13] Decision RD-05-109 of 17.10.2019, Official website of the Council for Electronic Media, Retrieved from: https://www.cem.bg/actbg/5842

[14] Decision RD-05-110 of 17.10.2019, Official website of the Council for Electronic Media, Retrieved from: https://www.cem.bg/actbg/5843

[15] Decision RD-05-123 of 20.11.2019, Official website of the Council for Electronic Media, Retrieved from: https://www.cem.bg/actbg/5857

Decision RD-05-71 of 02.09.2020 - at the request of Media Productions Ltd. for initiating a procedure for digital radio broadcasting license – members of the CEM also vote to refuse to start the procedure.[16]

For all the listed above interested legal entities, the CEM issues individual administrative acts - Decisions by which it refuses to open a procedure for issuing a license for radio broadcasting for a program that can be distributed through electronic communication networks for terrestrial digital radio broadcasting.

THE INSTITUTIONAL EXCUSE – NO LEGAL GROUNDS FOR LICENSING

The reasons are due to the lack of a legal instrument to regulate this matter. There is no official document that reflects the state policy related to the terrestrial digital broadcasting of radio programs - by analogy with the Plan for the introduction of terrestrial digital television broadcasting (DVB-T) in the Republic of Bulgaria, adopted by the Council of Ministers.

With Decision 391 of 08.07.2019 the Council of Ministers adopted a draft of the Updated Policy in the field of electronic communications of the Republic of Bulgaria 2019-2022, which states that „in the coming years, the national regulator should continue to periodically study through public consultations the market interest in building a national public network for terrestrial digital radio broadcasting of radio signals according to the T-DAB/T-DAB+ (Terrestrial Digital Audio Broadcasting) standard. To make real this possibility, 34 radio frequency allocations in the radio frequency band 174-230 MHz are protected for Bulgaria. CRC and CEM should take actions to facilitate the introduction of digital technologies in the terrestrial distribution of radio programs".[17]

With the position of the Commission for the Regulation of Communications, adopted by Decision 258/ 05.07.2018, the CRC finds it appropriate not to issue permits, including temporary ones, until a document/strategy for the development of terrestrial digital radio broadcasting is adopted. **With Decision 112/14.03.2019, the CRC has adopted a Regulatory policy for the management of the radio frequency spectrum, where in item 2.2. arguments are presented regarding the introduction of digital broadcasting of radio signals**. The following is noted in the Decision: „... It is important to point out that with successful coordination of the frequency resource in the range 174-230 MHz, 6 national networks and 28 regional networks will be able to be formed (for Sofia-city - 10 networks; for Varna - city - 6 networks and for Plovdiv, Smolyan and Stara Zagora zones - 4 networks each). The distribution of the frequency resource available to Bulgaria for the construction of digital radio

[16] Decision RD-05-71 of 02.09.2020, Official website of the Council for Electronic Media, Retrieved from: https://www.cem.bg/actbg/5942

[17] Decision 391 of 08.07.2019 of the Council of Ministers for adopting a draft of the Updated Policy in the field of electronic communications of the Republic of Bulgaria 2019-2022, Updated National Plan for Next Generation Broadband Access Infrastructure, Retrieved from: https://www.strategy.bg/PublicConsultations/View.aspx?lang=bg-BG&Id=5306

networks (T-DAB/T-DAB+) depends on the policy and/or strategy of the country regarding the type and number of networks (national, regional or local), which is tied to the content of the programs and is directly dependent on the needs of the country.

However, an interdepartmental working group with the participation of representatives of the Communications Regulation Commission and the Council for Electronic Media has been initiated with a view to prepare an official document reflecting the state policy in the field of terrestrial digital radio broadcasting of radio signals. After developing a state policy and/or strategy regarding the digital broadcasting of radio programs, and after licensing radio programs to be distributed digitally, the Communications Regulation Commission will take appropriate actions to provide radio frequency spectrum for the construction of digital radio networks (T-DAB/T-DAB+)."

Art. 116e of the Radio and Television Act provides the terms and conditions for conducting a procedure for issuing a license for radio and television activity for national/regional programs, that can be distributed through electronic communications networks for terrestrial digital radio broadcasting. P. 9 of this clause, however, provides the procedure under Art. 116 to end only with the issuing of licensing for digital television broadcasting, not for digital radio-broadcasting. This is precisely the state policy and strategy, the absence of which the CEM relied on to justify the refusals to open the procedure related to the terrestrial digital broadcasting of radio programs.

The Council for Electronic media expresses on a regular basis its position that there is no legal ground for the authority to expand the scope of the legal clause in the RTA, which in turn would lead to the enactment of acts that are not provided within the law, with the real danger that they will be declared null and void by the court. The issuance of digital licenses should be supported by a clear state policy for the development of the sector.

In 2021, the Council for Electronic Media was informed from the Ministry of Transport, Information Technologies and Communications on a complaint received by the Ministry from the Association of Bulgarian Radio and Television Operators (BORT) about the lack of action by the CEM and the CRC to issue licenses/permits for radio activity in the specified method.

At the beginning of 2022, an online multilateral meeting was held at the initiative of the communication authority in which participated representatives of the CEM, the CRC, Ministry of transport and communications, Bulgarian National Radio, ABBRO and Digital Audio Bulgaria Ltd. **The participants in the meeting united over the opinion that there is a legislative gap in the provision of Art. 116e, para. 9 of the Radio and Television Act, according to which CEM issues licenses only for digital television broadcasting. In connection with this conclusion, the CRC proposes to undertake legislative changes to remove this incompleteness in the legal framework.**

The Association of Bulgarian Radio and Television Operators established in 2018 and bringing together the leading more than 10 regional radio stations in

Bulgaria, **disagrees over the fact that there is no legal ground to issue licenses concerning digital radiobroadcasting. Their official statement back in 2018 gives legal arguments.**

The statement that with Art. 47, para. 2 of the Electronic Communications Act gives the CRC an opportunity in principle to issue a permit for the use of an individually determined limited resource - radio frequency spectrum for terrestrial digital radio broadcasting (T-DAB+).

With Art. 47, para. 1 of the ECA, the legislator assigns to the powers of CEM to issue licenses to interested parties for the distribution of programs through electronic communication networks for terrestrial digital radio broadcasting. And in Art. 47, para. 2 of the ECA only specifies that the licenses entitle the programs to be distributed by an enterprise that has been issued a permit by the CRC for the use of an individually determined limited resource - radio frequency spectrum, for the implementation of electronic communications through electronic communication networks for terrestrial digital radio broadcasting of the territorial scope specified in the permit (as an administrative act). In the powers of the CRC the legislator has assigned to issue the permits, and this authority is given to the CRC by Art. 48, which refers to the express procedures for issuing permits found in Chapter Five of the same law.

As can be seen from the text of the law, **this is a power, not an opportunity in principle for the CRC.** From the legal point of view, the concept of authority means a set of two interrelated components - a right and an obligation. The legislator gave the right and assigned the obligation to issue the described permits to the Commission. He did not give the CRC a principal opportunity to decide whether to issue such licenses at all – it bears the right and obligation by law to conduct tenders and issue permits to interested persons if they meet the requirements of the law. In this regard, the draft decision contradicts the law, as with it the CRC exceeds the limits of its operational autonomy and makes a decision that is not within its competence. A decision to suspend the issuance of licenses can be taken by the Council of Ministers, not by the CRC.[18]

The organization emphasizes that regulatory authorities the CRC and the CEM do not adopt state policies but are only responsible for their implementation. It is not within the competence of these commissions to adopt state policies, especially since such a state policy, as we noted above, already exists and has been adopted by the Council of Ministers. **The organization consistently fights against the attempts of the CRC and the CEM to block the digitisation of radio broadcasting in Bulgaria.**

CONCLUSION

The analogue status quo - the broadcasting of radio programs via analogue distribution networks - has been holding for more than ten years after the start of talks and some actions about digitalisation of the radio broadcasting.

[18] Expert and Legal Opinion of BORT, Association of Bulgarian Radio and Television Operators, Official website of the BORT, Retrieved from: http://bort-bg.org/BORT%20-POZICIQ%20CEM-KPC-PDF.pdf.

In the meantime, in Bulgaria there was a pick of creating radio programmes on the Internet. Over three hundred Bulgarian net-only-radios were active during the last 10 years. That trend is down already. But since 2014 we experience the rise of the audio Podcasts as some new for Bulgaria type of radiobroadcasting, though only on Internet. In this case radiobroadcasting does not rely and use frequency spectrum that is on our disposal because of the multiplex infrastructure for terrestrial digital television broadcasting. And that makes the frequency spectrum not properly and sufficiently used, as it is a main obligation of the state policy.

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FOURTH PANEL

EU ENLARGEMENT AND NEIGHBORHOOD POLICIES

THE WAR IN UKRAINE AND ITS IMPACT ON EU ENLARGEMENT AND THE EU'S EASTERN PARTNERSHIP

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Abstract

With the outbreak of Russia's unprovoked war against Ukraine in February 2022, many observers and analysts have called for revamping of both the EU enlargement policy and the EU's Eastern partnership (EaP). Indeed, the war confirmed that hard power and geopolitics mattered once again in Europe. This puts into question the role that the EU has tried to assign to itself as a normative if not a transformative power while showing new ambitions at a more geopolitical one.

By granting EU candidate status to Moldova and Ukraine in June 2022, the EU member states ended the fundamental difference between EU enlargement policy and the EU's Eastern partnership in so far that the latter was not meant to lead to EU accession for the countries part of it.

This contribution argues that the combination between the two changes should lead to a complete revision of both policies. First the return of geopolitics and hard power calls into question the future of the EU 's role as a normative and transformative power. Second, the granting of the EU candidate status to Moldova and Ukraine raises questions as to the accession process for the Western Balkans.

Key words: war in Ukraine, EU enlargement and the EU's Eastern partnership

The Return of Hard Power and Geopolitics in Europe: the Impact of the European Union as International Actor

Through both its enlargement policy and the EaP, the EU showed its ambitions to act as a new kind of normative if not transformative power. Such a power is defined by its reluctance to use military power and its preference for the expansion of its norms and values. Indeed, in both cases, the EU sought to accompany and to guide the reforms process both in candidate countries and in the Eastern partners in order to align them with EU values and norms such as the commitment to rule of law, the principles of good governance and the approximation of their domestic

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legislation in line with the Single European market. For these purposes, the EU relies essentially on financial assistance, yet much more important for the candidate countries than for the Eastern partners and conditionality (Crombois, 2019)

The Russian-Ukrainian crisis of 2013-14 showed the limits of these assumptions. First, the EaP gained considerable geopolitical weight both from the point of view of the EU member states and from Russia. In other words, what was believed by some to be a shared neighbourhood became a space of growing rivalry and conflict between the EU and Russia (Haukkala, 2015). Second, the Western-Balkans were not spared by the implications of the 2013-2014 crisis. It became indeed increasingly clear that the region became another zone of political competition, yet unequal from a financial point of view, between the EU, Russia and other powers such as Turkey and China (Rustemi, 2021).

In addition, the EU enlargement policy showed signs of losing momentum in terms of its transformative ambitions while all Western Balkans did not show any real improvements in terms of the consolidation of the rule of law and fundamental freedoms.

In this context, the War in Ukraine only accelerated a process of making the EU wanting to develop hard power capabilities and to acknowledge its geopolitical ambitions. Such process led the EU to adopt the French concept of strategic autonomy in 2022 and to establish the EU Peace Facility whereby the first time, the EU is financing the sending of lethal weapons to a country at war, in this case Ukraine (Lefebvre, 2023).

These changes, yet within their limitations, reflect the paradigmatic change in EU role as international actor by increasingly foregoing its ambitions as normative and transformative power and to accept new ambitions as a hard more geopolitically oriented power.

1. EU's EaP since 2014

When launching the EaP in 2009, the EU did not view its relations with its six Eastern partners[2] through a geopolitical lens but rather as a vehicle to expand its governance dynamics eastward (Youngs 2021). Indeed, the main rationale was to deal with the consequences of the EU enlargements of 2004 and 2007, which extended the EU's borders to Eastern Europe, by developing a new relationship that would go beyond the one that existed under the European Neighbourhood Policy (ENP). More concretely, it offered the Eastern partners the possibility of establishing Deep and Comprehensive Free Trade Agreements. The EaP also offered cooperation in new fields such as good governance and democracy, economic convergence with EU legislation, energy security and, to a lesser extent, foreign policy and defence (European Commission 2008).

As such the EaP reflected the transformative ambitions of the EU vis-a-vis the Eastern partners. These ambitions were geared toward promoting reforms to align

[2] The EU's six Eastern partners are Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine.

them with EU values and norms such as commitment to the rule of law, good governance and the approximation of their domestic legislation with the single market acquis. In other words, the EU was trying to replicate its enlargement policy among the Eastern partners without providing the same level of financial support or a clear pathway to EU membership (Crombois 2019).

These transformative ambitions were premised on a normative narrative that rejected the geopolitical dimensions of relations between the EU and its Eastern partners and, to some extent, Russia. The situation changed, however, with the forced annexation of Ukraine's Crimea region by Russia and the outbreak of hostilities in Eastern Ukraine in March 2014. For some observers, the main reason for the falling out between the EU and Russia was the lack of a clear geopolitical approach by the EU to its relations with the Eastern partners (Byrnes 2014; Klussman 2014).

It is unsurprising then that debates over the geopolitical dimensions of the EaP resurfaced in the aftermath of the crisis between Ukraine and Russia in 2013. Whether inspired by classical or neo-classical geopolitics,[3] these discussions emphasised the geopolitical nature of the EaP. The EU's Eastern neighbourhood was now seen as a locus of competition between Russia and the EU. Indeed, Russia viewed the EaP as an attempt by the EU to control its immediate vicinity, both politically and economically, hence its growing opposition to it (Haukkala 2015).

Until 2014, however, the EU member states were still divided on the need to approach the EaP as a geopolitical project. Poland and the Baltic states saw the Eastern partners as part of a buffer zone between the EU and Russia. Other member states, including France and Germany, preferred to view them as a possible bridge with Russia; in other words, the EaP was approached as a way to maintain friendly relations with Russia and to secure energy supplies (Depo 2014, 13).

These geopolitical dimensions were all too visible in the strong Russian reaction to the EU's Eastern partners when they showed a willingness to strengthen their relations with the EU through the new Association Agreements. In the end, only Georgia, Moldova and Ukraine succeeded in concluding these agreements with the EU (Youngs 2021). Two other countries, Armenia and Belarus – the latter by choice and the former as a result of pressure from Putin – opted instead to join the Russian-led Eurasian Economic Union, designed as an alternative to the EU's proposed model of cooperation (Wolczuk et al. 2022). The last Eastern partner, Azerbaijan, preferred to develop its own bilateral relations with Russia and to a lesser extent with the EU, mostly restricted to energy cooperation (Shiriyev 2019).[4]

The changes that occurred in March 2014 led the EU to review the ENP, of which the EaP is part. In 2017 this review led to the adoption by the EU and its Eastern partners of 20 deliverables to be completed by 2020. These revolved around three

[3] Neoclassical geopolitics was developed in the post-Cold War period with the aim of breaking away from classical geopolitics and its environmental determinism and racism, while emphasising the role of geography in global conflict and economic development.

[4] In July 2022, the EU and Azerbaijan signed a memorandum agreement to double Azerbaijan gas exports to the EU.

main priorities: economic development, good governance and connectivity. They also included three more general cross-cutting deliverables such as gender equality, non-discrimination, and strategic communication and independence of the media. By February 2020, despite some real progress in the economic and connectivity fields and some successes in the fight against corruption, especially in Ukraine, the Eastern partners had fallen short of completing any of the set objectives (EU Neighbours East 2020).

The ENP Review also included new terminology that emphasised stability and differentiation in the relations between the EU and its Eastern partners. This shift is important as it implied moving away from the enlargement rhetoric and a limitation of the transformative ambitions of the EU for its Eastern partners. This shift was confirmed in the new EU Global Strategy approved by the member states in 2016 (Cianciara 2017). This strategy embraced the changes produced by the crisis in Ukraine and highlighted a new priority of strengthening the resilience of its partners while outlining new ambitions for EU defence. These priorities were further confirmed in the EU Strategic Compass document that outlines new objectives for the Union in security and defence (Blockmans et al. 2022).

The implications of these changes for the Eastern partners are still unclear. It is worth noting that the Strategic Compass barely touches upon the EaP but does mention the EU's new commitment to boost its cooperation with the Eastern partners in the areas of defence and security (Council of the European Union 2022b, 42). These objectives have been pursued through the provision of military assistance to Moldova and Georgia via the new European Peace Stability Instrument, and the launching, in October 2022, of the EU Military Assistance Mission to Ukraine, alongside the allocation of €16 million to support capacity building in the Ukrainian armed forces (Council of the European Union 2022b).

Despite this, the EU is not likely to be able to provide the kind of hard security that the Eastern partners may need in the face of a continuing Russian threat. As a key analyst pointed out, if the war in Ukraine has taught us anything, it is that 'there is no security in Europe outside NATO' (Meister 2022, 2).

2. EU Enlargement since 2014

When taking office in 2019, the new President of the EU Commission Ursula Von der Leyen announced her willingness to have a geopolitical Commission. This announcement did confirm a new emphasis on geopolitics in EU external policies. That new emphasis became already visible in the aftermath of the EU-Russia crisis of 2014 that reminded the EU of the resurgence of power politics in Europe. If anything, the Covid 19 crisis in the Western Balkans (WB) highlighted the extent to which the region has once again become a space for renewed competition between the great powers (Rustemi at alt., 2021)

In its involvement in the WB, the EU has portrayed itself as a major transformative force or as some scholars referred to, as a transformative power (Grabbe, 2006). This was clearly reflected in the 2015 EU Commission enlargement strategy when

emphasising that: „EU membership has a powerful transformative effect on the countries concerned, embedding positive democratic, political, economic and societal change“ (European Commission, 2015, p.2). In this light, EU policies are aimed at guiding the reform process in the candidate countries through setting accession conditions referred to as accession conditionality and Europeanisation, a process by which adaptation to the EU becomes deeply intertwined with domestic policy making and providing them substantial financial support. These principles make much of the transformative approach that reject both a geopolitical approach and concept of interests (Grabbe, 2006, p.3).

Since 2016-2017, the EU seems to have gradually shifted to a new geopolitical approach in its involvement with the Western Balkans. This shift is being translated in some key documents related to EU foreign policy such as the new 2016 EU Global Strategy with a stronger emphasis on EU interests, stability, resilience and the need to develop defence capabilities (Lehne, 2020). Related more specifically to EU enlargement, the 2018 Commission's Enlargement Strategy, while not giving up on its transformative dimensions, uses new words and concepts alluding to the WB as being part of the EU's sphere of interests: „EU membership for the WB is in the Union's very own political, security and economic interest“ (European Commission, 2018, p.1)

If the 2018 new EU Enlargement strategy emphasised the need for reforms in the fields of human rights and good governance, the 2020 Enlargement methodology gives more say within the member states in assessing the situation in the countries concerned. This greater political steer may well go both ways: either in the direction of a tougher approach or a more lenient approach according to the foreign policy preferences of the member states concerned. In any case, the use of unanimity in these decisions may well lead to other deadlocks as member states can always use enlargement decisions as a way to settle political scores with the candidate countries (Cvijic 2019) as reflected in the recent Bulgarian veto that stopped the accession negotiations with North Macedonia and Albania.

There is, therefore, a clear emphasis by the EU on the geopolitical dimension of its enlargement policy. Such an emphasis may well lead to two kinds of developments. The first one would be to devalue the transformative ambitions of the EU involvement in the Western Balkans and to emphasise other sets of objectives such as the ones aimed at stabilising the different countries in the region. The second one would be to show greater tolerance of democratic backsliding in order to counter the influence of external powers but with the risk of the EU reneging on the very values on which it is founded. The net result of such an approach would lead to granting EU membership to the WB while disregarding the state of their democratic institutions (Crombois, 2021)

To some extent, EU member states are still divided between a number of them keeping insisting on the need for the EU to continue being a transformative power in the WB. Among those countries, one could certainly include France, the Netherlands and the Scandinavian EU member states. Other member states favour a geopolitical approach. Among these countries, one could include Austria, Italy, Bulgaria, Hungary and Slovakia as the main ones (Petrovic & Tzifakis 2021.p.161-162).

3. Western Balkans and Eastern Partners' Accession Process

If the Western Balkan leaders expressed officially their support to the granting of EU candidate status to Moldova and Ukraine, they also deplored the fact that Bosnia was still kept in the cold, not mentioning the stalemate regarding the starting of the accession negotiations with North Macedonia. Only later, in December 2022, was Bosnia granted candidate status while Kosovo submitted its application and a way out from the deadlock situation regarding North Macedonia was reached.

On paper, the decision regarding Moldova and Ukraine does not affect fundamentally the path for EU accession for the Western Balkans. First, the decision was considered as more symbolic than anything. Secondly, it took place in a context where EU enlargement to the Western Balkans had been losing momentum. The reasons for this situation are certainly multiple. From an EU point of view, the succession of crises it was confronted contributed to relegate to the issue on the backburner. Paradoxically enough, the fact that the region has largely remained stable did not generate any sense of urgency for the EU to act decisively (Bechev, 2022).

Yet, the EU did not remain completely inactive. Some EU leaders such as the German Chancellor toured Southeastern Europe in August 2022 with a positive message related to their EU accession (The Federal Government, 2022). In December, the EU-Western Balkan Summit took place for the first time in the region, in Tirana where the EU leaders reiterated their commitments to EU accession for the Western Balkans while offering them a new financial package of up to 1 bn Euros to help them mitigating the effect of the energy crisis. The Summit also underlined the geopolitical reasons for the EU to be more engaged in the Western Balkans to counter rising Russian and Chinese influence in the region. That being said, if the Summit has been viewed by some as a sign that EU enlargement has been revived, others have remained much more circumspect (Bancroft 2023).

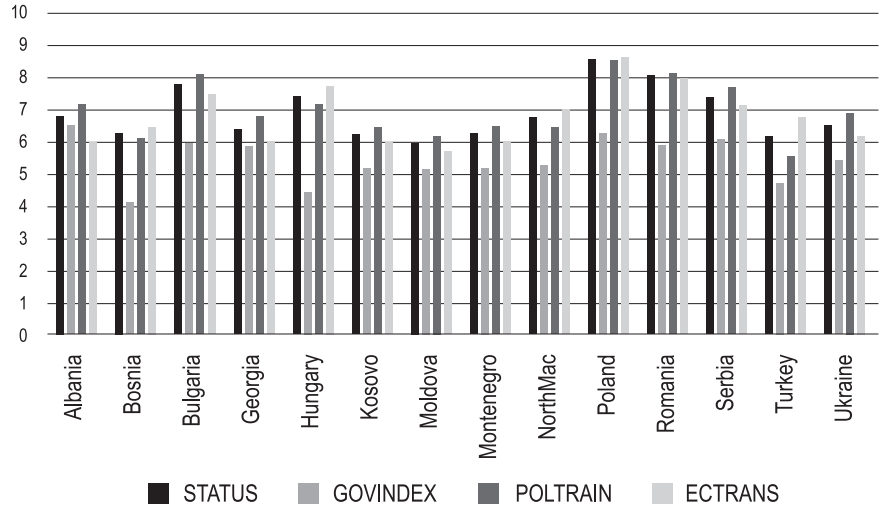
The crucial question, besides of the one of neighbourly disputes such as the one between Bulgaria and North Macedonia, remains the extent to which the Western Balkan candidates fulfil the EU conditions for EU accession, especially in terms of the rule of law, fundamental freedoms and the fight against corruption and organised crime. In this respect, all the countries have little if no improvements since 2014-2015. New concepts such as the one of „backsliding' or of „de-democratisation' were introduced to describe the situation in the Western Balkans as far as the rule of law and fundamental freedoms were concerned (Bieber, 2019). Other analysts prefer to speak about „democratic stagnation" in the region (Bechev, 2022).

In these respects, the last assessment by the European Commission on the state of progress on the Western Balkan's Road to accession confirmed that picture even though it points out to some improvements in the different countries (European Commission, 2022).

However, the focus on the rule of law and fundamental freedoms in the Western Balkans should not divert attention on the evolution within some EU member states

in the same domains. Based on the indexes designed by the Bertelsmann Stiftung[5], the situation in some EU member states such as Bulgaria, Hungary, Poland and Hungary, in the Western Balkan candidate countries, not mentioning the Eastern partners does not differ that much, and in some cases the EU member states such as Hungary scored below these countries (Graph 1). More significant perhaps is the downwards trend in some member states such as Bulgaria, Hungary and Poland while the candidate countries, except for Turkey and Serbia, either maintained their scores or improved them slightly (Graph 2).

Graph 1: BTI Index in 2018 in Candidate Countries and some EU Member States

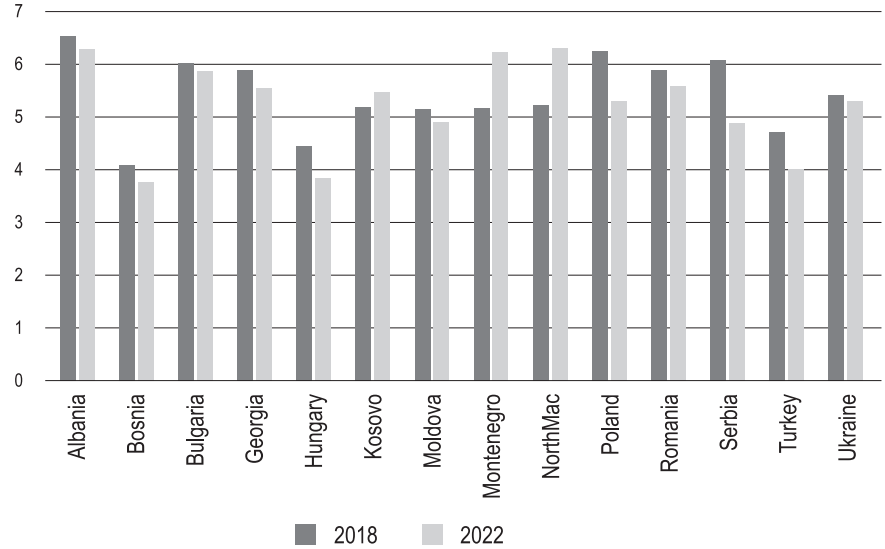


[5] The Bertelsmann Stiftung's Transformation Index (BTI) analyses and evaluates whether and how developing countries and countries in transition are steering social change toward democracy and a market economy. The Status Index, with its two analytic dimensions of political and economic transformation, identifies where each of the 137 countries stand on its path toward democracy under the rule of law and a social market economy.

Governance in the BTI refers to the quality of political management in transformation processes. We examine a country's political decision-makers and take structural difficulties into account. The index value is derived from the performance in four governance components multiplied by a factor that is determined by the country's individual level of difficulty.

The state of political transformation is measured in terms of five criteria, which in turn are derived from assessments made in response to 18 questions. The BTI's concept of democracy goes well beyond other definitions of democracy, which are limited primarily to basic civil rights and the conduct of free elections. Stateness, which is seen as a precondition to democracy, is included in the BTI's definition of political transformation and examined through questions specifically dealing with the state's monopoly on the use of force and basic administrative structures. It also entails an evaluation of the rule of law, including the separation of powers and the prosecution of office abuse. The state of economic transformation is measured in terms of seven criteria, which are based on a total of 14 indicators. The BTI's concept of a market economy includes not only aspects such as economic performance, regulatory or competition policy, and property rights; it also contains elements of social inclusion, such as social safety nets, equality of opportunity and sustainability. In BTI terms, comprehensive development not only aims at economic growth, but also requires successful poverty alleviation and the freedom of action and choice for as many citizens as possible. See: https://bti-project.org/en/methodology.

Graph 2: BTI Index of Governance in 2018 and 2022



These results do not only raise the question of the impact of the EU conditionality as an external tool for domestic transformations in the candidate countries but also of the need to develop new internal conditionality to counter any further backsliding within the European Union itself (Kmezic & Bieber, 2020)[6].

On the foreign policy front, the Western Balkans with the exceptions of Serbia and Bosnia aligned themselves on the EU sanctions regime adopted with respect to Russia. But here again, such commitments, also asked by some member states such as the Netherlands as a new condition for accession, clash with the position of Hungary that has been more than reluctant to fully adhere to the EU decisions regarding Russia, if it has not tried to block them or to water them down (Dunai, 2022).

In other words, the accession process and to some extent, the Eastern Partnership are drawing dividing lines in Europe that have become rather artificial. Indeed, both in terms of performances regarding the rule of law and fundamental freedoms, not mentioning foreign policy, these lines do not reflect significant differences between some EU member states and the candidate countries.

In this context, any delay in the accession process may reveal increasingly expensive geopolitically speaking for the EU. In terms of domestic reforms, the longer the accession process lasts, the more likely it will further undermine pro-liberal forces in the Western Balkans. In terms of geopolitics, it will most certainly contribute to strengthen the negative influence of external powers such as Russia in the first place, but also of Turkey and China.

[6] The European Union adopted, in December 2020, such internal conditionality regime in the form of the conditionality regulation but restricted to the protection of the EU budget from breaches of the rule of law.

4. Conclusion: Need for a Revamping of both the EU Enlargement and the EaP

The new geopolitical situation created by the war in Ukraine calls the EU to clarify between its ambitions towards both the Western Balkans and the Eastern Partners. Indeed, if the war taught us anything is that both policies have become highly geopolitical. Thus, the EU must choose between two options. Either because of the new compelling geopolitical reasons, the EU decides to strengthen the relations with these countries willing to do so, leading to the question of their EU accession in a relatively short prospect, starting with the Western Balkans or the EU continues to insist its transformative agenda with a risk of an ever-delayed EU accession for the same countries.

In an attempt to square that circle, President Macron proposed to address the geopolitical changes in Europe, by launching, in May 2022, an initiative called the European Political Community (EPC). It is aimed gathering all the democratic European nations in a 'new space for political cooperation, security, cooperation in energy, transport, investment, infrastructure, the movement of people' (French Presidency of the Council of the European Union 2022, 2). For the French president, such a project allows him to deal with two problems at once. The first is to strengthen links between the EU and all its partners: the Eastern partners, EU candidate countries and third countries such as Britain. The second is to safeguard the European integration process. By severing ties with Russia, the EPC is viewed favourably by the EU's Eastern partners, even though they remain fearful of finding themselves in yet another antechamber of EU membership alongside the other EU candidate countries (Moyer 2022).

That said, the initiative is set to restrict itself to being a forum for discussion rather than a strong policy and security provider. Officially, and as confirmed by the European Commission: „This informal framework will not replace existing EU policies and instruments, notably enlargement, and will fully respect the European Union's decision making and autonomy (European Commission, 2022: 2). In other words, this means that the EPC's impact on both the EaP and the EU enlargement policy may be limited and it is therefore unlikely to replace them either in scope or in ambition (Bechev 2022).

The discussions on the readiness or not of the Western Balkans and of Moldova and Ukraine also conceal an important dimension which is the one of the erosions, within the EU, on the very fundamental principles of the rule of law and fundamental freedoms. In these issues, the outcome of the impact of the political and legal pressures put on Hungary and Poland may be crucial, not mentioning other EU member states where the situation is also concerning. Such erosion puts into question the existing dichotomy between the EU member states and the candidate countries. Indeed, it would be increasingly difficult to insist on the respect for these principles in relation with EU accession while they are being undermined internally by some EU member states.

On the geopolitical front, the EU has a lot to lose if it continues to delay the EU accession for the Western Balkans and will find it increasingly difficult to rally the

support of their public opinion for EU membership. This would also contribute to strengthen the influence of Russia in the region with all its destabilising effects on their national societies.

The logical conclusion of these implications would be to speed up the accession process for the Western Balkans while strengthening the internal dimensions of the respect for rule of law and the principles of fundamental freedoms. In other words, the replace to use of EU conditionality as an external tool into an internal one within the EU. Such a logic would prevent the Western Balkans from being locked indefinitely in the EU accession anti-chamber and would allow them to fully embrace their EU future.

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EUROPEAN UNION MISSIONS IN THE EASTERN PARTNERSHIP REGION

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Abstract

The European Union has long aspired for a leading role in peacekeeping operations, conflict prevention and the strengthening of international security. It actively engages in crisis management and peace building efforts to pursue security and stability, while promoting multilateralism and the respect of democratic values. To this end, the CSDP provides the Union with the operational capacity to deploy both civilian missions and military operations.

Since 2003, the EU has conducted more than 30 CSDP missions. The on-going ones in and regarding the region of the Eastern Partnership include those in Ukraine, Georgia, Moldova and Ukraine; the mission in Ukraine set up in October 2022; the mission in Armenia announced in January 2023, and the mission in Moldova established in April 2023. Meanwhile, in December 2022, the EU Council reaffirmed its commitment to strengthen civilian CSDP through a new Civilian Compact to be adopted by mid-2023.

Taking into account the most recent developments in the field, the aim of the article is to analyse the peculiarities, the legal and political aspects of EU missions in countries of the Eastern Partnership, as well as their contribution to regional/international security.

Key words: EU, Eastern Partnership, missions, security

The European Union's Common Security and Defence Policy (CSDP) has become one of its important instruments for influence in external affairs, with EU operations in fragile states being its most visible manifestations. Although, from a theoretical point of view, the CSDP is much broader in scope, a view is upheld in the specialised academic literature that, in fact, it has taken the form of military operations and civilian missions covering a wide range of activities and aiming to contribute to the security and stability of third countries – mainly in the Balkans, in the countries of the Eastern Partnership within the European Neighbourhood Policy, in the Middle East, and in Africa[1].

[1] Missiroli, A. (ed.) (2016), *The EU and the World: Players and Policies Post-Lisbon. A Handbook,* European Union Institute for Security Studies, Paris, p. 45.

The emergence and the historical development of the civilian dimension of the CSDP is the result of a number of factors – the EU's own internal efforts; the new nature of security threats following the end of the Cold War; the degree of competition and cooperation among the international community; the changed international security context, in which it is clear that most military interventions require long-term efforts to build lasting peace. A general trend may be ascertained towards increasing external demand for civilian capacity to deal with conflicts and crises[2]. At the same time, it is argued that over the past 20 years, the civilian aspect of the CSDP has developed in the shadow of the military one, and, therefore, being likened to „Cinderella" or the „ugly duckling" of the CSDP[3].

The process of building the European Union's military and civilian crisis management capabilities was initiated in 1999 without having a comprehensive strategic framework for the Union's external action[4]. There is also a lack of capacity in the context of the Common Foreign and Security Policy (CFSP), although the European Commission has acquired considerable experience in non-military crisis management, and Member States have engaged, individually or jointly, in civilian operations. Consequently, the first objective was to identify the available European and national resources in order to build collective civilian capabilities[5]. The initial efforts of the European Council in this regard led to the adoption of the Action Plan on non-military crisis management in Helsinki in December 1999 and to the definition, in Feira in June 2000, of four priority areas for civilian crisis management – police, strengthening the rule of law, strengthening civilian administration and civil protection. The first two still prevail when it comes to the implementation of CSDP missions, while the second two have never been of paramount importance[6].

The end of 2003 marked the laying of the groundwork for the development of civilian crisis management capabilities[7]. It is noted in the landmark European Security Strategy of 2003 that almost any large-scale military intervention inevitably results in civil chaos[8]. The European Union is thus given the opportunity to prove its share in strengthening international security by mobilising all civilian resources in crisis and post-crisis situations[9]. The European Security Strategy contributed to defining

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[2] Juncos, A. E. (2020), *Beyond Civilian Power? Civilian CSDP Two Decades on*. - In: Fiott, D. (ed.), *The CSDP in 2020. The EU's Legacy and Ambition in Security and Defence,* European Union Institute for Security Studies, Paris, p. 76.

[3] Ibid., p. 74.

[4] Берчев, Д. (2022), *Обща политика за сигурност и отбрана на Европейския съюз*, Велико Търново, изд. „Фабер", с. 173.

[5] Grevi, G., Helly, D., Keohane, D. (eds.) (2009), *European Security and Defence Policy: The First Ten Years (1999-2009),* European Union Institute for Security Studies, Paris, pp. 98-99.

[6] Missiroli, A. Op. cit., p. 64.

[7] For more information regarding the civilian capability development process up to the setting of the Civilian Headline Goal 2008 in 2004, see: Nowak, A. (ed.) (2006), *Civilian crisis management: the EU way*, Chaillot Paper No. 90, European Union Institute for Security Studies, Paris.

[8] Council of the European Union. European Security Strategy. A Secure Europe in a Better World, p. 40. < https://www.consilium.europa.eu/media/30823/qc7809568enc.pdf>

[9] Pirozzi, N. (2015), *The European Union and Civilian Crisis Management after Lisbon* - European Foreign Affairs Review, vol. 20, No. 2, p. 304.

civilian crisis management under ESDP as a core element of the EU foreign policy in general and of the EU approach to crises in particular.

Since 2004, the importance of the CSDP military component has declined in favour of civilian missions. They are less expensive and less politically controversial for the EU, especially as public opinion in most Member States becomes more and more sceptical of military interventions following Iraq and Afghanistan. The trend towards an increase in the number of civilian missions may also be explained by the EU's more comprehensive and already integrated approach to crises in third countries[10]. Another distinguishable trend is towards applying a holistic approach to the mandates of civilian missions – from more limited in scope police missions through rule of law missions (for example, EULEX Kosovo launched in 2008) to civilian security sector reform missions (for example, the EU Advisory Mission in Ukraine established in 2014). Such a trend may be perceived as an expression of the EU's aspiration to play a more significant role, if not for global, then for regional security. At the same time, the operational reality of the civilian dimension of CSDP over the last two decades has been characterised by more modest achievements in terms of the relatively small number of deployed personnel, the assignment of predominantly non-executive responsibilities to missions, and the short duration of certain missions[11].

The Global Strategy for the EU's Foreign and Security Policy, published in 2016, marked an important milestone in the development of the CSDP. While putting the emphasis on the military aspects of the policy, the Global Strategy identifies civilian missions as the „trademark" of the CSDP[12]. The integration of all crisis management structures, including those dealing with civilian and civilian-military aspects, within the new diplomatic service of the EU constitutes another change which is worth mentioning[13]. In relation to CSDP and crisis management, the structures of the European External Action Service include a separate Civilian Planning and Conduct Capability (CPCC) directorate. Furthermore, each mission works in agreement and coordination with the EU Delegations in the same area and in the framework of EU regional policies thus reinforcing the EU's presence and role on the spot.

In September 2018 *r.*, as the next step in the process of strengthening civilian CSDP and in line with the tasking of the 2017 European Council Conclusions as well as the Council conclusions on strengthening civilian CSDP of May 2018, a Civilian Capabilities Development Plan was adopted[14]. On the one hand, it removes monitoring missions and the support for EU special representatives from the CSDP priority list, but, on the other hand, directs the development of the Union's civilian capabilities to a number of new areas in view of the new security challenges – organised crime, border management, terrorism and radicalisation, illegal migration, hybrid threats, cyber security and more.

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[10] Meyer, C. O. (2020), *CSDP Missions and Operations. In-Depth Analysis*, Policy Department for External Relations, Directorate General for External Policies of the Union, European Parliament, p. 5.

[11] Juncos, A. E. Op. cit., p. 78.

[12] Shared Vision, Common Action: A Stronger Europe. A Global Strategy for the EU's Foreign and Security Policy, p. 47. <https://www.eeas.europa.eu/sites/default/files/eugs_review_web_0.pdf>

[13] Pirozzi, N. Op. cit., p. 293.

[14] Council of the European Union, Civilian Capabilities Development Plan, 11807/18, 4 September 2018.

A logical consequence of the adoption of the Civilian Capabilities Development Plan is the establishment of a Civilian Compact in the field of CSDP as a follow-up to the conclusions adopted by Member States within the Foreign Affairs configuration of the Council of the European Union in November 2018. The Compact should lead to „a more capable, more effective, and more joined up civilian CSDP"[15]. Adhering to the Compact, Member States committed to increasing the share of seconded personnel in civilian missions. In 2020, an increase in the number of seconded officials driven by the expansion of several missions was established[16]. Different scenarios for the development of the Civilian CSDP Compact have been envisaged in the scientific literature. The first option relates to its full implementation, including the implementation of all the new tasks that are mentioned but not specified in the Council's conclusions. The second option – partial implementation of the Compact in specific areas or for tasks such as training and equipment. The third scenario is a failure of the Civilian Compact, which would lead to a return to the priorities set in Santa Maria de Feira[17].

The importance of the Compact as regards the civilian dimension of the CSDP has been confirmed in a subsequent strategic document of the EU, namely the Strategic Compass agreed by the Council of the European Union in March 2022 and endorsed by the European Council. According to it, the overall objective of the Civilian CSDP Compact is to contribute to the development and strengthening of the civilian missions of Union so that they can respond quickly and effectively to existing and evolving threats and challenges that undermine the executive, judicial or legislative systems in crisis areas. The specific objective – readiness to deploy a mission of 200 civilian experts within 30 days[18]. In December 2022, the EU Council reaffirmed its commitment to strengthen civilian CSDP through a new Civilian Compact to be adopted by mid-2023.

The establishment of EU military operations and civilian missions requires a unanimous decision of the Council of the EU under the CFSP, based on a proposal by the High Representative of the Union or on the initiative of a Member State. The missions may involve a different number of EU Member States. Once initiated, they are placed under the political control and strategic direction of the Political and Security Committee. The decisions to establish, finance, conduct and terminate such missions are influenced by a number of factors: the level of support by leading Member States, the priorities of the EU and its key institutions, the security challenges in Europe's neighbouring countries and the changes in the behaviour of the major powers in international relations (the USA, Russia and China). From a legal point of view, operations are based on a cumulation

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[15] Council of the European Union, Conclusions of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, on the establishment of a Civilian CSDP Compact, 14305/18, 19 November 2018, p. 3.

[16] For more information on the Civilian CSDP Compact, see: Smit, T. (2020), *Increasing Member State Contributions to EU Civilian CSDP Missions*, SIPRI Policy Brief, SIPRI, Stockholm and Smit, T. (2019), *Towards a More Capable European Union Civilian CSDP*, SIPRI Policy Brief, SIPRI, Stockholm.

[17] Faleg, G. (2020), *The 'Civilian Compact'. Three Scenarios for the Future*. - In: Fiott, D. (ed.), *The CSDP in 2020. The EU's Legacy and Ambition in Security and Defence*, European Union Institute for Security Studies, Paris, pp. 144-145.

[18] Council of the European Union. A Strategic Compass for Security and Defence. For a European Union that protects its citizens, values and interests and contributes to international peace and security, 7371/22, 21 March 2022, p. 16.

of a Council decision and an invitation from the host country, or of a Council decision and a UN Security Council resolution under Chapter VII of the Charter[19]. Thus far, no CSDP operation has been conducted without the consent of the host country.

The legal grounds for the actions of the European Union in the field of the CSDP are to be found in Article 42, Paragraph 1 of the Treaty on the European Union wherein the only reference made is to „missions" carried out by civilian and military means. In theory and practice, a notion has been ascertained that operations are „executive" and „military", and missions are understood to be „non-executive", as far as they are conducted by the Civilian Planning and Conduct Capability/Military Planning and Conduct Capability (MPCC/CPCC), but may be of military, civilian or hybrid nature[20]. A European Union training mission, for example, is an example of a non-executive military mission. Another most recent example is EUMAM Ukraine. In this article, for the sake of convenience, the widest possible distinction is drawn between military operations and civilian missions.

In crisis management, the EU has acted in several ways: mediator of peace between the parties to a conflict; assistant to border management (Moldova/Ukraine); adviser in justice reform (Georgia); trainer of police staff; security sector reformer; security guarantor during elections; peacekeeper on the invitation of a host country (FYROM); as a regional arrangement operating under a mandate by the UN Security Council; component of an international transitional administration. The EU has never acted in the capacity of enforcer of the peace, like NATO in Kosovo in 1999, nor in defence against an armed attack on its territory[21]. In recent years, the EU has been deploying new types of missions with the purpose of implementing ceasefire agreements, strengthening aviation security and preventing and ending acts of piracy. However, they are being deployed in an increasingly conflict environment.

As far as civilian missions are concerned in particular, they may be classified according to the field of their mandate, as follows: police; capacity building; border assistance, i.e., border missions or training and control missions; strengthening the rule of law; security sector reform; monitoring, i.e., observation missions, and mixed civil-military missions[22]. Leaving aside EUBAM Rafah and EUMM Georgia, which were established to monitor a contested/dangerous border line between two entities, EU civilian missions are all about capacity-building and strengthening the rule of law in third states undergoing a period of instability[23]. The first police mission was sent to Bosnia and Herzegovina in 2003 and the first rule-of-law mission to Georgia in 2004. EULEX Kosovo is the only mission with executive powers, and also the largest in terms of personnel.

By way of summary, a few more core characteristics of EU civilian missions will be enumerated: their geographical scope is not limited by the Treaty on the European

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[19] Missiroli, A., Op. cit., p. 47.

[20] Meyer, C. O. Op. cit., p. 4.

[21] Van Vooren, B., Wessel, R. A. (2014), *EU External Relations Law. Text, Cases and Materials*, University Printing House, Cambridge, pp. 426-427.

[22] Zajączkowski, K. (2020), *CSDP Missions and Operations as Instruments of EU Crisis Management - Their Essence, Role and Determinants* - Online Journal Modelling the New Europe, No. 34, p. 11.

[23] Tardy, T. (ed.) (2017), *Recasting EU Civilian Crisis Management. Report No. 31*, European Union Institute for Security Studies, Paris, p. 12.

Union or by the European Council (however, they emphasise the role of the Union as a regional player seeking to solve problems in its immediate neighbourhood); they have a fixed mandate that they cannot exceed; they are deployed in an international environment with many other actors in crisis management at different legal, political and operational levels; they are implemented on a small or medium scale, which guarantees them a lower level of risk; they are usually relatively small in size, and serve as Member States' policy instruments and as continuation of their policies; their intergovernmental nature, coupled with the fact that they do not involve the use of military force, induces greater credibility and trust in host countries; they are funded under the budget allocated to CFSP, which makes them less controversial from a financial and political point of view; however, they are less suitable for intervening in situations of acute conflict or extreme instability.

The analysis of the development of the civilian dimension of the CSDP and the clarified, thus far, general terms in relation to the civilian missions of the EU provide the necessary basis for addressing the more specific issue of the Union missions concerning part of the Eastern Partnership countries, namely – Ukraine, Moldova, Georgia and Armenia. In the present article, these missions are tackled with a special focus due to several reasons. Firstly, the Eastern Partnership has always constituted an integral part of the European Neighbourhood Policy, and relations with the Eastern neighbours are an element of the EU's strategic vision in the area of regional security. Secondly, the geopolitical situation in the so-called „post-Soviet space" has undergone major changes since the onset of the armed conflict in Ukraine in 2022. Thirdly, the most recent developments in relation to the building and improvement of the EU's civilian capabilities in the Eastern Partnership region may be identified as exceptionally topical, insofar as some of the missions concerning the region under consideration were established in 2022 and 2023.

As of May 2023, six missions (five civilian missions and one military mission) have been established; are currently operating, or are yet to begin operating in countries, or regarding countries, encompassed by the Eastern Partnership: the Border Control Assistance Mission to Moldova and Ukraine (**EUBAM Moldova – Ukraine**); the Monitoring Mission in Georgia (**EUMM Georgia**); the Advisory Mission for Civilian Security Sector Reform Ukraine (**EUAM Ukraine**); Partnership Mission in Moldova (**EUPM Moldova**); mission in Armenia (**EUMA**), and Military Assistance Mission in support of Ukraine (**EUMAM Ukraine**). All of them, with the exception of EUBAM Moldova – Ukraine, have been established by a CFSP decision of the Council of the European Union. Without detracting from the fact that EUBAM Moldova – Ukraine established in 2005 and EUMM Georgia set up in 2008, are the longest-lasting and still operational missions in the Eastern Partnership region, this article examines the missions launched from 2014 to date, i.e., since the deterioration of EU relations with Russia. The analysis is from the point of view of their political and legal features, as well as their importance for regional international security.

The European Union's increased activity in the region under consideration is substantiated in its Strategic Compass of 2022 stating that Russia is actively seeking to establish spheres of influence through the armed interventions in Georgia and Ukraine, including the illegal annexation of Crimea and the military intervention in Eastern

Ukraine in 2014, through de facto control of Belarus, and through the continued presence of Russian troops in prolonged conflicts, including in the Republic of Moldova. It is clearly indicated that: „in the eastern neighbourhood, while Ukraine is being directly attacked by the Russian armed forces, also the Republic of Moldova, Georgia and other countries in the South Caucasus are continuously facing strategic intimidations, direct threats to their sovereignty and territorial integrity and are trapped in protracted conflicts“ [24], and that: „we will boost our cooperation in the area of security and defence with a view to strengthening the resilience of our Eastern partners“ [25].

Russia – the EU's largest and, from a military standpoint, most powerful neighbour – has already provoked the Union to implement a technocratic programme of institutional and economic reforms in Eastern Partnership countries. However, it does not envisage effective reform of the security sector with a special emphasis put on defence and intelligence. The EU Advisory Mission on sustainable reform of the civilian security sector in Ukraine was established by Council Decision 2014/486/CFSP of 22 July 2014[26] and deployed in December 2014 to advise state authorities on issues pertaining to security, police, judiciary, prosecution, anti-corruption and human rights of person, and to assist them through strategic advice and hands-on support. Since 2022, the mission has been rendering law enforcement support in relation to refugees from Ukraine to neighbouring Member States and the delivery of humanitarian aid to Ukraine. EUAM Ukraine, which was defined, in 2015, by researchers as „token“, serves as more of an indication of weakness rather than of determination on the part of the Union against the background of the strong Russian political and military influence in the Eastern part of the country[27].

The lesson was learned in 2022 when the EUMAM Ukraine military mission began. It was established by Council Decision (CFSP) 2022/1968 of 17 October 2022[28] as a manifestation of the EU's steadfast position that it resolutely condemns Russia's military aggression against Ukraine. Its initial two-year mandate includes individual and collective, including specialised, training of Ukraine's Armed Forces personnel, as well as training of the Territorial Defence Forces of Ukraine, but without having executive functions. Third countries may be invited to participate in the mission – a practice since the time of the military operation „Concordia“ in FYROM in 2003, whereto 14 third countries contributed, including Bulgaria. A peculiar feature of EUMAM Ukraine is that, unless the Council of the EU decides otherwise, it shall operate on the territory of Member States, the latter running contrary to the provision of Article 42, Paragraph 1 of the Treaty on the European Union stipulating that missions are to be carried out outside the Union, but testifying at the same time to the sui generis nature of the EU, including from the point of view of its civil missions.

The momentum gathered by the European Union to act even more actively in the Eastern Partnership region, in order to fulfil its partnership commitments and, above

[24] A Strategic Compass for Security and Defence. Op. cit., p. 9.

[25] Ibid., p. 42.

[26] OJ L 217, 23.7.2014.

[27] Blockmans, S., Faleg, G. (2015), *More Union in European Defence. Report of a CEPS Task Force*, Centre for European Policies Studies, Brussels, pp. 8-9.

[28] OJ L 270/18.10.2022.

all, to confirm its role in strengthening security there, has revealed itself in 2023 in the establishment of the mission in Armenia[29] and the one in Moldova[30]. EUM Armenia constitutes a civilian EU mission under the Common Security and Defence Policy with a two-year mandate, and, as a crisis management operation, it has a unified chain of command. EUMA was launched on 20 February 2023 when its Operation Plan (OPLAN) was approved[31]. It has the strategic objective of reducing the number of incidents in the conflict-affected and border areas of Armenia by monitoring through routine patrolling and reporting on the situation. In this way, the mission will contribute to the building of trust between Armenia and Azerbaijan, to the normalisation of their relations on the ground and even to the achievement of a possible peace agreement between them. The foreign policy ambition of the Union, which, up to mid-2023, could not boast of a contribution to the resolution of the conflict in Nagorno-Karabakh, is impressive. The deployment of EUMA in the next two years will allow conclusions to be drawn as regards the alignment between ambition and reality, rhetoric and practice. This should be coupled with the fact that the Prime Minister of Armenia and the President of Azerbaijan are one step closer to a comprehensive peace agreement, as they agreed, on 14 May 2023, thanks to the mediation of the EU, to a longer-term negotiation plan. Within the framework of the second meeting of the European Political Community, held on 1 June 2023 in Moldova, they discussed topics, among which border delimitation and conclusion of a peace treaty, and the European Union, represented by the President of the European Council Charles Michel, declared once again its readiness to contribute to the normalisation of the relations.

The Partnership Mission in Moldova was established by a decision of the EU Council of 24 April 2023. Launching its activities depends on the achievement of initial operational readiness and is subject to a subsequent decision by the Council. It is also a civilian mission with a two-year mandate and, as a crisis management operation, has a unified chain of command. EUPM Moldova comes as a result of the European Council conclusions of June 2022 that the future of the Republic of Moldova lies within the European Union and of granting it, along with Ukraine, the status of a candidate country. The mission's mandate is to contribute to increasing the resilience of the security sector in the areas of crisis management and hybrid threats, cyber security and countering attempts at foreign interference and information manipulation. The Union is adamant that it will provide the necessary support to Moldova to deal with the multifaceted impact of Russia's war against Ukraine, especially in terms of energy security[32].

In the current security environment, if the civilian aspects of CSDP are properly developed and used, this policy component is capable of turning into a major and even strategic tool of the EU[33] allowing the Union to stand out by its own security identity,

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[29] Council Decision (CFSP) 2023/162 of 23 January 2023 on a European Union mission in Armenia (EUMA), OJ L 22/24.1.2023.

[30] Council Decision (CFSP) 2023/855 of 24 April 2023 on a European Union Partnership Mission in Moldova (EUPM Moldova), OJ L 110/25.4.2023.

[31] Council Decision (CFSP) 2023/386 of 20 February 2023 launching the European Union Mission in Armenia (EUMA) and amending Decision (CFSP) 2023/162, OJ L 53, 21.2.2023

[32] European Council meeting - Conclusions, EUCO 34/22, 15 December 2022, p. 3. <https://www.consilium.europa.eu/media/60872/2022-12-15-euco-conclusions-en.pdf>

[33] Missiroli, A. Op. cit., p. 61.

as well as to reaffirm its values in line with its self-identification as a „soft" or „normative" power[34]. The EU is certainly not a typical player in strengthening international security.

The European Union has succeeded in building a strong legal and institutional framework for the Common Security and Defence Policy. However, its ability to act autonomously is still hampered by the lack of sufficient resources to conduct operations and by the lack of a common political will that exceeds simple rhetoric. On the one hand, EU missions are indicative of its ever-growing foreign policy ambitions. On the other hand, there is not sufficiently realistic balance between the level of ambition and the resources available thereto. As the EU does not have the capacity to deal with large-scale crises, it can conduct small and medium-sized operations, or act at the beginning/end of a large-scale operation. Close cooperation with NATO is inevitable. The EU and NATO offer two potentially competitive approaches to European security, which, however, can be compatible and complementary. This is clearly seen as regards the EU's civilian and crisis management missions abroad[35]. The question remains whether, generally speaking, the Union has fully achieved the initial goals set back in 1999, or whether it continues to respond ad hoc and to refine its political and strategic „talking".

However, in the case of the most recent missions launched in 2022 and 2023 in Ukraine and Moldova (already enjoying the status of candidate countries), it is a matter of prior concern for the European Union's own security. In addition, including from the viewpoint of the civilian aspects of the CSDP, the EU indirectly demonstrates to Russia its own importance in the field of regional security. The new mission in Armenia, for its part, can be perceived as an attempt by the European Union to restore and strengthen its influence in this country after the failure of the process of signing an association agreement. At the same time, the establishment of EUM Armenia fully fits in the context of the entry into force, on 1 March 2021, of the EU – Armenia Comprehensive and Enhanced Partnership Agreement and of the developments in 2023.

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[34] Juncos, A. E. Op. cit., p. 81.
[35] Берчев, Д. Op. cit., 291-292.

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ASSESSMENT OF THE EU AS A PROMOTOR OF DEMOCRATIC VALUES IN THE WESTERN BALKAN COUNTRIES

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Abstract

The European Union has been instrumental in promoting reforms in areas such as the rule of law, anti-corruption measures, and human rights protections. Furthermore, its conditionality policy has provided a powerful incentive for the governments of the Western Balkan (WB) countries to make progress in these areas, and the EU's financial and technical assistance has helped to support these efforts. Although there have been some concrete achievements because of these efforts, there have also been significant challenges and setbacks in these countries' democratisation process. The objective of this paper is to assess if, and to what extent, the EU has been successful in promoting democratic values in the countries of the Western Balkans? For this purpose, a qualitative analysis is conducted with secondary data from many sources, here including reports from international organisations, policy events as well as the rhetoric review of the progress reports delivered to the WB countries. Taking into consideration the results of the analysis, I argue that there are three main factors affecting the EU's capability of being a successful promotor of democratic values in the Balkans, namely: internal political instability; external pressures from a broader geopolitical context; and a 'not-to-willing' EU.

Key words: EU, democratisation, promotor of democracy, stabilitocracy, Western Balkan countries

1. Introduction

While the European Union (EU) plays an important role in promoting reforms leading to the consolidation of democracies in the Western Balkan countries, it is now challenged by the phenomenon of democratic backsliding, which refers to the gradual erosion of democratic institutions, norms, and practices.[1] The magnitude of this new phenomenon has enormous implications as it questions not only the EU's

[1] Bermeo, N. (2016), *On Democratic Backsliding,* Journal of Democracy 27, no. 1, p. 5.

capability and role as a „transformative power“[2], but furthermore, also its capacity as „regime maker“[3] and „member state builder“[4] when taking into consideration its efforts to democratise potential member states. This is especially the case in the Western Balkan region, where the EU is criticised for „failing to deliver democracy to those countries engaged in the process of joining the EU“[5].

While democracy promotion was, and remains still, a key part of the EU's foreign policy, scholars criticise the EU's limited transformative potential, especially when „encountering defective democracies with little chance of becoming EU members.[6] In fact, the EU has a long history of promoting democratic governance and human rights but has not always had the appropriate tools to promote its core values.[7] With the Copenhagen Summit in 1993 and the resulting criteria, the EU not only paved the way to develop a range of policies and instruments to support the promotion of democracy but furthermore, established monitoring mechanisms to assess the democratic performance of countries wishing to join the EU. Since then, the EU introduced a list of non-exhaustive tools, varying and depending on the specific context and country in question, demonstrating the diverse range of policies to promote democratic values in – and outside the borders of the European Union.

One of the EU's most used approaches to promote democratic reforms is based on conditionality policies, whereby the provision of financial and other forms of assistance to the recipient is strongly interlinked to the country's compliance with certain conditions. In this case, conditionality acts as a mechanism to encourage democratic reforms and to set conditions in areas such as the rule of law, human rights, good governance, etc. On the other hand, enlargement policies and processes are a cornerstone of the EU's comprehensive strategy for promoting and ensuring the democratic character of potential Member States. Nevertheless, despite its proactive role in advocating democratic values and concepts, it is lacking a clear assessment methodology when it comes to the measurement of democracy performance of various political systems.

Although, among scholars, the EU is considered a „school for democracy“[8], it is also true that the EU is short of a clear definition and conceptualisation of democracy,

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2 Grabbe, H. (2006), *The EU's transformative power: Europeanisation through Conditionality in Central and Eastern Europe*, New York, Palgrave Macmillan.

3 O'Brennan, J., Gassie, E. (2009), *From stabilisation to consolidation: Albanian state capacity and adaptation to European Union rules*, Journal of Balkans and Near East Studies, Volume 11, (Number 1), March, p. 64.

4 Keil, S., Arkan, Z. (2016), *The limits of normative power*, in Keil S., Arkan Z. (eds.), *The EU and Member State Building. European Foreign Policy in the Western Balkans,* New York: Routledge, p. 17.

5 BiEPAG (2017), *The Crisis of Democracy in the Western Balkans. An Anatomy of Stabilitocracy and the Limits of EU Democracy Promotion*, p.5.

6 Dimitrova, A., Pridham, G., (2004), *International actors and democracy promotion in central and eastern Europe: the integration model and its limits*, Democratization, 11:5, p. 91-112, DOI: 10.1080/13510340412331304606

7 Pinto, H., (2016), *The role of European Union accession in democratisation processes*, Democratic Progress Institute, London, p. 11.

8 Ibid.

as it is often criticised that it pursues a „vague and fuzzy“[9] form of „liberal democracy“[10], which is then reflected in the difficulties that countries have in fulfilling the EU requirements, and in the assessment methodology of the EU as democracy remains „an aspiration that is not yet defined“[11].

The scope of this work is to assess the EU's capacity in transforming and democratising the Western Balkan countries. For this purpose, a quantitative cross-country analysis will rely on the assessment of scores reached by Albania, Bosnia and Herzegovina, Kosova, Montenegro, North Macedonia and Serbia (following WB6) related to key political developments as assessed by internationally approved methodologies of international reports such as Freedom House, Nations in Transit and BTI. Through this analysis, the research questions to be answered are as follows:

- Are the Western Balkan countries showing progress in democratising since being engaged with the EU?
- What are the reasons for the EU's difficulties in promoting and consolidating democracy in the Western Balkan countries?

2. Democratic performance of Western Balkan countries

EU's engagement with the Western Balkans began in the 1990s following several conflicts that occurred both due to a prolonged transition process as well as during the breakup of former Yugoslavia. Finally, in 1999, during the Kosova War, the European Commission (EC) declared the possibility of starting a process of stabilisation and association (SAP) with the countries of the Western Balkans, marking as such a policy of engagement and integration. Since then, a series of key instruments were used, and substantial financial assistance and technical support were provided in order to give a powerful impetus for reform and to promote democracy in the WB6.

Nevertheless, the process of promoting democracy and democratic reforms in this region has been challenging, since, as it is shown, the countries cannot fulfil the EU's democracy aspirations, and furthermore, their democratic performance seems not to be particularly improved.

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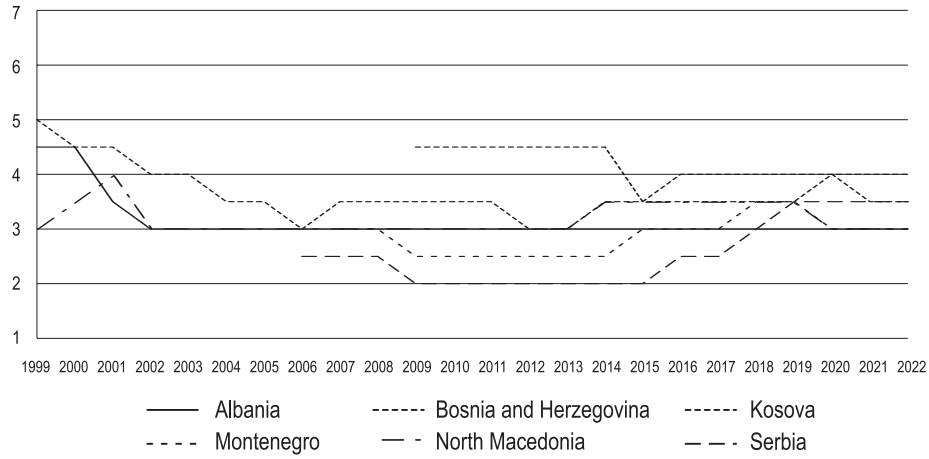
[9] Kurki, M. (2010), *Democracy and Conceptual Contestability: Reconsidering Conceptions of Democracy in Democracy Promotion*, *International Studies Review*, Volume 12, Issue 3, p. 362□386, https://doi.org/10.1111/j.1468-2486.2010.00943.x

[10] Pridham, G. (2005), *Designing democracy: EU enlargement and regime change in post-communist Europe*, Palgrave Macmillan, London.

[11] Timmer, A., Majtenyi, B., Haüsler, K. & Salat, O. (2014), *EU Human Rights, democracy and rule of law: from concepts to practice*, Frame working paper, 3(2), p. 43.

Graph 1: Freedom score of WB6 according to Freedom House Data[12] (1999 - 2022)



Source: Author's presentation based on the Data from Freedom House

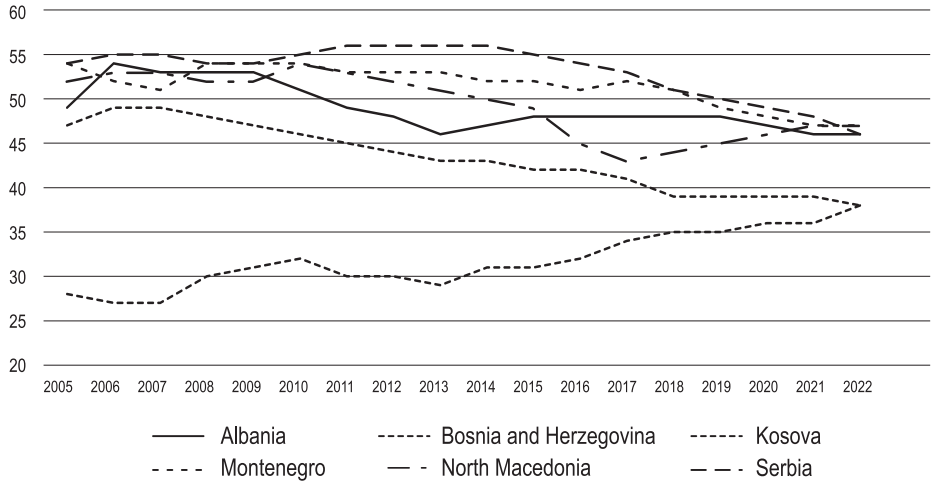
Graph 1 represents an analysis of the Freedom House scores for political and civil rights for the Western Balkan countries from 1999-2022. Based on this analysis, evidence shows that the Western Balkan countries have faced significant challenges in terms of democratic consolidation and strengthening political and civil rights. While all six countries are considered *partly free* according to the latest Freedom House reports, there have been some fluctuations and regressions in democratic progress over time. It is evident that Albania has been categorised as *partly free* throughout the whole period with no significant improvement or decline in its democratic performance since 2002. While Albania has not shown any evidence of democratic backsliding, its democratic performance has stagnated, indicating a lack of progress toward greater political and civil rights. The categorisation as *partly free* also applies to Bosnia and Herzegovina, which has had recourse in terms of democratic backsliding since 2008, resulting in a decline in political and civil rights and as such being classified as one of the worst-performing countries in the Western Balkans. Considerable progress was achieved by only two countries of the WB region, namely Montenegro and Serbia. Montenegro was categorised as *free* between 2009 and 2014, indicating improvement in its democratic performance during that period. On the other side, evidence shows that Serbia was once considered the best performer in the region, as it presented the best values compared to its neighbors in the region. Serbia is the only country, among the WB6, considered *free*, for a period of over ten years. However, since 2017, there has been an evolving regress and democratic backsliding, which resulted in being categorized as *partly free*. Although all Western Balkan

[12] Measurements of political and civil rights are made through a distribution of values, which include the interval from 1 to 7. The value 1 is defined as a democracy with full rights and full freedom (best rating), while the value 7 indicates a complete lack of rights and freedoms (worst rating). Meanwhile, the Freedom House Index rates countries with a numerical value within the range of 1.0 to 2.5 as free, 3.0 to 5.0 as partly free, and 5.5 to 7.0 as not free.

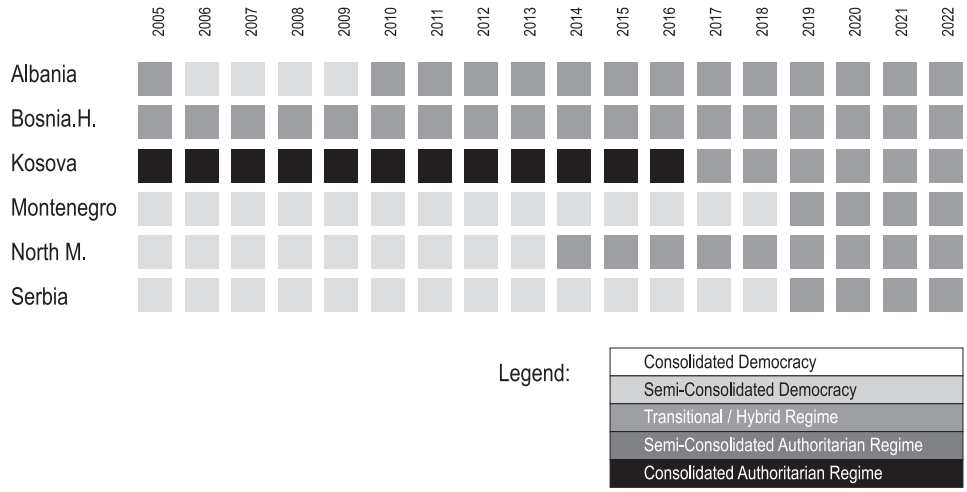
countries fall under the same categorisation, it must be emphasized that regress in terms of democratic backsliding is most evident in Bosnia&Herzegovina, Kosova, and Serbia. Despite these country-based insights, the Freedom House Index indicates smaller differences between the WB6 related to political and civil rights than some years ago.

Graph 2 is based on the data provided by Nations in Transit for the Western Balkan countries from 2005-2022. The analysis of the democracy percentages and the related regime classifications indicates the following: The most common regime classification for the Western Balkan countries is that of a *transitional* or *hybrid regime*, meaning that those countries are still in the process of transitioning towards greater democratic consolidation. Kosova shows the lowest level of democracy percentage compared to other Western Balkan countries. However, it is the only country in the region that has shown signs of constant progress, upgrading from a semi-authoritarian regime to a transitional one. On the contrary, the democracy percentage of Albania, Serbia, and Montenegro declined leading to a downgrade of regime classification. While Albania was considered a semi-consolidated democracy between 2006 and 2011, indicating a relatively high level of democratic performance during that period, Serbia and Montenegro were the best performers in the region, being categorised as semi-consolidated democracies in the timespan from 2005 until 2018. However, data emphasises that most of the WB6 faced significant challenges resulting in democratic backsliding and back-shifting to transitional and hybrid regimes.

Graph 2: Democracy percentage and regime classification of WB6 according to Nations in Transit[13] (2005 - 2022)



[13] The Democracy Score provides numerical ratings for each country on seven indicators: (1) National democratic governance, (2) Electoral process, (3) Civil society, (4) Independent media, (5) Local democratic governance, (6) Judicial framework and independence, and (7) Corruption. The ratings are based on a scale of 1 to 7, with 1 representing the lowest and 7 the highest level of democracy. The Democracy Score is a straight average of the seven indicators and is also expressed as a percentage, where 0 represents the lowest and 100 the highest level of democracy. This methodology uses 5 categories of regime types.



Source: Author's presentation based on the Data from Nations in Transit

As shown in Table 1, according to the Bertelsmann Transformation Index (BTI), all six Western Balkan countries are and were, mainly throughout the whole period taken into consideration, defective democracies.

Evidence indicates two particular moments for Serbia and Bosnia and Herzegovina. While Serbia made some efforts to better perform democratic standards and improving slightly their democracy status, being categorised as a moderate democracy or democracy in consolidation in the years 2010 and 2012, Bosnia and Herzegovina shows the highest decline in terms of democracy status compared to other countries of the region, being the only WB country considered a highly defective democracy.

Table 1: Democracy status of WB6, according to Bertelsmann Transformation Index (2008 - 2022)

Country	Year	Democracy status	Country	Year	Democracy status
Albania	2008	*Defective Democracy*	Bosnia and Herzegovina	2008	*Defective Democracy*
	2010			2010	
	2012			2012	
	2014			2014	
	2016			2016	
	2018			2018	
	2020			2020	*Highly defective democracy*
	2022			2022	

Country	Year	Democracy status	Country	Year	Democracy status
North Macedonia	2008	*Defective Democracy*	Montenegro	2008	*Defective Democracy*
	2010			2010	
	2012			2012	
	2014			2014	
	2016			2016	
	2018			2018	
	2020			2020	
	2022			2022	
Kosova	2008	*Defective Democracy*	Serbia	2008	*Defective Democracy*
	2010			2010	*Democracy in consolidation*
	2012			2012	
	2014			2014	*Defective Democracy*
	2016			2016	
	2018			2018	
	2020			2020	
	2022			2022	

Source: Author's presentation based on the Data from BTI

Overall, this quantitative analysis of the democracy status of the Western Balkan countries, with data from Freedom House, Nations in Transit, and BTI suggests that most of the countries in the region are still in the process of transitioning towards greater democratic consolidation. While some countries have shown minor improvements in their democracy status, others have experienced a decline, resulting in a downgrade in their regime classification, diminishing the EU's impact as a promotor of greater democratic consolidation in the region.

In addition, also the progress reports of the European Commission related to the Western Balkan countries generally reflect the evidence derived from the quantitative comparative assessment, although there are some differences in the level of detail and emphasis placed on certain issues. It should be highlighted that progress reports provide a detailed assessment of each country's progress toward meeting the political criteria for EU membership. Though those reports lay out an overview of each country's progress, the progress reports are generally diplomatic and timely consistent in terms of assessing the current stage in fulfilling political criteria and performing democracy. They highlight both progress and challenges in each country. Nevertheless, it is evident that those reports do not always bring

forth a clear categorisation of the terms used to describe the level of progress or the challenges faced by each country.[14]

3. Reasons for the EU's hampered role as a democracy promotor in the WB6

Although the EU has been engaged in the Western Balkans for nearly two decades now, aiming at promoting stability, democracy and economic development in the region, its engagement, considering the data provided in section 2, cannot be considered transformative, in terms of an enhanced and sustainable democracy, resulting in consolidated democratic systems. It is shown that while the EU's engagement has contributed to some progress on democratic reforms in some areas, its capability to democratise the Western Balkan countries remains limited. Furthermore, some scholars argue that even though the „expected democratic transformation of the region has not become reality"[15] the „growing evidence for democratic regression, leads to the idea that we have to move away from the linear and normative transitional assumption towards a closer scrutiny of de-democratisation processes and regressive tendencies".[16] In addition to the non-linear path to democracy, scholars criticise „that the EU integration context has not been able to effectively counter non-democratic tendencies including outright democratic rollbacks".[17] Furthermore, as the Clingendael Report amplifies, the EU's „transformative power is not only less effective than expected in the WB6, but on top of that, is also believed to unintentionally contribute to the consolidation of stabilitocracies".[18] The discussion about the so-called shift from democracy promotion to stability promotion[19], emphasises once again the moderate effect of the EU in the WB6. As the creation of simply stable systems cannot be in the EU's long-term perspective, especially considering a region that hopes to join the European family as soon as possible, it is important to elaborate on the main reasons impacting, firstly on the non-complete democratisation of the WB6, and secondly, the determination of the EU to influence, beyond mere stabilisation, the radical democratic transformation of the region. Considering this we must admit that the reasons hampering the consolidation of democracy are to be categorised by a two-fold approach: 1) Western Balkan countries – driven and, 2) EU – driven. Three reasons, limiting the EU's transformative power, deriving from this two-fold-approach are as follows:

1. Internal political instability
2. external pressures from a broader geopolitical context
3. a 'not-to-willing' EU

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[14] Polo, E., Malaj, D. (2021), *Reviewing the evaluation approaches of WB candidate countries' performance in meeting the economic and political criteria*, European Academic Research, Vol. 9, Issue 2, p. 1371.

[15] Zweers, W., et. al (2022), *The EU as promotor of democracy or „stabilitocracy" in the Western Balkans,* Clingendael Institute and the Think Tank for Europe Network (TEN), p. 11.

[16] BiEPAG (2017), p. 12.

[17] BiEPAG (2017), p.13.

[18] Zweers, W., et. al (2022), p.12.

[19] BiEPAG (2017), p. 95.

3.1. Internal political instability

One of the main challenges facing the EU in its efforts to promote transformation in the Western Balkans has been the lack of genuine political will among the region's leaders to implement reforms. Despite the EU's support for democratic institutions and the rule of law, corruption and political patronage remain significant obstacles to reform in many countries in the region. In some cases, EU assistance has been perceived as encouraging only superficial changes in governance practices rather than genuinely transformative reforms. In most of the WB6 countries, this lack of political will combined with internal instability is the result of partocratic regimes, defined by a strong elite dominance[20], which is most noticeable in times of crisis or extraordinary circumstances as it was highlighted further during the Covid-19 pandemic, contributing to a further deterioration of democracy in the region.[21]

3.2. External pressures from a broader geopolitical context

However, the EU's ability to transform the region has been limited also by the broader geopolitical context. The region has been the subject of competition between external actors, including the USA, Russia, China and Turkey. Besides Russia, which has had always a more proactive role in some parts of the Western Balkans, in recent years a more active engagement of China in the WB6 has been noticed. Nevertheless, Russia's influence in the region is particularly evident, and now more than ever, crucial in determining the WB6's political direction. From a historical point of view, the Western Balkans represent an area where Russia tries to be a long-time actor. It seems obvious that the Kremlin has relatively strong historical ties with the Balkan countries and holds a relatively soft power attraction for them, especially for Serbia. Historical ties go back to the 19th-century Pan-Slavic movement and Russia's support for Serbia's independence from the Ottoman Empire[22]. However, apart from this, religious connections are also particularly important for Slavic countries in the region. More specifically, Moscow plays the shared cultural and religious ties card among the region's Orthodox Christian population, which constitutes significant percentages in Bosnia in addition to majorities in Serbia, Montenegro and North Macedonia. Thus, Serbia has been perceived as Russia's kin state in the region.[23] This is especially important when considering that religious connections are usually considered gate-openers for more consequential deals including in strategic sectors such as energy and real estate, and hence gradually lead to political and economic dependence[24]. This has complicated the EU's efforts to promote stability and democracy in the region, particularly given the region's strategic location and natural resources. In

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[20] BiEPAG (2017), p. 13.

[21] Dafa, A., et. al (2020), *The Western Balkans and the Covid -19: Effects on good governance, rule of law and civil society,* Think for Europe Network Policy Brief, July.

[22] Stanicek, B., Russell, M. (2022), *Russia's influence in the Western Balkans*, European Parliamentary Research Service, https://epthinktank.eu/2022/06/09/russias-influence-in-the-western-balkans

[23] Karčić, H. (2022), *Russia's Influence in the Balkans: The Interplay of Religion, Politics, and History,* https://berkleycenter.georgetown.edu/posts/russia-s-influence-in-the-balkans-the-interplay-of-religion-politics-and-history

[24] Ibid.

general, the political influence from abroad has complicated the EU's efforts to promote stability and democracy in the region, particularly given the region's strategic location and natural resources.

3.3. 'Not-to-willing' EU

Moreover, the EU's ability to justify and further enhance its role as a promotor of democracy in th e WB6 has been limited also and mainly due to its lack of willingness. First, I argue that the slow pace of progress in the accession process is one of the main reasons for stagnating or regressing the EU's transformative power. Although the EU offered the prospect of membership to the countries in the region nearly two decades ago, the accession process has been slow and uncertain, which has not only limited the incentive for reform but opened the gate for other external actors. Uncertainty, in terms of clear timelines, was often criticised as it „leaves the EU unable to exert time pressure on the governments of the region to carry out necessary democratic reforms".[25]

Despite the long and tortuous path toward EU membership, the current internal debates within the EU about the enlargement process and the criteria for accession have created additional uncertainty for the region, resulting in non-consistency when achieving benchmarks. In fact, the lack of clarity as highlighted before in section two, led to difficulties in translating political criteria benchmarks[26], which, in the end, must be held accountable for the greater difficulties in assessing the countries' democratic performance by the monitoring reports from the European Commission.

In addition, the lost credibility in the EU's method of sticks and carrots contributes to a hampering effect of democratic transformation in the WB6. This is on the one hand due to a lack of determination when it comes to acting upon failed progress in democratic reforms[27], and on the other side caused by the EU's failure when it comes to reward progress. Scholars argue that the lack of rewarding progress is mainly attributed to institutional issues and the so-called institutional paradox in enlargement policies.[28] As a result, the lack of common understanding between existing Member States drags the whole enlargement process for the region.[29]

It seems that the protracted process of enlargement has limited the momentum for deeper democratic reforms in the West Balkans. This is endorsed also by the fact that countries that have been granted candidate status have typically made greater progress in implementing democratic reforms than those that have not. One can argue that they have benefited from greater access to financial and technical assistance from the EU,

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[25] Renner, S., Trauner, F. (2009), *Creeping EU Membership in South-east Europe: The dynamics of EU Rule Transfer to the Western Balkans,* Journal of European Integration 31, no. 4, p. 457.

[26] Dimitrova, A., (2016), *The EU's Evolving Enlargement Strategies. Does Tougher Conditionality Open the Door for Further Enlargement?* Freie Universitaet Berlin, MaxCap - Working Paper Series 30, p. 9.

[27] Kmezic, M., (2019) *EU Rule of law Conditionality: Democracy or „Stabilitocracy" Promotion in the Western Balkans?* in: Dzankic, J., Keil, S., Kmezic, M. (eds.), *The Europeanisation of the Western Balkans,* p. 99.

[28] Vogel, T. (2018), *Beyond Enlargement. Why the EUs Western Balkans Policy Needs a Reset*, FES, p. 16.

[29] Ibid.

which has enabled them to make further progress in areas related to their democratic performance but on the other side, it is also important to note that the Western Balkan countries with a granted candidacy status still face significant challenges.

Moreover, some countries that have not yet been granted candidate status, such as Kosova, have made significant strides toward democratic reforms in recent years, suggesting that this status is not necessarily a prerequisite for progress. Considering this, the EU's approach in offering assistance is often criticised as too technical and superficial[30]. The EU has provided significant financial and technical assistance to the Western Balkans, but the resources have not always been sufficient to address the complex challenges facing the region. Also, it is important to note that those efforts transpose the EU acquis de jure, without tackling deep political transformations, and without altering the political realities of WB6.[31]

4. Concluding remarks

In conclusion, it is shown that despite all challenges mentioned, the EU has played a significant role in promoting stability and democracy in the Western Balkans. Nevertheless, when trying to answer the questions of this paper:

1. Are the WB countries showing progress in democratizing since being engaged with the EU?
2. What are the reasons for the EU's difficulties in promoting and consolidating democracy in the Western Balkan countries?

The analysis shows that there is no continuity in democratic progress in the Western Balkan countries since the EU's ability to act as a transformative power has been limited by a wide range of factors that are mainly EU-driven. It is known that international organisations can be key actors in terms of democracy promotion by providing necessary tools and legitimate concrete action plans[32]. However, this would mean that the democratic assessment of the WB6 is driven by a top-down approach, and every failure would be the EU's failure, too. It is important to underline the fact that internal political instability, including the (lack of) commitment of governments to reform, contributes significantly to the democratic testimony of the Western Balkan countries. This said, when criticising the EU for its lack of transformative power, one should be aware of the difficulties and challenges this region poses as the powder keg of Europe, with all its wars, historical and cultural ties with external actors, and furthermore with a distinctively different political culture. Nevertheless, it is important that the EU, especially in those uncertain times of crisis, rethink and revitalise its democracy-promoting mechanisms, to rebuild itself as the promotor of democratic values.

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[30] Zweers, W., et. al (2022), p.13.

[31] Lemstra, M. (2020) *The destructive effects of state capture* in the Western Balkans, Policy Brief, Clingendael Institute, p.4.

[32] Burnell, P. (2000), *Democracy Assistance: The State of Discourse*, in: Burnell, P. (eds.) *Democracy Assistance: International Co-operation for Democratization*, London and Portland, Frank Cass Publishers, p. 3-33.

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A CRITICAL REVIEW OF THE ALBANIAN PATHWAY IN COMPLYING WITH THE REQUIREMENTS OF THE EU INTEGRATION PROCESS AND THE 2030 AGENDA FOR SUSTAINABLE DEVELOPMENT

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Abstract

Albania is committed to the 2030 Agenda for Sustainable Development, adopted by United Nations (UN) in 2015. Since that year, several national and governmental reports have aimed at assessing current progress and performance of the country into achieving the Sustainable Development Goals (SDGs) as well as alignment and harmonisation of those goals with existing sectorial and cross-sectorial strategies and policies. By the other side, the EU has committed itself to delivering on the 2030 Agenda both within the Union and abroad, by placing the SDGs at the core of its international cooperation through cross-cutting projects, policies and initiatives. With regards to data, there are in place for further country-based reference: (a) a global UN SDG dashboard, (b) an EU list of SDG indicators (Eurostat) and (c) an Albanian SDG dashboard held by the Albanian Institute of Statistics (Instat). Currently, although progress has been made, there are still indicators for which data do not exist and problems of periodicity and disaggregation are still present. Additionally, public spending for SDGs remains low. Objective of this paper is to critically review the current institutional, financing, strategic and reporting framework with regards to the SDGs compliance and achievement in Albania. Preliminary results of the analysis show that harmonisation with SDGs is not sufficient to achieve significant and sustainable progress related to SDG indicators. As main challenges remain data and financing, integration of SDGs into the national policymaking framework would support the overall country's performance and progress.

Key words: EU integration, UN Agenda 2030, SDGs, sustainable development, policymaking framework

1. Introduction

Almost a decade ago, Albania started a double ambitious and dynamic journey, being committed to its EU integration process and to the UN 2030 Agenda, while aiming at representing an active and performing role. In June 2014, Albania was granted the EU candidate status and in 2018 the European Commission (EC) recommended that EU opens the accession negotiation talks with Albania. After several delays, given the positive response of the Council to the Albanian progress, in 2020 accession negotiations were opened and with some postponement, the inter-governmental conference took place in 2022, marking the official start of the negotiations with EU with regards the policy fields (chapters).

On the other hand, since 2015 Albania is committed to the UN 2030 Agenda for Sustainable Development, a very complex agenda covering economic, social and environmental dimensions of each single country long-term development. This Agenda covers 17 sustainable development goals oriented through 169 targets and 231 indicators, with the flexibility of being adopted and complemented by other regional and/or national indicators from the engaged members. The defined SDGs have the characteristics of being broad in definition, while also being inter-linked and inter-dependent by design.

Both processes and commitments are dynamic, demanding and costly for Albania, given that they consist in transforming policymaking, implementing reforms and achieving tangible results. In this sense, any efforts of coordinating the two processes and integrating them into the policymaking framework with regards to targets and financing, would positively and significantly impact the country's overall performance. Mapping the synergies between the EU accession process and the SDGs Agenda represents an opportunity to take a smart approach to implementation in both development agendas at the country level (UNMontenegro, 2019).

The EU itself got engaged to and remains committed to the 2030 Agenda, although regardless of this, sustainable development has historically been targeted by the overall European Union functioning and policymaking. The EU reflects a particular, both comprehensive and exhaustive approach (in terms of policymaking and monitoring) towards implementing the UN 2030 Agenda, and in addition, has committed itself to delivering on this Agenda together with its member states and also abroad, here referring mostly to the enlargement and to the candidate countries.

2. Objectives and Methodology

Objective of this paper is to conduct a critical analysis on the Albanian current institutional, financing, strategic and reporting framework with regards to SDG compliance and achievements by 2030, in parallel with its EU integration pathway and efforts.

For this purpose, secondary data and exiting information from different sources and reports will be used in order to be able to provide a comparative analysis on the country's efforts in performing in both directions, identifying current achievements and challenges.

3. The two inter-linked development Agendas

In almost all the countries experiences, a strong complementarity exists between the EU accession process and the UN 2030 Agenda for the SDGs, simply based on the fact that nearly 2/3 of the SDG targets have a strong link with the negotiation chapters of the acquis (UNMontenegro, 2019).

In general terms, identification of the crucial chapters in having the most significant impact on the achievements of the 2030 Agenda is of a particular importance, similar to the speed and the dynamics of the EU negotiation process. For the ongoing/not yet closed negotiation chapters, the pre-accession financing instruments/mechanisms with regards to the EU provision of expertise and technical assistance, could be used to explore the opportunities to achieve results in both development agendas.

4. SDGs from an EU perspective: a strong emphasis on the integrated approach

Sound, evidence-based and effectively implemented public policies will be crucial for the achievement of the 2030 Agenda (OECD, 2016). A strategic policy response to guide the work in support of the SDGs requires steps in generating evidence and data, identifying good practices, accumulating expertise and developing standards. Above all, this should consist of an evolving process, adopting countries' needs and interests and strengthening international partnership.

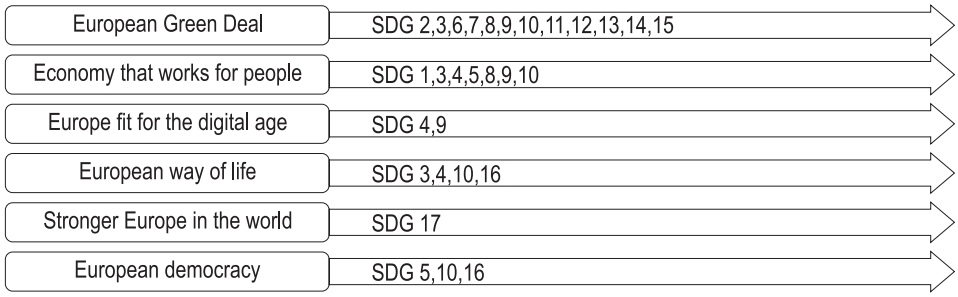
According to the OECD Action Plan, some of the identified areas that might be put to use in supporting the 2030 Agenda are as follows: (a) assessing economic, social and environmental progress through measures going beyond the economic growth rate/ GDP; (b) measuring and improving development finance with regards to the governmental approach in mobilising multiple financing instruments; (c) enhancing policy and institutional coherence with regards to policy inter-actions and synergies; (d) applying an SDG lens to the strategic framework and the sectorial policies; and (e) addressing data gaps and establish development finance statistics (OECD, 2016).

Focused on the statistics, in the last UNECE[1] conference, accent was given to the following: (a) a commitment to reporting and sharing data is required globally; (b) the SDGs global list of indicators may serve as a starting point for global reviews and nationally relevant in-depth analysis; (c) new partnerships for customised and localised data should be established; and (d) SDG indicators go beyond conventional official statistics (UNECE, 2022).

The EU has in place a holistic approach towards implementing the UN 2030 Agenda for sustainable development. Together with and beyond its member states, the EC follows an ambitious policy program to deliver on concrete actions with regards to the sustainable development and to achieve tangible progress (Von der Leyen, 2019). The EC/President political program has reached to integrate all of the 17 SDGs into the entire Commission policymaking and strategic framework.

[1] United Nations Economic Commission for Europe

Figure 1: European Commission priorities, 2019-2024



Source: (EC, 2023)

In addition, the EC has adopted a comprehensive and inclusive approach (Whole of Government), which consists of the following elements linked to the policy, strategic, financing and reporting framework: (a) the European Semester; (b) the Multiannual financial framework and the NextGenerationEU; (c) Better regulation; (d) Policy coherence for sustainable development; (e) EU engagement in the world, and (f) Monitoring and reporting (EC, 2023). A series of policy initiatives are adopted by the Commission, while ensuring also for high visibility of the SDGs, promoting a sustainable Europe through a consensus and a policy coherence for development, the latter referring to its external actions.

In 2017, the EU developed the first policy mapping both at the goal and target level, covering and summarising all policies (legal acts, preparatory documents and initiatives) supporting the SDGs. This is done due to the fact that a better understanding of the relationship between the EU policies and the UN SDG targets (here including the EU cross-cutting policies, the inter-linked policies and the gaps in SDG implementation) have a significant and positive impact onto the policy coherence for sustainable development and boost efforts in the targeted areas where more support is needed (JRC, 2023). As the 2030 Agenda stated, the SDGs are inter-linked and inter-dependent by design.

Commitment of the EU to the SDG achievements was enriched after the last crisis and shocks, highlighting the need to provide a new impetus to building a more inclusive, sustainable, just and resilient future for all (EC, 2020).

Having a crucial role in measuring progress towards working and achieving the SDGs, Eurostat has upgraded its regular and annual monitoring report on the progress towards the SDGs in an EU context, through the adopted EU indicators set, initially developed in 2017 in a quite broad consultative process and with strong linkages with the EC policy program and initiatives (Eurostat, 2023). Given the UN worldwide policy framework of 17 SDGs and their 169 targets, the EU has developed its dynamic indicators set of a total of 101 indicators, of which 31 are multipurpose, as they allow to monitor more than one SDG. In addition, sub-themes of indicators are developed in order to underline inter-linkages between them as well as to focus on different aspects of each SDG and breakdown by region and urbanisation degree is also ensured. An annual review of the set of indicators at the EU context is done with a two-fold

objective: (a) introduce indicators from new data sources, and (b) consider new and/or updated targets in line with EU priorities.

In its last monitoring report, Eurostat found that the EU made progress towards most of the goals, on average terms and over a 5-years period. However, progress varies depending on the concrete SDG to achieve (Eurostat, 2022). It is important to highlight that EU SDG indicators are assessed also against EU quantitative targets, mainly for the indicators linked to environment, agriculture, energy, education, poverty and employment. Secondly, the narrative used in the monitoring report is that of specifying „significant, moderate, insufficient progress or movement away" simultaneously towards the EU targets and the SDG objectives, and also the speed of such progress. Third, Eurostat calculates each indicator score, reflecting the short-term trend over the past 5 years, as well as a simple average score of individual indicators. Lastly, the findings on the country level progress on SDGs are also incorporated in the European Semester country-based reports (Eurostat, 2022). For the enlargement countries, ad-hoc information is based on indicators that currently form part of Eurostat's regular data collection exercise, rather than a specific data collection exercise related to SDGs. Data on Albania are provided for 38 indicators, allowing to assess the country's progress compared to the EU member states and the WB region.

With regards to financing of the SDGs from the EU budget, the EU commitment to the SDGs is also reflected in the long-term budget for 2021-2027, in which a target of green spending is defined, aiming to allocate a minimum of 30% of the total budget to projects fighting climate change (EP, 2021). Furthermore, with reference to the EU budget expenditure categories, the „Cohesion, resilience and values" represents the most financed category (60% of the total), here including the Multiannual financial framework and the NextGenerationEU.

To finalise, at the EU level, the SDGs of the UN 2030 Agenda are increasingly gaining momentum as a vehicle to foster a sustainable development transition, with an EC acting as a frontrunner in this transition process through anchoring its political priorities in the centre of the EU policymaking cycle (Steve, Barbero, Buscalia, Maroni, & Marelli, 2023).

5. Analysis for Albania: Consistent efforts to SDG alignment, but challenges on indicators

Although the adoption of the UN 2030 Agenda has been on voluntary basis, Albania has shown full commitment over the years. A number of reports have been published focused on different aspects of the SDGs implementation and achievement in Albania. Given that the previous National Strategy for Development and European Integration (NSDEI 2015-2020) and many other strategic documents at the sectorial level were drafted and approved before the commitment to the SDGs agenda, almost all of the SDG related reports at the national level, have focused on SDG alignment and harmonisation with the national policy framework. Findings from these assessment and monitoring reports are as follows:

1. SDG Baseline report 2017: Analysis of the alignment degree of SDGs with the Government priorities, the EU integration, the NSDEI II and the UN Program (Ciko, 2017);
2. Mainstreaming, Acceleration and Policy Support (MAPS) for achieving the SDGs in Albania: Identification of 3 main policy areas and programming to accelerate progress towards the EU accession and the commitment to the SDG Agenda. It finds that there is a close alignment of NSDEI II with the SDG targets, but this is quite modest when it comes to the indicators level. A group of 15 EU negotiation chapters have a strong convergence with 12 of the SDGs. 83 global SDG indicators could be used to monitor the progress towards the EU accession (UN, 2018);
3. Voluntary National Review (VNR) on SDGs in Albania: Recommending substantial commitment and cooperation among the relevant stakeholders, establishment of a national policy vision for 2030, identification of policy gaps, acceleration of progress in priority areas, prioritisation of SDGs after adoption to the Albanian context and strengthening institutional capacities for monitoring and reporting (CoM, 2018);
4. Report on the harmonisation of SDGs with existing sectorial policies: Identifying leading institutions to undertake efforts with regards to the SDGs, and alignment of the national strategic framework and priorities with the SDGs (CoM, 2018);
5. Budget analysis of the SDGs related spending: Assessing public spending towards the achievement of the SDGs and the pillars of NSDEI, forecasting budget for the medium term period and estimating financing needs domestically and externally (Braho & Ymeri, 2021).

The analysis conducted with the SDGs lenses and comprising the NSDEI II and many national and sectorial strategies and policy documents, found that 83% of the total SDG targets (140) are directly linked to key government priorities under the NSDEI II pillars (6, or 4%) and to the national strategic policy framework (134, or 79%) (Ciko, 2017). The average alignment with all SDG targets is assessed as 62%, or „good alignment", with SDG 3,7,8,9 identified as best aligned. With regards to indicators, the NSDEI 2020 consists of three sets of indicators (a total of 50, of which 12 from the global and/or EU SDG set of indicators): (a) 10 in the framework of the EU integration commitment; (b) 15 in the framework of the macroeconomic development indicators and (c) 25 related to sectorial indicators.

The recently drafted NSDEI 2030 was expected to improve the set of indicators with a direct integration of the SDGs, to clearly reflect the inter-linkages between the two development agenda processes and to address challenges of institutional capacities to report and monitor.

Referring to the institutional set up for the SDGs, the dedicated Inter-Ministerial committee and the IMPGs are of a high relevance in managing cross-cutting and complex sectorial policies. A total of 18 government institutions are involved in the SDGs achievement, but the key institutions are the Ministry of Finance and Economy (responsible for 43 targets), the Ministry of Health and Social Protection (responsible

for 38 targets), the Ministry of Tourism and Environment (responsible for 30 targets) and the Ministry of Energy and Infrastructure (responsible for 23 targets) (CoM, 2018).

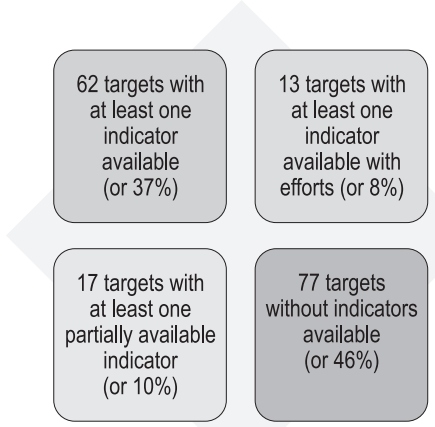
Referring to the financing framework and instruments, similarly to the other national and sectorial policies, an indicative cost, potential financial sources and a financial gap are identified for the NSDEI (although not as a comprehensive exercise, not including the risk scenarios), but no follow-up takes place, in particular with regards to fund mobilisation, despite the large financing gaps and the high need to mobilise additional financing instruments, given the tightening fiscal space of the state budget. An exercise of Integrated National Financial Framework (INFF) is recently introduced and developed in Albania.

Focused on the SDGs, it is assessed that 85% of the total budget between 2015-2019 from domestic and foreign sources, have contributed towards the SDG targets achievement, with „social development and cohesion" taking up almost half of the dedicated budget spending (43%). Almost 21% of public expenditures have been allocated to „health and education", 18% to „sustainable growth through efficient use of resources and only 1.4% to „growth through competitiveness and fiscal stability" (Braho & Ymeri, 2021).

Acknowledging that data and statistics are the only instrument to monitor the progress made with regards to the SDGs and support the evidence-based policymaking, Instat has recently included in its annual work plan the monitoring report on the SDGs (Instat, 2022). Currently, there is a list of 61 indicators produced, with a reference to the alignment with the UN dashboard of indicators and to the source of information. Although Instat has had an approach of actively joining the global partnerships for the SDGs data (such as the UN High Level Partnership, Coordination and Capacity Building Group on Statistics), reporting on SDGs based on data remains quite low, with problems of availability, periodicity and disaggregation.

According to Instat, the availability of global indicators for SDGs in Albania is as follows:

Figure 2: Availability of global indicators for SDG targets in Albania



Source: (Instat, 2020)

6. The EU integration – a political priority for Albania

In the last decade, Albania is strongly and consistently committed to the EU integration pathway, through implementing reforms and meeting the criteria, thus aiming at accelerating the process. As an active participant and beneficiary of the Berlin Process and of the Open Balkan as a complementary mechanism, coordination with other countries of the WB region is focused through the launched projects under the Economic and Investment Plan of the WB Investment Framework (covering transport, clean energy and digital connectivity), and under the Green Agenda for the WB and the Common Regional market.

From the reporting perspective, the National Plan for European Integration is updated on annual basis for a mid-term period guiding the approximation of Albanian legislation to the acquis (CoM, 2022). The Economic Reform Program is prepared by the governmental institutions and delivered to the EC, detailing the necessary economic and other policy measures, for a medium-term period (CoM, 2023). With the new enlargement methodology adopted by the EC to be implemented in parallel for Albania and North Macedonia, the negotiation process will be more demanding and will require more tangible results on the chapter basis (EC, 2020).

From the financial perspective, two major financing blocks support the reforms with regards to the EU integration process: (a) the EU budget support on the Macro Fiscal assistance, as an important mechanism for financing priority areas and policy measures, under the set conditions of fulfilling a series of indicators, currently representing the highest support to the Albanian public budget; and (b) the Instrument for Pre-Accession III (IPA III) adopted by the EU with a significant budget to support the implementation of reforms related to the accession process of Albania and other countries of the region.

With the approach of combining both development agendas, mapping the SDG priorities according to the EU integration process priorities is particularly important to align and synergise the efforts for the implementation of these processes. This is also supported by the fact that the EU integration priorities are continuously part of the NSDEI priorities at the national level (Ciko, 2017).

7. Learning from the „good models“

Montenegro is one of the first countries that adopted a National Strategy for Sustainable Development – NSSD 2030, aiming at nationalising the SDGs (UNMontenegro, 2019). The monitoring and evaluation framework of the NSSD translated 167 of the 169 SDG targets into a national context and defined a monitoring and evaluation system. The NSSD is defined as an umbrella, horizontal and long-term development strategy of the country. In addition, Montenegro invested efforts in preparing the national institutional set-up for reporting on a long list of indicators (525 of NSSD, with 102 measures and 602 sub-measures), here including 241 SDG indicators. Reporting on indicators should gather 26 institutions identified as NSSD data producers.

Beyond the MAPS exercise, a working group was tasked to in-depth understand and investigate content inter-linkages between the EU accession process and the 2030 Agenda, examining the relevant documents and data related to the EU accession process and the overall response of the EU to the SDGs. This entire process generated a new, stronger partnership with the Ministry of European Affairs and contributed to the conclusion that, if both agendas are addressed at the same time, greater benefits may be achieved.

8. Conclusions and related recommendations

Albania remains committed to the two development agendas, which require implementation of reforms and achieving tangible results by 2030 and probably beyond 2030. Alignment to and harmonisation with the SDGs seems to be not sufficient anymore in order for the country to boost its performance and achievements. Full integration to the national policymaking framework will provide better outcomes.

Both commitment processes are inter-linked but not yet conceptualised by all the actors as an integral part of the policymaking framework and processes. In this sense, higher awareness is needed to map the synergies of the two agendas aiming at accelerating the processes and going beyond some simple reporting procedures. Data gathering and reporting represents another challenge and must be addressed in order to support a better performance with regards to the development agendas.

As both commitments consist of costly processes, although not explicitly associated to a cost value, financing remains a crucial issue, in particular towards the additional fund mobilisation, going beyond the state/public budget, given its tight conditions and fiscal space.

Good practices from the region and the EU level can be consulted and lessons learned must be taken into consideration to improve the current policymaking framework related to the development agendas, with regards to the strategic, reporting and financing issues.

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REGIONAL APPROACH OF THE EUROPEAN UNION IN A POTENTIAL NEW CYCLE OF ENLARGEMENT – A CASE STUDY OF THE WESTERN BALKANS

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Abstract

The political catchphrase Western Balkans has become synonymous for the states and entities in this region which already are in the process of joining the European Union. After Croatia's membership to the European Union, two approaches have become almost certain: that the European Union will not expand „horizontally" in the medium term and that it is difficult to expect the EU membership of any individual country from the Western Balkans separately from the others, respectively, the assumption of the potential integration of the entire region altogether have become almost universally accepted thesis within political and academic society. In this paper, the key research question is does, in the case of the Western Balkans, the European Union will use the regional approach of integration, i.e., does the entire region will become part of the Union altogether, in the classical sense of understanding full membership in the EU, according to the model of the admission of the countries of Central Europe, i.e., the so-called Visegrad group? From a theoretical point, this paper will provide a contribution to actualising the importance of regionalisation and regional integration in the achievement of foreign policy goals of small and microstates, such as the so-called „six" in the Western Balkans.

Key words: Western Balkans, European integration, regionalism, membership.

1. Introduction

The process of European integration within the framework of the Western Balkans received its strong and realistic momentum at the summit of the European Union in Thessaloniki in 2003. At that summit, the leaders of the European Union said for the first time that the countries in the Western Balkans will one day become members of the EU, and that they have, as they said, a „European perspective". (slobodnaevropa.mk

2021) However, in order to be more precise, it is important to point out exactly what was stated in the Declaration from the EU - Western Balkans summit held on June 21, 2003: „The European Union reiterates its unequivocal support for the European perspective of the countries of the Western Balkans." The future of the Balkans is within the European Union. The ongoing expansion and signing of the Athens Treaty in April 2003 inspires and encourages countries in the Western Balkans to follow the same successful path. Preparation for integration into European structures and eventual membership in the European Union, through the adoption of European standards, now represents a great challenge ahead". (Declaration EU-Western Balkans Summit 2003) Then it is stated that „The Thessaloniki agenda for the Western Balkans: Moving towards European integration - represents a new important step in the privileged relations between the European Union and the Western Balkans". (Declaration EU-Western Balkans Summit 2003) As well as that „The Stabilisation and Association Process will remain the framework for the European course of the countries of the Western Balkans, until their future accession, and that the process itself and the prospects it offers serve as an anchor for reforms in the Western Balkans, in the same way that the accession process did in Central and Eastern Europe". (Declaration EU-Western Balkans Summit 2003) In essence, and based on what was stated in the Declaration from the summit of the European Union-Western Balkans in Thessaloniki in 2003, it can be established that at that moment the Western Balkans, as a region, as a whole, enjoyed a clearer perspective and more precise frameworks for accession compared to today, twenty years later. The cause of a kind of stagnation, i.e., de facto regression of the process of European integration in the Western Balkans is twofold. On the one hand, the European Union has faced numerous challenges in the last 15 years. Starting with the financial crisis in the member states, through the economic and migrant crisis, all the way to the internal institutional crisis, which is both the cause and the consequence of the all-pervading crises that the Union is facing, and which the question of the enlargement policy automatically brings to a marginalised position. Numerous member states were faced with internal financial and then fiscal problems. At the same time, huge waves of the migrant and refugee crisis began, which created a new financial and security challenge for the entire European Union. On the third hand, the leaders of the member states increasingly doubt the efficiency and effectiveness of the institutional infrastructure of the Union, which is increasingly expressed not only in the political circles of the member states, but also in their societies through the increasingly expressed dissatisfaction of ordinary citizens in the member states of the European Union.

When it comes to the situation in the Western Balkans, the actors in this region have not made substantial progress on the way to the European Union. In fact, we are talking about numerous internal and regional problems and challenges that greatly affect, viewed from that angle to the European perspective of this region. However, the essence of the „frozen" integration is not the internal and regional problems that have existed in the Western Balkans since the beginning of the nineties, that is, since the disintegration of the Socialist Federal Republic of Yugoslavia (Macdonald 1996), but also the simultaneous lack of interest of the European Union, including the key member states of the Union, in the enlargement policy, more specifically in the direction to the Western Balkans. During the last 20 years of the process of integration into the European Union, only two countries created by the breakup of the former Yugoslavia gained membership, Slovenia and

Croatia. (slobodnaevropa.org 2022) Meanwhile, North Macedonia, Montenegro, Serbia, Albania, Bosnia and Herzegovina, as well as Kosovo, have acquired candidate status, potential candidate status or have begun accession negotiations. The annual reports on progress towards the European Union, the most important document for countries that aspire to one day join the bloc, showed that actors in the Western Balkans still need to work on the rule of law, the fight against organised crime and corruption, the relationship between the countries of the region and international politics, as well as the state of media freedom and human rights. (slobodnaevropa.org 2022)

2. Does EU have failed in the case of Western Balkans?

The EU's policy in the Western Balkans region was largely related to issues of security, as well as political and economic stabilisation after the Yugoslav conflicts, then the encouragement of „institution building" (institution building) and public institutions, issues of political conditioning (cooperation with the Hague Tribunal[1]), incentives for regional cooperation and reconciliation (establishment of the „Stability Pact for SEE").[2]

From today's perspective, bearing in mind the current period of „enlargement fatigue" in the EU countries, the „pause" of several years in further expansion, which is, among other things, a consequence of the objective situation in the countries of the Western Balkans, in fact suits the Union itself. (Lopandić 2007, p. 63) However, the period of fatigue from enlargement was paralleled by new global actors who in the meantime framed their relationship with actors in the Western Balkans, thus in some cases reaching partner status, which did not favour the role of the European Union in this region. The political views of certain actors in the Western Balkans that the European Union is increasingly distant, that the European Union is less and less interested in the integration of the region according to the classic model, as well as the fact that the actors are progressing more and more slowly in the process of European integration, contributed greatly to the very influence of Brussels be significantly reduced in the regional framework.

Confidence in the „promised" European perspective was increasingly clouded, while at the same time local politicians began to propagate alternative partnerships and collaborations that were not connected to the European integration process. At the last summit of the leaders of the Western Balkan actors with the leaders of the member states of the European Union held in June 2022, Andy Hoxhaj from the British University of Warwick said that „he does not expect the EU to show a real commitment and give a date when the European Union actually plans to expand to Western Balkans". (BBC News on Serbian 2022)

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[1] The International Criminal Tribunal for the former Yugoslavia (ICTY) is a United Nations court of law dealing with war crimes that took place during the conflicts in the Balkans in the 1990's. Since its establishment in 1993, it has irreversibly changed the landscape of international humanitarian law and provided victims an opportunity to voice the horrors they witnessed and experienced.

[2] See at security disputes: A European Balkans?, ESF working paper No. 18, January 2005, CEPS, Brussels. On the relations between the EU and the countries of the Western Balkans M. Drouet, X. Richet, Vers l'Elargissement de l'Union europeenne a l'Europe du Sud-Est, PUR, Rennes, 2006, 250 str.; About the perspectives of the region: International Commission on the Balkans, The Balkans in Europe's future, Sofia 2005, p. 64 About the Western Balkans, as the periphery of Europe v. S. Marković op. cit.

In fact, the relations between the European Union and actors in the Western Balkans is increasingly resembling a kind of partnership from which everyone extracts what suits them best, instead of a relations based on the principles and postulates of European integration. The European Union is still firmly committed to stability and peace in the region, and to providing a sustainable environment for economic, investment and trade flows, which in practice is an „outdated" method that no longer contributes to strengthening the role of the Union in regional frameworks.

On the other hand, the regional political elite, aware of the reluctance of the European Union for a new and accelerated horizontal integration, abuses regional and bilateral disputes and open issues as an effective mechanism to maintain the commitment of Brussels in the region, but only at a certain level that does not deal with the process of essential integration of the region by depth. Dimitar Bečev, associate of the Carnegie Europe Foundation and lecturer at the School of Global and Regional Studies at the University of Oxford, assesses that the insufficient commitment of the European Union to the Western Balkans, bilateral disputes between member states and candidates, the idea of a European political community, but also the behaviour of political leaders in the region, trapped states and a dissatisfied public are the main reasons why the process of EU enlargement to the Western Balkans has been blocked. (Danas 2022)

The Western Balkans is essentially part of the European political agenda, at least in the period of the last 15 years, but at the same time a marginalised point as a result of the financial crisis, the migrant and refugee crisis, the exit of the United Kingdom of Great Britain and Northern Ireland from the EU, as well as the corona virus pandemic and the current conflict on the territory of Ukraine. In such a current context, Bečev also notes that the Western Balkans does not generate a sufficient level of instability to threaten Europe, and it seems that the status quo, although imperfect, is tolerable for the 27 member states of the European Union. (Danas 2022) In the meantime, the process of integration of the Western Balkans has been further complicated by numerous initiatives that have been interpreted in the regional context as a substitute for the European perspective of the entire region. Initially, in 2014, the Berlin Process initiative was established, led by Germany and other EU member states, at the moment when the former President of the European Commission, Jean-Claude Juncker, after his appointment, declared that there would be no new enlargements during his mandate. (Jelisavac Trošić & Arnaudov 2023) The ultimate goal of the Berlin process is the formation of a regional market in the Western Balkans, as a kind of step that should simplify the process of European integration of the region, but the political moment was such that the initiative was accepted with a reservation, i.e., the question - whether it will be a substitute for joining the Union/EU membership.

Later, French President Emmanuel Macron came up with the idea of forming a European political community, which would include other countries of Eastern Europe, such as Moldova and Ukraine, but also actors from the Western Balkans. This Macron's idea additionally had a negative effect when it comes to regional perception, both at the political, academic and social level, towards the European integration of the Western Balkans. Although the French president specified his idea, at least in the case of the Western Balkans, saying that the European political community complements the EU accession process and is not its alternative, while at the same time German

Chancellor Olaf Scholz pointed out that there is no security for the European Union without a stable European Western Balkans, the very idea it was not met with much enthusiasm in the regional framework. (Danas 2022) Bečev believes that, according to Macron's idea of the European political community, the Western Balkans six would be in the outer circle of the EU, in which the countries would have the right to some of the advantages of integration into the single market and access to the Union budget, but they would not have all the privileges as member states, among which is the decision-making. In this context, he expresses doubt that the actors in the Western Balkans would be stuck in the waiting room forever. (Danas 2022)

The situation on the ground, respectively, the process of European integration in the Western Balkans, was further complicated and brought to a position of uncertainty with the beginning of the conflict on the territory of Ukraine. Although at the beginning there were claims that this is actually a geopolitical momentum in which the EU should show its power, and round off its whole with the accelerated integration of the Western Balkans, security, energy and economic challenges have once again reached the top of the agenda of both the European Union and its states member, and the integration of the Western Balkans is further marginalised in the classical sense, although at the same time the role of Brussels in the region is significantly more dynamic compared to the previous period. But today, the essence of the EU's role in the region is completely different. Focused on competition with other global actors, whose influence, according to Brussels' view, is negative and counterproductive when it comes to creating a stable, sustainable and economically prosperous Western Balkans. Today, the European Union is increasingly present in the Western Balkans, but unlike before, in the capacity of one of the numerous partners that is trying to re-assure and convince the local political elites and citizens that the European perspective is actually the future of the region, but also a reality that can be achieved in the medium term.

3. What Western Balkans has done on EU integration path?

Actors in the Western Balkans in a strategic sense opted for European integration, and in that context, they defined membership in the European Union as a key foreign policy goal. In almost every foreign policy strategy of actors in the Western Balkans, membership in the European Union is stated as a foreign policy goal. But the essence of the problem in that context is that this foreign policy goal of the Western Balkan actors usually does not correspond with the political circumstances in the region.

Although the intensity of cooperation with European institutions is increasing from year to year, primarily in the process of using European funds that contributes to the improvement of institutional infrastructure, the rule of law, the democratisation of society, the development and sustainability of the market economy in the Western Balkans, in the political context very little has been done in the direction of solving the problem of political corruption, corruption at all levels in Western Balkan societies, the fight against crime, as well as solving regional and bilateral problems and disputes, as one of the important determinants in European integration.

The cause of such a trend in the Western Balkans is threefold: first, local political elites, understanding the reluctance of the European Union to accept new member

states, abuse the process of European integration in a peculiar way, declaratively claiming that their policies are aimed at joining the European Union, while on the other hand, essentially, there is very limited work on meeting the membership criteria, primarily the so-called Copenhagen criteria; secondly, the lack of interest of the European Union and its member states in the accelerated integration of the Western Balkans contributed to a kind of stagnation of regional activities on the way to the EU. Actors are no longer sufficiently interested in overcoming regional and bilateral disputes and open questions because they have de facto become aware that certain, above all politically difficult compromises, do not directly affect the acceleration of the European perspective, but their commitment to these challenges is ultimately reduced to declarative promises from sides of the Union. Statistics show that the number of citizens of the Western Balkans who believe in the European future is decreasing, and that is why serious changes in approach and much more capable EU diplomacy are necessary. (Politika 2022) Paul Taylor from the Brussels institute „Friends of Europe" believes that the EU must take advantage of the current geopolitical moment and integrate the Western Balkans. (Gajić 2022) On the other hand, many analysts and diplomats believe that phased, gradual integration is the only realistic path. (Gajić 2022)

The essence of the problem is that the role of the European Union in the Western Balkans is no longer „the main game in town". This was greatly contributed by the local political elites who, in the circumstances of slow progress towards the EU, were forced to offer their citizens investment and partnership relations with other large countries, such as the Russian Federation and the People's Republic of China. The ever-increasing presence of the People's Republic of China, in the economic sense, but also the Russian Federation, in the political sense, has contributed to the fact that the trust of the European Union among the citizens of the region has significantly decreased, while the European Union itself has been put in a position to be one of the competitors in the region that strives to realise its political, security and economic influence on a long term. Aleksandra Tomanić from the European Fund for the Balkans believes that the very fact that 20 years after the promise of membership, given at the summit in Thessaloniki, the debate is returning to methodology is bad news for accession. (Gajić 2022) At the same time, Paul Taylor says that within Europe there is an awareness that the geopolitical moment should be used for a new policy towards the Balkans, but he warns: „There is also a great risk that the momentum will be lost, because huge resources and energy are focused on supporting Ukraine, and tomorrow maybe be some other priorities." (Gajić 2022)

It is a fact that actors in the Western Balkans do not meet all the set criteria for membership, especially related to the democratic capacities, institutional efficiency and effectiveness, including issues of the rule of law, the fight against corruption and crime, but it is also a fact that there is regional fatigue in the process of European integration, which in the current European circumstances can lead to an additional move away from the so-called European path, which is not in favour either for the European Union itself, or for regional actors. In addition to this fact, we must not ignore the lack of interest of certain member states of the Union in the revitalisation of the enlargement policy. Already in September 2021, it was known that the northern countries of the European Union, such as Denmark, Finland and the Netherlands, fear

the scenario that happened with the too-fast admission of Romania and Bulgaria in 2007, and the migration of workers from Eastern Europe to Great Britain, which affected the negative attitude of the British towards the Union. (Aljazeera Balkans 2021)

The process of accession of the Western Balkans to the European Union is also affected by the war in Ukraine, and now a matter that has been discussed a lot is being called into question, namely the power of attraction of the European Union. (Danas 2022) However, as Bećev explains, we should not rule out greater involvement of the European Union in the Western Balkans and taking steps by Brussels in order to consolidate its position in the region and prevent any disruption. In this context, the rule of law, democracy and prosperity will not automatically result from membership, but the integration of the Western Balkans into the European Union is a necessary condition for the advancement of what the European Union considers its basic mission, which is to spread its principles and values to the countries that are on its edge in the interest of political stability and economic growth. (Danas 2022) In this context, it is important to point out the fact that the citizens of the Western Balkan region are increasingly distrustful of the European Union. The process of integration is already taking too long if we use the Thessaloniki Declaration of 2003 as the starting point. Since then, only Croatia has managed to become a full member of European Union (if we exclude Slovenia that joined the EU in 2004 and that is part of another group of countries – those from Central and Eastern Europe), while the other actors within the region are in the process of accession, respectively, in the negotiation process, or just have received candidate status, which most precisely shows of how slow and unpredictable the entire EU accession process is at the moment. Bilateral problems, as well as regional disputes, no longer have the capacity to destabilise the security of the European Union, which was the case during the 1990s, and this fact also greatly influenced the process of European integration, and today Brussels is present in the region in a kind of role as a mediator of occasional tensions, before everything on the political level, but the European Union is less and less playing the role of an honest and reliable political partner that offers a clear perspective of integration and membership. When it comes to the integration of the Western Balkans into the European Union, it is important to recall the statement of the President of the European Council, who said that the region has a strategic importance for the European Union, but at the same time emphasised that it is crucial for the region that there is a connection between reform and investment process. He also emphasised that fundamental values, the rule of law and the fight against corruption are in the DNA of the EU project, and that this is exactly what the authorities in the Western Balkans should want for their societies. At the same time, the current Italian Prime Minister Giorgia Meloni stated that the European Union should prioritise the integration of the Western Balkans, and that this region cannot be allowed to remain outside the European Union for a long time.

However, the problem in the context of integration still exists within the region itself, that is, within the institutional framework of actors in the Western Balkans. In all the reports of the European Commission concerning actors in the Western Balkans, the term „limited progress“ dominates when it comes to the realisation of the Copenhagen criteria, i.e. the stability of institutions that guarantee democracy, the rule of law, human rights, as well as respect for minority communities, and the

functioning of the market economy, including competitive abilities and respect for market rules within the European Union, as well as the ability and preparedness to assume the obligations of a member, including effectiveness in implementing the rules, standards and policies that make up the legislation of the European Union, and respect for the goals of the political, economic and monetary union. (Copenhagen criteria 1993) In fact, certain researchers believe that accession to the European Union remains a unique tool for transforming the political system of the Balkan states, which would otherwise remain unreformed. (Milovanović 2017, p. 51) In this context, the integration process itself has the character of transformation and is fundamentally important for the countries of the region. (Milovanović 2017, p. 51)

4. Conclusion

European partnership is the key word of the region. Because membership in the European Union is a common goal and strategic commitment of these countries, and partnership signifies the nature of mutual relations and equal cooperation that are being pursued. (Milovanović 2017, p. 51) In this context, the current process of integration between the European Union and actors in the Western Balkans should be observed. In the past decade, the momentum for actors in the Western Balkans, after Croatia's accession, to be integrated into the European Union individually, and for the European Commission to deal with each regional actor separately, was missed. The new circumstances and challenges faced by the region and the European Union at the same time enable the opening of a new stage in the enlargement process, which should consist of two chapters: first, the reaffirmation of the European Union's enlargement policy in the Western Balkans as a chance for the final and permanent stabilisation of conditions in the region, which is already geographically within the borders of the Union; secondly, the acceptance of the regional integration approach by political actors in the Western Balkans, as this will initially contribute to the final initiation of the trust-building process between regional political entities, and then contribute to the promotion of the European integration process through a common regional approach.

The European Union has not lost its chance to be the „main game in town" in the Western Balkans, but there is already a certain marginalisation of citizens' interest in joining the European Union, precisely because of the slowness of the whole process, as well as the cumbersome procedure along the way. In the economic sense, it is an efficient and effective model of integration that already exists in regional frameworks, but also between the European Union and the Western Balkans. Now, in the current European and regional circumstances, what is needed above all is the political will and vision of European and regional political leaders with the aim of real integration of the region in the form of full membership.

Otherwise, missing the momentum for accelerated regional integration, primarily based on the needs of new geopolitical developments, will contribute to the deepening of animosity within the borders of the Western Balkans, but also on the line between the Western Balkans and the European Union, which will have long-term negative implications for both sides, maybe not in the sense of security threats and sustainability of one or the other side, but it would certainly give rise to security challenges that will directly affect the stability and sustainability of the region, and on the other hand, indirectly threaten

the European Union itself, its political guidelines, economic trends, but also security strategies.

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