



# The Agenda



# of the New EU Institutional Cycle

Sofia, 2024

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

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of the European Studies Department,  
Jean Monnet Centre of Excellence,  
Faculty of Philosophy at Sofia University „St. Kliment Ohridski“

# THE AGENDA OF THE NEW EU INSTITUTIONAL CYCLE

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

Sofia, 2024

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This is a joint publication of the Wilfried Martens Centre for European Studies and the Hanns Seidel Foundation.

This publication receives funding from the European Parliament. The Wilfried Martens Centre for European Studies, the Hanns Seidel Foundation and the European Parliament assume no responsibility for facts or opinions expressed in this publication or any subsequent use of the information contained therein. Sole responsibility lies on the author of the publication.

The processing of the publication has been finalised in 2024.

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# **INSTEAD OF PREFACE**

## **BETWEEN UNITY AND DISCORD: THE DILEMMAS FACING THE EUROPEAN UNION IN AN INCREASINGLY UNPREDICTABLE WORLD**

*The world is changing, it becomes increasingly brutal and unpredictable. The balances of economic and political influence are changing. In the changed environment with fierce competition, the transformation of the economic interdependencies into a weapon, along with the use of this weapon without any rules, it is obvious that we are in a new historical phase. The time of „happy globalization“ is over. Global challenges require global solutions.*

*The new institutional cycle in the European Union begins in this complex environment. What are the main tasks, how to meet the challenges, what are the dilemmas that need to be resolved? The answers to this question are not unequivocal. However, it is obvious that there is a growing need for greater coherence and coordination in solving complex problems. The analysis of the dilemmas that the European Union has to resolve lead to several key themes: first, how to achieve and guarantee economic security without succumbing to the temptation of protectionism, second, how to achieve a balance between the ambitious goals of the green transition and the need to increase the competitiveness of the European economy, thirdly, how to combine the geopolitical imperative to support the candidate countries and their EU membership with the requirements for strict implementation of the criteria, as well and with the real preparation of the European Union to accept new members, last but not least how to combine the need for huge investments for the green and digital transition and at the same time to observe financial discipline.*

### **1. The European Union between Scylla and Charybdis – achieving economic security**

*The initial disputes among the EU Member States on the nature and the definition of strategic autonomy evolved and an agreement was reached on the urgent need for its implementation. The internal division between the EU Member States was based on fears of increasing protectionism and decreasing the attractiveness of the single European market expressed by the North on the one hand; and, on the other, on the insistence of the southern Member States to protect the European economy under the difficult conditions in which it was functioning. Some important international factors were and are still having an impact on the achievement and the consolidation of the agreement among the EU Member States on the urgent need to achieve strategic autonomy / economic security – the war in Ukraine, China's assertive behaviour, the US policy in the field of subsidies, etc.*

*The development of the European Economic Security Strategy has been an important step in more than one direction: in addition to achieving a close interconnection of the economy with foreign policy and security, this strategy has been designed to identify the risks – both the current and the future risks; to promote the competitiveness of the European industry; to protect the EU against any external threats; and to stir up the creation of important partnerships with countries outside the EU. In this document, these are all summarized as priorities: „the three P's – promoting, protecting, partnering“. The strategy also defines how to mitigate the identified risks with the help of these priorities, namely:*

- *Promoting the EU competitiveness, strengthening the Single Market, supporting a strong and sustainable economy, investing in skills; and supporting the EU research, technology and industrial base;*
- *Protecting the EU economic security by some already existing and some new policies and instruments designed to deal with the omissions in this sphere;*
- *Partnering with the widest possible range of countries in order to strengthen economic security, including through trade agreements, by strengthening the already existing partnership relations, by stabilization of the economic order and the multilateral institutions based on clear rules. In this context, the World Trade Organization is a good example.*

*Achieving open strategic autonomy/economic security is one of the important goals of the EU. The EU is addressing the challenges related to the crises we are going through, but at the same time the EU is facing actions by partners and competitors around the world, such as the IRA – the US Inflation Reduction Act. China is increasingly a competitor and rival rather than a partner. The European Union is between Scylla and Charybdis and must translate the development of the economy in the most skillful way.*

## ***2. Making a fair green and digital transition and increasing competitiveness – can the European Union have both?***

*In recent years, the European Union has placed the fight against climate change high on the political agenda. The Green Deal became an irrevocable part of the strategic actions of the European Union. A commitment to a just green transition must lead to the transformation of European society and economy in a sustainable and fair way. But can European companies that implement the requirements related to the green transition be competitive on global markets and compete with third-country companies that are not obliged to fulfil similar requirements and make investments to protect the environment and fight with climate change? The answer to this question is not clear cut. It requires complex actions, combining the provision of the necessary financial resources, a review of the regulation of state aid, as well as persistent and purposeful work at the international level to implement measures to combat climate change and protect the environment on a global scale. If the European Union fails to achieve this, it risks becoming the „lonely long-distance runner“.*

*Increasing competitiveness is also closely related to the effective functioning of the single market. The single market and its four freedoms are one of the greatest achievements of European integration. The single market is not a finished project – and perhaps never will be. More work is needed to remove remaining barriers and prevent new ones from emerging, remove unnecessary regulation and make doing business as easy as possible. Looking ahead, the single market is also our main tool for achieving a green and digital transition. The ingredients of the single market success over the last thirty years – common regulations, standard setting, mutual recognition, consumer protection, level playing field, innovation – are the ingredients for successfully carrying out this dual transition. But we must not forget that long-term competitiveness must be built on strong companies that are able to survive and thrive in open market competition. In the long term, factors such as low productivity, insufficient R&D spending pose risks to European competitiveness. European competitiveness will be decisive for our economic future. But let's face it, the European Union is lagging behind, and an economically strong and competitive EU is crucial to its role in the world. The balance between the objectives of the green transition and the competitiveness is crucial. And here I will highlight three important elements – better regulation, not over-regulation, clear and modern competition policy and achieving reciprocity in terms of trade and access to markets.*

*We must not miss another important topic related to the single market, competitiveness and just transition – tackling labour and brain drain as a top priority. The single market is one of the greatest achievements of European integration. Although not fully completed, it provides many opportunities within the framework of the four freedoms - the free movement of people, goods, services and capital. But let us look at the other side of the coin – freedom of movement of people has its „dark side“. Due to differences in economic development and the living standards as well as the availability of better opportunities offered to richer countries, there is a labour and brain drain from the less developed Member States. We can also add the brain drain to the USA, where better conditions are provided for carrying out research and innovation. It is necessary to remind that when the single market construction was launched, also a program of convergence and solidarity among EU regions (cohesion policy) was launched. In the current conditions, cohesion and solidarity continue to be key for the balanced development of the entire European Union.*

*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 of Member States was a vehicle in the common progress in the integration process. It could be labelled „concerted solidarity“. 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 liberalization to redistribution. In fact, in EU each step towards European integration incorporates a specific solidarity treaty or „package deal“ – remember the establishment of the Cohesion Fund. 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. We could call it solidarity of the enlightened egoism. In this „package deal“ solidarity should twin with responsibility. The solidarity-responsibility has a fundamental significance.*

*Looking at solidarity, responsibility and freedom of movement within the single market, we inevitably come back to the problem of the uneven development of regions in the European Union. According to Enrico Letta's report, 135 million EU citizens live in lagging regions. The population of these regions is forced to seek better living conditions, which further deepens their backwardness. An example in this regard is the northwestern region of Bulgaria. Some people leave the places where they live because they are forced to, not because they want to. Precisely because of this worsening problem, despite the efforts and means in the cohesion policy, the question of combining the two sides of the coin – the freedom to move and the freedom to stay – is increasingly being asked. This means, in practice, to create conditions for good education and health care, for quality jobs in all regions of the European Union. Then freedom of movement will truly be by choice, not by necessity and every citizen of the European Union will have the opportunity to truly control its own destiny.*

*Another important issue should be added here – Europe should invest in its talents and keep them. Innovation and competitiveness largely depend on this. Providing the most favourable conditions for research and the introduction of new technologies is a prerequisite for keeping European scientists in Europe. Depriving highly gifted students of appropriate educational opportunities and the talented researchers of best work conditions is to deprive society of the most valuable human resources for achieving real and effective development. The addition of a fifth freedom to the existing four freedoms in the single market – the freedom of research, innovation, education – is increasingly discussed. It means to remove barriers to knowledge sharing, to harmonise cross-border data flow mechanisms, to invest in digital infrastructure.*

### ***3. The geopolitical imperative to accept new members and the fulfilment of membership criteria – is the European Union prepared?***

*The Enlargement of the European Union is the appropriate response to the new geopolitical reality. The enlargement fatigue is over. It is obvious from the statements of many EU leaders – the French president Emmanuel Macron, who in 2019 blocked the opening of accession talks with Albania and North Macedonia, stated that „the question is not whether we should enlarge... but rather how we should do it“, the German chancellor Olaf Scholz declared that „we opted for a larger Europe“, even Member states like Denmark, Sweden, the Netherlands changed their opinion on the enlargement.*

*The huge challenge, however, is how and when to implement the enlargement. The scope of the challenge is comparable with the big bang enlargement of 2004-2007. The consensus among member states that enlargement is a necessity is not sufficient for its concrete implementation. Disagreements and dilemmas exist over the manner and speed of admission of new members. The European Union has always emphasized that the accession process is based on the merits of each applicant country in fulfilling the membership criteria, but the current tense geopolitical circumstances now demand real action and quick results to integrate the applicant countries. It is true that preparations for membership need time, but it is also true that delaying membership for too long leads to reduced interest, Euroscepticism and the growth of the influence of other countries. The dilemma is how to balance the geopolitical imperative of supporting the candidate countries with the conditionality and the tough merit-driven demands. And here the question arises – well prepared countries and the fastest possible integration – can the EU have both?*

*Another important question is how the European Union itself should prepare for the admission of new countries. The topics of the EU budget, the implementation of the common agricultural policy, the cohesion policy, as well as institutional issues such as unanimity decision-making, the number of commissioners and their portfolios, the decision-making process also require quick and adequate answers. Will it be possible for a European Commission with 35 commissioners to work efficiently, will it be possible to take decisions with unanimity, especially in the field of common foreign policy and security, and not least how the policies in the fields of agriculture and cohesion will be reformed and implemented – the preparation of the European Union for enlargement with new members depends on adequate answers and the right decisions on these issues.*

*And one more very important topic – how to win public support for a new enlargement of the EU in the difficult economic situation in which some of the member states find themselves, and which have not yet fully recovered from the Covid 19 crisis. Here it is useful to recall the reaction of farmers in the EU in relation to the import of agricultural products from Ukraine.*

#### **4. Money, Money, Money – „the impossible triangle“**

*The EU's big plans for a fair green and digital transition, for higher competitiveness, for European defence, require a lot of money. On the other hand, member states must follow the rule for no more than 3 percent budget deficit. It was stressed by Simone Tagliapietra – a senior fellow at the Bruegel think tank „Europe is about to face a sort of impossible triangle. On the one hand, we want to accelerate the green transition and be competitive while doing that, on the other hand, we want to ramp up defence spending. And on the other hand, we want to be fiscally conservative.“*

*It is obvious that at this moment there is a little appetite for more common debt (like NextGenerationEU Fund). There are a few proposals for mobilizing*

*private investment, for more efficient use of savings in banks, that is, for the Capital Markets Union. There are several proposals for mobilizing private investments, for more efficient use of savings in banks, that is, for the Capital Markets Union, adding new own resources to the budget of the European Union. When discussing money issues, consensus is slow and hard to achieve but establishing a solid link between the fair, green and digital transition and financial integration within the single markets is crucial for implementing the EU plans for the future.*

\* \* \*

*The current geopolitical situation has become a serious test for European unity. In the new cycle, the European Union needs even greater determination, solidarity and pragmatic compromises. The vision of Jacques Delors is well known, according to which integration policies should be carried out around three important elements: „competition that stimulates, cooperation that strengthens and solidarity that unites.“ I dare to add - values that hold us together. Protecting our values should be everyday task. The EU is and must remain a club of democracies and the rule of law. Our countries are different and sometimes we have different points of view. But together we can overcome the crises and build a better Europe.*

*Prof. Ingrid Shikova  
President of the Organisational Committee  
of the Eleventh International Scientific Conference  
of European Studies Department –  
Sofia University „St. Kliment Ohridski“*

The Agenda of the New  
**EU Institutional  
Cycle**

**First panel:**

# **THE AGENDA OF THE NEW EU INSTITUTIONAL CYCLE**

# GREETING ADDRESS

**Herman Van Rompuy**

*President of the European Council 2009-2014*

A few months ago, when Prof Ingrid Shikova asked me to speak at a conference, marking the 25th anniversary of the Department of European Studies at Sofia University „St. Kliment Ohridski“, I immediately said yes. Unfortunately, I had to add that this could not be in persona as I had made a previous commitment. Nevertheless, I recorded a video message. I keep the best memories of my previous visits to Sofia during and after my tenure as PEC, memories not only of today's Bulgaria but also of its rich cultural past. In a few years we will celebrate the 20th anniversary of its membership to the EU. It will be a big moment that we will share.

Until a few months ago, each time when I was asked to speak about the state of the European Union, I was hopeful because during the pandemic, after Russia's invasion of Ukraine and during the energy crisis, we had acted united and firmly. This was all the more remarkable because in many member states, governments were politically weak. Today, I am less positive about the Union's decisiveness. Why?

In the face of the Russian danger, our security shortcomings are coming to the fore. We are not even capable of providing sufficient classic ammunition. Once again it appears that US support is indispensable also for Ukraine and that without the US the war would already have been settled. While we were making great progress on security as a common EU responsibility, there is still a long way to go. Another disappointment is about the Green deal, I do not see the same determination as a year ago, partly due to election fever, of course. Let us not forget that the Green Pact does deal with the biggest issue for humanity. Another concern: the stagnation of the German economy in 2023 and 2024 is a wake-up call for all especially when it occurs in the strongest economy in the EU and the eurozone. On industrial competitiveness, on China and the financing of European investments, the French and Germans have to work much more together. It is clear that after 9 June we have to do things differently. Time is running out.

The weakened competitiveness of European industry vis-a-vis China and the US must be addressed both defensively and offensively. Defensively, by better protecting ourselves from unfair foreign public subsidies and from imports of goods that do not respect our climate standards. Offensively by making our own companies more innovative and financially stronger.

In security, economics and ecology, the challenges are existential. It is about up or down, life or death. There is no place for an ‘age of mediocrity’.

However, leadership is difficult in a time of crisis of democracy. Surveys, election results and the reduction of freedoms in some countries, show this. About one-fifth of our citizens say they no longer ‘believe’ in democracy even though to give their opinions, they rely f.i. on that freedom of expression on social media. The disinformation through social media also by non-Europeans, is a major problem. The concentration of power in the technology sector worldwide in the hands of a few individuals, is unseen and dangerous for democracy. We have new legislation for this in the Union. Now it is a matter of enforcement.

The very functioning of political democracies is severely hampered by the fragmentation of the political landscape and the existence of many minority or multi-coloured coalition governments. You know the problem in Bulgaria all too well. Weak governments all over Europe do not have the strength to implement much-needed reforms on budget and social security, climate and competitiveness. The European Council is the sum of often fragmented member states. That, until recently, the Council was nevertheless capable of courageous decisions came from the awareness that most problems can no longer be tackled at the national level alone: the Europe of necessity. In the European Council, there is also a kind of peer pressure and group dynamics that encourage unanimity, from which even Hungary can hardly escape.

At the European level, the 9 June elections will hopefully still give a clear majority to pro-European parties. However, it should not be the last time!

The Union must find its place on the global stage. In the world today, nostalgic nationalism dominates. There is thankfully no nostalgia within Europe for times when some European colonial empires ruled the world and even less nostalgia for the wars within Europe itself, called world wars. The EU must now mainly focus on the interests and values of its 450 million citizens. The demographic and economic balance of power in the world will change significantly over the next few decades. Consider the population decline in China (to 750 million by 2100), in Japan, Russia and parts of the EU and on the other hand the explosion in Africa (to possibly 4 billion inhabitants by 2100), with a huge potential for migration. Other changes are also possible. Internal tensions within big countries themselves always remain hidden until they burst, as the experience of 1989 with the fall of the Soviet Union showed. No regime or empire has eternal life. Either way, the EU must strengthen itself militarily. We cannot be both economically and militarily weak precisely to defend our interests and our values. We in the EU spend twice as much on defence as Russia. However, our spending is fragmented across many countries and many types of weapons and thus much less efficiently spent.

Besides geopolitics, geo-economics and geo-ecology are also growing in importance. On the geo-ecology, the EU is a major power also in the COP climate conferences. We are the only continent where there is a clear decoupling

since 1990 of economic growth and greenhouse gas emissions. Our climate policy and renewables should make us strategically autonomous and thus less dependent on energy coming from outside Europe. Paradoxically at the same time we are still dependent on China and others on solar panels, lithium for batteries, etc., so important precisely for renewable energy. So, there is still work to do.

In general, the EU's attitude towards other geopolitical actors has changed a lot in recent years. Trump's unilateralism, Russia's invasion of Ukraine and China's new economic and political assertiveness have removed much European 'naivety'. It has led to more European unity on foreign policy by having an external enemy or adversary.

Against Russia, the situation is clearest. Economically, the concept of 'strategic autonomy' has been most strongly applied here. I refer to the much greater independence from Russian energy we have achieved in most countries in one year. With Russia, we are in a phase of de-coupling on trade, energy and investment. This is also the case politically. The opening of negotiations with Ukraine on EU membership is a strong expression of this rejection of Russian claims. I recall that the Russian war actions started in late 2013 after the Association Agreement between the Union and Ukraine was agreed. It is evident that Russia finds a democratic and a prosperous Ukraine (through EU membership) an intolerable thought.

In the Union and its 27 member states, the war has made security a central theme of its general politics and of its industrial and energy policies.

China is no longer just a partner, a competitor and a systemic rival but it is now too much a 'friend of an enemy'. A more normal relationship with China depends on the course of the war in Ukraine and a return to economic 'reciprocity' where there are no more discriminations. However, China remains a very important trading partner – although with a colossal trade deficit to our detriment – but the EU is now assertively checking that the rules of fair competition are not violated. We are protecting ourselves from the protectionism of others. After all, China itself is now accelerating its 'self-reliance' to minimise its dependence on foreign countries.

But an aspect of security has been added to our relationship with China. We take less risks when our security is at stake. Hence the European Commission speaks of de-risking rather than de-coupling. After all, there is still a lot of trade possible outside the sectors that pose risks to our security.

Relations with the US have become complex since 2016. With President Obama, the EU and America negotiated a TTIP, a partnership on investment and trade. This time is over. There has been unease in the EU about subsidies to the US green economy that could lead to delocalisation of our companies. The situation was already difficult because energy costs in the EU are three times higher than in the US. However, subsidies from EU member states to compensate for that, are also a threat to our own single market. Overall, however,

transatlantic political relations have greatly improved with the joint fight against Russia and with more strategic autonomy regarding China from both the EU and the US.

The US economy continues to perform strongly especially in new technologies.

The biggest handicap for the EU economy is the slow growth of our productivity. Over the last 20 years, product per man-hour in the States grew twice as fast as here. Since the start of the pandemic, the growth of that labour productivity in the eurozone has been a flat line while in the US there has been a 6% increase. So, there is more at stake than competitiveness. The EU must not become a 'left behind continent'.

Much more vigour is needed to address our structural deficit in artificial intelligence and investment financing. For IMF MD Kristalina Georgieva the capital markets union is a vital step towards Europe narrowing the gap with the US. The technological and commercial delay in electric cars is worrying all the more so because until a few years ago the European automotive industry was so crucial to the domestic and foreign markets. These 'gaps' must be closed. In general, we lack small innovative start-ups and large companies that can compete with US and Chinese giants. Scale matters. Size matters. Our single market should be 'ours' first and foremost, not that of non-Europeans!

This global distrust is leading to a crisis in multilateralism. Fortunately, one area that is an exception is climate in the context of the UNFCCC-Cop conferences. However, the harsh reality is that greenhouse gas emissions continue to grow worldwide, especially in emerging economies, and that we continue to decline globally in terms of biodiversity. However, the efforts of China in particular will produce results in the foreseeable future. Climate should be an issue that transcends geopolitical rivalries.

We should also dare to think geopolitically on the possible accession of Ukraine to the EU. It is primarily a political and not a bureaucratic process. Geopolitics starts at home, i.e. on our own continent! Of course, the candidate countries need to make the required reforms. I would add that because accession is a political process, candidate members in the Western Balkans and elsewhere, of course, must be loyal to the Union's values of democracy and the rule of law and be loyal to our military and political alliances. We already have enough similar problems within the Union today!

We do not lack ideas or big speeches. We know what we need to do. We should not wait for a crisis to act. We are in the middle of a crisis. Nor is it enough for us just to be united within the EU however important that is. It is the time of realisations. It is the time for the 'Europe of results'.

# WE ARE SORRY, BUT THE EUROZONE ISN'T ABOUT TO COLLAPSE

**Assoc. Prof. Kaloyan Simeonov, Dr. Habil  
Slaveya Vasileva, PhD Student<sup>1</sup>**

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## *Abstract*

*After the global economic and financial crises, the voices that the architecture of the Eurozone is not stable enough and it is likely to collapse become even stronger. The scenarios and arguments for possible collapse of the Eurozone are numerous. However, the predictions that the euro will not survive even its first year of existence did not materialise. Just the opposite, the Eurozone is not only existing 25 years later, but it is further developing, deepening and even enlarging. The current paper will list some of the critics on the design of the Eurozone and it will present some of the scenarios for its possible collapse and dissolution. Despite these negative predictions, we will describe much more possible and positive scenarios for the future of the Eurozone. We will list also some of the main arguments and current developments that demonstrate that the euro is not only a vital project but also a currency with great potential and prospects.*

**Keywords:** Eurozone, reforms, enlargement, scenarios

## **Introduction**

At the beginning of 2024 the Telegraph published an opinion of Jeremy Warner, entitled: „The Eurozone isn't about to collapse – it's worse than that“. This opinion lists some of the main problems of the Eurozone – how a single monetary policy is difficult to fit equally to all the member countries at the same time, the need a monetary union to be followed by a fiscal union, the aggravated debt crisis, the recent inflationary problems and the threat of

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<sup>1</sup> This is a joined paper from Assoc. Prof. Kaloyan Simeonov and Slaveya Vasileva, PhD Student, including the introductory and concluding sections. Assoc. Prof. Kaloyan Simeonov focused its research on sections 3 and 5 and Slaveya Vasileva on sections 2 and 4. The opinions expressed in this paper are subjective opinions of the authors and they do not engage the institutions in which the authors currently work.

stagflation. The title of the opinion suggests that in the near future the Eurozone will not collapse, but even worse – it will continue to exist and to create substantial problems for its members.<sup>2</sup>

Jeremy Warner is not the only critic of the Eurozone. The Nobel prize winner for economics in 2001 Joseph Stiglitz published a book in 2016 entitled: „The Euro: How a Common Currency Threatens the Future of Europe“. In his book he argues that the single currency is likely to threaten the existence of the European Union. He agrees that substantial reforms of the Eurozone may preserve it to a certain extent. However, he insists that the single currency shall be rather dissolved in order the existence of the European Union to be protected. Another possible scenario is to introduce a flexible euro – the establishment of several currency areas within the European Union with predefined fluctuation bands between the different currencies.

Our joined paper will aim to prove that the realistic scenarios for the Eurozone will not be to collapse, neither to aggravate current and potential problems. Rather the opposite: it is realistic to expect that the Eurozone will develop positively in the next decade. The attractiveness of the Eurozone is proven by the recent accession of Croatia and the perspectives of Bulgaria to join it soon. Romania and Czech Republic have also expressed readiness to start Eurozone accession preparations. Poland with its new government may follow very soon. The new European Parliament Elections in June 2024 and the new EU institutional cycle may also create new impetus for the continuation of the reforms and the completion of the Economic and Monetary Union of the EU.

The euro is the second strongest and most used currency in global economic, trade, foreign exchange, credit and debt markets. There are 60 countries outside the Eurozone that fix or peg their currency regimes to the euro. The digital euro project and the reforms in the Eurozone are likely to further boost euro area developments and prospects.

The next section of the current paper will present a short history of the creation and enlargement of the Eurozone. The section afterwards will list some of the possible scenarios for the collapse of the Eurozone. The fourth section will present some of the possible scenarios for euro area developments. The fifth will explain the main reasons and arguments why the Eurozone will not collapse and will continue to evolve. The last section will provide some main conclusions.

## **A short history of the creation and enlargement of the Eurozone**

Although the EU Economic and Monetary Union is frequently criticized for being incomplete and thus imperfect, it is important to recognize that the

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<sup>2</sup> Jeremy Warner (2024), „The Eurozone isn't about to collapse - it's worse than that“, The Telegraph, 3 January 2024.

creation of the single currency required decades of preparation. Signed in 1957, the Treaty of Rome set the objective of creating a common market between the member countries. However, the treaty does not foresee the creation of economic and monetary union, not even in particular a single currency. In this period of time the Bretton Woods monetary system of fixed exchange rates sufficiently ensured the stability of exchange rates internationally. It wasn't until the late 1960s that the first signs of the system's breakdown began to emerge, leading to the switch to floating exchange rates in 1973. These series of events rationalise the need to create an economic and monetary union in the EU in order to ensure the smooth functioning of the single market.

The Werner Report from October 1970 represents the first attempt to create an economic and monetary union in three stages. In practice, the primary task facing the states was the establishment of the „snake-in-the-tunnel“ system. This system aimed to limit fluctuations between their currencies by collectively maintaining their value in relation to the US dollar. However, the challenges of the early 1970s – the sharp rise of the oil prices and the discontinuance of the US dollar convertibility into gold, hindered this strategy, but left an invaluable experience in establishing currency discipline among countries.

Building on this foundation, the European Monetary System (EMS) was introduced in 1979. The approach involved maintaining the currencies of the participating member states within an exchange rate mechanism that featured fluctuation margins similar to those of the „snake-in-the-tunnel“ system. However, rather than being pegged to the US dollar, these currencies were anchored to a basket of European currencies, known as the European Currency Unit (ECU), which served solely as an accounting currency. This approach proved to be a more sustainable solution but unsatisfactory, given its unsustainability in the adverse international environment of the 1980s.<sup>3</sup>

As a result, in 1988, a committee, led by the then Commission President Jacques Delors was established with the objective to make a step further from the European Monetary System (EMS) to a fully integrated monetary framework. Its contribution remains in history as the „Delors Report“ (1989), which outlined a three-step plan for achieving full economic and monetary union. The core ideas of the report are the basis of the Maastricht Treaty (signed in 1992, into effect in 1993) and represent the backbone of the EMU project. As a first step, the report recommended the removal of all restrictions on capital movement between Member States. Second, it proposed the establishment of a new monetary unit of account (today's euro), the creation of a new exchange rate mechanism, and coordination of fiscal policies between the countries. Third, the report suggested that exchange rates should be irrevocably fixed, followed by the conversion of national currencies to the

<sup>3</sup> Шикова, И. (2011), „Политики на Европейския съюз“, Университетско издателство „Св. Климент Охридски“, София, 2011 г.

euro.<sup>4</sup> Generally speaking, the main ideas include the creation of the euro, the European Central Bank and a common monetary policy for Member States.

In line with the ideas of the Delors Report and the provisions of the Maastricht Treaty, the creation of the Economic and Monetary Union foresees going through three main stages with specific deadlines for their implementation.<sup>5</sup> The first stage began on 1 July 1990 and aimed at full liberalization of capital movements, economic policy convergence and closer cooperation between central banks. The second stage commenced on 1 January 1994, with the objective of enhancing the independence of central banks within member states. The European Monetary Institute was established in Frankfurt, and it has since evolved into what is now known as the European Central Bank.

Since its inception, the Institute's primary role has been to strengthen the cooperation and coordination of monetary policies among the national central banks of the member countries. Within this stage, the European Commission and the European Monetary Institute played a crucial role in preparing countries to meet the conditions required for inclusion, specifically by ensuring compliance with the Maastricht criteria. To qualify for participation in the third stage of the establishment of the European Union's Economic and Monetary Union (EMU), each country must fulfil specific criteria related to inflation rates, budget deficits, government debt, currency stability, and interest rates. The third stage was launched on 1 January 1999 with the introduction of the euro, marking this date as the birth date of the single European currency. Initially, the euro was launched as an „invisible“ means of payment as it was used only for accounting purposes and electronic payments by eleven EU member states: Austria, Belgium, Finland, France, Germany, Ireland, Italy, Luxembourg, the Netherlands, Portugal and Spain. It was on 1 January 2002 when the euro became an official cash currency for twelve EU countries, including Greece, which succeeded in joining the Eurozone, as part of the first enlargement of the single currency area in 2001. Since then, the euro area gradually expanded as more EU Member States joined, respectively: Slovenia (2007), Cyprus and Malta (2008), Slovakia (2009), Estonia (2011), Latvia (2014), Lithuania (2015) and Croatia (2023). To date, the euro is the official currency of 20 EU Member States with around 350 million citizens using it every day.

While the Maastricht Treaty builds upon the concepts presented in the Delors Report, the Delors Report itself is significantly influenced by the experiences and ideas articulated in the 1970 Werner Report.<sup>6</sup> Although many initiatives

<sup>4</sup> Council of the European Union (2023), „*Understanding the Economic and Monetary Union*“, last visited on 20.05.2024 - [https://www.consilium.europa.eu/media/65730/20231349\\_pdf\\_qc0423278enn\\_002.pdf](https://www.consilium.europa.eu/media/65730/20231349_pdf_qc0423278enn_002.pdf)

<sup>5</sup> Шикова, И. (2011), „*Политики на Европейския съюз*“, Университетско издателство „Св. Климент Охридски“, София, 2011 г.

<sup>6</sup> Симеонов, К. (2017), „*Същност и история на паричните съюзи*“, Софийски университет „Св. Климент Охридски“ и Фондация „Ханс Зайдел“, изд. „Минерва“, София, 2017 г.

have been implemented, numerous others continue to seek support and realisation. These initiatives are sometimes presented as new conceptual projects awaiting implementation, particularly in the context of addressing the imbalance between economic and monetary integration within the EU's Economic and Monetary Union (EMU). Nonetheless, the enduring vitality of the project underscores the ingenuity of its original conception and the increasing recognition of its significance. Consequently, in 2024, the EU celebrates a quarter of a century since the creation of its single currency.

## Possible scenarios for the collapse of the Eurozone

As pointed out by two authors few months after the establishment of the Eurozone, „only fantasy limits the list of possible events or processes that could start a collapse of the EMU“.<sup>7</sup> The authors have in mind possible exogenous or external shock that member countries may not or do not want to overcome together. The collapse of the Eurozone may occur also due to internal shock inside the single currency area. This section will list some of the possible scenarios for the dissolution of the Eurozone. Some of these scenarios are only theoretical, others are more likely to be realised if specific circumstances occur and there is a political will to be realised.

One of the possible scenarios is the *collapse of the Eurozone overnight*. This scenario may be realised in case of extreme and unpredictable circumstances. This is the worst possible scenario as it will lead to unexpected results. The reasons for such an immediate collapse of the Eurozone are likely to have other negative effects, apart from the currency, monetary, economic and financial crisis. This scenario will be linked with the dissolution of the whole Eurozone with all the member countries leaving the single currency area.

Another possible scenario is the *gradual dissolution of the Eurozone*. This scenario is linked with the withdrawal in different stages from the Eurozone of individual or group of countries. This dissolution is executed step by step and leads to the gradual termination of the Economic and Monetary Union as an EU project. This scenario has fewer negative effects than the first one as they are not consumed immediately but on a more continuous basis.

One of the most discussed scenarios in the literature is the dissolution of the Eurozone in *two separate zones*. These two zones shall be the North euro zone and the South euro zone. The idea behind is that the two zones will collect the two different groups of current euro area members. The North euro zone will be composed of the current most developed euro area members such as Germany, France, the Netherlands, Belgium, Luxembourg, Ireland, Slovenia, Finland, the three Baltic states and Austria. The South euro zone will comprise the less developed current euro area members such as Greece,

<sup>7</sup> Bordo, M. and L. Jonung (1999), „*The Future of EMU: What Does the History of Monetary Union Tell Us?*“, National Bureau of Economic Research, NBER Working Paper 7365, September 1999, p. 30

Spain, Portugal, Cyprus, Malta, Croatia and possibly Italy and Slovakia. To increase the competitiveness and to regulate the balance of payments of those south countries, the south euro may be devaluated to the north one for example by 30%. This scenario, although attractive to a certain extent, has more drawbacks and challenges. This scenario, as the majority of the other scenarios for the dissolution of the euro area, is not discussed during meetings of the EU institutions and it has never been on the official EU agenda.<sup>8</sup>

Another possible scenario is the dissolution of the Eurozone not to two but to *more possible zones*. The number of these zones is not identified, and it depends on the homogeneity or heterogeneity of the member countries. Each zone will have its own currency and the exchange rates between the different currencies will have the opportunity to fluctuate to a certain degree or boundaries. Similar approach is proclaimed by Joseph Stiglitz, and it is called a flexible euro.<sup>9</sup>

The idea for the *establishment of the European Currency Community* is another scenario for future development that is a bit softer than some other scenarios. The proposal that is described in the scientific literature is that certain non-converged current euro area members shall withdraw from the Eurozone.<sup>10</sup> They shall enter in a reformed ERM II mechanism. The concept is that all or relatively all the EU member states shall be part of the European Currency Community. The Members of the Eurozone shall be fewer current members of the euro area that are significantly convergent among themselves. The other members of the EU – the current non-convergent euro area members as well as all the other EU members shall be part of the ERM II, applying relatively narrow fluctuation bands between their currencies. This will create a two-level currency unification – a less developed first level (ERM II) and most developed one (Eurozone). This scenario also has many institutional and organisational drawbacks; therefore, it is not a realistic one.

Another not realistic scenario is the *so-called ECU-2 scenario*. This is a scenario where the euro as a single currency stop to exist. All the member of the European Union shall enter in a system that strongly resembles the one existing under the European Monetary System in the period 1979-1998 - the predecessor of the Eurozone. A central element of that system was the already mentioned European Currency Unit (ECU) that was not a currency but only a unit for calculation and presentation of a value. Another element of that system was the Exchange rate mechanism (ERM) that was based on the ECU and the floatation of national currencies under predefined boundaries. The authors of such a scenario does not give an answer why the EU shall opt for such a scenario

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<sup>8</sup> The discussion about the North and the South euro zones is presented for example in: Дянков, С. (2015), „Кризата в Европа: поглед отвътре“, издателство „Сиела“, София, 2015 г.

<sup>9</sup> Stiglitz, J. (2016), „The Euro: How a Common Currency Threatens the Future of Europe“, London, W. W. Norton & Company.

<sup>10</sup> Scharpf, F. (2016), „Forced Structural Convergence in the Eurozone - or a Differentiated European Monetary Community“, Max Planck Institute for the Study of Societies, MPIfG Discussion Paper 16/15, Cologne, Germany.

except the argument that this is a possible way-out of the current existence of the Eurozone.<sup>11</sup>

## Possible scenarios for the development of the Eurozone

In contrast to the possible scenarios for the collapse of the Eurozone, we would rather argue that the more likely scenarios for the Eurozone are for further improvement and development of the single currency area. We are confident that the Eurozone is not going the collapse. Opposite to the Jeremy Warner statement in the Telegraph at the beginning of 2024 we are also not on the opinion that the Eurozone will continue to create substantial problems for its members. This section will list some of the scenarios for future development of the euro area.

One of these scenarios is *keeping the status-quo*. Under this scenario the Economic and Monetary Union as well as the Eurozone will continue to exist without major reforms in the next decade. This is not a negative scenario neither a stagnation one. The reasons for that are the following. First, after the global economic and financial crises the Eurozone was subject to many reforms such as the establishment of the European Stability Mechanism and the Banking Union, the introduction of the European Semester and the development of the macroeconomic imbalances' procedure. These reforms need to continue to be effectively implemented as they are relatively new, before launching any substantial new changes to the architecture of the Economic and Monetary Union. Second, these reforms and the current shape of the Eurozone proved to be successful in the recent crises that did not affect substantially the functioning of the euro area. The most severe of these crises was the COVID-19 pandemic that hit not only the health system but the proper functioning of the EU single market. Other crises such as the start of the aggression of Russia towards Ukraine, the energy supply crises, the migration crises and Brexit also did not affect substantially the functioning of the Eurozone.

Another possible scenario is *preserving and strengthening the international role of the euro*. Although the establishment of the euro was not dictated by geopolitical appetites, but rather by the ambition to ensure the stable functioning of the internal market, today, given the international role that the single currency has acquired, preserving its second place on the international stage makes it part of the strategic autonomy concept of the EU. This effort again proves to be if not necessary, rather inevitable due to the confrontational international environment through the lens of US-China tensions and the unprecedented sanctions imposed on Russia because of the war initiated in Ukraine.<sup>12</sup> Yet, EU initiatives to strengthen the international role of the euro are always seen in

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<sup>11</sup> Nordvig, J and N. Firoozye (2012), „Rethinking the European monetary union“, Nomura Securities, Substantially revised version from the Wolfson Economics Prize 2012.

<sup>12</sup> Tokarski, P. (2023), „The International Role of the Euro Remains Stable - but It Needs More Attention“, Stiftung Wissenschaft und Politik, Internationale Politik und Sicherheit, 30 June 2023

the context of the completion of the EU's Economic and Monetary Union. This strategy is not groundless. Stable currency could not be guaranteed without a solid base. In today's highly interconnected geopolitical landscape, Europe's close regional proximity to Russia and its considerable dependence on Russian energy resources, coupled with the rising ambitions of the Chinese renminbi which challenge the dominance of the US dollar, make maintaining its position as the second most influential economic entity a significant competitive challenge in the international arena. Meanwhile, there is a cruel imbalance between the weight of the euro on the international stage and its representation within the international community. The lack of a unified external representation of the euro area in international economic and financial institutions is damaging the interest of the Eurozone members, as well as the reputation of the EU as a whole.<sup>13</sup> An ample example is the euro area participation in the frames of the International Monetary Fund, whose membership is limited to its member states, grouped in different constituencies, oftentimes with countries outside the EU. Proposals for a common euro area representation have been on the EU agenda for years,<sup>14</sup> but such an initiative has not been realised yet.

A possible scenario is also *further enlargement of the euro area*. The euro was conceived as a common currency for the entire EU. The completion of the internal market and the Economic and Monetary Union are two inextricably linked sides of the same coin. Seven EU countries have not yet adopted the euro. Among them, Denmark has negotiated an opt-out clause. After Brexit, Denmark remained the only country with such an exception. Meanwhile, for the other non-euro member states, the departure of the United Kingdom means losing a strong influence in the decision-making processes.<sup>15</sup> Despite Denmark's right of derogation in the European single currency, the Danish krone is very closely tied to the euro due to the country's participation in the Exchange Rate Mechanism II (ERM II) from 1 January 1999 and with narrow fluctuation margins of  $\pm 2.25\%$ .<sup>16</sup> The potential progress of the remaining six (Bulgaria, the Czech Republic, Hungary, Poland, Romania, and Sweden) is essential for the development of the Eurozone.

Sweden, an EU member since 1995, is one of member states that witnessed the introduction of the euro without initially meeting the criteria for membership or sharing the exaltation of this milestone in the history of European integration.

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<sup>13</sup> Tokarski, P. (2024), „*The Euro in a World of Dollar Dominance: Between Strategic Autonomy and Structural Weakness*“, Stiftung Wissenschaft und Politik, Internationale Politik und Sicherheit, February 2024.

<sup>14</sup> Ryck, P. (2019), „*Towards Unified Representation for the Euro Area within the IMF*“, European Parliament, European Parliamentary Research Service (EPRS), July 2019

<sup>15</sup> Tokarski, P., Funk, S. (2019), „*Non-euro Countries in the EU after Brexit: Between Fear of Losing of Political Influence and Euro Accession*“, Stiftung Wissenschaft und Politik, Internationale Politik und Sicherheit, 3 January 2019

<sup>16</sup> European Commission, „*Denmark and the euro*“, last visited on 20.05.2024 - [https://economy-finance.ec.europa.eu/euro/eu-countries-and-euro/denmark-and-euro\\_en](https://economy-finance.ec.europa.eu/euro/eu-countries-and-euro/denmark-and-euro_en)

This is evident by the results of a referendum held in the country in 2003, when the possibility of membership was rejected by 56% of the votes. In 2023, twenty years after the negative referendum on the country's membership of the Eurozone, Johan Persson, the Minister of Labor, officially proposes the revision of the question of Sweden's membership in the Eurozone, which, according to him, will contribute to increasing the level of Sweden's integration into the European Union.<sup>17</sup> Although this initiative has not yet been implemented, Sweden's accession to NATO in 2024 signals openness to possible forthcoming significant changes.

Bulgaria is in the process of joining the Eurozone. Since 10 July 2020, the country is part of the ERM II and the Banking Union, which means it is most likely to become the 21st euro area member state, if it manages to meet the Maastricht convergence criteria.<sup>18</sup> The aspirations are for this to happen in 2025. By mid-2024, the European Central Bank's Convergence Report is anticipated, which will encompass an evaluation of the performance of each candidate seeking to join the Eurozone.

In Romania, the prospect of joining the Eurozone features prominently in the agendas of successive government administrations, yet no concrete steps towards initiation of the ERM II process have been taken thus far. The National Bank of Romania's envisages 2029 as the earliest feasible timeline for potential integration into the Eurozone.<sup>19</sup>

The date 1 May 2024 marks 20 years since Poland, Hungary and the Czech Republic joined the EU. However, the countries have different views on their membership of the Eurozone. A gradual shift towards potential Eurozone membership is observed in the Czech Republic. In his New Year's speech on January 1, 2024, President Petr Pavel announced that the country should work towards adopting the euro. The ruling coalition, on the other hand, promised to prepare by October 2024 an analysis of the possible entry of the Czech Republic into ERM II.<sup>20</sup>

In Poland, the sentiments for joining the euro zone, seen through the lens of the country's president and finance minister, are rather negative.<sup>21</sup> With Prime Minister Donald Tusk, an avowed European leader, however, progress on the topics of the EU agenda will not surprise at all.

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<sup>17</sup> Hivert, A.-F. (2023), „*In Sweden, the fall of the krona revives discussions on the euro*“, Le Monde, 25 September 2023.

<sup>18</sup> Tsolova, Ts. (2023), „*Bulgaria could adopt the euro from 2025 if ready -EU's Dombrovskis*“, Reuters, 23 February, 2023.

<sup>19</sup> Smarandache, M. (2023), „*Iohannis: No 'realistic' deadline for Romania to join eurozone*“, EURACTIV, 23.03.2023

<sup>20</sup> Lopatka, J. (2024), „*Czech government to evaluate merits of joining 'euro waiting room'*“, Reuters, 7 February 2024

<sup>21</sup> The Washington Post (2024), „*Poland is still not ready to adopt the euro, its finance minister says*“, 30 April 2024.

Hungary has no definitive target date for Eurozone membership. According to György Matolcsy, the governor of the National Bank of Hungary, only after Hungary reaches about 90% of the EU average in terms of economic development, then the adoption of the single currency can be put on the agenda. The time horizon he foresees as realistic for the achievement of this target is 2030.<sup>22</sup>

Despite the challenge of the heterogeneous nature of each member state for the EU's Economic and Monetary Union, any potential enlargement of the Eurozone is a step towards reducing the fragmentation of the internal market and strengthening the euro's authority on the international stage. We may witness a gradual movement from euro-outs to euro-ins, especially with the dwindling majority of these countries.

Another likely scenario is the *completion of the Economic and Monetary Union*. Perhaps there is no more definitive confirmation of Europe „forged in crisis“ than the process of deepening the Economic and Monetary Union of the EU. The world economic and financial crisis in 2008, which tested the endurance of the European project and solidarity, actually gave rise to many vital initiatives that would otherwise have not met the necessary support among EU member states. Among them, the „Five Presidents Report“<sup>23</sup> deserves to be mentioned as it lays down a roadmap to completing the Economic and Monetary Union of the EU by 2025 at the latest. As a result, the economic policy coordination was substantially enhanced in the frames of the European Semester and significant advancements have been achieved towards the completion of the Banking Union and the Capital Markets Union. Furthermore, the institutional mechanisms for economic governance at the EU level have been upgraded through the establishment of National Productivity Boards and the European Fiscal Board. Nonetheless, the structural framework of the euro area until mid-2024 still remains incomplete, indicating that further institutional and policy reforms are necessary to achieve a fully integrated and resilient economic and monetary union. Since then, the economic and social challenges posed to the EU's internal market by the Covid-19 pandemic, Brexit, and Russia's aggression in Ukraine highlight that the euro has not realised its complete potential, indicating considerable room for improvement. Concurrently, despite the diverse nature of these crises, they have contributed to our learning and evolution of macroeconomic understanding. This presents a significant opportunity to institute more resilient and effective reforms. Furthermore, it is more important that these reforms persist beyond 2025.

Last but not least, a possible scenario is the launch of *new reforms that are currently not on the EU agenda*. A number of logical or exotic proposals also find ground in the intellectual battle for necessary but at the same time not

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<sup>22</sup> Than, K. (2023), „Hungary central-bank chief sees chance for euro adoption only after 2030“, Reuters, 2 June 2023.

<sup>23</sup> European Commission (2015), „The Five Presidents' Report: Completing Europe's Economic and Monetary Union“, 22 June 2015

excessive reforms. While suggestions such as establishing the role of the Minister of Finance for the Eurozone, transforming the European Stability Mechanism (ESM) into a European Monetary Fund, creating a budget tailored specifically for Eurozone countries, and issuing common government bonds for Eurozone nations may not gain traction for various reasons, the concept of introducing a digital euro represents an imperative developmental trajectory, given the support of the euro among the Union's citizens. However, regardless of the direction undertaken by the EU's Economic and Monetary Union, whether in response to crises, international competition, or politically driven domestic considerations, it must resonate with the sentiments of EU citizens.

## **Why the Eurozone will not collapse and will continue to develop**

During the preparations for the establishment of the Eurozone in the 1990's there were many economists and scientists predicting that the single euro area will collapse even before its creation or not later than one year after its introduction. These predictions did not materialise. The euro is well functioning for more than 25 years. Although it experiences some challenges and despite some deficiencies that still exist in its structure, the euro and the Eurozone are one of the main symbols of the European economic integration. This section will describe some of the main reasons why the euro area will not collapse and even the opposite, the prospects for its future development and deepening are quite greater.

*Global processes* as well as world developments make the need for a single and uniting currency in the EU even stronger. The share of the EU and the Eurozone both in terms of population and GDP as compared to the global one is shrinking in the last two decades. The prospects for the next decades are similar. Thus, the EU and the single currency area will lose part of their influence. If their member states decide to separate or to dissolve the union that was established, the influence of the single countries, even the biggest one, will be very small and even insignificant in global terms. As pointed out in the European Commission 2017 White paper by 2060 no single EU member state will count for more than 1% of the global population.<sup>24</sup>

The Economic and Monetary Union and the euro area are not architectures that are going to collapse. Rather the opposite, the Eurozone is a *model* for other zones how to establish a single currency area. Other currency unions analyse the experience of the Eurozone for their own projects and take into account the successes and challenges of the euro area.

Another reason why the Eurozone will not collapse is the *political backing* of the project. The EU leaders stand strong behind the idea to preserve and to

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<sup>24</sup> European Commission (2017), „White Paper on the Future of Europe“, Reflections and Scenarios for the EU27 by 2025, COM(2017)2025 of 1 March 2017, Brussels, Belgium.

strengthen further the single currency. The reforms for completion of the Economic and Monetary Union, for building an economic, fiscal and financial union are still high on the EU agenda.

The political attraction of the single currency is marked also with the new entrants and the *enlargement* of the Eurozone. In 2023 Croatia became the 20<sup>th</sup> member state of the Eurozone. After Bulgaria became in 2020 a member of the Exchange Rate Mechanism II and the EU banking union, it is very likely to be soon the next member of the single currency area.

The *public opinion* in the Eurozone is also strongly in favour of the single currency. Unlike in the non-euro area countries, the people in the euro area support the implementation of the euro in their countries.<sup>25</sup> The last Eurobarometer in the Euro Area member states from November 2023 demonstrates that citizens in those countries are supporting the single currency. More than two third of the euro area population or 69% are on the opinion that the euro is something good for their countries. Only 22% are on the opposite opinion while 9% cannot decide or do not have an opinion. Such a strong public support in the Euro Area is a guarantee that the euro will survive not only current economic problems but also possible future shocks and crisis.

The single currency is also an important complement to the *single market*, the major achievement of the European economic integration. The free movement of goods, people, services and capital are facilitated with the introduction and the functioning of the single currency. The completion of the single market at the beginning of the 1990's corresponds with the time when the single currency project was agreed and legally launched in the Maastricht Treaty. As it is pointed out by the former President of the European Commission Jean-Claude Juncker, the idea is the single currency to be the common currency of all the EU Member States. He points out also that the goal of the euro is to unite but not to divide the member states of the European Union.<sup>26</sup>

The development of the *digital euro* is another sign that the euro is a vivid project that is constantly evolving. The European Central Bank has already advanced technical specifications for the digital euro. The European Commission has published legal proposals which adoption by the Council and the European Parliament will establish the legal framework for the introduction of the digital euro. The idea is that the digital euro shall be operational by 2027 boosting not only retail digital payments but also the EU digital single market.<sup>27</sup>

The *shift of monetary and exchange rate policies* may not be done overnight. The reintroduction of the national currencies of the Eurozone member states

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<sup>25</sup> See: European Commission (2023), „*The Euro Area*“, Flash Eurobarometer 538, November 2023.

<sup>26</sup> Jean-Claude Juncker, „*State of the Union Address 2017*“, President Jean-Claude Juncker's State of the Union Address, 13 September 2017, Brussels, Belgium.

<sup>27</sup> Enrico Letta (2024), „*Much More than a Market*“. Speed, Security, Solidarity. Empowering the Single Market to Deliver a Sustainable Future and Prosperity for all EU Citizens, April 2024.

will not be an easy task. The introduction of the euro was prepared for a period that lasted more than a decade. The shift towards national currencies may last for a shorter period but for sure it will take months and years to accomplish such a major turn back.

Furthermore, there is *no legal framework* how a member of the Eurozone may withdraw from that currency area. The authors of the Lisbon Treaty have written a provision in the Treaty on European Union how a member state may withdraw from the European Union (Article 50 of the Treaty on European Union). This was the provision that was used by the United Kingdom to negotiate its withdrawal from the EU after the positive Brexit referendum in 2016. However, the same authors did not envisage any rule or provision how a member state of the Eurozone may withdraw from the single currency area.

The euro will continue to be the *second strongest currency* in the world. The euro is the most used currency after the US dollar in global economic, trade, foreign exchange, credit and debt markets. Usually, the share of the euro in those markets is well above 20%. The share of the third or the fourth currency is usually well below 5%<sup>28</sup>. The share of the euro is even stronger than the share of the Eurozone GDP compared to the global GDP. The interest and the trust in the single currency in those global markets does not correspond to the projections that the euro will disappear, and the Eurozone will collapse in the near future.

Finally, the euro is the most frequently used currency in *third countries* after the US dollar. In addition to the 349 million inhabitants in the Eurozone that are using the single currency, there are nearly 175 million inhabitants in the world which countries or territories have fixed directly or indirectly their currencies to the euro. Currently there are around 60 countries and territories that outside of the EU that have pegged or fixed their currency directly or indirectly to the euro. Some of these countries are in Europe such as Montenegro and Kosovo (unilateral euroisation), Andorra, San Marino, Monaco and Vatican (agreed euroisation) and Bosnia and Herzegovina (currency board) while other countries are in Africa or in other continents of the world.<sup>29</sup>

## Conclusions

The Eurozone isn't about the collapse. Just the opposite, the single currency area is constantly evolving and developing. If the euro is going to disappear soon to give way back to the national currencies, it will not attract currently such a strong interest in the EU and outside of it. The euro is gaining a strong public support in the Eurozone countries. The enlargement of the Euro Area with Croatia in 2023 and the forthcoming accession of Bulgaria are also good

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<sup>28</sup> European Central Bank, „*The international role of the euro*“, June 2023.

<sup>29</sup> European Commission, „*The international role of the euro*“, [https://economy-finance.ec.europa.eu/euro/international-role-euro\\_en](https://economy-finance.ec.europa.eu/euro/international-role-euro_en), last visited on 01.05.2024.

signs that the euro is still a desirable project. The euro is the second strongest and most used currency in the global markets. More than 60 countries worldwide peg or fix to a certain extent their currencies to the euro. Furthermore, the euro is a trailblazer for many other currency unions. Positively, there is still much to do in terms of completing the EU's Economic and Monetary Union. We can agree with Jeremy Warner that „With each passing crisis, Europe manages to move that little bit closer to what's needed“ but not for „survival“ purposes, which would be an overstatement, but rather for enhancing the functionality of the euro. The continued expansion of the EMU, its resilience in the face of crises, and its growing prominence on the international stage, all attest to its vitality.

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# REINFORCING EUROPEAN ECONOMIC SECURITY AND CYBER RESILIENCE: GETTING REAL ON STRATEGIC AUTONOMY

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## *Abstract*

*Within its current mandate, the European Commission has demonstrated a growing ambition on the EU's positioning on the global stage. From „strategic autonomy“ to „geopolitical Union“, the bar has been set high. In reality, however, there has been modest progress in truly bolstering the EU's collective toolbox on the supranational level for mitigating economic risks or digital threats from external actors. This article takes stock of the recent Commission strategy on economic security and proposed legislation on improving cyber resilience.*

*The text analyses the current proposals and makes the case that member states are long overdue in developing improved tools for screening of foreign direct investments, better coordination on the export of dual-use items and preventing the leakage of advanced research and European knowhow to third countries. Moreover, these measures need to be coupled with an upgraded notion of cyber resilience given all the threats stemming from adversarial state and non-state actors, exposure of critical digital infrastructure, compromised Internet of Things devices, as well as malign software and digital applications online. The upcoming Commission mandate (2024-2029) will be crucial for making these ambitions a reality and responding to the rapidly expanding geopolitical challenges and external threats.*

**Keywords:** Economic security – Cyber resilience – Strategic autonomy

## **Introduction**

Scholars of European integration tend to use the famous motto that „*Europe will be forged in crises*“ to describe particularly challenging periods of European history. Relevant as ever, the Monnet quote<sup>1</sup> has been specifically applicable

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<sup>1</sup> Monnet, J. (1976), *Mémoires*, Fayard

to the current '19-'24 mandate of the European Commission. From pandemic peril to energy emergency and a hot war next to its borders, the European Union (EU) has faced a number of severe challenges. Rising to the occasion, national political leaders and European policymakers achieved a series of breakthroughs which delivered on several pressing matters ranging from fiscal to military. The changing geopolitical environment prompted the European institutions to promote a new set of purpose linked with European autonomy and enhancing overall resilience. A number of policy documents<sup>2</sup> from the last half decade permeate with references to „strategic autonomy“, „strategic sovereignty“ or „resilience“. The delivery of the European Recovery and Resilience fund, a reinvigorated common defence policy and joint European response to Russia's war in Ukraine lend support to the narrative of improved European autonomy.

Looking more closely into the Union's regulatory toolbox, however, shows a number of deficiencies. The EU has a limited number of supranational tools for responding to external trade or economic coercion, as well as an under-developed defensive arsenal for dealing with malign digital threats. This situation has its explanation in the history and dynamics of European integration in the last several decades during which the EU positioned itself as one of the champions of multilateralism and free trade in times of relative peace, liberalised global trade and shared optimism about the benefits of globalisation. Moreover, unlike the United States, the EU never shaped or enforced its economic and international policies through the prism of safeguarding „national security“.

Even though „European national security“ can be a debatable notion in theory, political leaders seem to agree that, in practice, it is currently under threat. The current article explores the recent proposals of the European Commission for enhancing economic security and aims to analyse the current track record of several supranational initiatives related with foreign direct investment, export controls and enhancing European research security. The article also makes the case that the EU needs to seriously expand its efforts and toolkit for dealing with external threats coming from foreign hardware or software and bolster its overall digital resilience.

Referring back to Jean Monnet's maxim, it is important to consider the citation in full: „*Europe will be forged in crisis, and will be the sum of the solutions adopted for those crises*“. The often omitted second part holds the key to his vision. It is not the crisis and threats *per se* that guarantee European advancement; it is the solutions, the shared will to improve the Union and its policies. This article makes the case that the upcoming EU institutional cycle will witness several breakthroughs and expanded European competences in economic security and digital resilience – touching upon sensitive areas of national prerogative and economic interests.

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<sup>2</sup> European Parliament Research Service (2022), „EU strategic autonomy 2013-2023“, Briefing note

## Economic Security

In January 2024, the EC proposed a series of new initiatives aiming to reinforce European economic security while also preserving high trade and investment flows.<sup>3</sup> The rationale for putting forward these measures was laid out earlier in 2023 by the Commission and European External Action Service where both institutions pinpointed a series of risks related to external economic coercion, vulnerability of critical (digital) infrastructure as well as risks to technology leakage.<sup>4</sup> The 2024 EC Communication proposes the following initiatives: improved Foreign Direct Investment (FDI) screening into the EU; more coordinated approach to export controls and better control of the dual-use goods export; identification of potential risks stemming from outbound investment; enhancing specialised Research and Development (R&D) and research security at national and sector level. This section analyses all these proposals in turn by tacking stock of the previous policy background, main challenges faced by member states and potential institutional developments in the upcoming EC mandate.

### *Foreign Direct Investment Screening*

Positive FDI flows and growing economic investment from abroad are one of the indicators of economic success. Traditionally, FDIs and their potential scrutiny were solely the concern of member states. In 2016, however, two major developments happened which raised the question of economic interference and protecting European interests. In mid-2016, a Chinese firm acquired ownership of German robot maker company Kuka, known for specialised production of advanced robotic units which are used in car and aircraft manufacturing.<sup>5</sup> Later the same year, the Chinese shipping company Cosco acquired the majority shares in the Greek port of Piraeus.<sup>6</sup> These developments pushed forward the debate about potential external economic influence through strategic investment and whether European countries should protect European companies producing high-value products and services. Not to mention the fact that there could be negative effect for the European single market as a whole if third country FDIs provide control over critical physical or digital infrastructure.

In 2019, the EU adopted its Regulation establishing a framework for FDI screening coming into the Union.<sup>7</sup> The new rules set out minimum requirements for establishing national FDI screening mechanisms and a procedure for the

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<sup>3</sup> European Commission (2024), *Communication on Advancing European economic security: an introduction to five new initiatives*, COM(2024) 22 final

<sup>4</sup> European Commission (2023), *Communication on European Economic Security Strategy*, JOIN(2023) 20 final

<sup>5</sup> Charzan, G. (2016), *Berlin and Brussels wary of Chinese robotics bid*, Financial Times

<sup>6</sup> Bali, K. (2022), In Greece's largest port of Piraeus, China is the boss, Deutsche Welle

<sup>7</sup> Official Journal of the European Union, *Regulation (EU) 2019/452 establishing a framework for the screening of foreign direct investments into the Union*, 19 March 2019

coordination of FDI reviews. Most importantly, the Commission encouraged each member state to set up their own national screening procedures, as more than a third of EU member states did not have such a mechanism at place.<sup>8</sup> The Commission only had a coordination role where different member states could comment on specific FDIs coming in another EU member state. The EC was given the right to provide an opinion on FDIs capable of affecting EU-funded projects (e.g. Horizon Europe research programme) or critical EU infrastructure.<sup>9</sup> All final decisions on approving or prohibiting the considered FDIs is up to the respective member state.

The latest EC annual report on the FDI screening progress from late 2023 notes that all EU member states have an FDI mechanism in place or are currently working on the adoption of such tools.<sup>10</sup> Overall, the coordination of FDI screening in the EU has provided thousands of cases with the majority of them greenlighted by the respective member states without any conditions. In 2023, in 9% of the transactions the Member States imposed mitigating measures as a condition for the go ahead of the transactions while only 1% were blocked by the respective member state.<sup>11</sup>

Almost five years after the entry into force of the original FDI Regulation, there is a wide set of divergence among member states about the application of investment screening, lack of proper harmonisation and national differences when it comes to the specific economic sectors that are covered by such a procedure. The 2024 EC proposal for revising the FDI Regulation puts forward a number of suggestions for better harmonisation of national procedures, as well as identifying the minimum sectoral scope in order to apply to critical areas such as semiconductors, artificial intelligence, critical medicines and military items.<sup>12</sup> An important improvement would also be the extension of the investment screening to the ones coming from „internal“ EU investors which are actually controlled by individuals or entities which are non-EU nationals and potentially represent the interests of a third country.

### ***Export controls of dual-use goods***

The category of „dual-use“ items apply to certain goods, software or hardware technology that can be used for civilian and military applications. These can include certain electronics, sensors, navigation technologies, aerospace and propulsion systems, nuclear materials and a wide array of chemicals, among others. Export controls have been traditionally used by individual countries or

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<sup>8</sup> Riela, S. (2023), *The EU's foreign direct investment screening mechanism two years after implementation*, European View Journal, 57-67

<sup>9</sup> Art. 8 of Regulation 2019/452

<sup>10</sup> European Commission (2023), *Third Annual Report on the screening of foreign direct investments into the Union*, COM(2023) 590 final

<sup>11</sup> Ibid, 13

<sup>12</sup> European Commission (2024), EU Foreign Direct Investment Screening 2024 Revision, Factsheet

as part of multilateral treaties for ensuring the non-proliferation of certain technologies and the preservation of international peace and human rights. During the Cold War, the US together with European and international allies had a multilateral arrangement for denying certain exports to the Soviet Union.<sup>13</sup> In the early 90s, this grouping was transformed into the Wassenaar Arrangement which pursued multilateral export controls among Western allies but also included countries such as Ukraine, Russia, South Africa and India. In 2021, the EU adopted its framework (the „Dual-Use Regulation“) for ensuring the coordination between member states` export control authorities and an annually updated list of control items, which every EU country must follow.<sup>14</sup>

In October 2022, the world of export controls was shaken by the announcement that the United States will unilaterally impose restrictions on the export of advanced chips, semiconductor equipment and related components to the People's Republic of China due to potential threats to the US national security and.<sup>15</sup> What was striking in this case was the wide scope of restricted items, as well as the Washington's claim for the extraterritorial application of these restrictions, with the expectation that other US partners would also impose similar export controls vis-à-vis China. This was followed by extensive diplomatic pressure which resulted in the Netherlands and Japan also applying similar export restrictions against China, even though it negatively affects the international sales of their companies that specialise in chip manufacturing.<sup>16</sup> This dynamic raised concerns about the current operations of the EU export controls regime and whether EU member states should be able to move jointly on such decisions in order to coordinate a Europe-wide response, not individual member state actions. The impetus for reconsidering the EU's treatment of dual-use exports also comes from the current logjam within the wider multilateral agreement which includes all EU member states. Any type of progress within the Wassenaar agreement mentioned above is currently blocked by the Russian Federation which opposes any new changes and prevents all the current members to update the old framework and feature novel technologies.

These developments prompted the EC to put forward its new White Paper on Export controls that drafts several suggestions for improving the currently existing EU Dual-Use Regulation from 2021. The Commission wants to improve the consultations process between member states before updating export controls lists and make sure that the Union collectively moves forward on the restrictions on dual-use items, especially in a global context of fast technological change.

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<sup>13</sup> The Coordinating Committee on Multilateral Export Controls (COCOM)

<sup>14</sup> Official Journal of the European Union (2021), *Regulation EU 2021/821 setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items (recast)*

<sup>15</sup> Bureau of Industry and Security (2022), *Commerce Implements New Export Controls on Advanced Computing and Semiconductor Manufacturing Items to the People's Republic of China (PRC)*, Press Release

<sup>16</sup> Alper, A. and Sheppardson, D. (2023), *U.S. official acknowledges Japan, Netherlands deal to curb chipmaking exports to China*, Reuters

The EC additionally wants to have an increased role in the negotiations of potential export controls and also expand the current EU control list of restricted item, together with better procedures and transparency on updating these items annually.<sup>17</sup> Finally, the Commission proposes bringing forward the evaluation of the current Regulation 2021/821 to early 2025 (instead of 2026) which signals the sense of urgency when it comes to providing the Union with a uniform set of rules on limiting the export of dual-use items internationally.

### *Outbound investment*

Together with its new proposals on FDI screening and export controls coordination, the latest January 2024 Economic security package by the EC puts forward a proposal for the monitoring of EU outbound investment. It appears that the Commission wants to approach all angles of economic risks and even cover the touchy subject of private investments in third countries. Here, the EC is not focusing on all potential outbound investment but rather a very narrow type of key technologies which might be used for enhancing the military or intelligence capabilities of hostile actors against global security. In late 2023, the EC recommended<sup>18</sup> that advanced semiconductors, advanced artificial intelligence systems, breakthrough quantum and biotechnologies be considered as of critical importance for the economic security of the Union. There has never been an official discussion about monitoring (or restricting) European outbound investment on the supranational level.

With the 2024 White paper on outbound investments the EC wants to push forward an EU-wide consultation due to the substantial knowledge gaps on the level of investments in advanced technologies, the potential risks and address the fact that there is no existing monitoring on national or EU level.<sup>19</sup> Currently there is an internal working group featuring member state experts followed by a consultation stage in 2024. In the next one year, the EC will also conduct an assessment together with national capitals to pinpoint the potential risks of certain outbound investments and what would be the most appropriate future measures.

This EC initiative is riddled with uncertainties due to the sensitivity and complexity of monitoring and analysing specific outbound investments. There are numerous questions regarding the potential scope of such initiative, access to reliable data and objectively assessing the long-term vulnerabilities. The willingness of certain member states or specific business communities to take part and openly share information on investment flows is far from certain. However, starting the discussion and objective risk assessment on outbound investment in key advanced technologies is an essential step in exposing risky

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<sup>17</sup> European Commission (2024), *White Paper on Export Controls*, COM(2024) 25 final, 12-13

<sup>18</sup> European Commission (2023), *Recommendation critical technology areas for the EU's economic security for further risk assessment with Member States*, C(2023) 6689 final

<sup>19</sup> European Commission (2024), *White Paper on Outbound Investments*, COM(2024) 24 final

trends and encourage European member states to consider additional measures at national or EU level.

### ***Enhancing R&D Support and European Research Security***

The EC wants to further improve the EU's standing on global competitiveness by expanding the scope of advanced technology research conducted in Europe. With its latest White paper<sup>20</sup> on options for enhancing support for research and development involving technologies with dual-use potential, the European executive wants to promote better spillovers between civil, defence and space R&D in the EU. Currently, landmark EU programmes like Horizon Europe or the European Defence Fund pursue ambitious goals and operate huge budgets but remain fragmented or managed in silos. The new EC White paper lays out different avenues for consideration before member states with the aim of scaling technology research and opening up opportunities for funding European programmes that can have defence or military application, not only civil. In essence, the EU recognises that global actors such as the US and China pursue their own strategies of military-civil fusion where defence companies, universities and research institutions collaborate on breakthrough innovation.

Finally, the January 2024 package includes a proposal for a Council recommendation on enhancing research security. This is prompted by rising concerns about specific knowledge and technology leakage from the EU to third countries. Even though research and education remain a national competence, the European Commission is sounding the alarm about international research collaborations. For example, for years now there have been allegations about Chinese espionage or deliberate research agreements with EU academic institutions which benefits Chinese interests.<sup>21</sup> The Netherlands has already considered legislative proposals for thorough checks on third-country PhD students which want to do technical research in Dutch universities.<sup>22</sup> The Commission is advising the inclusion of risk appraisals for research institutions and specific due diligence procedures when dealing with international projects. The Commission has also pledged to create a European centre of expertise on research security in order to provide guidance and best practices for European research organisations.

## **Cyber resilience**

During the current mandate, the European institutions demonstrated a growing ambition in the digital domain. From new rules against digital monopolies which disrupt fair competition online to regulating the use of AI across the continent, the EU is trying to set the global golden standard for novel regulation fit for the

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<sup>20</sup> European Commission (2024), *White Paper on options for enhancing support for research and development involving technologies with dual-use potential*, COM(2024) 27 final

<sup>21</sup> Aneta Zachova et al., (2023), *EU academia accepts Chinese money in return for know-how*, Euractiv

<sup>22</sup> Reuters (2023), *Dutch government to screen foreign PhD tech students, denies targeting China*

digital age. In parallel to these efforts, the European institutions have also made progress on the development of tools for common „digital defence“ that ensure a high-level of cybersecurity, protection of hardware devices and secure digital infrastructure. Notably, the EU updated its previous cybersecurity rules with the revamped NIS2 Directive which updated the current regulatory framework. The updated text aims to address the evolution of highly complex cyber threats, as well as protecting the expanding attack surface due to increased vulnerabilities from growing use of digital devices and software.

The EC's efforts to ensure better digital protection culminated in September 2022 with the proposal of the Cyber Resilience Act (CRA). The Regulation introduces a number of obligatory conformity assessments and stringent cybersecurity requirements by design and by default for most of the user products that have digital elements. Manufacturers are obliged to provide security support and the necessary software updates so that the whole European single market has the same basic protection for the majority of digital devices. The CRA has been approved by the European Parliament, but the text is yet to be formally adopted by the Council. The final confirmation of the text will likely come in the beginning of the new institutional mandate.

One must not assume that a high-level of software cybersecurity can guarantee the security and protect the interests of European users and businesses. In the age of ubiquitous connectivity, the European Commission actively tried to advise member states on strengthening the security requirements for network operators and avoid dependence on single suppliers of hardware services. This was specifically pertinent to 5 G network security where certain suppliers might be considered high-risk and pose a threat to core network functions or enable large-scale surveillance. The 5G security toolbox of 2020 specifically designed several recommendations for the roll-out of secure infrastructure which fulfils common security standards and makes sure that each member state has the same level of minimum protection. The EC even went so far as to recommend that member states avoid exposure to Chinese companies Huawei and ZTE which are considered as high-risk vendors.<sup>23</sup>

The current Commission has certainly set-up the fundamentals for Union-wide cyber resilience, but much remains to be done in the upcoming mandate. Implementation of these rules and overcoming the reluctance of all member states to step up remains a challenge. For example, even though the EC's 5 G toolbox clearly outlines the risks behind using untrusted vendors, just 10 EU countries have excluded risky suppliers from the digital networks.<sup>24</sup> There is a clear risk here with many of these member states becoming depended on only one specific network vendor and getting locked-in in the future. Given the complexity of 5 G networks, cloud infrastructure and growing in popularity

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<sup>23</sup> European Commission (2023), 5G Security: The EU Case for Banning High-Risk Suppliers, Statement by Commissioner Thierry Breton

<sup>24</sup> Kroet, C. (2024), *Most EU members not implementing Huawei, ZTE 5G ban, data shows*, Euronews

Internet of Things (IoT) devices the European executive must push forward additional tools and *ex ante* measures (standards and certifications) for protecting European interests.

Enhancing supranational tools in this domain comes from practical necessity. An expanded toolkit is necessary to limit the threats from compromised ICT products/services (and apps) which could serve the purposes of foreign adversaries. Here, the EC needs to consider a more comprehensive blueprint for digital deterrence. It would be interesting to observe whether the Commission pushes for better harmonization of software and app security. An ambitious idea for consideration is also the option for the EC to flag certain applications or software services as ‘malign’ or going against pre-defined European standards.

## Conclusion

For years now, „Strategic autonomy“ has become a trendy narrative and a widely debated theoretical concept. During the next EU institutional mandate, the EC should remain focused on concrete measures and add „more flesh to the bone“ by expanding the necessary toolkit for handling economic coercion and improving cyber resilience. These efforts would also correspond to the recent progress of novel supranational tools in the field of trade (e.g. the Anti-Coercion Instrument) or protecting the integrity of the single market (e.g. the Foreign Subsidies Regulation). All these proposals and new instruments send an important signal that European capitals are wary of the new types of challenges ahead and recognise the need for strengthened collective action in several important domains.

It is interesting to note that the EC is venturing in novel waters in sensitive areas which were historically solely the prerogative of European member states. Perhaps these developments lend support to authors such as Alan Milward who see pure economic necessities (or threats to economic interests) as the main reason for sovereign member states to „surrender“ certain competences to the supranational level.<sup>25</sup> Or we might consider more contemporary scholars such as Luuk van Middelaar who sees the EU as a community driven and changing mostly due to transformative world events, rather than norm-setting and institutional rules.<sup>26</sup>

Such a theoretical discussion remains outside the limits of the current article. What we can state with certainty is that all current and proposed EU policies on economic security and cyber resilience signal that the Union is adapting to a reality of increasing economic coercion, external threats and a dramatically changing geopolitical landscape. Only a nimble and ambitious legislative agenda in the next mandate can respond to such challenges.

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<sup>25</sup> Milward, A. (2000), *The European Rescue of the Nation State*, Routledge, 2<sup>nd</sup> ed., London

<sup>26</sup> Van Middelaar, L. (2020), *Alarums and Excursions: Improvising Politics on the European Stage*, Agenda Publishing

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# STRENGTHENING THE EU'S CRISIS MANAGEMENT FRAMEWORK: PATHWAYS TO INSTITUTIONAL RESILIENCE AND POLICY INNOVATION

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## *Abstract*

*In the face of escalating existential threats ranging from climate change and armed conflicts to digital disruption, this paper critically evaluates the European Union's (EU) crisis readiness, management and response mechanisms. By employing a comprehensive qualitative analysis, the study scrutinizes the EU's institutional architecture for threat identification, resource allocation, response prioritization, and policy implementation. The paper reveals pronounced vulnerabilities in the EU's approach to rapid response readiness and crisis management, underscored by challenges in ensuring Member State solidarity, cohesion, effective resource utilization and aligned decision-making. Drawing on these findings, the paper advocates for targeted institutional reforms and policy innovations designed to fortify the EU's structural and operational resilience against existential risks. This research contributes to the evolving dialogue on optimizing crisis management strategies in a supranational framework, offering actionable recommendations for strengthening the EU's adaptive capacity and policy responsiveness in an increasingly volatile global landscape.*

**Keywords:** EU Crisis Management, Institutional Resilience, Policy Innovation, Existential Threats JEL Classification: F55 - International Institutional Arrangements

## **Introduction**

The European Union (EU) is confronted with a multitude of existential crises that pose profound challenges to its stability, unity, and effective governance. These threats range from the escalating consequences of climate change, which have manifested in the form of extreme weather events, resource scarcity, and environmental degradation, to the resurgence of armed conflicts and geopolitical tensions on the continent and beyond. Additionally, the rapid pace

of digital transformation and technological disruption has exposed vulnerabilities in the EU's infrastructure, cybersecurity, and ability to adapt to the evolving digital landscape. As the global landscape becomes more volatile, the EU's ability to respond effectively to crises not only affects its internal stability but also its position on the global stage. Thus, assessing and enhancing the EU's crisis management mechanisms is critical to ensuring its future.

Examining the EU's crisis management capacity has become essential now for a variety of compelling reasons. First, the unprecedented nature and complexity of these crises demand a robust, coordinated, and agile response mechanism capable of effectively mobilizing resources, streamlining decision-making processes, and promoting solidarity among Member States. Second, the EU's institutional framework, originally designed for economic integration and policy harmonization, is experiencing significant strain under these multifaceted and rapidly changing threats. Third, the failure to address these crises promptly and effectively could undermine the EU's credibility, erode public trust, and worsen existing socio-economic and political divisions both within and among Member States.

Against this backdrop, this paper aims to achieve three primary objectives:

1. Conduct a comprehensive qualitative analysis of the EU's current institutional architecture for crisis management, including threat identification, resource allocation, response prioritization, and policy implementation mechanisms.
2. Identify critical vulnerabilities and shortcomings in the EU's approach to rapid response readiness and crisis management, focusing on challenges related to ensuring Member State solidarity, cohesion, effective resource utilization, and aligned decision-making processes.
3. Propose targeted institutional reforms and policy innovations designed to strengthen the EU's structural and operational resilience against existential risks, thereby enhancing its adaptive capacity and policy responsiveness in an increasingly volatile global landscape.

By addressing these objectives, this research seeks to contribute to the evolving dialogue on optimizing crisis management strategies within supranational frameworks. Ultimately, the paper aims to offer actionable recommendations for strengthening the EU's ability to navigate and mitigate the profound challenges posed by climate change, armed conflicts, digital disruption, and other existential threats in a coordinated and effective manner.

## **1. Background and context**

The European Union's crisis management architecture takes a sectoral approach, with capacities divided across many institutions and policy domains. The framework lacks a centralized, cross-cutting structure since crisis manage-

ment capabilities are largely structured per sector, such as transportation, health, cybersecurity, and civil protection (Backman & Rhinard 2018).

The European Commission serves as the central coordinating body, housing most crisis management capabilities across its various Directorates-General. The Commission's Emergency Response Coordination Centre (ERCC) acts as the focal point for coordinating the EU's response to crises.<sup>1</sup> Complementing the Commission's role, the Council of the EU also has crisis management mechanisms, notably the Integrated Political Crisis Response system within its General Secretariat.<sup>2</sup> When examining the EU's specific capacities, there is a pronounced emphasis on detecting threats and making sense of situations. The EU has developed numerous early warning systems, monitoring tools, and information-sharing platforms tailored to specific threats like pandemics, natural disasters, and cybersecurity incidents. These capabilities aim to recognize threats in a timely manner and create a shared understanding of the situation (Backman & Rhinard 2018).

In contrast, the EU's direct decision-making powers during crises are relatively limited. The EU's role is primarily oriented towards coordinating the crisis response efforts of Member States, EU institutions, and relevant international organizations. This coordination function is conducted through mechanisms like the ERCC, ad-hoc crisis coordination cells, and sector-specific entities like the Health Emergency Preparedness and Response Authority (HERA).<sup>3</sup> The framework also encompasses capacities for analysing situations, communicating, and ensuring accountability. These include crisis communication protocols, public messaging strategies, and procedures for providing accounts and facilitating lesson-learning after crisis events.

Overall, the EU's crisis management framework exhibits a sectoral orientation, with the Commission acting as the central node supported by Council mechanisms. While detection and coordination capacities are well developed, direct decision-making powers remain constrained, reflecting the EU's role as a facilitator of coordinated crisis response among its Member States and stakeholders.

In recent history, the European Union (EU) has faced several major crises that have tested its crisis management frameworks and resilience. Notably, the 2008 financial crisis, which originated from a global financial meltdown, severely impacted EU economies, leading to high unemployment rates and economic stagnation. The EU's response included stringent austerity measures and financial bailouts coordinated by key EU institutions and the International Monetary Fund. This response was met with mixed outcomes; while it stabilized economies, it also sparked widespread social unrest and political fallout due to the perceived harshness of austerity measures.

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<sup>1</sup> See for more details Decision No 1313/2013/EU of the European Parliament and of the Council of 17 December 2013 on a Union Civil Protection Mechanism available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02013D1313-20231218>

<sup>2</sup> See for more details Minard 2022.

<sup>3</sup> See for more details on recent reforms of EU's health crisis governance mechanism Renda et al. 2023.

Another significant challenge was the 2015 migration crisis, where the EU faced unprecedented inflows of refugees fleeing conflicts in Syria, Iraq, and other regions. The crisis exposed the EU's shortcomings in handling sudden, large-scale humanitarian needs, as well as disparities in Member State capacities and willingness to absorb refugees. The initial ad hoc responses evolved into more structured measures such as the EU-Turkey deal and the controversial quota system for distributing asylum seekers among Member States, highlighting the need for more coherent and unified policies.

The COVID-19 pandemic exposed vulnerabilities in the EU's crisis management framework, particularly in the initial stages of the outbreak. Member States initially implemented uncoordinated border closures and export restrictions on essential medical supplies. However, as the pandemic progressed, the EU took steps to facilitate joint procurement of vaccines and medical equipment, and established mechanisms for information sharing and coordination among Member States. Key lessons included the need for stronger crisis decision-making structures, improved supply chain resilience, and better coordination of public health measures across the EU.

In Georgiev 2023's analysis, the multi-faceted crises affecting Europe have highlighted the varied political attitudes among EU citizens, both within individual countries and across the bloc. These crises, including those related to the Eurozone and migration, have exacerbated rather than minimized these disparities, due to the EU's inconsistent institutional responses. Such reactions have also intensified strategic uncertainty, challenging the perceived competence of the EU's institutional framework. Georgiev 2023 outlines the EU's typical crisis response process as follows:

- Crises onset unexpectedly, catching specialized EU early-warning agencies or systems off-guard;
- The European Commission and Council initially respond rapidly with public statements, dialogues, and proposals for emergency policy measures;
- The Commission's ambitious initiatives are prematurely leaked to the media, eliciting backlash from national leaders and key groups;
- Leaks of intense European Council debates further politicize the issues;
- France and/or Germany often lead by rallying a coalition to forge consensus within the Council;
- Resolutions are eventually reached that avoid significantly altering the financial status quo for conservative or Eurosceptic Member States;
- New organizations are established over which national governments maintain substantial control (Hodson and Puetter 2019);
- The European Parliament functions more to mitigate political fallout than drive new initiatives.

## 2. Methodology

This study employs qualitative methods to examine the EU's crisis management capacities. Regarding early warning, an extensive mapping catalogued existing detection and monitoring mechanisms across sectors. Evaluations assessed these systems' effectiveness based on past performance and expert assessments. Gaps were identified by comparing against known threat profiles and factors like information sharing.

For resource mobilization, the research documented procedures and instruments for pooling resources (financial, medical, civil protection, etc.) during crises. Case studies evaluated the mechanisms' scalability and rapid response. Challenges impeding efficient deployment across states were explored through reviewing decision protocols, legal bottlenecks, and past instances of delayed or contested resource allocation.

To assess policy implementation and coordination efficacy, the study also utilized the previously developed mapping of the EU's crisis management policy frameworks across relevant sectors. The investigation into the implementation and coordination of crisis management policies at the EU level involved a review of legislative and regulatory frameworks governing EU crisis response mechanisms.

This mixed-methods design enables a holistic and rigorous examination of the EU's crisis management capacities across the critical domains of threat identification, resource mobilization, and coordinated policy implementation while accounting for perspectives from diverse stakeholders and sectoral contexts.

## 3. Analysis of the EU's Crisis Management Capacity

This section reviews EU's capacities in three key areas - crisis identification, resource allocation, and policy implementation. Specific findings for each area are presented in abbreviated form below due to space limitations.

### 3.1. Crisis Identification and Early Warning Systems

The EU has developed an extensive early warning system network spanning almost every policy domain from health to energy, border control, cybersecurity and more - over 80 systems in total. Mechanisms are in place under the Union Civil Protection Mechanism (UCPM) to identify and prepare for major disaster risks through activities like national risk assessments, a multi-state disaster risk overview document, and prevention projects. However, evaluations<sup>4</sup> have

<sup>4</sup> Interim Evaluation of the implementation of Decision No 1313/2013/EU on a Union Civil Protection Mechanism, 2017-2022, available at [https://ec.europa.eu/echo/files/evaluation/2024/report\\_interim%20evaluation%20of%20the%20implementation%20of%20decision%20no.%2013132013eu%20on%20a%20union%20civil%20protection%20mechanism%20v1.pdf](https://ec.europa.eu/echo/files/evaluation/2024/report_interim%20evaluation%20of%20the%20implementation%20of%20decision%20no.%2013132013eu%20on%20a%20union%20civil%20protection%20mechanism%20v1.pdf)

found that more work is needed to comprehensively assess potential existential threats facing the EU holistically. While the UCPM has enhanced preparedness through tools like the European Civil Protection Pool, rescEU capacities, training, exercises and early warning systems (EWS), gaps in the EWS were identified requiring improvements. Specifically, expanding hazard coverage, improving data quality control, utilizing innovative data sources, and better integrating information across EU and national EWS to reduce fragmentation. Bernal et al. 2023 highlight several key gaps and challenges related to early warning within the EU's emergency response and civil protection mechanisms. A lack of common approach in public disaster early warning is a major issue, with technical, procedural and outdated alert system problems in some regions. Misinformation spread is also a common emergency challenge. Most detection capacities are sector-specific rather than cross-sectoral, with few mechanisms operating across policy boundaries to identify transboundary, complex threats. Consolidating and coordinating the numerous sector-specific detection systems remains difficult, with some suffering from inadequate information sharing among states (Backman & Rhinard 2018).

In summary, while the EU has substantially enhanced threat identification mechanisms, gaps remain in developing holistic cross-sectoral approaches, consolidating efforts, translating early warnings into decisions, and proving effectiveness during actual crises. Continued evolution is likely needed for transboundary, complex threat landscapes. Importantly, elevating an issue from „risk“ to „threat“ seems a constructed process based on expert/bureaucratic analyses, potentially influenced by organizational biases or political factors. The focus appears more on monitoring risks and escalating threats rather than examining root causes that may lead to existential dangers long-term (Bengtsson et al. 2018).

### **3.2. Resource Mobilization and Allocation**

The EU has mechanisms in place to mobilize and allocate resources when issues escalate to „serious cross-border threats“, as identified through its expansive early warning network. The Early Warning and Response System (EWRS) serves as a hub coordinating national responses and sharing risk assessments. However, achieving synchronized resource mobilization across 27 Member States poses challenges. Past incidents like COVID-19 saw some countries prioritizing national stockpiling over collective European interests. Data protection laws, varying threat perceptions, and political factors can hinder full information sharing and consensus on deploying EU crisis resources. The EU's competences rarely allow direct crisis intervention on the ground. Coordination challenges arise given the numerous actors involved across EU institutions, Member States, agencies, etc., potentially leading to gaps or overlaps. Overcoming such obstacles to burden-sharing remains a key test of the Union's crisis response capacities. Pre-existing political agendas can also impact crisis responses and respective resource allocations when shocks cannot

be blamed on specific institutional deficiencies (Fifi 2024). Additionally, a „blame game“ can arise post-crisis, with national and EU officials blaming each other for failures, hampering accountability and future coordination (Backman & Rhinard 2018). Investment in prevention initiatives is widely needed, including disaster risk management provisions across all relevant EU funding instruments and programmes.

Political divisions on crisis burden sharing and resource allocation remain in the EU Council, particularly between members of the „frugal“ coalition<sup>5</sup> and the other Member States, on future developments. How things work out in the future depends in large measure upon whether the Resilience and Recovery Facility proves successful in spurring growth while clearly being effective, efficient, and devoid of corruption (Schmidt 2022). While EU public debt is no novelty, it is a highly contested subject when its aim is to finance national budgets, public expenditures and investments, or when its guarantee and repayment structures foresee any major actual or potential transfer of resources among Member States (Eisl & Tomay 2023).

In summary, while the EU has developed tools and processes to mobilize resources for cross-border crises, their effectiveness depends on harmonizing the actions of individual Member States. Striking this balance between EU-level mechanisms and securing buy-in from sovereign states remains an ongoing challenge in operationalizing the Union’s crisis management frameworks. Continued efforts are likely required to enhance Member States coordination when mobilizing resources to mitigate serious threats.

### **3.3. Policy Implementation and Coordination**

The EU manages crises through a combination of institutional and interstate solidarity. Institutional solidarity involves vertical measures coordinated by EU institutions like the European Commission and the European Central Bank, exemplified by financial aids such as the NGEU recovery package and the SURE program.<sup>6</sup> Interstate solidarity encompasses horizontal cooperation between Member States, such as sharing medical supplies and facilities during COVID-19. At the EU level, crisis management and crisis governance are distinct response modes. Crisis management involves reactive, ad-hoc measures addressing immediate crisis issues. Crisis governance entails more structured actions, equipping the EU with systematic future response tools. During crises, individual states take direct coercive actions for urgent needs, while the EU coordinates efforts mitigating negative spillovers and providing cross-border benefits (Lord et al. 2023). However, emergency measures tend to be adopted with little democratic input from European citizens, while national parliaments and the EP remain largely side-lined (White 2023). The transition from crisis

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<sup>5</sup> The Netherlands, Denmark, Austria and Sweden.

<sup>6</sup> Council Regulation (EU) 2020/672 of 19 May 2020 on the establishment of a European instrument for temporary support to mitigate unemployment risks in an emergency (SURE) following the COVID-19 outbreak.

management to governance can involve developing new governance toolkits, as seen in EU sovereign debt crisis responses leading to economic, fiscal and banking supervision reforms. Several issues impede effective policy implementation and coordination. First, the EU's response can be fragmented due to varied competencies across policy areas. The complex decision-making process can delay and dilute response intensity when seeking broad consensus among diverse members (Roos & Schade 2023). Conflicts arise from competing national interests and ambiguous public solidarity perceptions within and between states (Georgiev 2023). Uneven crisis impacts and contentious resource allocation can further hinder coordination, exemplified by initial competition for medical supplies during COVID-19. Variability in administrative and financial state capabilities affects uniformity and effectiveness of EU-wide measures (Fossum & Lord 2023).

In summary, the EU often finds itself in permanent crisis management mode, with short-term responses and shifting common priorities (Kreuder-Sonnen 2023; Roos & Schade 2023). This is exacerbated by rising Euroscepticism increasing political tensions and complicating consensus. Past economic constraints like the Eurozone crisis led to budget cuts hindering new crisis response financing. Additionally, the EU's institutional framework sometimes struggles to adapt quickly and effectively to crises.

## **4. Recommendations for Institutional Reform and Policy Innovation**

Building upon the preceding analysis of the EU's capacities in crisis identification, resource mobilization, and policy coordination, this section provides recommendations to bolster institutional resilience and drive policy innovations that can strengthen the EU's overarching crisis management framework. Given space constraints, these recommendations are presented in a concise, bulleted format:

### **4.1. Strengthening Institutional Resilience**

- Establish an overarching, cross-sectoral mechanism for threat identification and early warning, consolidating efforts across various policy domains to detect transboundary, complex threats more effectively;
- Streamline decision-making processes and reduce fragmentation in crisis response by clarifying competencies and coordination mechanisms across EU institutions, agencies, and Member States;<sup>7</sup>
- Develop flexible policy frameworks that can be quickly adapted as new information becomes available or as the situation evolves, reducing the time between recognition of a crisis and policy response;<sup>8</sup>

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<sup>7</sup> See for specific reform proposals White 2023 and Kreuder-Sonnen 2023.

<sup>8</sup> E.g., by broader use of delegated acts or open method of coordination.

- Improve mechanisms for real-time data sharing among Member States to overcome the challenges posed by diverse data protection laws and political factors, facilitating a more cohesive approach to crisis management;
- Enhance the role of the European Parliament and national parliaments in crisis governance to increase democratic legitimacy and public trust in crisis responses;
- Develop a more robust burden-sharing framework that incentivizes equitable resource allocation among Member States during crises;<sup>9</sup>
- Assess and strengthen the administrative, technical and financial capabilities of Member States to ensure uniform implementation of EU-wide crisis response measures;
- Prioritize addressing root causes that may lead to the so-called existential threats over the long term, rather than solely focusing on monitoring and escalating immediate threats;<sup>10</sup>
- Develop mechanisms to counter the spread of misinformation, rumours, and fake news during crisis situations, which can exacerbate threats;
- Foster greater societal resilience by promoting public awareness, preparedness, and active engagement in crisis management efforts;
- Strengthen international cooperation and coordination with global partners to address transnational threats and enhance collective resilience.

## 4.2. Advancing Policy Innovations

- Establish a dedicated innovation fund or program to support research, development, and piloting of cutting-edge technologies and approaches for crisis management;
- Encourage partnerships between government agencies, academia, and private sector companies to leverage cutting-edge technology and expertise in developing solutions for crisis management and response;
- Adopt regulatory sandboxes or controlled environments where innovative approaches in crisis management can be tested without the usual constraints of full regulatory compliance, allowing for faster innovation and adaptation;
- Embrace agile methodologies, such as rapid prototyping and iterative development, to quickly test and refine crisis management solutions;
- Encourage cross-disciplinary and cross-sectoral approaches, bringing together diverse perspectives and expertise to tackle complex crisis challenges;

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<sup>9</sup> E.g., by broadening the scope of the European Civil Protection Pool and rescEU by including more comprehensive disaster and crisis scenarios, coupled with enhanced funding and resources.

<sup>10</sup> See as a starting point the classification of crises developed by Søgaard Jørgensen et al. 2024.

- Create platforms for sharing best practices and innovations in crisis management across EU Member States and with international partners to ensure continuous learning and improvement in policies and practices;
- Ensure ongoing training and capacity-building programs for policy-makers and crisis managers to keep them updated on the latest tools, technologies, and methodologies;
- Regularly review, assess, audit and update crisis management policies, strategies, and frameworks to adapt to emerging trends, technologies, and evolving threat landscapes.

## Conclusion

This study has provided a comprehensive analysis of the European Union's capacities in crisis management, specifically focusing on crisis identification, resource allocation, and policy implementation. A key finding is that while the EU has developed robust mechanisms and infrastructures for crisis management, including an extensive network of early warning systems and coordinated resource mobilization strategies, significant gaps remain. These include fragmentation in early warning systems, inconsistencies in resource allocation due to political and national priorities, and often reactive rather than proactive crisis management approaches. The existing frameworks, while relatively comprehensive, require enhancement to cope with the complex and trans-boundary nature of modern crises.

The proposed reforms and innovations aimed at enhancing the EU's crisis management capabilities are vital for building a more resilient Union. Institutional reforms such as centralizing early warning systems, establishing unified crisis response frameworks, and enhancing information sharing mechanisms can streamline responses and reduce the time to action in crises. Moreover, promoting innovation through public-private partnerships, regulatory sandboxes, and investment in advanced technologies like AI for predictive analytics could significantly improve the EU's ability to anticipate and mitigate crises. These enhancements are not merely incremental; they represent transformative shifts towards a more integrated and agile crisis management system.

This paper underscores the importance of continuous learning and adaptation in crisis management. As the nature of crises becomes increasingly complex and transboundary, future research should explore cross-disciplinary approaches to tackle multifaceted risks and threats.<sup>11</sup> Longitudinal studies evaluating the effectiveness of implemented crisis management reforms and innovative solutions can provide valuable insights for iterative policy development. Furthermore, comparative analyses with other regional or global crisis management frameworks could yield best practices and opportunities for international cooperation in fostering collective resilience.

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<sup>11</sup> See in particular Bergman-Rosamond et al. 2022.

In conclusion, enhancing the EU's crisis management framework is critical for addressing current deficiencies and preparing for future challenges. By implementing targeted reforms and promoting innovation, the EU can enhance its crisis response efficacy, ultimately leading to a stronger, more resilient Union. This paper provides a roadmap for such advancements, with broad implications for policy development and future research in EU crisis management and resilience strategies.

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# PROGRAM PERIOD 2021-2027 – MAIN TRENDS IN THE EU FUNDS MANAGEMENT IN BULGARIA

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## *Abstract*

*In the context of cohesion policy, as a member of the European Union, the Republic of Bulgaria needs to achieve a sustainable pace of reducing differences by improving: the quality of infrastructure; investment in human capital; raising standards in education and health care; maintaining the quality of the workforce; removal of administrative and market obstacles in order to stimulate entrepreneurship and investments; ensuring balanced territorial development. The realization of these goals can be achieved through the financial assistance from European funds. The degree and quality of absorption of funds from them in Bulgaria are of great importance for the implementation of structural reforms aimed at increasing the competitiveness of the Bulgarian economy, development of the regions and acceleration of the convergence process. The present study aims to analyse the main trends in the EU funds management in Bulgaria during program period 2021-2027.*

**Keywords:** EU funds, cohesion policy, management, challenges, Bulgaria

## **Introduction**

The cohesion and regional development policy is aimed at reducing the differences in the economic and social development of the member countries and their regions. It involves the transfer of resources between countries through the EU budget, to support economic growth and sustainable development by investment in people, the economy, infrastructure, employment and innovation. The concept of convergence at the European level does not consist in the redistribution of income but can be characterized as a dynamic process aimed at creating resources by stimulating competitiveness and employment. European funds are the main financial instruments of this policy. They are an important source for absorbing various „asymmetric shocks“, which are the

result of the differences in the historical and political development of the countries and regions in the EU. The activity of the funds in the Member States takes place in the form of programmes. They highlight the main problems in the socio-economic sphere and inherently support the government policy needed to solve them.

A key factor for the implementation and realization of the regional policy is the long, complex and controversial process of European integration. The preamble of the Treaty of Rome (for establishing the European Economic Community) defines the need to „reduce disparities between different regions and the backwardness of disadvantaged regions“, because harmonious development and the reduction of imbalances is a way to achieve the fundamental objectives of the Community. To achieve this goal, the financial instruments European Social Fund and European Agricultural Guidance and Guarantee Fund were created. The first enlargement of the EU acts as a shock to the Community and proves that the measures taken are not enough to overcome the differences and clearly defines the need for a policy of solidarity to integrate the newly admitted countries. During the negotiations for this first enlargement, it was agreed to develop new instruments to overcome regional imbalances. To begin with, the ESF was reformed to provide an instrument linking social policy and other Community policies, and in addition, the European Regional Development Fund was created as a redistributive instrument. Regional politics became even more important with the accession of Greece, Spain and Portugal. The need arises for taking actions for overcoming the differences. An action plan is adopted which doubles the amounts for the Structural Funds for the period 1989-1993 (First „Delor's Plan“).

With the Maastricht Treaty for the establishment of the economic and monetary union and the introduction of convergence criteria, a potential conflict arises for the development of the poorest countries. On the one hand, they need to invest heavily to reduce their lag behind others and increase their growth potential. This requires significant additional investment to expand, improve and modernize the infrastructure. On the other hand, countries must reduce their budget deficits and strictly control public spending, with a view to joining the Economic and Monetary Union. The solution to this problem was found through the creation of the Cohesion Fund. For the period 1993-1999, Community funds aimed at the poorest countries were increased again (Second „Delor's Plan“).

During the next enlargement of the EU to Central and Eastern Europe, the significant and incomparable disparities, not just between regions, but between entire countries, come to the fore. Regardless of these facts, in 2001 the countries agreed that, unlike previous enlargements, they would not allow any increase in the overall level of structural funds available. Subsequently and during the EU enlargement in 2007, with the admission of Romania and Bulgaria, it was not accompanied by a significant or proportional overall increase in the level of structural funds within the EU budget.

In the context of the examined historical situation, in 2007 the implementation of the first programs for the country began in Bulgaria. As a full member of the European Union, the country must achieve a sustainable rate of reduction of differences by improving: the quality of infrastructure; investment in human capital; raising standards in education and health care; maintaining the quality of the workforce; removal of administrative and market obstacles in order to stimulate entrepreneurship and investments; ensuring balanced territorial development. Achieving these goals can be implemented through the financial assistance of European funds. The degree and quality of the absorption of funds from them in Bulgaria are of great importance for the implementation of structural reforms aimed at increasing the competitiveness of the Bulgarian economy, development of the regions and acceleration of the convergence process. For this reason, the current article aims to analyse the main trends in the EU funds management in Bulgaria during the program period 2021-2027.

## **EU regional policy – general characteristics and trends**

Regional policy can be defined as investment policy because it supports the creation of jobs, competitiveness, economic growth, improvement of the quality of life and sustainable development. It is an expression of the EU's solidarity with less developed countries and regions. In the process of its structuring, four key principles for its implementation were formulated:

- Concentration – consists of three aspects. The first is the concentration of resources – most structural funds are allocated to the poorest regions and countries. The second concentration of efforts – directing investments to main priorities for achieving growth. The last concentration of costs – at the beginning of each program period, annual funding is determined for each program.
- Programming – the cohesion policy does not finance individual projects, but multi-annual national programs in line with the aims and priorities of the EU.
- Partnership – each program is developed through a collaborative process between European, national and/or regional and local authorities, social partners and civil organizations.
- Complementarity – financing from the structural funds cannot replace the national expenditure of a member state.

In recent years, the general trends in the development of regional policy have been in the direction of simplifying procedures, reducing the administrative burden, focusing on results and speeding up the process of disbursement of funds. This can be traced in Table 1, which highlights the main changes in the approach.

**Table 1**  
**Main trends in the EU funds management in Bulgaria**

	<b>2014-2020</b>	<b>2021-2027</b>
<b>Priorities</b>	11 thematic objectives and many priorities	5 main goals
<b>Transfers between funds</b>	Forbidden	Allowed under certain conditions
<b>Monitoring</b>	ADR <sup>1</sup> and presentation of financial information 3 times a year	Presentation of financial information 5 times a year
<b>Financing</b>	Recommending SCO's <sup>2</sup>	Focus on SCO's
<b>Verification</b>	-	Risk-based sample management verifications
<b>Control</b>	The same beneficiary can be audited by different audits	„Single audit principle“

In what follows, the reflection of these trends at the moment in the management of EU funds for Bulgaria will be traced, as they are systematized in the following key areas: strategic planning, regulatory framework at the national level, financial management and administrative capacity.

### **Strategic planning**

Regional policy in the country is above all a priority of the central government. For this reason, when developing the strategies for balanced and sustainable development of the regions, the participation of local authorities and regional administrations is negligible. Thus, local communities are deprived of the opportunity to influence this type of policy and to defend their development priorities and ideas. This centralized management model does not stimulate activity and limits the possibility of deploying effective local and regional initiatives. It is necessary to take measures to rethink this model and build a new system of rules in the relations between the local and central authorities based on the principles of decentralization.

In strategic terms, despite the presence of program documents, there is a lack of commitment to municipal and regional development plans. This leads to a loss of connection between the local and central level and a divergence between the set goals. Thus, the lack of a second level of local self-government (regional administrations are deconcentrated structures of central authority) that would systematize and prioritize the needs of the population clearly stands out.

<sup>1</sup> Annual Development Reports

<sup>2</sup> Simplified Cost Options

In connection with the above, it can be summarized that, first, the country must have authentic and consistent national and sectoral policies and financial interventions, which at the same time must also be oriented towards the direction set by the EU. However, there is still inconsistency and uncertainty in the preparation and implementation of public policies in Bulgaria. The need for a clear strategic vision at the national level arises from the fact that the program cycle approach is a process in which programming is tied to national policies implemented in parallel and to the strategic choices made by the respective member country.

The approach of regional development and spatial planning imposes the need for consistency of programs with plans and strategies for regional development, as well as with their specific implementation mechanisms. It is necessary to closely link the work on the programs with the process of preparing the territorial plans and strategies, as well as with the ongoing management initiatives and sector-oriented policies. The purpose of the regional and territorial partnership at the programming stage is subordinated to the more general functions of this phase (identification of priorities, planning of financing and organization of management and control systems). The inclusion of regional needs, priorities and independent resources is necessary to take them into account in the more general set of activities of the operational programs, as well as to lay the basis for the territorial distribution of future interventions.

There are two main approaches to regional interventions – top-down and bottom-up. In the top-down approach, the priorities and specific interventions for regional development are formulated and assigned at the central level, descending to the territorial state divisions and local self-government bodies as non-negotiable requirements. This approach is leading for Bulgaria, as the study of current territorial needs is often quite limited or absent. As a result, the planned interventions are limitedly adequate and for this reason the interest and voluntary contribution of the local communities and initiative groups is minimal. In the bottom-up approach, the beginning of the planning process is placed among local communities and initiative groups (primarily based on their needs) and local self-government bodies. In order to successfully implement the bottom-up approach, the following challenges need to be overcome:

- To create purposeful and feasible municipal and district strategies to be used in the overall programming process. There is still a lack of consistency and continuity between levels in the preparation of strategic documents.
- Linking programming with the territorial and spatial planning process. The determination of authentic priorities, their regionalization and the related territorial distribution of support. To overcome the chronological gap in time between individual planning processes and the impossibility of regional planning to formulate common guidelines to be used in programming at the national level.

- Introducing models, procedures and approaches that ensure perspective and alignment with national and local priorities, real and equal opportunities for all beneficiaries.
- Carrying out a process of decentralization and effective application of the principle of subsidiarity. Decentralization needs to be implemented not only at the administrative level, but also at the financial level. Municipalities, and to an even greater extent regional administrations, are not financially independent and rely on transfers from the central budget. The budget model of the country does not stimulate effective regional planning and is an obstacle to the realization of many of the planned tasks and projects.
- Development of the regions in Bulgaria: the problems of the „centre-periphery“ type. They are expressed in the existence of significant differences in the economic and social indicators between the municipalities forming one district. This phenomenon is common throughout Bulgaria. Especially affected by it are border territories, rural municipalities, areas of industrial restructuring and those where the population is mainly from ethnic minorities.
- Investing in all regions – overcoming the phenomenon – concentration of financing in the city of Sofia. A negative trend towards an increase in differences in the development of individual regions in the country shall be tackled.

## **Regulatory framework**

In the previous paragraph, an overview of the strategic planning of the process regarding the absorption of the funds from the European union during a program period was made, which gives a basic vision for its realization. But for it to be effective, the legal framework at the national level is of great importance.

Legislation in the field of European funding in Bulgaria during the 2007-2013 program period is at the sub-legislative level and fragmented. It consisted of multiple acts, resulting in a lack of a unified approach to program management. This situation has created a significant administrative burden and delays in processes. The frequent changes in the regulations, the different rules for the individual funds and programs, the various instructions from the competent authorities during the specified program period are an obstacle for every single stage of the preparation, implementation and management of the programs and the projects financed under them. Conditions are created for the unpredictability of the environment in terms of the implementation rules, which is reported as a weakness of the overall management and control system in a report of the Audit Chamber on the audit of the management systems of the Structural and Cohesion Funds of the European Union from 2013. During the mentioned period, there is a lack of a unified, flexible and easy-to-understand and implement approach

to program management. Individual managing authorities, within different departments, use different procedures in the implementation of projects and programs, which makes it difficult to take common measures to effectively optimize and simplify the processes of planning, management, monitoring and control of funds, which makes it difficult, as the administration itself, as well as the beneficiaries. These facts justified the need for public relations related to management activities, including coordination, implementation, monitoring and control of the funds granted to Bulgaria by the European Structural and Investment Funds, to be regulated by a special law. The adoption of the law related to the management of funds from the European structural and investment funds leads to the creation of structured rules for the management and control of the programs and overcoming the challenges described in the transitional paragraph.

From a normative point of view, the implementation of legislation in the field of public procurement appears as a serious challenge. The lack of experience in the public contracting authorities and the frequent normative changes in the basic Law on Public Procurement led to the conduct of illegal procedures and the determination of financial sanctions.

## **Financial management**

In addition to clear regulations, to ensure the legitimate use of funds and to prevent, detect and correct irregularities, it is necessary for each member state to build effectively functioning financial management mechanisms and financial control procedures. In Bulgaria, during the first program period, a four-tier system for financial management and control was created, which is preserved even in the current program period.

The first level of financial control in relation to public funds is the internal control systems built by those managing them. They are part of the internal written procedures for the activities of these bodies, reflecting the requirements for effective management and control according to the applicable European and national legislation.

The second level of financial control is the performance of an internal audit. According to the Law on Internal Audit in the Public Sector, every organization that disposes of funds from the budget and programs and funds of the European Union should have internal auditors. The internal audit is carried out in accordance with Bulgarian legislation and internationally accepted standards for internal auditing. By its very nature, internal auditing assesses legality and compliance with the principles of effectiveness, efficiency and economy. The third level is the sample checks of transactions and audits regarding EU funds carried out by the executive agency „Audit of European Union funds“. The fourth level is the independent external audit, which is carried out by the Court of Auditors or the European Court of Auditors.

The specified organization of the process allows the implementation of effective control over the spending of the funds, while not hindering or limiting the process of their absorption. As can be seen from Table 2, the average financial implementation of the programs reaches 96,9%.

**Table 2. Performance of the Programmes (2014-2020 period)**

Prog- ramme	Programme Budget	Contracted Amounts **		Actual amounts paid	
		Total	Grant	Grant	%* <sup>3</sup>
OPTI	3449175447,24	6379425986,89	3757767808,59	3264529433,09	94,65
OPE	3263311367,47	4297827420,06	3463296238,10	3000422883,94	91,94
OPRG	3128660666,89	3494675887,06	3262561906,60	2934754884,00	93,80
OPIC	3237729879,72	4381260818,28	3401702952,86	3193358984,26	98,63
OPSESG	1349999954,93	1449446233,67	1449446233,67	1297990847,73	96,15
OPHRD	2683052921,34	2956693542,10	2934816708,99	2659494660,13	99,12
OPGG	547353851,49	564721980,60	564721980,60	538614200,54	98,40
OPF	316603248,00	316536714,72	316536714,72	316535425,93	99,98
OPSMEI	199494660,00	199494660,00	199494660,00	199494660,00	100,00

*Source<sup>4</sup>: Information System for Management and Monitoring of EU Funds in Bulgaria*

## Administrative capacity

The last key area that is the subject of research is the administrative capacity – the human resource that is needed to implement all the processes. Although the third program period is currently being implemented in the country, insufficient administrative capacity is still observed at every level of government. The reason for the deepening of the mentioned phenomenon is the appearance of new responsibilities and commitments related to the management of the National Recovery and Resilience Plane. The situation is also complicated by the frequently changing structure of the bodies responsible for absorbing EU funds, which is characteristic of the first two program periods. Typical of the political reality in Bulgaria is closure and restructuring of administrations, difficult continuity between individual political cabinets and difficult communication between individual departments. In addition, a serious

<sup>3</sup> Note:

\* - % of the total programme budget

\*\* - Total includes grants and co-financing by the beneficiary

The budget includes the performance reserve in the amount of 6%

All amounts are in Bulgarian lev (BGN) / 1 EUR = 1,95583 BGN

<sup>4</sup> The data is available online in the following link: <https://2020.eufunds.bg/en/0/0>

challenge is the lack of experience and capacity among the beneficiaries regarding project management.

## **Prospects and challenges – conclusion**

The identified challenges of a legislative, organizational and managerial nature are the result of the overall political, economic and social situation in the country. Based on in-depth analyses and reforms, it is possible to overcome weaknesses, correct errors and manage operational programs more successfully in the new programming period 2021-2027, which will improve the process of absorption of funds from EU funds.

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# THE ROLE OF EU PROGRAMMES FOR BOOSTING INNOVATIONS

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## ***Abstract***

*The article explores the attempts to answer the research question: Are the odds of engaging with innovation activities higher in companies who implement EU projects? Based on mixed methods of empirical data collection we find out that EU projects increase statistically the likelihood of innovation. The highest differences are observed in process innovations, followed by product and marketing innovations. There is no difference in organizational innovations.*

**Keywords:** EU funds, Innovation, Impact, SMEs, Bulgaria

## **Literature review**

### **Impact of the innovation support**

The positive impact of EU innovation funding on companies' innovation activities has been confirmed by a number of theoretical and empirical studies (Čučković & Vučković, 2018). The authors claim positive effect on incentivizing innovation activities, output, and business performance of SMEs.

Targeted research (see Innovation.bg 2023: Innovation and Sustainable Growth, Applied Research and Communications Fund, 2023) highlights that funding research and innovation „is a measure of the investment in the creation, use and dissemination of new knowledge in the public and business sectors. It is considered an indirect indicator of the innovation capacity of the national economies in future periods“. Other key studies highlight that innovations are the basis for sustained competitive economic development nationwide and globally. It finds that bigger companies with more solid financials tend to invest more in innovations (Grossman & Helpman, 1991) while small and medium enterprises (SMEs) remain on the arena facing challenges to attract credit, venture and grant funding (Simeonov, 2015).

Bringing innovations to live (regardless of them being product, process, marketing, organisational) is heavily dependent on the budget and resources allocated for them (on research and development (R&D) mainly).

This thesis is also supported by local research for Bulgaria on factors that hinder companies' innovation, namely that companies find direct innovation costs for too high, with a high price and a scarcity of available financing sources (see ARC Fund, 2020, Innovation.bg Economic resilience through Innovation, Sofia, Bulgaria), with the same interpretation supported by European studies presenting how „access to finance is the largest obstacle to innovation that SMEs face“ (see Cuckovic, & Vuckovic, 2021).

This conclusion is highly interesting given the fact that the importance and budget for innovations are increasing. To respond to this challenge companies face, the Bulgarian government has implemented policies aimed at enhancing innovation in the private sector. Key strategies **include the National Innovation Strategy and the Innovation Strategy for Smart Specialization 2014-2020**. National Innovation Strategy emphasizes the development of a knowledge-based economy through investments in R&D and innovation infrastructures while the Innovation Strategy for Smart Specialization focuses on identifying and supporting key sectors with high innovation potential, such as information and communication technologies (ICT), mechatronics, and clean technologies.

However, this national financing is considered insufficient while the existing funding is inefficiently used and prevent Bulgaria from achieving intensive innovation development. EU Programmes, like in previous years, are expected to mobilise significant private resources<sup>1</sup>. Companies and organizations usually complain from over-bureaucratic procedures for the co-financing options to EU R&D project funding.

## Policy and EU subsidies framework development

A comprehensive overview of the Innovation policy of the European Union and Bulgaria on the eve of the programming period 2021 - 2027 is presented in the ARC Fund, Innovation.bg 2020: Economic Resilience through Innovation paper.

**For the financial period 2007-2013<sup>2</sup>**, the total amount of **555 million euro** has been allocated to support innovations through EU grant Programmes through *OP Development of the Competitiveness the Bulgarian Economy*<sup>3</sup> (for the promoting innovative start-ups and efficiency of the enterprises), *OP*

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<sup>1</sup> Innovation.bg 2023: Innovation and Sustainable Growth, Applied Research and Communications Fund, 2023

<sup>2</sup> Source: Authors, see Table 1

<sup>3</sup> Official site of the OP Development of the Competitiveness the Bulgarian Economy, available at: <https://www.opcompetitiveness.bg/index.php?lid=2>

*Regional Development*<sup>4</sup> (for applying innovation as a horizontal priority with no separate innovation measures), *JEREMIE*<sup>5</sup> (with Bulgaria being one of the few pilot EU countries in 2011, allowing also more risky and innovative projects to be funded by commercial banks). Those programmes worked in a context of lack of companies' own financial resources, little understanding of the characteristics of innovation among Bulgarian enterprises while at the same time the key national innovation stakeholders (National Innovation Fund and the Bulgarian National Science Fund) operate without strategic guidelines<sup>6</sup>.

It is positive to observe how European Union funding for innovation in Bulgarian enterprises increase over the programming periods since 2007, and the understanding and priorities for innovation evolve.

**For the planning period 2014-2020**<sup>7</sup>, the total amount of **1 352.3 MEUR** (some projects for 2021-2022 are also included) was foreseen for measures addressing innovation support. This financial support was backed up by further strengthening of the policy framework, strategies<sup>8</sup> including the approval of important strategic documents such as *Innovation Strategy for Smart Specialization 2014-2020*; prepared *National Strategy for SMEs in Bulgaria (2021-2027)*; *Industry 4.0 2017-2030* – the use of the latest and digital technologies that enable new and more efficient processes by including a group of rapid digital transformations of production systems and products; *National Strategy for the Development of Scientific Research 2017-2030* aiming a modern and a sustainably maintained research infrastructure, *National Road Map for Scientific Infrastructure* – the development of significant scientific complexes, aims to improve the efficiency of the system of scientific infrastructures in the country and reduce fragmentation in scientific research.

Next to the EU grants the support for innovations through financial instruments has been further extended incl. the launch *InnovFin* (2016); *COSME DIGI* (2020). Bulgaria has become one of the frontrunners in EU for the effective usage of financial instruments (FI) to support the SMEs growth. The Bulgarian enterprises and the financial sector as well as the FI providers have built experience for the effective Fis usage next to the EU grants what is of high importance for the future innovations growth.

**In the period 2021-2027** the strategic framework has been further strengthened incl. the *National strategic document „Digital transformation of Bulgaria for the*

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<sup>4</sup> Official site of the Ministry of Regional Development and Public Works in Bulgaria, available at: <https://www.mrrb.bg/en/infrastructure-and-programmes/the-period-2007-2013/operational-programme-regional-development/>

<sup>5</sup> European Investment Bank, Fi-Campus. (2016). JEREMIE Acceleration and Seed instrument in Bulgaria Case Study [https://www.fi-compass.eu/sites/default/files/publications/case-study\\_esif03d-bulgaria.pdf](https://www.fi-compass.eu/sites/default/files/publications/case-study_esif03d-bulgaria.pdf)

<sup>6</sup> ARC Fund, Innovation.bg 2020: Economic Resilience through Innovation paper

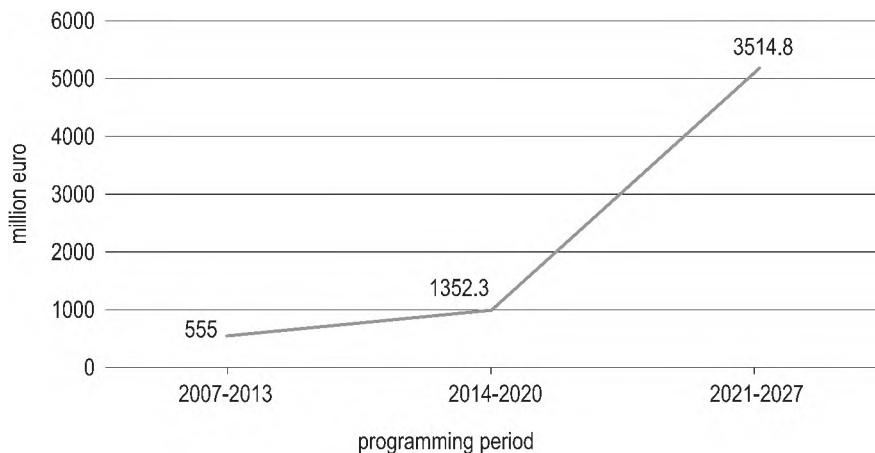
<sup>7</sup> Source: Authors, see Table 1

<sup>8</sup> Shikova, I. (2015). European Funds, Programmes, Projects 2014-2020, Minerva, Sofia (updated)

*period 2020-2030“ sets the framework for the country’s policy in the field of digital transition. The high propitiation of innovation development is visible also from the significant EU budget increase for (3,5148 BEUR)<sup>9</sup> supporting the innovations.*

*The Innovation Strategy for Smart Specialization* has been approved and includes priorities such as informatics and ICT; mechatronics and micro-electronics; healthy living industries, bioeconomy and biotechnologies; new technologies in creative and recreational industries; clean technologies, circular and low carbon economy. The National Risk and Resilience Plan 2021-2026 includes innovation-oriented measures such as Component 2.A.3 Smart industry.

The variety and number of EU Financial instruments has further grown incl. the launch of EIF InvestEU Innovations (12.2023); EIF RRF Innovations (2024); EBRD InvestEU Innovations (Q3-4 2024, expected); BDB InvestEU Innovations (Q3 2024). The Fund Manager of Financial Instruments in Bulgaria presented its intention to launch a new generation of products – Financial instruments and EU grant in a single operation in Q3 2024.



**Figure 1: Authors’ research on EU investment programmes in innovation**  
(source: Table 1, in MEUR)

The EU Strategic agenda 2024-2029 was adopted by the European Council on 27 June 2024 and is based on three pillars: a free and democratic Europe (incl. „making a success of digital and green transitions“); a strong and secure Europe; a prosperous and competitive Europe (incl. „Promote innovation

<sup>9</sup> Source: Authors, see Table 1

and research“)<sup>10</sup>. Innovation remains among the key policy priorities for EU so could be expected to be further backed up by EU funds.

Innovation indexes has been introduced by the Applied Research and Communications Fund, which has been conducting regular research on the innovation activity of enterprises in Bulgaria since 2004, adopting as a basis the methodology of the European Innovation Survey. The index considers three separate groups of innovations, from the point of view of innovation positioning – product innovations (new products to the firm, to the national market and to the world), process (new to the firm and new to the sector) and organisational (how it is produced) and marketing (for whom it is produced and how it is sold)<sup>“11</sup>.

As shown in the literature review, analysis and review on policies, funds, hinders and fosters of innovation is the most frequently used methodological approach in recent studies and reports. Based on the valuable insights into this context, the next best step in providing added value to research is to inquire directly with beneficiaries of EU Programmes funding on the effects of the grants to their developed and/or applied innovations.

## Empirical analysis

We used the data from ARC Fund’s survey in the Summer of 2020, which captured the innovation situation after the first Covid-19 wave. Then we merged that data with information on around 35,000 EU projects from the ISMM (Information System for Management and Monitoring) in the period 2014-2023 with the sample of 998 companies. Quite often this approach is better as it provides more accurate data as interviewed and companies themselves might not have good institutional memory over previous years.

Around 31% of the sample have participated in at least one EU project. Out of them 64% had only one EU project. 20% have implemented two projects and 10% had three projects. The maximum projects in our sample of companies were seven.

The distribution of EU projects is uneven in different planning regions with the two Eastern regions significantly higher than average. 37% of the companies in the Northeastern region and 36% of those in the Southeastern region implemented EU projects. Somewhat surprising is the fact that the lowest rate is observed in the Southwestern region – 28%, but it could be rationalized through existing of significantly more inter-connected companies in the region, which are not allowed to apply together in each call.

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<sup>10</sup> Council of the European Union, Strategic Agenda 2024 - 2029, June 2024

<sup>11</sup> Georgieva, T., Yalamov, T. (2020) ARC Fund, 2020, Innovation.bg Economic resilience through Innovation, Sofia, Bulgaria, ISSN: 1313-1060

**Table 1: EU investment programmes in innovation**

**2007-2013**

		2007	2008	2009	2010	2011	2012	2013	Indicative budget (million euro)
555									555

**2014-2020 (2022)**

<b>Operational objectives</b>	<b>Sub-objectives</b>	<b>Planned source of funding</b>	<b>2014-2020 (2022)</b>							
			2016	2017	2018	2019	2020	2021	2022	Indicative budget (million euro)
No 1: Focus on innovation potential in the identified thematic areas (for the creation and development of new technologies leading to competitive advantages and increasing the added value of national products and services)	Effective collaborations science-business	OPIC, OPNOIR, NIF, FNI (Horizon 2020)	143	143	143	143	143	143	134	
	Quality human resource	OPNOIR, HRDP, National Programme for Youth (European Programmes)	16	16	16	16	16	16	16	18,44
	Adequate environment and infrastructure for innovation, incl. digital growth and governance	OPIC, OPDU, PRSR	19	19	19	19	19	19	18	17,9
No 2: Support for accelerated uptake of technologies, methods, etc. improving resource efficiency and the application of ICT in enterprises across industry	Innovations for resource efficiency	OPIC, OPOS (Norwegian Programme, Horizon 2020)	20	20	25	/	/	/	/	115
	Innovations for implementation on ICT applications	OPIC (Horizon 2020)	25	/	25	/	/	/	/	
<b>TOTAL</b>								<b>1352,3</b>		

**2021-2027**

<b>Operational objectives</b>	<b>Planned source of funding</b>	<b>2021-2027</b>						Indicative budget (million euro)
		2021	2022	2023	2024	2025	2026	
No 1: "Improving the research system and the innovation performance of enterprises"	PNIIIT, CIP, FNI, NIF, RRF- Economic Transformation Programme Fund 1 - Innovation Strand, Horizon Europe, National Science Programmes, National Science Infrastructure Roadmap, Education Programme	94,98	297,46	398,41	361,97	452,97	473,55	407,05
No 2: "Increasing the technological capacity of enterprises, increasing the environmental friendliness and internalization of Bulgarian products and services"	PNIIIT, CIP, ERDF, Transport Connectivity Programme, Horizon Europe, National Science Programmes, National Science Infrastructure Roadmap	12	43	119,94	110,82	143,92	245,84	142,71
No 3: "Improving human resource capacity in new technologies and innovation"	PNIIIT, Education Programme, HRDP, FNI, Horizon Europe, National Science Programmes, National Roadmap for Science Infrastructure	0	16,8	27,77	29,78	31,77	31,8	31,8
<b>TOTAL</b>								<b>3514,89</b>

**Sources:**

ISSS 2014-2020

ISSS 2021-2027

National recovery and resilience plan of Bulgaria

Stefanov, R., Atseva, D. (2016) A report to the European Commission Directorate-General Regional Policy: Expert evaluation network delivering policy analysis on the performance of cohesion policy 2007-2013. Task 1: Policy paper on innovation, Bulgaria: Centre for the Study of Democracy (Project One EOOD)

**Table 2: Probability of innovation activities subject to existence of EU project**

	Probability of making... Innovations 2014-2023				
	Product (what is produced)	Process (how it is produced)	Marketing (for whom it is produced and how it is sold)	Organizational (how the organization is structured)	Any type of innovation
<b>No EU project</b>	16,6%	7,6%	23,2%	43,7%	54,5%
<b>EU projects</b>	24,4%	16,8%	31,8%	46,4%	64,1%
<b>Total</b>	19,1%	10,5%	25,9%	44,6%	57,5%
<b>Anova test sig.=</b>	0,000	0,003	0,004	0,440	0,004

The odds of implementing process innovations are 2.2 times higher for companies implementing EU projects compared to those without. This is in line with the focus of EU funds available for technological upgrade and buying new machines and equipment, which often leads to process innovation. Majority of the companies with process innovations used the EU funds for partial automation which led to higher efficiency and despite the growth in markets and revenues they did not exhibit higher employment.

The odds for product innovation are 1.5 times higher and for marketing is 1.37 times higher. More often companies launch new products than processes, also because a new process innovation in year T leads to new products in T+1 and T+2 without the need to engage in process innovation all the time.

The analysis of variance test suggested that all three types of innovation and the composite innovation index (implementing at least one type of innovation) have statistically different probability of innovation.

The only type of innovation where there is no significant difference is the category organizational innovations. One of the explanations is that during the survey (Summer of 2020) a lot of companies engaging in changing how the work is organized – such as implementing home office organization because of Covid-19.

The EU funds had one clear innovative solution as the most benefiting and this is the artificial intelligence. 18% of companies implementing EU projects have also implemented AI solutions, compared to less than 0.6% among companies without EU projects. A striking majority of more than 93% of companies who implement AI did benefit from EU projects. Most of the projects with automation have predictive maintenance based on AI, those with front-office applications like e-commerce would have AI enhanced fraudulent detection and overall cyber-security and so on.

## Conclusions

The national policy framework as well the EU funds supporting company innovations have been developed and strengthened in Bulgaria as part of the EU. We confirmed a positive effect of EU funds on innovation in companies, similar to other countries, which is reassuring given the widely spread criticism on the governance of EU funds and high-level corruption. The data suggests plausible fine-tuning in EU funds programming to maximize the potential benefit for the competitiveness of Bulgarian economy.

*Acknowledgements: This research have benefited from Sofia University's fund for research projects N 15.80-10-178 European projects and innovations in agriculture.*

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# SHAPING AND REFORMING EUROPEAN ACTIVE CITIZENSHIP FROM 2019 TO 2024 EUROPEAN ELECTIONS

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## *Abstract*

*In a European context, active citizenship refers to the acquisition and exercise of rights for civic and political participation. The current contribution will emphasize the importance of this issue in the 2024 European elections. The study compares official views and papers emphasizing active citizenship from the 2019 European elections to those utilized in the 2024 European elections. In the time frame between the two European elections, the Conference on the Future of Europe (2021), European Democracy Action Plan or Defence of Democracy packages significantly expanded the ideas put forward during the electoral campaign of 2019 in two directions: to enable Europeans to share their ideas on the issues they considered important to build the future of our Union and to seek the views of the hardest to reach, those who rarely engage with politics or perhaps have not voted in previous European elections. They were supplemented by measures that increase understanding and public participation in European decision-making, which are critical to ensuring that EU people believe their voice is heard and that voting counts.*

**Keywords:** active citizenship, democratic participation, 2024 European elections

Active citizenship within the European Union has been a cornerstone of democratic engagement, signifying not just the right to vote, but also a deeper participation in the civic and political life of the Union. Active citizenship has been a fashionable term in the last twenty years for the European Union. Still, the EU has made no substantial progress in offering an easy-to-understand or accepted definition. The concept has evolved notably between the 2019 and 2024 European elections, driven by the EU's efforts to make democratic processes more inclusive, participatory, and transparent.

Without losing sight of the fact that the chosen subject is not new, or lacking interest, this article examines the transformation in the approach to active

citizenship from the 2019 to the 2024 European elections. It delves into how initiatives like the Conference on the Future of Europe (2021) and various EU-driven measures have altered the landscape of political participation, emphasizing the importance of these changes for the 2024 elections and beyond. The research relies on discursive institutionalism to investigate how different actors within the EU, including member states, institutions, and non-governmental organizations, contribute to discourses on active citizenship and analysing power dynamics inherent in the discursive construction of this concept. Based on a qualitative methodology, the present analysis takes into consideration official documents, surveys, and academic articles.

## Active Citizenship: A Fundamental EU Value

Active citizenship encompasses the rights and responsibilities that allow EU citizens to participate in the political process, including voting in European elections, engaging in public debate, and participating in EU consultations. It reflects the broader principles of democracy, inclusivity, and public involvement in shaping the Union's future. Even if active citizenship has generally accepted contours, the concept itself does not yet benefit from a definition recognised by theorists and practitioners alike, much less by the ordinary citizen as the main beneficiary of the approaches in this regard. The European Migration Network refers to active citizenship as an „umbrella term“: *Active citizenship is an umbrella term for the acquisition and exercise of rights for political participation. As such, it includes citizenship and residence, membership in (political) organizations, voting, running for office, volunteering, or participation in political protest. In some cases, it can include subjective indicators such as 'sense of belonging', 'institutional trust', 'awareness of discrimination', and 'public attitudes towards immigration'*<sup>1</sup>. The EC Joint Research Centre, Institute for the Protection and Security of the Citizen (2009) promotes a broader definition of active citizenship as participation in civil society, community, and/or political life, characterized by mutual respect and non-violence and in accordance with human rights and democracy.<sup>2</sup>

As Paul Magnette (2003) has indisputably argued, civic participation has always been limited, in all types of democracy and at all levels of decision-making. Still, a significant number of European citizens do not feel informed about European issues and do not understand its political system<sup>3</sup>. Most

<sup>1</sup> European Commission, Directorate-General for Migration and Home Affairs, T. Huddleston, J. Tjaden, J. Niessen, (2013), *Using EU indicators of immigrant integration - Final report for Directorate-General for Home Affairs*, Publications Office, p. 70, <https://data.europa.eu/doi/10.2837/34091>, accessed 19.05.2024.

<sup>2</sup> Joint Research Centre, Institute for the Protection and Security of the Citizen, A. Manca, B. Hoskins, M. Mascherini, (2009), *The characterization of active citizenship in Europe*, Publications Office, p. 10, <https://data.europa.eu/doi/10.2788/35605>, accessed 19.05.2024.

<sup>3</sup> P. Magnette (2003), „European Governance and Civic Participation: Beyond Elitist Citizenship?“, *Political Studies*, Vol. 51, p. 5, <https://ecas.issuelab.org/resources/18875/18875.pdf>, accessed 19.05.2024.

citizens try to understand public issues and participate in conventional electoral events. At a general level, EU surveys have traditionally indicated that participation in European elections has been much lower than in national elections. These considerations have become more relevant when considering that the act of voting is compulsory in some of the EU Member States. Most official EU reports dedicated to European civil society and the importance of citizens do not consider it as active citizenship<sup>4</sup>. Back in 2003, Magnette considered that the Commission's pledges included in its White Paper on Governance (2001) did not have the potential to curb this trend.<sup>5</sup>

But the change is near, as we intend to demonstrate in the present research based on the developments that have taken place after the 2019 European Elections. Several initiatives recognize that active citizenship is essential for the legitimacy of European institutions and for fostering a sense of European identity. They are not only designed to stimulate the involvement of active citizens and groups in some precise procedures but also to enhance the general level of civic consciousness and participation.

## **The 2019 European Elections: A Baseline**

The 2019 European elections marked a turning point in terms of voter turnout and political engagement. For the first time in 20 years, voter turnout passed over the 50% threshold across the EU. The record-high turnout in the 2019 European Parliament elections showed an engagement of EU citizens in shaping the future of the EU, especially among its youth. The increase in turnout was driven by young and first-time voters<sup>6</sup>. The last elections were also the most digital European Parliamentary elections<sup>7</sup>. Civic duty and favourable opinions of the EU have gained prominence as reasons to vote. The most common reason for voting was because people felt it was their duty as a citizen (52%)<sup>8</sup>.

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<sup>4</sup> Voting is compulsory in Belgium, Greece, Bulgaria and Luxembourg.

<sup>5</sup> P. Magnette, *op. cit.*

<sup>6</sup> European Commission (2020), *Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions. EU Citizenship Report 2020 Empowering citizens and protecting their rights*, No. COM/2020/730 final, Brussels, 15.12.2020, p. 3, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52020DC0730>, accessed 20.05.2024

<sup>7</sup> European Commission, Directorate-General for Justice and Consumers (2020), *Communication from the Commission to the European Parliament, the Council, and the European Economic and Social Committee. Report on the 2019 elections to the European Parliament {SWD(2020) 113 final}*, No. COM(2020) 252 final, Brussels, 19.6.2020, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52020DC0252>, accessed 20.05.2024.

<sup>8</sup> European Parliament (2019), *EP Special Eurobarometer 91.5 The 2019 European Elections: Have European Elections Entered a New Dimension?* Brussels, European Union, 2019, p. 3, <https://www.europarl.europa.eu/at-your-service/files/be-heard/eurobarometer/2019/post-election-survey-2019-complete-results/executive-summary/en-post-election-survey-2019-executive-summary.pdf>, accessed 20.05.2024

This resurgence in electoral participation signalled a renewed interest in EU politics and a desire among citizens to have a say in the direction of the Union.

The 2019 European elections turnout shows easily how things work when coherent recommendations are followed. One example is the European Parliament and its *Resolution of 12 February 2019 on the implementation of the Treaty provisions related to EU citizenship*<sup>9</sup>. In simple terms, it encourages the Commission to step up the promotion of democratic participation by intensifying its dialogue with citizens, enhancing citizens' understanding of the role of EU legislation in their daily lives, and underlining their right to vote in and stand for election at local, national and European level. It invites the Commission to exploit, in this regard, social media and digital tools with a special emphasis on increasing the participation of young people and persons with disabilities; calls for the development and implementation of e-democracy tools, such as online platforms, to involve citizens more directly in EU democratic life, thus fostering their engagement. Another recommendation is the emphasis on the quality of civic education for all ages (formal and informal) for the confident exercise of citizens' democratic rights and the proper functioning of a democratic society<sup>10</sup>, which despite the existing EU programmes, does not manage to acquire the right level of importance.

However, the 2019 elections also highlighted certain challenges, such as the uneven engagement across Member States, the growing influence of populist movements, and a general scepticism toward EU institutions. These issues underscored the need for more inclusive and engaging platforms to connect with citizens and involve them in decision-making processes. The political guidelines of the EC President von der Leyen for 2019-2024 set the work of the European institutions around an ambitious headline for Europe on a new push for European democracy. The document signalled from the beginning the importance attached by the new European executive to a better connection with the EU citizens. As the next sections of the present article intend to highlight, several initiatives of the von der Leyen Commission were specifically designed to strengthen the bonds between the European level and the European citizens.

## **The Conference on the Future of Europe: A Turning Point**

The 2019-2024 can be described as a period where the European Commission has acknowledged EU citizenship as a key component in the next step towards active citizenship. As already mentioned, the main incentive had been the conduct of the 2019 European elections and the desire to prove that the EU citizens mattered, and their voices were heard. The Commission acknowledged the duty to improve the role of democratic participation through various inspiring

<sup>9</sup> European Parliament (2020), *Implementation of the Treaty provisions related to EU Citizenship. European Parliament resolution of 12 February 2019 on the implementation of the Treaty provisions related to EU citizenship*, No. 2018/2111(INI), *Official Journal of the European Union*, C 449/6, 23.12.2020, [https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=uriserv:OJ.C\\_.2020.449.01.0006.01.ENG](https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=uriserv:OJ.C_.2020.449.01.0006.01.ENG), accessed 19.05.2024.

<sup>10</sup> *Ibidem*, p. 14.

legislative acts since the number of loopholes in the electoral process was still high although the overall turnout was satisfying.

Among the most representative initiatives of the von der Leyen Commission immediately after assuming office in 2019 was the launch of the preparations for a landmark Conference on the Future of Europe aimed at deepening citizen engagement in EU governance and providing a platform for Europeans to discuss the issues that mattered most to them and to offer their input on the future direction of the EU. The Conference had two key intentions:

1. Inclusivity: It sought to reach out to all segments of society, including those who had previously shown little interest in EU politics or who had never voted in European elections.
2. Transparency: It aimed to create a transparent and open dialogue between citizens and EU institutions, with a focus on ensuring that citizen voices were heard and valued.

The Conference took place from April 2021 to May 2022 and enabled people from different backgrounds and regions from across Europe to share their ideas and help shape Europe's common future through a combination of online platforms, citizens' panels, and broader consultations. The result was a *Report on the Final Outcome* published in May 2022 containing 49 proposals and 326 specific measures on nine main themes: climate change and the environment; health; economy, social justice, and jobs; the EU in the world; values and rights, rule of law, security; digital transformation; European democracy; migration; education, culture, youth, and sport<sup>11</sup>. The chapter on *European Democracy* included broad proposals on citizens' information, participation and youth (e.g. to increase citizens' participation and youth involvement in the democracy at the European Union level to develop a 'full civic experience' for Europeans, ensure that their voice is heard also in between elections, and that the participation is effective); democracy and elections (e.g. to strengthen European democracy by bolstering its foundations, boosting participation in European Parliament elections and ensuring a strong link between citizens and their elected representatives); EU decision-making process (e.g. to improve the EU's decision-making process to ensure the EU's capability to act, while taking into account the interest of all Member States and guaranteeing a transparent and understandable process for the citizens). The Conference proposals, set out in the final report handed over to the Presidents of the European Parliament, Council and European Commission were wide-ranging, ambitious, and forward-looking<sup>12</sup>.

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<sup>11</sup> European Commission (2024), *Conference of the European Union*, [https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/new-push-european-democracy/conference-future-europe\\_en](https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/new-push-european-democracy/conference-future-europe_en), accessed 20.05.2024.

<sup>12</sup> European Commission (2022), *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. Conference on the Future of Europe. Putting Vision into Concrete Action*, No. COM(2022) 404 final, Brussels, 17.6.2022, <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52022DC0404>, accessed 20.05.2024.

They added strength to the legislative act on EU Citizenship and the European Union's Youth Strategy (2019-2027) and gave momentum to other early initiatives of the von der Leyen Commission for instance the 2020 Citizenship Report and the European Democracy Action Plan package, with an increased interest in promoting active citizenship and participatory democracy.

The 2020 Citizenship Report set out several concrete actions and priorities around main themes like strengthening democratic participation, citizens' empowerment, and fostering inclusion of citizens in the EU or protecting and promoting EU citizenship<sup>13</sup>. The proposed actions included updating directives on voting rights to clarify the situation of mobile EU citizens in municipal and European elections, continuing to collaborate with member States through the European Cooperation Network on Elections, and appealing to independent election observation, including monitoring by citizens<sup>14</sup>. Empowered citizens should have the tools, the channels, and the skills to make their voices heard in the public arena so they can contribute directly to shaping public policies at all levels. The Report made special reference to the Conference on the Future of Europe, seen as a major pan-European deliberative democracy exercise, a new public forum for an open, inclusive, transparent, and structured debate with citizens around some key priorities and challenges. The European Parliament offered its full support for the 2020 Citizenship Report. The voting rights and the Commission's declaration that it would work with Member States and Parliament to guarantee the political rights of disadvantaged groups of citizens (such as LGBTIQ people, migrants and refugees, people from low-income households, racial, ethnic or linguistic minorities, and persons with disabilities)<sup>15</sup> to increase their participation in the 2024 European elections represented the main actions that attracted attention.

The European Democracy Action Plan (EDAP), put forward in 2020, benefitted considerably from the results of the Conference on the Future of Europe. The plan set out a reinforced EU policy framework and specific measures to promote free and fair elections and strong democratic participation; support free and independent media; and counter disinformation. It acknowledged that maintaining democracy required more determined action to protect electoral processes, preserve open democratic debate, and update safeguards

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<sup>13</sup> European Commission (2020), *Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. EU Citizenship Report 2020 Empowering citizens and protecting their rights*, No. COM/2020/730 final, Brussels, 15.12.2020, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52020DC0730>, accessed 20.05.2024.

<sup>14</sup> *Ibidem*.

<sup>15</sup> European Parliament (2022), *EU Citizenship Report 2020. European Parliament resolution of 10 March 2022 on the EU Citizenship Report 2020: empowering citizens and protecting their rights*, No. 2021/2099(INI)), *Official Journal of the European Union C347*, 9.9.2022, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52022IP0081>, Accessed 20.05.2024.

in the light of new digital realities<sup>16</sup>. The European Economic and Social Committee (EESC) mainly supports the proposed measures in the European Democracy Action Plan (EDAP) but draws attention to the fact that more should be done on the importance of active citizenship exercised through the involvement of civil society. The EESC considered that the EDAP should include a large-scale initiative to foster education on democracy and fundamental rights, which is instrumental for safeguarding democratic values and active citizenship, in particular concerning young people<sup>17</sup>.

To complement and deepen this action, the Commission continued with the Defence of Democracy package in December 2023. Taking stock of the state of implementation of the actions under EDAP, the Defence of Democracy package contained a legislative proposal that would enhance transparency and democratic accountability of interest representation activities on behalf of third countries which aimed at influencing policies, decision-making, and the democratic space. It also included two recommendations that aim to promote free, fair, and resilient elections and the participation of citizens and civil society organizations in policymaking.

All the above documents and initiatives contained recommendations dedicated to active citizenship, free and fair elections, democratic participation, EU citizenship, and quality civic education for all ages that were promised to be brought about before the 2024 European elections, 6-9 June. The last part of the present contribution will attempt to take stock of the degree to which the intentions of the von der Leyen Commission came to bear fruit and add to a transformed relationship with European citizens.

## Active Citizenship and the 2024 European Elections

As already discussed in the previous section, the lessons learned from the Conference on the Future of Europe have had a significant impact on the lead-up to the 2024 European elections. The increased focus on active citizenship has led to a greater emphasis on public participation, with a range of initiatives designed to engage a wider audience. Key developments include:

- enhanced communication: the need to invest in better communication strategies to reach a broader audience, using social media and other platforms to engage with citizens.
- youth engagement: the necessity of encouraging young people to participate in the political process, recognizing their role in shaping the EU's future.

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<sup>16</sup> European Commission (2020), *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the European democracy action plan*, No. COM(2020) 790 final, Brussels, 03.12.2020, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A52020DC0790>, Accessed 20.05.2024.

<sup>17</sup> *Ibidem*.

- localized engagement: efforts to engage with citizens at a local level, emphasizing the importance of EU policies on daily life and addressing the „democratic deficit“ often cited in EU critiques.

In the context of the present research, a simple search of EUR-LEX for „active citizenship“ in EU law, covering the period 2019-2024, showed that the European Commission, European Parliament, and the Council of the European Union harnessed the term in an impressive number of documents prepared by them. There is still no commonly agreed definition of active citizenship, although the term was employed no less than 233 times, mainly in preparatory documents.

<b>Keyword:</b> <b>ACTIVE CITIZENSHIP</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>
<b>EUROPEAN COMMISSION</b>  <b>Total: 90</b>	<b>5</b>	<b>21</b>	<b>16</b>	<b>22</b>	<b>18</b>	<b>8</b>
	4 <i>Preparatory documents</i>	19 <i>Preparatory documents</i>	16 <i>Preparatory documents</i>	22 <i>Preparatory documents</i>	18 <i>Preparatory documents</i>	8 <i>Preparatory documents</i>
	1 <i>Announcement</i>	2 <i>Legal acts</i>				
<b>EUROPEAN PARLIAMENT</b>  <b>Total: 39</b>	<b>10</b>	<b>4</b>	<b>16</b>	<b>5</b>	<b>4</b>	<b>0</b>
	9 <i>Preparatory documents</i>	3 <i>Preparatory documents</i>	10 <i>Preparatory documents</i>	4 <i>Preparatory documents</i>	3 <i>Preparatory documents</i>	
	1 <i>Legal act</i>	1 <i>Minutes</i>	6 <i>Legal acts</i>	1 <i>Legal acts</i>	1 <i>Legal acts</i>	
<b>COUNCIL OF THE EUROPEAN UNION</b>  <b>Total: 104</b>	<b>33</b>	<b>18</b>	<b>52</b>	<b>12</b>	<b>16</b>	<b>3</b>
	30 <i>Preparatory documents</i>	16 <i>Preparatory documents</i>	43 <i>Preparatory documents</i>	10 <i>Preparatory documents</i>	14 <i>Preparatory documents</i>	3 <i>Preparatory documents</i>
	3 <i>Legal acts</i>	2 <i>Legal acts</i>	9 <i>Legal acts</i>	2 <i>Legal acts</i>	2 <i>Legal acts</i>	

**Source:** Research on EUR-LEX, Access to European Union Law, based on keyword: „active citizenship“ ([https://eur-lex.europa.eu/search.html?textScope0=te&lang=en&text=%22active+ citizenship%22&qid=1715622896348&type=quick&sortOne=LEGAL\\_RELEVANCE\\_SORT&quickSearch=true&scope=EURLEX&sortOneOrder=desc&andText0=%22active+ citizenship%22](https://eur-lex.europa.eu/search.html?textScope0=te&lang=en&text=%22active+ citizenship%22&qid=1715622896348&type=quick&sortOne=LEGAL_RELEVANCE_SORT&quickSearch=true&scope=EURLEX&sortOneOrder=desc&andText0=%22active+ citizenship%22), accessed 19.05.2024).

In general, the Commission hoped for the full engagement of the European Parliament and the Council to make decisive progress on all legislative proposals in the democracy area before the 2024 European parliamentary elections; and for the wide circle of national actors involved, public and private, to ensure the implementation of the European Democracy Action Plan and the new Defence

of Democracy package<sup>18</sup>. Unfortunately, time remains the main enemy for the effective implementation of the recommendations by the Member States.

## Conclusion

The journey from the 2019 to the 2024 European elections has been marked by a renewed emphasis on active citizenship and public participation in EU governance. The Conference on the Future of Europe and subsequent initiatives have set the stage for a more inclusive and transparent democratic process. As the EU prepares for the 2024 elections, the focus on active citizenship is crucial in ensuring a vibrant and representative political landscape, where every voice counts and every vote matters.

The above-mentioned considerations have managed to raise awareness on mandatory issues:

- It is important to strengthen active citizenship and effective citizens' participation at the EU level through the acquisition of specific knowledge about the EU and the European dimension of the topics under discussion. EU needs to address the lack of familiarity with EU policies and decision-making among the general public through better education about the EU in schools<sup>19</sup>.
- Participation in elections is an essential component of a vibrant democracy. This goes beyond the right to vote and includes the possibility to stand as a candidate, to join a political party, to join the electoral process as an election official or election observer, and to access electoral information to support the free and fair expression of electoral preferences. All citizens should be able to participate effectively in the political life in the European Union<sup>20</sup>.

The European Parliament's Spring 2024 Eurobarometer survey reveals that Europeans are increasingly willing to vote in this year's European elections, with issues such as fighting poverty, supporting public health, strengthening the economy, and the EU defence and security at the top of their minds. For

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<sup>18</sup> European Commission (2023), „Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Defence of Democracy“, *COM(2023) 630 final*, Strasbourg, 12.12.2023, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52023DC0630>, Accessed 19.05.2024.

<sup>19</sup> European Parliament (2024), „European Parliament resolution of 14 September 2023 on Parliamentarism, European citizenship and democracy (2023/2017(INI)“, *Official Journal of the European Union C/2024/1769*, 22.3.2024, p. 7, [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C\\_202401769](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C_202401769), accessed 19.05.2024.

<sup>20</sup> European Commission (2023), *Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions Under Article 25 TFEU. On progress towards effective EU citizenship 2020–2023*, *COM(2023) 931 final*, Brussels, 6.12.2023, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52023DC0931>, accessed 20.05.2024.

the new legislature of the European Parliament, a majority of citizens would like to see the institution play a more significant role with values such as peace and democracy the prime ones to defend<sup>21</sup>.

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The Agenda of the New  
EU Institutional  
Cycle

**Second panel:**



**EU ENLARGEMENT  
AND NEIGHBORHOOD  
POLICIES**

# RESILIENCE AND EU TRANSFORMATIVE POWER: EU ENLARGEMENT AND THE EASTERN PARTNERSHIP

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## *Abstract*

*The EU is still dealing with the geopolitical shockwaves from the February 2022 unprovoked Russian aggression on Ukraine. The decision to grant candidate status to three of the EU's Eastern partners calls for a complete overhaul of both the EU's Eastern Partnership and the EU's enlargement policy. In that context, the future of resilience - a key concept in the EU's approach towards its Eastern neighbours and of EU foreign policy, appears under question. This contribution has as main arguments that while the concept of resilience proved useful in the discussion on EU foreign policy before the unprovoked Russian aggression in Ukraine, it may show its limits when defining both the EU's transformative ambitions as a part of its enlargement policy objectives and the new EU identity as international actor. In other words, this article does not discuss the concept of resilience *per se*, but rather proposes a discussion of its policy implications in light of the changes that Russia's unprovoked aggression in Ukraine has brought to the Eastern Partnership and to the EU enlargement policy.*

**Keywords:** Eastern partnership; EU Enlargement; EU transformative power; Resilience

## **Introduction**

By granting EU candidate status to Moldova and Ukraine in June 2022 and then to Georgia in December 2023, the EU member states ended the fundamental difference between the EU enlargement policy and the EU's Eastern partnership (EaP). While both policies had much in common, the second was not meant to lead to EU accession for the three EaP members. In

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<sup>1</sup> The author wishes to thank the American University in Bulgaria for supporting this project and the Center for Democracy and Civil Society and its Director Elton Skendaj at Georgetown University for hosting me as a Visiting Researcher during Spring 2024.

ending this distinction, not only does the EU have to reconsider the future of its policy towards the rest of the Eastern neighbours, but it also has to include the new candidate countries in its enlargement policy aimed at transforming them in order to join the EU as member states.

In other words, the implications of the June 2022 and December 2023 decisions are far reaching. They not only call for a need to revisit both EU enlargement and EaP approaches, but they also call into question the very foundations of EU foreign policy identity. In these discussions, it is the concept of resilience and its future in EU foreign policy that are at stake.

This chapter will argue that while resilience has been a key feature of the EU's policy towards its Eastern partners, it has remained largely absent from the EU enlargement policy that aimed instead at transformation. In granting EU candidate status to three of the Eastern partners, i.e. Moldova, Ukraine and Georgia, the EU now faces the main challenge of reconciling these two concepts in its policy approaches towards the new candidate countries.

To support these arguments, the chapter is organized as follows. First, it will discuss the implications of the growing use of resilience in the EU Common and Foreign Security lexicon and its significance for the EU foreign policy identity. Second, it will look at the concept of the EU as a transformative power. Third, it will address the importance of resilience and transformation as far as EU enlargement and the EaP are concerned. Fourth, it will discuss the impact of the decision to grant candidate status to three EU Eastern partners in the aftermath of the unprovoked Russian attack on Ukraine in terms of resilience and transformation in the Eastern neighbourhood.

## **Resilience and EU Foreign Policy**

With the EU Global Strategy [EUGS] adopted in 2016, resilience has become a key feature of EU foreign policy (Wagner and Anholt, 2016; Baldaro and Costantini, 2020; Kaunert, 2023). The concept has been subjected to different interpretations and definitions, including in the EU discourse. As such, it has been considered as a major turn in EU foreign policy (Wagner and Anholt, 2016; Baldaro and Costantini, 2020; Kaunert, 2023).

There is, however, a vibrant debate whether this turn marked if not an abandonment, then a lowering of the EU's transformative ambitions in its foreign policy, or whether it would still be in line with its normative ambitions in terms of promotion of democracy and the rule of law. For example, Bendiek argues that the use of resilience meant that for the EU: „The idea of democratic transformation of the European neighbourhood and the goal of perpetual integration of all member states are gradually sidelined“ (Bendiek 2017, 27). Others, such as Juncos, offer a more nuanced assessment while seeing a contradiction between achieving resilience and principled pragmatism (Juncos, 2017: 15) or do not see much of a real change in EU policies and practices, (Nitoiu and Simionov 2023, 1082). Finally, the question of resilience has also

been approached in the context of the EU's response to the decline of the liberal international order (Bargues, Joseph and Juncos, 2023).

Resilience has been defined as „the internal capacity of societies to cope with crises, with the emphasis on the development of self-organisation and internal capacities and capabilities rather than the external provision of aid, resources or policy solutions“ (Chandler 2015: 13). As such, the term had already been used by other organizations than the EU as well in other EU policy documents with, at times, different definitions. In the EU GS resilience is defined as follows: „the ability of states and societies to reform thus withstanding and recovering from internal and external crises“ (European Union Global Strategy 2016, 23).

In the EUGS, resilience is associated with „principled pragmatism“ (European Union Global Strategy, 2016: 16). By using the latter, the EU was not only acknowledging the shortcomings of its policies aimed at transforming its neighbours but also emphasized the need to have a more interest-based foreign policy. This led some authors to suggest that resilience was used as a way to acknowledge the EU's failure to achieve its ambitious liberal peace projects while avoiding resorting to the much less ambitious concept of stability (Wagner and Anholt 2016, 4).

According to Tocci, the main architect of the EUGS, resilience did not mean, however, that the EU was giving up on its normative and transformative ambitions (Tocci, 202:180). In other words, resilience was conceived as a means to achieve these ambitions. It has, however, been considered as a step back from the EU discourse by emphasizing stability more than the promotion of democracy (Smith 2017, 513).

For the EU, resilience is meant to reflect a new form of governance that marks a shift away from the known threats to a new form of complexity where threats are becoming more and more impossible to predict. Consequently, the EU aims at developing more adaptable and flexible approaches while emphasizing the need to acknowledge local practices and micromanagement (Juncos 2017, 10-11).

More concretely, a resilience based foreign policy would rest upon two main priorities. The first is aimed at developing long term and sustained actions. In that way, resilience would provide for a policy framework that brings together all the stakeholders and institutions under the same umbrella. Key to this framework is the need to achieve coherence between the different policies, so as to be able to tackle all the aspects of crises or conflicts. The second consists of promoting bottom-up and local ownership of addressing crises instead of externally imposed or elite driven solutions (Bargues 2021, 5).

Such a shift to resilience and „principled pragmatism“ reflects a paradigm shift in EU international identity by considerably watering down its transformative ambitions. A less pessimistic assessment considers that the recourse to resilience does not mean the end to these ambitions. According to Juncos: „the rise of

resilience can work to strengthen the idea of normative power by underscoring the non-coercive nature of his [the EU] power“ (Juncos 2017:14).

The growing use of resilience and „principled pragmatism“ in the EU foreign policy lexicon also needs to be put in line with the return of geopolitics and hard power in Europe, as reflected in the unprovoked Russian aggression on Ukraine since February 24, 2022. The return of geopolitics led to two fundamental changes. The first was the fact that hard power and geopolitics mattered once again. The second was that the EU proved unable to resist the willingness of some of its Eastern partners to apply for EU membership (Crombois 2023, 103-104).

At the same time, the shortcomings and elusiveness of the concept of resilience and the dramatic changes that occurred with the Covid-19 crisis and the looming Russian threats on Ukraine, led the EU to adopt a new concept supplanting the one of resilience. This new concept is one of „strategic autonomy“. The concept of „strategic autonomy“ was already mentioned in EU documents since 2013 and included in the 2016 EUGS. It would be considerably developed in the Strategic Compass meant to deal with its implementation in the fields of security and defense (Moltof, Zandee, Cretti 2021, 6-7). That being said, „strategic autonomy“ did not necessarily mean the end of resilience. Rather, resilience would be brought under its umbrella as its essential component (Tocci 2021, 5).

Even if references to „strategic autonomy“ were watered down by the member states, the concept was meant to reflect a more geopolitical view of EU foreign policy. As such, it raises the question of further retreat by the EU from its transformative ambitions for an even more pragmatic, if not realist turn and to start to come to terms with the concept and use of hard power. Simply defined, „strategic autonomy“ stands for the EU capacity to act autonomously – that is without being dependent on other countries. This concept that first originated in 2016 in the context of EU defense and security has become central to EU foreign policy under the helm of the new EU HR/VP Joseph Borrel. However, if the concept of strategic autonomy was mentioned in the 2016 EUGS, but it did not form its central theme (Keonig 2021,55-62).

Concretely, „strategic autonomy“ - since renamed „open strategic autonomy“ (Damen 2022, 4-5) implies a more inward-looking move that would mean to cut the EU off from global interconnections and dependencies. It would also lead the EU to give up on its partnerships with third countries where those would not fit into its geostrategic interests. Such a quest for strategic autonomy may then undermine even further the EU’s transformative ambitions and its support for liberal and democratic values. Some authors even raised the danger of an „autonomy trap“ for the EU. Indeed, the more the EU strives for autonomy, the more it weakens its leverage with others. For some authors, this fact reflects a new trend in EU external action towards a „protective security“ in which the EU is relinquishing its transformative power for a more defensive and self-protecting one (Youngs 2021, 1-2).

## EU Transformative Power

The concept of the EU as a ‘transformative power’ was introduced by Leonard and was defined as followed: „Europe’s obsession with legal frameworks means that it transforms the countries it comes into contact with, instead of just skimming the surface. Europe doesn’t change countries by threatening to invade them: its biggest threat is to cut off contact with them“ (Leonard 2005, 2). This concept can also be related to the one of the EU as a ‘normative power’ put forward by Manners. In this vein, EU foreign policy objectives steer towards the values of democracy, respect for human and fundamental rights and the refusal to resort to hard power instruments (Manners 2002, 244-245).

The EU’s transformative ambitions are deeply embedded in the experience of its enlargements into Central and Eastern Europe in 2004 and 2007 (Grabbe, 2007). They are still considered as an essential feature of EU enlargement policy as confirmed by the EU Commission in its 2023 Enlargement Communication, which referred to EU enlargement as: „A credible, merit-based prospect of EU membership is the key driver of transformation and thus enhances our collective security and socio-economic prosperity“ (Communication from the Commission 2023, 2).

The EU’s transformative ambitions within the context of EU enlargement rests on the conditionalities that were developed in the context of its expansion to the countries of Central and Eastern Europe. Such conditionalities take the form of setting legal, political, and economic conditions for EU accession. In short, the conditions to be accepted as a candidate country are set by Article 49 of the Treaty of the European Union, such as being a European state abiding by the EU’s values of the rule of law and fundamental freedoms. Once candidate status is granted, another set of criteria, referred to as the Copenhagen criteria defined in 1993, apply for EU accession. These consisted of political criteria in terms of the rule of law, fundamental freedoms, and protection of minorities; economic criteria of sustaining the competitive pressure of the internal market; legal criteria linked with the need to transpose existing EU legislation into national legislation and also settling of disputes with their neighbours. The main principles of these conditions are rooted in designing a system by which candidate countries’ governments would be rewarded if they comply with these conditions and to withhold such reward in the case of failing to comply with them (Szarek-Mason 2010, 135-156).

That being said, scholars have noticed that conditionality may quickly become a „power consumable resource“ (Smith 2003, 134-135). In other words, once a candidate country joins the European Union, there is little leeway left for the EU to address shortcomings in terms of ongoing reforms. To address such issues, the EU designed ex-post accession mechanisms for monitoring the rule of law situation in the new member states, as in the cases of Bulgaria and Romania. This system has since been replaced by EU monitoring of the

rule of law in all the 27 EU member states that include coercive tools, financial tools and soft law mechanisms (Kmezić and Bieber 2020, 7-11).

In addition, any system based on conditionalities has its limits in inducing deeply rooted transformations in the countries concerned, in this case EU candidate countries. As the cases of Bulgaria and Romania showed, ex-ante conditions were not viewed as sufficient and had to be complemented by ex-post ones in the fields of justice and home affairs and in relation to the countries' participation in the internal market. Finally, the system of conditionality cannot ignore the geopolitical stakes of EU enlargement policy (Crombois, 2022, 37-38).

If the return of geopolitics has impacted the EU's Eastern partners far more than the Western Balkans with its culmination in the Russia invasion of Ukraine, the latter was not spared from it. Indeed, the region has also become a place of competition between the EU and Russia and others such as China and Turkey. Such a geopolitical dimension became more important as far as EU enlargement was concerned. For example, it led the EU to grant accession status to Bosnia in December 2022 despite the lack of tangible achievements in terms of reforms acknowledged by the European Commission (Zweers and Rosokkaska 2024, 3). It also led the EU to revive the integration process by developing, in 2023, a new EU enlargement package aimed at bringing integrating the Western Balkans into the EU single market as a step towards their future Union membership (Communication from the European Commission 2023, 9).

As far as the EaP is concerned, the impact of the war in Ukraine was far reaching. First, it further underpinned the geopolitical dimensions of the EaP in view of consolidating the relations between the EU and most of the countries that are included in it. Second, and more fundamentally, by granting accession status to three Eastern partners, i.e. Georgia, Moldova and Ukraine, it undermined the very rationale of the EaP that had been to keep the doors closed for them in terms of EU membership (Crombois 2023, 104-105). The main reason for the EU's closed-door policy laid in the willingness of the EU member states to preserve the integration process and not to antagonize Russia. As a result, the EU restricted itself to rhetoric of „EU aspirations“ instead of EU membership for the EaP countries (Emmot, 2021).

By granting accession status to some of its partners, the EU further reconciled its enlargement policy with its policy towards its Eastern partners. Indeed, the two policies were broadly similar in their conception, using the same principles of benchmarking and conditionalities. The main differences between the two lay in the different levels of financial commitments and the perspective of EU membership (Crombois 2019:9).

These developments raise the question of the future of the EU as a possible transformative power both in the case of its Enlargement policy and EaP. The

growing reference to resilience in both policies also questions how much it would impact on the EU's transformative ambitions in both cases.

## **Resilience and EU Transformative Power: EU Enlargement and Eastern Partnership**

If the concept of resilience has mostly been used with respect to the EU's EaP, it has not been much used with regard to EU enlargement policy. Instead, enlargement policy emphasized the EU's transformation ambitions vis-à-vis the candidate countries as stated by the Commission in its 2023 Enlargement Communication. That does not mean, however, that EU enlargement had been free from geopolitical considerations, and that EU enlargement has not also become increasingly geopolitical since the war in Ukraine (Karjalainen, 2023; Lippert, 2024).

With the war in Ukraine, EU enlargement has become even more geopolitical than it used to be. Such geopolitical shifts, however, did not start with the outbreak of the hostilities in Ukraine and were already mentioned in the Commission's 2018 enlargement strategy. This strategy emphasized the need for reforms in human rights and good governance. But it also gave more say to the member states in assessing the situation in the countries concerned [A Credible Enlargement 2018, 1-4]. In other words, it strengthened the politicization of the process at the expense of the norms consensus that prevailed in the preceding waves of EU enlargement (Thomas 2022: 194-205).

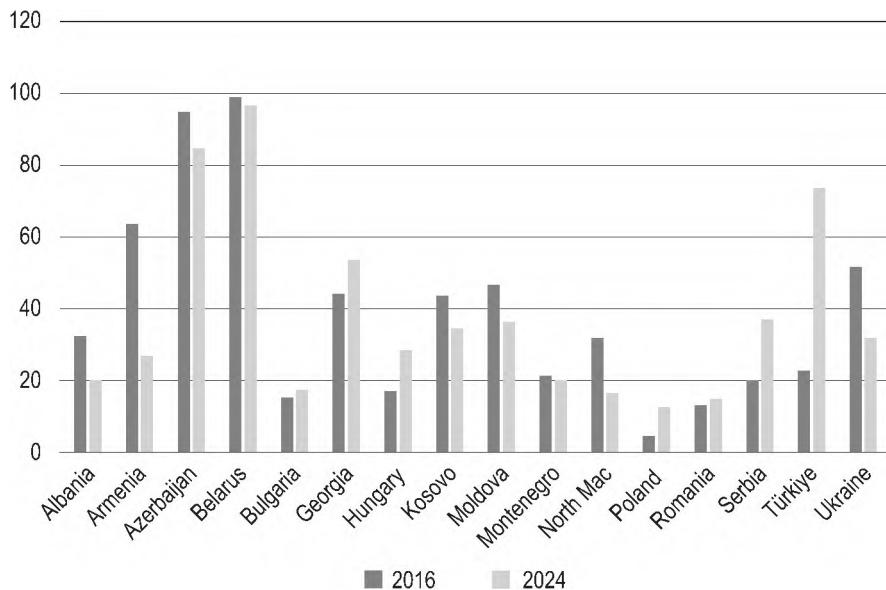
Such greater political direction may go one of two ways: either in the direction of a tougher approach, or a more lenient approach according to the foreign policy preferences of the member states concerned. In any case, the need for unanimity in these decisions may well lead to other deadlocks as member states can always use enlargement decisions as a way to settle political scores with the candidate countries, as reflected in the Bulgarian veto, in November 2020, of accession negotiations with North Macedonia. That decision also affected Albania whose accession path was linked to North Macedonia (Crombois 2022, 34-35).

The net effect of EU enlargement on the candidate countries has been more than mitigated. In this respect, all the countries have seen little or no improvements since 2014-2015. New concepts such as „backsliding“ or „de-democratization“ or even „competitive authoritarianism“ (Cianetti, Dawson and Hanle 2018) were introduced to describe the situation in the Western Balkans as far as the rule of law and fundamental freedoms were concerned. Concretely, such situations would be characterized by weak democratic institutions, and the exploitation of that weakness by authoritarian political actors to gain and retain power (Bieber 2018, 334).

However, the focus on the rule of law and fundamental freedoms in the Western Balkans should not divert attention from the evolution in some EU member

states in the same domains. Based on the indexes designed by the Bertelsmann Foundation<sup>2</sup>, the situations in some EU member states such as Hungary, Poland, Bulgaria, Romania and in the Western Balkan candidate countries, not to mention the Eastern European candidate countries, do not differ that much; and, in some cases, EU member states, such as Hungary, scored below these countries [see table below].

**Table 1: Ranking Status Index -BTI Index<sup>3</sup>**



In contrast to the EU enlargement policy, the objective of resilience has increasingly supplanted the one of transformation with respect to the EU's Eastern neighbours. At its onset, the EaP was in tune with the EU's transformative ambitions. In 2008, the EU Commission made it clear that the main objective of the EaP was to guide the reform process in the Eastern partners in order to align them with EU values and norms, such as the commitment to the rule of law, good governance and the approximation of their domestic legislation to the single market *acquis* (European Commission 2008).

<sup>2</sup> The Bertelsmann Stiftung's Transformation Index (BTI) aggregates the results of this comprehensive study of transformation processes and political management into two indices: The Status Index and the Governance Index. 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. The Governance Index assesses the quality of political leadership with which transformation processes are steered. The lower the score, the better the situation.

<sup>3</sup> Source: Data can be found here: „Methodology.“ BTI 2024. Accessed May 25, 2024. <https://bti-project.org/en/methodology>

In this way, the EaP, as well as the ENP from which it emanates was deeply embedded in the EU's enlargement policy. Indeed, the use of terms and concepts such as 'conditionalities', approximation of domestic legislation and use of benchmarks were all reminiscent of the EU's enlargement policy short of the vast financial means committed to both policies.

The resilience turn in the EaP must also be seen in the context of its growing geopoliticisation since 2014 (Makarychev and Devyatkov 2014; Nitou 2016; Cadier, 2019). Indeed, with the launching of the EaP in 2009, the EU's Eastern neighbourhood was increasingly seen as a locus of competition between Russia and the EU. 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, 320-324). 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, and these are mostly restricted to cooperation on energy (Shirihev 2019, 29-30).

With the crisis between Ukraine and Russia, the Eastern neighbourhood changed from a zone of competition to a zone of conflict with Russia. To some extent, such a shift posed some challenges for EU foreign policy that had so far refused to some extent to see itself as a geopolitical actor and had to acknowledge the limits of its policies based on values and norms instead of material interest and power politics.

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 main priorities: economic development, good governance and connectivity. They also included three more general cross-cutting deliverables: gender equality, non-discrimination, and strategic communication and independence of the media. By February 2020, despite some 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 (20 deliverables for 2020).

The ENP Review also included new terminology that emphasized stability and differentiation in the relations between the EU and its Eastern partners. The former was reflected in the partial lifting of sanctions against Belarus and the invitation of its leader Alexander Lukashenko to the EaP summit in November 2017 despite complaints from the leaders of the country's opposition (Bosse & Vieira 2018, 25). The latter was reflected in the signing of the Comprehensive and Enhanced Partnership Agreement with Armenia. (Shirihev, 2019)

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, 9-10). 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 defense. These priorities were further confirmed in the EU Strategic Compass document that outlines new objectives for the Union in security and defense (Blockmans, Crosson and Paikin, 2022).

### **Resilience and Transformation in the Eastern Neighbourhood after the June 2022 and December 2023 Decisions**

If there was a clear path dependence between the EU policies towards enlargement and the EaP, the two policies drifted increasingly away from one another. The situation changed dramatically with the outbreak of the war in Ukraine. In March 2022, what were viewed as the three most advanced Eastern partners, Georgia, Moldova and Ukraine, applied for EU membership. Soon afterwards, and following the Commission's record speed opinion, the European Council, meeting in June 2022, agreed to grant candidate status to Moldova and Ukraine while the decision on Georgia was taken later in December 2023. Not without some irony, the June 2022 decision reconciled the EaP with EU enlargement since their inception but also changes its emphasis from resilience and stability to transformation and reform.

The clear impact of the June 2022 and December 2023 decisions on the EaP was to divide the Eastern partners in three groups. The first is the EU accession candidates. The second group consists of Azerbaijan and Belarus that excluded themselves from joining the EU. The third group includes Armenia, which, by acceding to the Russia-led Eurasian Economic Union, excludes them from signing a DFCTA with the European Union even though the country recently showed its willingness to apply for EU membership (Volpicelli, 2024).

To address the geopolitical changes in Europe, in May 2022, French President Emmanuel Macron launched an initiative called the European Political Community (EPC). It aims to gather all the democratic European nations in a „new space for political cooperation, security, cooperation in energy, transport, investment, infrastructure, and the movement of people“ (Herszenhorn, von der Burchard and de la Baume, 2022). 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, the 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 being said, the EPC is unlikely to provide any real anchor for the accession process for the three EaP countries, even though it could be useful for some of them to deepen their bilateral relationships with some key member states. Indeed, the initiative is largely restricted to being a forum for discussion rather than a strong policy and security provider for the EaP countries (Bechev 2022). This means that its impact on the EaP candidate countries may be limited, and it is therefore unlikely to offer a credible framework to advance their accession ambitions.

But the June 2022 and December 2023 decisions also raise the question of the future of resilience as both a central concept for EU foreign policy and for the Eastern partner countries. More fundamentally, it not only calls into question the future of the EaP, but for the same reason the future of resilience itself. However, there may be a future for resilience if used properly in the context of EU enlargement policy for the new candidate countries as well for the ones in the Western Balkans. Indeed, the relative failure of the transformative ambitions in these countries calls for a new approach.

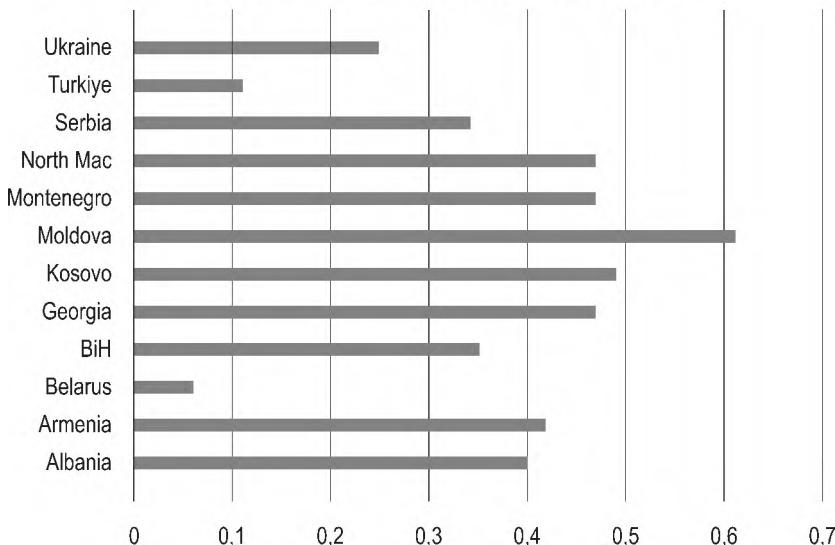
The reasons for the lack of success of the transformative approach in the context of EU enlargement can be summarized as follows. First, the approach was very much centred on the leaders of the Western Balkan states rather than on their institutions, not to mention non state actors. This has contributed not only to strengthen their legitimacy but also to increase their state capture when they do not openly obstruct the reform process itself. Second, the EU approach has been too technical and not political enough. Moreover, the EU paid too much attention to formal processes such as the transposition of the Acquis Communautaire and not enough to the political dynamics of clientelism and corruption (Wouters and Kossokaska 2024, 5-7).

The comparison between the situation, in terms of reforms, between the Western Balkan candidate countries and some of the Eastern partners, with the exceptions of Belarus, Turkey and Azerbaijan, shows very similar results with few major differences.

In terms of the liberal democracy index designed by the V-Dem Institute (Democracy Report, 2024: 62-63), the Western Balkans showed only slightly better scores (Serbia excluded) than the Eastern partners, excluding Belarus (see Table 2).

In terms of economic criteria, the Eastern partner countries have performed better than their Western Balkans counterparts. This fact does not discount the fact that performances between these countries may show significant differences [Emerson et alt., 2021: V-VI].

**Table 2: Liberal Democracy Index - Score 2024<sup>4</sup>**



To some extent, the resilience challenges are similar between all the candidate countries save from the security and military aspects in the three Eastern partner candidate countries. These challenge concerns low levels of social trust, the low legitimacy of governance actors and of government institutions.

## Conclusion

The uncertainties surrounding the future of resilience as a key concept in EU foreign policy reflect the extent to which the EU is still dealing with the geopolitical shock waves caused by the Russian aggression against Ukraine. By granting EU candidate status to three of its Eastern partners, the EU has to rethink its approach towards them that was very much anchored on the concept of resilience. In other words, the blending of the EU's enlargement policy and the EaP raises the question of the possible future of the concept of resilience and its compatibility with the transformative ambitions of the EU.

The decision to grant candidate status to the three Eastern partners also calls into question the future of EU enlargement policy towards the Western Balkans. While emphasizing their transformation as a main policy objective,

<sup>4</sup> „The V-Dem Liberal Democracy Index (LDI) captures both liberal and electoral aspects of democracy based on the 71 indicators included in the Liberal Component Index (LCI) and the Electoral Democracy Index (EDI). The EDI reflects a relatively ambitious idea of electoral democracy where a number of institutional features guarantee free and fair elections such as freedom of association and freedom of expression. The LCI goes even further and captures the limits placed on governments in terms of two key aspects: The protection of individual liberties, and the checks and balances between institutions“. The higher the score, the better the situation. Source: Democracy winning and losing at the ballot. Accessed May 19, 2024. 52 [https://www.v-dem.net/documents/44/v-dem\\_dr2024\\_highres.pdf](https://www.v-dem.net/documents/44/v-dem_dr2024_highres.pdf).

this is far from being achieved, considering the mixed results so far in terms of reforms.

In this context, resilience may offer some interesting tools when dealing with social trust, trust in the governance actors and legitimacy of the institutions while emphasizing the need for strong bottom-up approaches that may enable bypassing possible obstruction by some of the Western Balkans' national leaders. In the short term, however, resilience may prove insufficient to deal with the particularly difficult situations in Ukraine, Moldova, and Georgia that are still marked by the war or the aftermath of their own conflict with Russia.

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# THE EU ENLARGEMENT POLICY IN THE PROCESS OF TRANSFORMATION: MOVING FORWARD FROM DECLARATIVE PROMISES TO STRATEGIC GOALS?

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## *Abstract*

*The EU's enlargement policy has reached the top of the EU's political agenda within today's turbulent geopolitical environment. Experts and academics, however, warn of the lack of clear perspective about its future implementation, so that the mistakes made during the previous enlargement round are not repeated. We aim to contribute to this effort by reconstructing the fundamental logic of the enlargement methodology through its practical manifestation in the EU's official communications on enlargement. We apply a complex quantitative-qualitative analytical methodology to go beyond the official statements in the studied documents and reach a systematic structure of key characteristics. This knowledge will allow for some fundamental changes in the EU approach towards future enlargements, aiming at qualitatively different results in much more successful Europeanisation of the applicant countries.*

**Keywords:** EU enlargement, strategic goals

## **Introduction**

Today's turbulent geopolitical environment has pushed the EU enlargement policy to the top of the EU's political agenda. As a main element of the Union's response towards the Russian invasion of Ukraine, the process has begun for many countries with lower economic competitiveness, questionable implementation of democratic standards and adherence to the rule of law, and enormous differences in terms of historical evolution, political culture, economic and demographic structure (Börzel 2023; Schimmelfennig 2023a; Schimmelfennig 2023b; Sydow & Kreilinger 2023; Nizhnikau & Moshes 2024). This new in-

secure geopolitical environment has not only created a new momentum for the process, but it has inevitably led to a change in the practical application of the EU enlargement policy.

The upcoming enlargement is being conducted under a renewed methodology which was adopted in 2020 for the countries from the Western Balkan region. The necessity for a new approach back then was justified with the impartial results of the Eastern enlargement<sup>1</sup>. This methodology was challenged by the new volatile geopolitical context. Since the applications of Ukraine, Georgia and Moldova, having in mind the high stakes it is natural that the debate about the future of the EU's enlargement policy became extensive both among experts and in the academic world, resulting in the preparation of numerous policy papers by different think tanks and Commission working groups<sup>2</sup>. There is a shared understanding about the **need to reform the EU enlargement strategy in a way that it becomes capable of producing qualitatively different results**, compared to the Eastern enlargement, in even less favourable conditions. The reform of the EU's enlargement policy, however, must stem from an in-depth well-rounded understanding of the underlying logic behind its present-day implementation. The aim of the article is to contribute to this effort by studying the basic functioning principles of the EU enlargement policy, their transformations over time, and their connection to the concrete results it targets and achieves.

## Key characteristics of the EU's enlargement policy

The study of the current developments in the EU's enlargement policy must step upon a solid knowledge of the socio-historical formation of its underlying principles. The need for a dedicated policy on enlargement emerged with the

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<sup>1</sup> The argument was cited in a number of internationally influential medias such as: The Guardian (<https://www.theguardian.com/world/2019/oct/18/eu-refusal-to-open-talks-with-albania-and-north-macedonia-condemned-as-historic-mistake>); European Views (<https://www.european-views.com/2019/10/looking-behind-frances-shameful-veto-on-albania-n-macedonias-eu-accession-talks/>); Reuters (<https://www.reuters.com/article/us-eu-balkans/eu-to-overhaul-process-for-admitting-new-members-in-bid-to-lift-french-veto-idUSKBN1ZY198>); Washington Post ([https://www.washingtonpost.com/gdpr-consent/?next\\_url=https%3a%2f%2fwww.washingtonpost.com%2fpolitics%2f2019%2f11%2f14%2fnorth-macedonia-wont-be-joining-anytime-soon-did-eu-lose-its-peak-leverage%2f](https://www.washingtonpost.com/gdpr-consent/?next_url=https%3a%2f%2fwww.washingtonpost.com%2fpolitics%2f2019%2f11%2f14%2fnorth-macedonia-wont-be-joining-anytime-soon-did-eu-lose-its-peak-leverage%2f)); Deutsche Welle (<https://www.dw.com/en/frances-macron-sparks-ire-in-bulgaria-over-migrant-remarks/a-51099238>)

<sup>2</sup> The following reports are among the most widely discussed: a) 2023 Communication on EU Enlargement Policy; b) Eastern Europe Joins the Western Balkans. A New Start for the EU's Enlargement Policy, ReThink, June 2023.; c) Sailing at High Seas: Reforming and Enlarging the EU for the 21st century. Report of the Franco-German Group on Institutional Reform. Paris-Berlin, September 2023; d) A critical look at the report of the Franco-German Working Group on EU institutional reform. TEPSA Commentary, November 2023; e) Catch-27: The contradictory thinking about enlargement in the EU, Council of Foreign Relations, November 2023; f) The EU's Geopolitical Enlargement; g) The impact of Ukrainian membership on the EU's institutions and internal balance of power

Eastern enlargement process, because of its unprecedented character. It did not come as a logical spread of the integration process as it is often claimed in the academic literature (Schimmelfennig & Sedelmeier 2005; Grabbe 2006; Sedelmeier 2011; Gateva 2015). On the contrary, for the Western European countries it presented the only non-military way out of the complex of geopolitical challenges which emerged with the end of the Cold war and the collapse of the communist regimes (O'Brennan 2007; Veleva 2021; Dimitrov 2022). These included, on the one hand, the disbalance created within the European Communities with Germany's unification and its growing power. On the other hand, the instability emanated from the newly established post-communist states threatening with regional conflicts, border disputes and minority issues, ecological crises. Last but not least, Russia's geopolitical and economic interests in the Central and Eastern European region were still not clearly articulated, while its military power and possession of natural resources placed the Western countries in a position of dependence, but to a different degree. This complicated geopolitical situation had only one possible non-military solution – the integration of the CEE countries (Central and Eastern European countries) to the European structures (O'Brennan 2006).

These countries' political, economic and societal models were, however, incompatible with the basic values and norms which define the Western European integration process, and thus, need to undergo major transformations for the sake of their successful integration. The underlying task behind the enlargement process back then was to induce irreversible structural reforms in post-communist countries, supporting their transition to liberal democracy, market economy, and adherence to the principles of the rule of law. These reforms should have made them compatible with the Western European societies, so they could function and develop effectively within the EU.

The novel character of the task was not fully recognised, and the enlargement approach followed a logic of historical continuity. The difficult questions in regard to which countries can be granted access to the EU and upon what conditions became extremely controversial between the member states, especially in the context of the overall uncertainty about the identity and the future direction of the Union. In order to bypass the issues unsolvable between the member states themselves, the process was delegated to the European Commission as the only actor within the EU's institutional structure possessing experience and expertise on preparing countries for accession. This move was an attempt to depoliticise this political matter and present the upcoming enlargement preparation as an administrative procedure. The Commission handled the process with the mechanisms available at its disposal which were, however, designed to solve the different task of the previous enlargement round – market integration of societies with similar political, economic and cultural models. This task requires simply acceptance of the *acquis communautaire* of the Single market. Following this logic of historical continuity, the rule transfer became again the main goal in the Eastern enlargement process, replacing the aims of deep irreversible authentic Europeanising reforms.

The enlargement policy was conducted through the conditionality instrument. It was transformed to address the need for „coercion“ which appeared to address the refusal of some local governments to undertake reforms that would result in their loss of power and resources. This obstacle was unexpected within the logic upon which the enlargement policy was built, and which was reflected in the mainstream academic literature too (Sedelmeier 2012; Grabbe 2006; Schimmelfennig & Sedelmeier 2005). Within this approach, the transformative power of the EU through the conditionality instrument was taken for granted, presenting the process as a simple asymmetric relationship between two monolithic subjects in which the weaker party – the CEECs' governments should be willing to accept the requirements of the stronger one – the EU. Within the framework of this paradigm, the partly unsatisfiable results of the Eastern enlargement process came as a surprise (Sedelmeier 2012; Grabbe 2006; Schimmelfennig & Sedelmeier 2005; Smith 2003). Seventeen years after the accession of Bulgaria and Romania, however, these major misconceptions must be cleared out. It is thus worth studying the newest developments in the enlargement policy to understand the changes and transformation of its logic of operation. In this way we will be able to assess its current potential to achieve qualitatively different results within today's even less favourable conditions.

## Methodology

The paper builds on the social constructivist paradigm as a productive perspective to studying the subject of EU enlargement. This methodological perspective views the process as a complex interaction between multi-level actors who take part in this interaction through their perceptions, values, beliefs, attitudes, goals. The EU with its complex structure of interests between member states, institutions, businesses, citizens, is represented in this interaction by the European Commission. The clearest expression of the Commission's initial goals and aims, as well as the methods to achieve them, are the official statements on enlargement. Thus, we will use as an empirical source the Commission's communication on enlargement from June 2020 (when the new enlargement approach was presented) and from March 2024 (when the latest communication on enlargement was published). The focus of the empirical study will be on the introductory sections of the reports, which in fact contain the definition of the task.

We are conscious of the fact that these documents present only the formal aspect of the collective EU vision and interest in the process, while a whole complex structure of informal interplays remains in the background. However, we will use a specifically designed qualitative-quantitative analytical instrument to study these documents to go beyond the official statements and reach the structure of key characteristics, which will allow us to grasp the mental map of the EU's enlargement policy in its practical application<sup>3</sup>.

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<sup>3</sup> For further details on the methodology, see Popova (2024). The Puzzle of the Bulgarian Integration to the European Union.

In concrete terms, the documents will be broken down into individual semantic accents, which afterwards will be structured back together following not the sequence of the sections but the logic of the research subject itself. First a map of all the actors will be constructed starting with the two collective actors (The European Union and the candidate countries) being placed on top, and then reconstructing in a hierarchical order the full structure of players recognised in the documents. Then all the individual semantic accents will be placed under the actors and sub actors they refer to.

We will analyse the empirical data through the disbalances of the overall structure of actors and semantic accents recognised in the documents. The focus will be placed particularly on:

- overall structure/ weight of the main actors;
- definition of the enlargement goal and tasks;
- instrument to achieve the desired results;
- instruments to assess the success of the enlargement policy.

## **Empirical findings**

The empirical analysis shows the following findings:

Firstly, the actors referred to in the two documents are more or less identical, however there are *differences in regard to the intensity* of their presence. In the 2020 document, the main focus is not on a single actor, but on the EU's enlargement policy itself. The variety of individual semantic accents concern the policy both in descriptive terms, referring to the way of functioning of the key mechanisms (e.g. rigorous conditionality; new approach on the rule of law; focus on the fundamentals etc.) and in terms of policy goals (e.g. to build trust among stakeholders; to foster growth; to create jobs). The semantic accents are relatively equally distributed between these two general categories (27:28).

The two actors are represented more or less equally in the 2020 document with 43 semantic accents referring to the EU, the member states, the EU institutions or any sub actors within these structures, and 39 referring to the individual Western Balkan countries; governments; societies; businesses or any other sub actors within them. When it comes to the Western Balkan states, there is a serious share of semantic accents related to the reform goals in the candidate states, such as democratic reforms; rule of law reforms; to accelerate economic growth; to improve the business climate etc.

In the 2024 communication the biggest weight falls on the EU side with 68 semantic accents referring to actors and sub actors in its structure. 59% (or 40 of them) refer to the EU in general terms viewing it as a monolithic subject. It is worth mentioning that a considerable share of these group of accents (15 out of 40, or 38%) refer to an abstract future EU - „the Union of tomorrow“, which

will have „greater influence on the global stage“ and „enhanced resilience“. This is a clear manifestation that over the last 4 years the focus of the enlargement policy has shifted from the candidate countries to the EU itself, while the clarity in the process has decreased leading to the choice of abstract collective descriptions. The candidate and potential candidate countries, although increased in number, compared to 2020, are less represented in the document. In concrete terms, there are 30 semantic accents altogether, that refer to the accession countries in general, Ukraine being the only one named in particular.

Considering the above findings, it does not come as a surprise to find out that there is a shift in the structure of the external actors. In the 2020 document we see a more or less even representation of „third countries“ (6 references) and „Europe“ (5 references). In the first thematic cluster there is no single country being named, rather a general reference to „global tensions“ and „malign third country influence“, while on the „Europe“ side there is a clear similarity in the semantic accents all of them being with positive connotation and referring to either values, or the future outlook of the continent.

In the 2024 document there are again 6 references to „third countries“, however, all of them being concrete and with negative connotations. Russia is clearly named in the communication, and there is a clear reference to „war“, „aggression“, „volatile geopolitical context“. When it comes to the „Europe“ side, again, all the semantic accents are value-based, but this time referring to Europe being „free“, „united“, „a European family“ etc. This reflects a shift in the definition of the task - from mere value-based definition in 2020 to a geopolitical definition in 2024. The geopolitical dimension of the enlargement process has now been explored extensively in the mainstream academic tradition where until recently it was massively neglected (Schimmelfennig 2023a; Schimmelfennig 2023b; Sydow & Kreilinger 2023; Nizhnikau & Moshes 2024).

It is worth pointing out that in the 2020 document we were able to identify a substantial share of semantic accents referring to the goals and objectives of the EU's enlargement policy both on the side EU (21), e.g. to create entrepreneurial opportunities of the green economy, etc. but with an even stronger presence, in the Western Balkan region (25), e.g. „stop the brain-drain from the region“, „boost the economies in the Balkans“, „bring forward the rule of law“. In the 2024 report there are only 5 references to reform goals in the acceding countries, all of them being quite general - „substantial reforms“, „political reforms“, „being ready for membership“ etc. In contrast, there is a higher concentration of semantic accents in terms of the EU goals of the enlargement process (17) such as „to expand democracy“, „to expand external security“, „to anchor stability“. We observe, on the one hand, a changed proportion (from 1,12:1 to 3,4:1), again pointing to the shifted focus from the candidate countries to the EU. On the other hand, we cannot ignore the much-decreased overall number of semantic accents referring to the goals (from 53 to 22, or over 40%), showing again a decrease in the clarity and concreteness of the enlargement policy goals, and in the process in general. However, even in the 2020 documents, the „core

objective“ is „**to prepare the countries to meet all the requirements of membership**“, which sustains through the years.

When it comes to the mechanisms of the enlargement policy, the total number of semantic accents which fall in this category are quite few in total in both cases and have decreased from 9 to 5. The majority of them refer to the „conditionality“ instrument, which seems to occupy an even more central position, compared to the Eastern enlargement. It is defined as the „core“ of the accession process, and there is a promise for „more conditionality“. „rigorous conditionality“, „positive and negative conditionality“.

When it comes to how progress will be measured, we see a tension between two mutually exclusive statements. On the one hand, the process is defined as „merit-based“. In the two documents there is a repeating refrain that each country will be evaluated based on its own merits. In the 2024 communication a new refrain appears, alongside the old one, that no enlargement can take place until the EU is enlargement ready. This is a clear contradiction, making the process even less predictable (in contrast to the stated in the 2020 document aim for „more predictability“ of the future enlargement process), but at the same time keeping open a window for political considerations. Not surprisingly, there is still no explanation as to what „merit“ means in this context, neither what is required to get the EU enlargement ready. The question of a potential institutional reform is being left in the air with just some random ambiguous references to it.

While the question of measuring progress remains quite abstract in the official statements, at the same time we see substantive evidence that in practice it is foreseen to be measured through the well-known principle of „acquis transfer“. Some examples include: „integration will require dynamic alignment to the EU acquis“; „absorption of the EU acquis is facilitated“; „the further integration of candidate countries and potential candidates into respective parts of the Single Market will be underpinned by strengthening regulatory convergence with the EU“ etc. But this was exactly the principle which created some of the major problems of the Eastern enlargement, as it created the conditions for imitating reforms and Europeanization on paper (Dimitrov 2022; Domaradzki 2022; Popova 2024). With this in mind, so far the new approach does not present sufficient evidence for possessing potential to achieve qualitatively different results compared to the previous enlargement round.

## **Discussion of empirical findings**

The empirical results showed, on the one hand, some major changes in the semantic field behind the EU’s approach to enlargement. They concern, above all, the perception of the need for enlargement which has now been clearly defined in terms of geopolitics. This shift in the perception leads to a change in the focus - from the enlargement countries to the EU itself. While the Eastern enlargement was presented more as a beneficence to the post-communist countries in response to their aspiration to join, in 2024 enlargement

is already openly stated to be in the interest of the EU. Thus, the main goals are now predominantly EU-focused, with the core objective of the enlargement process being „to get the countries ready for membership“ with view to protecting the functioning of the union itself. This change goes hand in hand with an increased ambiguity and unclarity in the process, opening further the window for geopolitical consideration. The ambiguity comes handy, considering the increased scope, scale, and the complexity of the task, as it serves as a tool to postpone the process until there is a strategy in place. For the sake of its successful implementation, however, this approach needs to be urgently transformed into clear principles and mechanisms, adequate to the changes and transformation that are required in the candidate countries for their effective EU membership.

The documents contain proof for the introduction of some novel principles, showing signs for the learned lessons of the Eastern enlargement. Such an example could be the „fundamentals first“ approach which is a redefinition of the negotiation's chapters in a way that the chapters concerning matters related to the rule of law and the functioning of the judiciary form a separate cluster which is opened first and closed last in the accession process. Another major change are the principles of „phasing in“ and „gradual integration“ for which we see just a reference in the 2020 document. In the latest communication, however, we see some evidence for their practical implementation in various sections of the Single market. Some examples concern the coordination of economic and social policy under the European Semester which is being replicated in enlargement countries: all candidate countries and potential candidates submit annual Economic Reform Programmes to the European Commission, focusing on reforms to boost competitiveness and improve conditions for inclusive growth and job creation. Other examples are related to cross-border and transnational cooperation programmes, which enable the enlargement countries to work together and with neighbouring EU Member States in key social and economic sectors. The promise for preparation of annual reports on the functioning of the rule of law in the most advanced in the process candidate countries, replicating the reports for the member states, is another example in this direction. If implemented consistently, the gradual integration can make a difference in the accession process. It will mean that the different countries will gain access to exactly these aspects of the membership for which they are most prepared. This could solve one of the biggest problems of the Eastern enlargement, namely, the ideal of the membership as the end goal of the efforts.

These changes in the approach, while promising in some respects, however, still seem to step upon the old principles of the Eastern enlargement process, already proven ineffective – namely, the conditionality instrument and the accession on paper through rule transfer. The main problem with the approach towards the CEEs was that it failed to induce real reforms in the acceding countries, other than the transfer of *acquis communautaire*. This basic political

understanding is replicated in the current approach heading the process towards partial, superficial reforms.

## Conclusion

The EU's enlargement policy is still in the process of being built up. Regardless of the claims to put structure in place, it remains a reactive process, dependent above all, on dynamic geopolitics and national political priorities. There are signs for some fundamental changes in the way it is conceived by the dominant actors on the EU side. The basic assumptions behind the EU's enlargement approach towards the CEECs, most of them proven ineffective, however, remain in the core of the EU's enlargement policy today. A new outlook of the old approach in some substantive particulars cannot lead to qualitatively different results. With this in mind, we can conclude that at this stage the EU's enlargement policy does not possess the potential to achieve authentic Europeanisation and lasting reforms in the candidate countries. Considering the recognised political priority and complexity of the enlargement task, it is urgent to change the fundamental logic behind the principles and mechanism of the enlargement approach. They must be focused towards achieving the goals of transformation and irreversible reforms in the acceding countries with a very clear understanding what these imply and how they induce authentic Europeanization.

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# THE BEIJING AND THE BRUSSELS EFFECTS ON THE WESTERN BALKANS COMPARED – NORMATIVE DILEMMAS, POLITICAL CONUNDRUMS

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## *Abstract*

*Conditionality is an ambiguous instrument of the toolbox in the asymmetrical relations between both the European Union or China, and Western Balkan candidate states, respectively. However, the conceptual interpretations and the practical implications of conditionality of either the EU or China are nowhere near similar; this study even proposes the hypothesis that they are contrasting to each other. The Brussels effect is exercised through legal institutions and standards and stems from the soft power of the European Union, which is described as normative, as well as transformative. The Beijing effect displays the influence of sharp power which undermines democratic governance and the rule of law using attractive economic incentives, the technological edge and resource dependency. This research offers a comparative analysis of the two conditionality approaches to the Western Balkan countries (WB 6) by probing into different ethical issues and specific practical problems. Probable scenarios are eventually discussed, and enlargement strategies outlined so that the geostrategic positioning of the European Union should keep its footing in the region.*

**Keywords:** conditionality, soft power, sharp power, Brussels effect, Beijing effect

## **Against conventional wisdom**

The diplomatic toolbox has been undergoing a continuous upgrade for the last two decades due to the rapid innovations both in terms of technological learner's autonomy and the sophistication of human-based techniques in global communications. International actors such as nation-states and supranational entities adapt to these turbulent changes, but yet, their social learning happens at a different pace – the European Union (EU) has, for the last decade or so, slowed down the tempo due to public and elitist backlashes to economic

stagnation, migration pressure and partisan polarization, whereas People's Republic of China seems to have been steady at speeding or at least maintaining the tempo.

Both the EU and China apply the instrument of conditionality in their interactions with asymmetrically weaker partners, such as the set of six former Eastern bloc countries (North Macedonia, Serbia, Montenegro, Bosnia, Albania, Kosovo), labelled as the Western Balkans, specifically in the Bulgarian neighbourhood discourse. However, the asymmetry in the two vectors of the EU-China-Western Balkans triangle is explained by different variables – the adjacent relationship between the EU and the Western Balkans is based on membership criteria, the opposite one between China and the Western Balkans is grounded on economic dependence and political contiguity, whereas the longest side of the triangular partnership (the 'hypotenuse') can be subsumed under the disparities in the diplomatic approach as regards soft and respectively sharp power.

This study elaborates on a conceptual and empirical analysis of EU conditionality through the prism of its normative and institutional power in the relations with Western Balkan candidate countries and then compares it with China's impact on the same group of strategic partners in two consecutive arguments. The first argument reestablishes the transformative advantage of the Brussels effect in its long-standing principled nature of setting the standards, despite the practical shortcomings of a highly volatile geopolitical context in the region. The second argument tries to substantiate the dubious Beijing effect through some findings about the negative repercussions of the Chinese infrastructural, technological and industrial input as well as dysfunctional political influence. The inferences are oriented towards the policy outcomes that can affect the European Union as a whole and Bulgaria in particular.

## A paper tiger

The European Union is not the same monolithic entity with ultimate rationality as states are, according to the realist thinking in international relations theory. Therefore, the materialist reasoning through military dominance or economic pre-eminence is not a defining feature of the EU. Being an integrative community with a complex regulatory and institutional framework of both intergovernmental and supranational method of governance, the EU is characterized by change and continuity alike, and is focused on a specific goal, namely, the setting of standards. These standards include the respect for universal human rights norms, as well as founding principles of the Union, such as liberty, democracy, justice, equality, solidarity and rule of law. The Brussels effect, therefore, is denoted as a **normative power/pouvoir normative**, likely to '*shape conceptions of the normal*' as part of European identity construction, a term coined by *Manners*<sup>1</sup> in the academic debate

<sup>1</sup> Diez, T., Manners, I. (2007), *Reflecting on normative power Europe*. - In: Berenskroetter, F., Williams, M. J., eds. *Power in World Politics*, Routledge, London & NY, p. 176

with Diez.<sup>2</sup> Although *Manners* distinguishes the prescriptive concept of normative power from Nye's seminal notion of soft power,<sup>3</sup> as being only empirical and thus descriptive, such a differentiation is too theoretical and tends to alienate normative power from its implementation and the evaluation of its ethical considerations and practical effectiveness in specific contexts, where the asymmetry in relative power is inevitable. That is why this study prefers to emphasize the effect through Bradford's narrower term, **'the Brussels effect' – the regulatory power of the EU**. The Brussels effect, as Bradford asserts, is *'significant, unique, and highly penetrating power to unilaterally transform global markets, be it through its ability to set the standards'*.<sup>4</sup> The Brussels effect in the broader sense of this research relies not only on the stringent standardization in market terms, but also on the governance through principles in global and regional politics.

The wielding of normative power appears to be radically different from the vertical coercion of military expedients (hard power) or the horizontal reciprocity of economic means (sticky power, after *W. R. Mead*). Normative power of the EU originates from two basic practices of diffusion – the first one is the more spontaneous practice of contagion and the second one is the purposeful practice of transference.<sup>5</sup> The unintentional spread of ideas such as leading by 'virtuous example' (Coombes, 1998, cit. in: *Manners*, 2002) of non-binding norms (soft law) and the institutionalization of procedures can be tracked down to the enlargement negotiations with accession countries and is referred to as **the transformative power of Europeanization**. Transference concerns normative power *per se* and consists in the intentional adoption of binding norms as part of the *acquis communautaire*. Since transposition norms are more utilitarian in nature, they are aimed at deliberately changing the respondent's behaviour and are closely related to imposing the interests of individual member states. We can pinpoint two paradoxes to the implementation of the Brussels effect that complicates the conventional understanding of normative power.

The first paradox is that the promotion of particular norms, as *Sjursen* underscores, may necessitate even threat of the use of force<sup>6</sup> or sanctions. A **case in point** is the imposition of restrictive measures against certain natural

<sup>2</sup> Diez, T. (2005), *Constructing the Self and Changing Others: Reconsidering 'Normative Power Europe'*, *Millennium - Journal of International Studies*, no. 33, pp. 613-636

<sup>3</sup> Manners, I. (2006), *The European Union as a Normative Power: A Response to Thomas Diez*, *Millennium - Journal of International Studies*, no. 35, pp. 167-180

<sup>4</sup> Manners, I. (2006), *European Union, Normative Power, and Ethical Foreign Policy*. - In: Chandler, D., Heins, V., eds., *Rethinking Ethical Foreign Policy*, Routledge, London, pp. 116-136

<sup>5</sup> Bradford, A. (2020), *The Brussels Effect. How the European Union Rules the World*, Oxford University Press, Oxford, p. xiv

<sup>6</sup> A reinterpretation of Manners' six-factor concept of diffusion:

Manners, I. (2002), *Normative Power Europe: A Contradiction in Terms?* - *Journal of Common Market Studies*, vol. 40, no. 2, pp. 244-245

<sup>6</sup> Sjursen, H., (2007), *The EU as a 'normative' power: how can this be?* - Sjursen, H., ed. (2007), *Civilian or Military Power? European Foreign Policy in Perspective*, Routledge, London & NY, pp. 100-101

and legal persons in Bosnia and Herzegovina whose activities undermine the sovereignty, territorial integrity, constitutional order and international personality of the country, seriously threaten the security situation there or undermine the Dayton/Paris General Framework Agreement for Peace and the Annexes thereto.<sup>7</sup> Normative power may become punitive (proximate to hard power), thus causing indiscriminate harm to third persons, such as the whole civil society in a partly free, non-consolidated democracy.

The second paradox is that the more the EU pushes for the implementation of the transference mechanism by candidate countries, the more individual EU member states are suspected to use it to justify their egoistical national interests; on the contrary, the laxer the Union is in applying the contagion mechanism, the more inconsistent it appears to be. A *case in point* is the overall enlargement impasse and the ‘hostage situation’ for Albania<sup>8</sup> caused by Bulgaria’s veto on North Macedonia accession talks in 2022 because of Skopje’s failure to recognize the Bulgarian minority in the constitution. On the one hand, the positional bargaining in accession negotiations doesn’t appear to have tackled the sore issue of the subversive influence from the Kremlin regime among a persistently hostile anti-Bulgarian narrative. On the other hand, the more concessive approach of the so-called French proposal doesn’t seem to have solved the intransigence on behalf of the hardliner nationalists of VMRO-DPMNE, having regained power in May 2024.

Two prerequisites are to be highlighted in view of the contagion mechanism that describes the transformative power of the EU. The transformative power of the EU leads to a specific socialization or social learning through persuasion, acceptance and best practices, labelled as Europeanization.<sup>9</sup> The transformative effect needs, first, high probability in terms of approximate deadlines and tight scheduling, that is, explicit promise for enlargement; second, willing partners since the EU’s transformative power is based on good faith. The authentication of the will applies both to elites and society. Both are to espouse EU values and believe in the reforms they undertake in response to the EU accession requirements, so that they continue with the policies based on rule of law and good governance, even after the material incentives have gone<sup>10</sup> (usually in the form of post-accession funds). This means that EU conditionality is based on the

<sup>7</sup> *Bosnia and Herzegovina: Council extends framework for restrictive measures until March 2026*, Council of the EU, Press release, 25 March 2024, <https://www.consilium.europa.eu/en/press/press-releases/2024/03/25/bosnia-and-herzegovina-council-extends-framework-for-restrictive-measures-until-march-2026/>

<sup>8</sup> Nikolov, K. *Bulgaria will stick to conditions for North Macedonia’s EU membership talks*, Euractiv.bg, Apr 9, 2024, <https://www.euractiv.com/section/politics/news/bulgaria-will-stick-to-conditions-for-north-macedonias-eu-membership-talks/>

<sup>9</sup> Grabbe, H. (2006), *The EU’s Transformative Power. Europeanization Through Conditionality in Central and Eastern Europe*, Palgrave Macmillan, UK, pp. 44-52

<sup>10</sup> Noucheva, G. (2012), *European Foreign Policy and the Challenges of Balkan Accession*, Routledge, London & NY, p. 47

internal feeling of appropriateness and legitimization, not on the external pressure of compliance.

More specifically, the Europeanization impact on the Western Balkans changes over time. The first major transition happened in the late 1990s – while starting at the minimum threshold of the Copenhagen criteria in the 1990s, the crises in Bosnia and in Kosovo added enhanced conditionality in the form of the Stabilisation and Association Process (full cooperation with the ICTY, respect for human and minority rights, the creation of real opportunities for refugees and internally displaced persons to return, and a visible commitment to regional cooperation). Therefore, the EU transformed its identity into a ‘*a civ-mil power*’<sup>11</sup>, which is involved in complex crisis management. A *case in point* is the extended authorization of the peacekeeping mandate of the EUFOR-Althea<sup>12</sup> which accounts for increased security risks from separatist tendencies and recurrent regional instability. The problematic imbalance here is in the privileging of the build-up of military capabilities over civilian ones, which is yet unavoidable in the context of hybrid warfare. Still, the EU tries to cope with the imbalance by structuring its diplomacy<sup>13</sup> with the missions of the special representatives (BiH, Kosovo, the Belgrade-Pristina dialogue and other Western Balkan regional issues), as well as the EULEX Mission in Kosovo, aimed at reforming the institutional framework by strengthening the rule of law.

The second turning point is the visible shift towards a more instrumental understanding of the EU’s (**external democratization**) normativism<sup>14</sup> after the Arab spring and the migration influx (the dwindling of the Mediterranean dimension), the Caucasus war in Georgia followed by the Crimea annexation (the suspension of the Eastern Neighbourhood dimension), and the austerity measures in the wake of the Eurozone crisis (enlargement fatigue due to the populist sway). From Brussels’ point of view, prioritizing external crises (financial, pandemic, war of aggression) have sidetracked the focus on horizontal integration. From Western Balkans’ perspective, internal processes of resilient populism and deficient democracy (‘*stabilitocracy*’<sup>15</sup>), in line with similar

<sup>11</sup> Juncos, A. E. (2011), *Power Discourses and Power Practices: The EU’s Role as a Normative Power in Bosnia*. - In: Whitman, R. G., ed., (2011), *Normative Power Europe. Empirical and Theoretical Perspectives*, Palgrave Macmillan, UK, p. 87

<sup>12</sup> United Nations, Meetings Coverage and Press Releases, SC/15479, 2 November 2023, *Security Council Extends Authorization of Multinational Force in Bosnia and Herzegovina Mandate, Unanimously Adopting Resolution 2706 (2023)*, <https://press.un.org/en/2023/sc15479.doc.htm>

<sup>13</sup> Keukeleire, S., Thiers, R., Justaert, A. (2009), *Reappraising Diplomacy: Structural Diplomacy and the Case of the European Union*, The Hague Journal of Diplomacy, no. 4, p. 154 et seq.

<sup>14</sup> Holzhaber, R., Neuman, M. (2019), *Framing the Debate: The Evolution of the European Union as an External Democratization Actor*. - In: Neuman, M., ed. (2019), *Democracy Promotion and the Normative Power Europe Framework. The European Union in South Eastern Europe, Eastern Europe, and Central Asia*, Springer, p. 22

<sup>15</sup> Kmezić, M. (2019), *EU Rule of Law Conditionality: Democracy or ‘Stabilitocracy’ Promotion in the Western Balkans?* - In: Džankić, J., Keil, S., Kmezić, M., eds. (2019), *The Europeanisation of the Western Balkans: A Failure of EU Conditionality?*, Palgrave Macmillan, pp. 87-109

tendencies in member states, have been confronting the Europeanization dynamics with the national identity politics which filter the compliance with EU norms. A *case in point* is the independence of Kosovo as ‘the red line’ in public perception of Serbia’s relationship with the EU<sup>16</sup> and a brake to accession progress – a dichotomy of national myth of heroism and historical trauma of humiliation. Besides, ‘decoupling between formal institutional changes and prevailing informal institutions and behavioural practices’,<sup>17</sup> such as clientelistic schemes in the elections process, corruption in public administration, and flawed judicial reforms, also contribute to the faltering Brussels effect. Another *case in point* is Serbia’s and Kosovo’s reciprocal refusal to comply with EU-brokered Ohrid agreement as part of the conditionality for normalization of bilateral relations.

## A tiger in the tank

The European Union is not the only strategic player in the Western Balkans, despite being the only authentically principled agent. People’s Republic of China is among the few global powers that try to maintain viable relations with all countries in the region except for Kosovo. Before the pandemic crisis, China deployed a large-scale project in which it identified 16 former Soviet bloc countries in the broader region of Central, East and Southeast Europe (CESEE) as potential partners with shared interests, specifically WB 5 (Albania, Bosnia and Herzegovina, Montenegro, North Macedonia and Serbia). Therefore, it assumed the role of a ‘*game maker*’, through cooperation ventures that do not openly confront the current global order, but rather aim to fill gaps and address the shortcomings of existing platforms and processes.<sup>18</sup> The Belt and Road Initiative is emblematic in this regard because it demonstrates not only the economic interdependence model based on benefits, but also the connectivity model, built on infrastructure, transportation and high technologies. In short, the Western Balkans serve a dual function – a transmission zone and a production area – in the Chinese grand strategy.

Apart from the material dimension of the cooperation, China promotes „people-to-people“ linkages from the public diplomacy toolbox, such as cultural, scientific and educational exchange, as well as a visa-free travel regime. The mutual visa exemption regime for Serbia and for Bosnia and Herzegovina has

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<sup>16</sup> See more on stereotyping in Serbian society:

Jović, D. (2018), *Accession to the European Union and Perception of External Actors in the Western Balkans*, Croatian International Relations Review (CIRR), XIV (83), pp. 6-32

<sup>17</sup> Börzel, T. (2013), *When Europeanization hits limited statehood: the Western Balkans as a test case for the transformative power of Europe*. - In: Elbasani, A., ed. (2013), *European Integration and Transformation in the Western Balkans. Europeanization or business as usual?*, Routledge, London & NY, p. 173

<sup>18</sup> Vangeli, A. (2020), *China: A new geo-economic approach to the Balkans*. - In: Bieber, F., Tzifakis, N., eds. (2020), *The Western Balkans in the World. Linkages and Relations with Non-Western Countries*, Routledge, London & NY, p. 207 et seq.

mixed output because the liberalization of the tourist flow runs only in the direction from and not towards China; the same controversial trend can be registered as far as exclusively migrant workers are hired in the grandiose infrastructure projects. Media policy targets increasing coverage of China-related news and the production of China-friendly content by funding think-tanks or collaboration with local columnists. However, as the *case in point* of Albania suggests, articles about Chinese suppression of Uyghur Muslims, a sensitive issue for a Muslim-majority country like Albania, are replaced by articles praising the economic model.<sup>19</sup> Albania is not an indicative example, nonetheless, for unlike the other four countries in the region, it tries to avoid any kind of political penetration that could lead to overreliance on Beijing.

China is both a **competitive and collaborative stakeholder** in the region that follows a peculiar rationality in its strategic behaviour, which is called **the Beijing effect**. The following paragraphs will hypothesize on the diverging trajectories of the two types of influence (the Brussels vs. the Beijing effect) while approbating them in the Western Balkans. What can be presumed is that the macro-perspectives ignore the fact that Chinese diplomacy is contingent on the local context and is not a direct aftermath of isolated actions following a predetermined economic script. What also has to be taken into consideration are recent unfavourable trends. Being the main engine of global economy and a major net investor for nearly two decades, China's economic performance for 2023, however, has been marked by volatility, ongoing deflationary pressures, still weak consumer confidence and slowed growth due to structural constraints.<sup>20</sup>

First, the Beijing effect doesn't possess any normative essence which means that it doesn't count on conditionality. Nor are bilateral ties in any way institutionalized since they are very much dependent on the current political conjuncture. Chinese investment plans boast having no strings attached, but this claim shouldn't be taken at face value. China upholds the ideal of national sovereignty and non-interference in domestic affairs, therefore human rights and rule of law are no prerequisites for economic compatibility. However, Beijing exports a specific economic model of the so-called **Beijing consensus** (as an antipode of the Washington consensus) which means that it is a proponent of an ideological model (state capitalism and peaceful development). Under the one-party totalitarian regime this economic model of the 'visible hand' is undeniably penetrated by Marxist clichés (historical materialism, for example) that challenge the European model of an open market economy based on liberties. Moreover, despite contending to be a purely pragmatic economic model, the Beijing effect causes several after-effects that

<sup>19</sup> Feta, B. (2022), *Chinese Influence in Albania*, Center for European Policy Analysis, August 23, 2022, <https://cepa.org/comprehensive-reports/chinese-influence-in-albania/>

<sup>20</sup> World Bank: China Economic Update - December 2023 'Which Way Forward? Navigating China's Post-Pandemic Growth Path', <https://thedocs.worldbank.org/en/doc/cf2c1298e77c50bf1f1e7954ff560bc6-0070012023/original/China-Economic-Update-Dec23-EN.pdf> (last accessed 25/05/2024)

resemble **post-conditionality**. The trade relations reveal a structural asymmetry because Western Balkan countries' major exports are in raw materials and only a negligible amount are products with added value. Another form of dependence arises from the long-term nature of the infrastructure loans of the Belt and Road Initiative which can take decades to pay off. A *case in point* is the request as of the end of 2023 for a revision of the project to build the key Kicevo-Ohrid motorway in North Macedonia, launched in 2014, with possibility of cancelling the deal with China's state company Sinohydro altogether and seeking alternative contractors to finish it.<sup>21</sup> Lack of due diligence, transparency, accountability and adequate meritocratic planning not only make such projects unbearably expensive, but they also erode the credibility of fair procurement procedures and the basic principle of equality in bargaining.

Secondly, the Beijing effect does exert **some transformative potential with an ambiguous impact** on the recipients. One conundrum is that notwithstanding its claims at being positively pragmatic, Chinese economic enterprises create heavy burdens for the debtors on the premise that such endeavours 'borrow from the future'. Therefore, large-scale (in a Chinese mode) capital projects can actually be quite hazardous in contrast with the neoliberal logic of conditionality (devised by the World Banking Group) which scrutinizes and calculates probable gains against losses and engages in a complex impact assessment. A *case in point* is the Bar-Boljare highway in Montenegro – a huge project financed by a Chinese bank which, apart from drastically increasing the country's sovereign debt, has no guarantees whatsoever in favour of Montenegrin national interests, as the contract stipulates any arbitration procedure to be carried out in Beijing. The infrastructural venture was supposed to represent a transformative connection between the Adriatic Sea and Belgrade, but in fact construction and pollution took a heavy toll on the nearby Tara River.<sup>22</sup> Environmental infliction as well as lack of social responsibility (poor labour standards) prove that the Beijing effect is a one-way street which, figuratively speaking, can leave the other contracting party in debris.

Another controversy is included in the **sharp power** that China exercises in the region. Sharp power signifies the malign influence exerted by authoritarian regimes to foreign audiences that take advantage of the tolerance and self-criticism of democratic societies,<sup>23</sup> although in this specific case it may be argued that nondemocratic states are not interchangeable<sup>24</sup> and no

<sup>21</sup> Marusic, S. J. *North Macedonia Hints at Scrapping Stalled Motorway Project*, Balkan Insight, Skopje, BIRN, November 3, 2023, <https://balkaninsight.com/2023/11/03/north-macedonia-hints-at-scrapping-stalled-motorway-project/>

<sup>22</sup> Muller, N. (2024) *Montenegro's Scandal-ridden Chinese Road*, The Diplomat, January 13, 2024, <https://thediplomat.com/2024/01/montenegros-scandal-ridden-chinese-road/>

<sup>23</sup> Walker, C. (2018), *What is 'sharp power'?* - Journal of Democracy, 29(3), pp. 9-23

<sup>24</sup> See more about the criticism on the Beijing effect in digital authoritarianism:

Erie, M. S., Streinz, T. (2021), *The Beijing effect: China's digital silk road as transnational data governance*, New York University Journal of International Law and Politics, 54(1), pp. 1-92

universal model of sharp power exists. China has cultivated its economic leverage in order to ‘perforate’ and manipulate the public discourse in Western Balkan societies. For example, the normalization of the ‘strong arm’ approach has substituted the rule of law paradigm of the EU for the narrative of the rigid state control that securitizes human rights. As *Walker et al.* elaborate on the digital transformation, by ‘exporting authoritarianism, autocrats do not simply hand over a blueprint for **digital authoritarianism** to a small club of eager dictators’,<sup>25</sup> but also infiltrate conductive open societies freely. This is the *case in point* with post-Communist societies, where consumer materialism conveniently marries corrupted elites who readily take advantage of censorship. Even more troubling is the post-Yugoslavian Third way, visible in the trade agreement, signed between Presidents Aleksandar Vučić and Xi Jinping in early May 2024, a part of a comprehensive Serbia-China partnership called ‘Shared Future’.<sup>26</sup> While the latter slogan may not denote a specific initiative, the deal itself has an underlying significance as yet another term for an alliance that puts the Europeanization prospects under trial.

Thirdly, the Beijing effect is also about changing perceptions, or on a more constructive note, even **straightening out misperceptions**. Western Balkan countries are exposed to and socialized into China’s worldview which may be interpreted through the prism of peaceful growth and ‘*commitment to a win-win cooperation model*’ that induce re-evaluation of their own preferences.<sup>27</sup> However, domestic adoption costs of Europeanization, as already discussed, are very much tentative on identity politics. Semi-authoritarian rulers, such as Vučić, get instrumental of the Chinese **bargaining chip** to gain leverage in accession negotiations, especially as regards the linkage between Kosovo and Taiwan; besides, they solidify their constituent approval by reaping expedient and immediate economic returns of infrastructure and industrial projects. The possibility to choose the policy of alternatives (win-lose), instead of opportunities (win-win)<sup>28</sup> is a persistent geostrategic, not only geoeconomic risk for the Europeanization path of such opportunistic regimes. China’s symbolic power is also at play – as *Bechev* notes, it accords a higher status to the countries in the region,<sup>29</sup> turning them into major geopolitical hubs of land-sea inter-

<sup>25</sup> Walker, C., Kalathil, S., Ludwig, J. (2020), *The cutting edge of sharp power*, Journal of Democracy, 31(1), p. 29

<sup>26</sup> Dell’Anna, A. (2024) *China implements trade agreement with Serbia as it expands influence in Europe*, Euronews, 08/05/2024, <https://www.euronews.com/2024/05/08/china-signs-free-trade-agreement-with-serbia-as-it-expands-influence-in-europe>

<sup>27</sup> Pavlićević, D. (2019), *Structural power and the China-EU-Western Balkans triangular relations*, Asia Europe Journal, Springer-Verlag GmbH Germany, p. 3

<sup>28</sup> Đorđević, V., Turcsányi, R., Vucković, V. (2021), *Beyond the EU as the ‘Only Game in Town’: the Europeanisation of the Western Balkans and the role of China*, Eastern Journal of European Studies, 2, pp. 21-45

<sup>29</sup> Bechev, D. (2020), *Making Inroads: Competing Powers in the Balkans*. - In: Fruscione, G., ed. (2020), *The Balkans: Old, New Instabilities. A European Region Looking for its Place in the World*, LediPublishing, Milano, p. 64

section grand scheme, not peripheral units of the integrative community. The global picture, though, at a closer look, displays more of a hub-and-spoke relations as an integral component of Beijing's multipolar alignment strategy rather than a solidary comradeship.

## Final words to the wise

Overall, the Beijing effect doesn't strive to undermine the Brussels effect in a strictly calculated way, but the Brussels effect is completely capable of counterbalancing the Beijing effect by the smart use of conditionality. Whereas the Brussels effect is inherently constitutive in its impact and normative in its essence, the Beijing effect is more instrumental, therefore immediately effective, but still not ultimately sustainable. The problems identified in this study refer to the authenticity of the message and the long-standing commitment of the influence of both geopolitical players in the Western Balkans.

Policy recommendations for the European Union vis a vis WB 6 candidate countries should follow five mutually reinforcing vectors:

First, **rule-based engagement** is crucial in the neighbouring Black sea regional context (including Bulgaria) since rule-based world order as a whole is shattered by the war of aggression in Ukraine and violations of international rule of law.

Second, **more sustainable energy and infrastructure projects** will be feasible to compete with Chinese ones, namely because of the predictable regulatory and institutional framework of the EU.

Third, **an open and empowered civil society** can take the ownership of the political processes and the media narrative, contaminated by hybrid warfare, so that the Europeanization discourse is not discharged as yet another hard edge of soft power.

Fourth, **policy continuity with coherent joint positions** on global issues will speak for the inclusivity of the EU approach to the region itself.

Finally, **reimagining the misperceptions of the Balkans** as being conflictual, dependent and tribalist will definitely yield yet another credibility to the EU conditionality, because it will take preconditions in attitudes out of the policy equation.

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The Agenda of the New  
EU Institutional  
Cycle

**Third panel:**

**EUROPEAN IDENTITY,  
EDUCATION, SKILLS  
AND CULTURE**

# AN EU LEGISLATIVE AND REGULATORY FRAMEWORK FIT FOR RESEARCH AND THE SECONDARY PUBLICATION RIGHT

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## *Abstract*

*According to the European Commission's „European Research Area Policy Agenda – Overview of actions for the period 2022-2024“, one of the actions foreseen within the Priority Area of „Deepening a truly functioning internal market for knowledge“, is the development of a legislative and regulatory framework fit for research, that would enable, among other things: access and reuse of publicly funded R&I results, including open access; access and reuse of publications and data for research purposes and; the seamless flow of research knowledge and data across the EU based on Article 179 TFEU and academic freedom. This paper examines the notions of Open Science (OS) and Open Access (OA), as well as the legal mechanism of the so-called Secondary Publication Right (SPR). It furthermore presents an overview of the measures undertaken by the Directorate-General for Research and Innovation in advancing access to knowledge and reflects on the fitness of the SPR mechanism to address the issues with existing barriers and challenges to the objectives set by the Commission.*

**Keywords:** EU internal market for knowledge; open access; academic publishing; copyright; secondary publication right (SPR)

## **Introduction**

An important aspect of EU digital policies is the steadfast promotion of the enhancement of the availability and accessibility of publicly funded knowledge and resources. As various open access strategies and soft law incentives at the EU level have not been sufficiently effective in making the outputs of publicly funded research widely accessible to the public, some Member States are taking the matter into their own hands by introducing a legislative ‘hack’ to the

considerably dysfunctional models of commercial scholarly publishing that might boost Open Access in its ‘Green’ form – the so-called Secondary Publication Right (SPR).<sup>1</sup> The term encompasses various special legal regimes that empower or oblige authors of academic literature to retain certain usage rights over their publicly funded works, thereby facilitating open access to scientific literature in relation to scientific publishers. This contribution explores how a harmonised EU SPR regime could align with the European Research Area Policy Agenda for the upcoming legislative cycle.

## Accessing Publicly Funded Publications – The Inadequacies of the Current Paradigm

In the realm of scholarly publications, authors are often funded through ongoing contracts with universities or research institutes, or through project-specific funding, including from the EU. At the same time, academics’ behaviour as they choose to which journals and conferences, they submit their papers to is conditioned, to a very high degree, by the academic reward system.<sup>2</sup> As part of the so-called ‘publish or perish’ culture, there is increasing pressure on individual scholars to publish in high quality, well-ranked journals<sup>3</sup> as a central aspect of academic life and career progression. Typically, while the publishers of such journals do not pay to authors any pecuniary remuneration, they require the latter to assign or exclusively license their rights, thereby placing the publication behind a paywall. This may result in private entities ‘appropriating’ copyright in scientific publications, which is particularly problematic for publicly funded research.<sup>4</sup> It raises significant concerns, because, on the one hand, knowledge sharing and reuse are fundamental to the scientific method.<sup>5</sup> On the other hand, while it is true that academic authors

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<sup>1</sup> In its report on SPR for the Knowledge Rights 21 programme, LIBER uses the term ‘publishing’ instead of ‘publication’, ‘as the latter might be confused with byproducts of an original publication, such as translations. Therefore, the former term seems to better convey the act of publishing a work at a secondary stage.’ See Tsakonas, G., Zoutsou, K., & Perivolari, M. (2023). Secondary Publishing Rights in Europe: status, challenges & opportunities. Zenodo <<https://doi.org/10.5281/zenodo.8428315>>.

<sup>2</sup> Björk, B. C. (2004). Open access to scientific publications - an analysis of the barriers to change? <<https://informationr.net/ir/9-2/paper170.html>>.

<sup>3</sup> Barros, A., Prasad, A. and Sliwa, M., 2023. Generative artificial intelligence and academia: Implication for research, teaching and service. *Management Learning*, 54(5), pp.597-604.

<sup>4</sup> European Commission, Directorate-General for Research and Innovation, Angelopoulos, C. (2022). Study on EU copyright and related rights and access to and reuse of scientific publications, including open access. DOI: 10.2777/891665.

<sup>5</sup> For a detailed analysis of the specificities of the author’s interest in the context of scientific publishing, see Moscon, V. (2014). Academic freedom, copyright, and access to scholarly works: a comparative perspective. In *Balancing Copyright Law in the Digital Age: Comparative Perspectives* (pp. 99-135). Berlin, Heidelberg: Springer Berlin Heidelberg.

primarily seek reputational benefits from publishing in journals,<sup>6</sup> traditional commercial scientific publishing often forces them to compromise the visibility of their work. Thirdly, research performing and funding organisations cannot access the research they funded unless they pay again for access—either through license fees to access the research via academic libraries or through fees to make the work available to the public via open access – both expenses payable to commercial publishers and database vendors.

This issue is further compounded by the highly commercialised nature of the scientific publishing market. In 2004, Björk stated the lack of competition in the academic publishing sector resulting in a concentration of journal titles among a few major entities,<sup>7</sup> thereby allowing pricing strategies to be dictated more by individual customers' willingness and ability to pay rather than production costs. Consequently, access to knowledge over the Internet remained more or less as expensive for academic libraries and individual subscribers as before in paper format.<sup>8</sup> The issue was exacerbated by concerns of potential consolidation through mergers among the largest publishers, as well as strategies like bundling and differential pricing. Even though at present, the OA publishing market has become more competitive, it seems that it has been entered and dominated in large part by traditional publishers.<sup>9</sup>

In addition, commercial scholarly publishing is intricately linked with indexing services and the academic reward system.<sup>10</sup> For instance, the Amsterdam-based academic mega-publisher *Elsevier* owns, amongst others, one of the two most popular and widely used databases for academic research and publication – *Scopus*, as well as the leading full-text scientific database *ScienceDirect*. The English-American company *Clarivate Plc*, known for being the company which

<sup>6</sup> According to Björk, 'authors do not give away their product for free. Instead, they trade their papers without specific payment in exchange for the services that the publisher renders them (peer review, quality labelling, marketing, and dissemination)' (Björk, n 2). Angelopoulos also states that, 'inter alia as a result of the ex-ante remuneration and tenure [academics] enjoy in the name of academic freedom - researchers tend to be motivated primarily by reputational gains, with peer esteem understood to translate indirectly into professional advancement.' (Angelopoulos, n 4)

<sup>7</sup> In 2015 scholars from the Montreal University found that in both natural and medical sciences and social sciences and humanities, Reed-Elsevier, Wiley-Blackwell, Springer, and Taylor & Francis increased their share of the published output, especially since the advent of the digital era (mid-1990s). Combined, the top five most prolific publishers account for more than 50% of all papers published in 2013. See Larivière, V., Haustein, S. and Mongeon, P. (2015). The oligopoly of academic publishers in the digital era. *PloS one*, 10(6), p.e0127502.

<sup>8</sup> Frazier, K. (2001). The librarians' dilemma - contemplating the costs of the 'Big Deal'. *D-Lib Magazine* 7(3) <<http://dx.doi.org/10.1045/march2001-frazier>>.

<sup>9</sup> Shu, F. and Larivière, V., (2024). The oligopoly of open access publishing. *Scientometrics*, 129(1), pp.519-536.

<sup>10</sup> For a more detailed explanation of commercial scientific publishers' market power, linked to bibliometric evaluation, which translates into bargaining power for publishers vis-à-vis academic authors, see Dore, G., & Caso, R. (2021). Academic Copyright, Open Access and the „Moral“ Second Publication Right. <<https://zenodo.org/records/5764841#.YidpCXrP13g>>.

calculates the impact factor and the owner of, amongst others, *Web of Science* and *Publons*, in 2021 acquired the collection of cross-searchable databases *ProQuest*. These circumstances raise concerns of vertical integration between publishers, aggregators and companies performing bibliometrics and scientometrics and also of big publishers acting as gatekeepers to academic growth.

## Open Science and Open Access in Scientific Publications

One of the main tools available at the EU level to tackle all these issues is the framework of open science (OS) and open access (OA). Although not central for the present contribution, the terms ‘open’ in general, as well as ‘open science’ and ‘open access’ in particular, need to be clarified in order to delineate the scope of practices and policies that fall under them, which in turn can help the consistent implementation of the relevant EU policies. It should be acknowledged, that the usage of the term ‘open’ varies slightly across different contexts and sectors. Prominent open movements encompass open-source software, open data, open culture, open content, open GLAM etc. Notwithstanding existing nuances in terminology, when talking about ‘open’, one typically envisages information and tools that are both broadly *accessible* to the public, as well as *reusable*. For example, open licences are such copyright licenses that authorise all types of reuses of the licensed content, including further dissemination and adaptation, as well as use for commercial purposes.<sup>11</sup>

‘Open science’ in terms of EU policies refers to a framework and set of principles aimed at making scientific research accessible to all levels of an inquiring society, amateur or professional. It includes initiatives and policies designed to promote transparency, accessibility, and collaboration in scientific research across Europe. In this, the European Union employs mostly soft law instruments. The legal framework for open science at the EU level is complex and with limited application, mainly since applicable instruments were not specifically designed for academic purposes and are only tangentially relevant to research results.<sup>12</sup> One of the key elements of open science is open access.

The term ‘open access’ (OA) holds a particular meaning distinct from other uses of ‘open’. Although initially defined by the Budapest Declaration of 2002 as the ‘free availability on the public internet, allowing any users to

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<sup>11</sup> For a very detailed explanation of the various aspects and meanings of ‘open’, see Europeana Copyright Community Steering Group (2024). FAQs on digital cultural heritage and the concept of openness. <<https://europeana.atlassian.net/wiki/spaces/EF/pages/2647490571/FAQs+on+digital+cultural+heritage+and+the+concept+of+openness>>.

<sup>12</sup> van Eechoud, M. (2022). Study on the Open Data Directive, Data Governance and Data Act and their possible impact on research. <[https://pure.uva.nl/ws/files/99127433/study\\_on\\_the\\_open\\_data\\_directive\\_data\\_governance\\_and\\_KI0822204ENN.pdf](https://pure.uva.nl/ws/files/99127433/study_on_the_open_data_directive_data_governance_and_KI0822204ENN.pdf)>.

read, download, copy, distribute, print, search, or link to the full texts of these articles, crawl them for indexing, pass them as data to software, or use them for any other lawful purpose, without financial, legal, or technical barriers other than those inseparable from accessing the internet itself,'<sup>13</sup> therefore, originally including free reuse, in the realm of EU open data and open science policies, the term 'open access' lacks a formal definition and does not always imply the possibility of reuse. On the one hand, the Commission Recommendation (EU) 2018/790<sup>14</sup> defines 'open access' as 'the possibility to access and re-use digital research outputs with as few restrictions as possible.' Similarly, the Open Data Directive (EU) 2019/1024<sup>15</sup> defines it as 'the practice of providing online access to research outputs free of charge for the end user and without restrictions on use and re-use beyond the possibility to require acknowledgment of authorship.' On the other hand, however, 'open access' is widely perceived by the academic community as a tool solely ensuring the *free availability* of research results, without specifying reuse conditions. This view is reinforced by legal definitions of 'open access' in other EU documents. The Regulation (EU) 2021/695 establishing Horizon Europe<sup>16</sup> and the Horizon Europe General Model Grant Agreement<sup>17</sup> describe 'open access' as 'free of charge, online access for any user,' while the subsequent use of research results, such as scientific publications or data, is termed 'reuse'.

In scientific publishing, the various types of open access, like 'Green', 'Gold', 'Platinum', and 'Hybrid OA', refer only to the way content is made publicly accessible and to who bears the cost for making these publications freely available.<sup>18</sup>

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<sup>13</sup> See the Budapest Open Access Initiative (2002) <[www.budapestopenaccessinitiative.org/read/](http://www.budapestopenaccessinitiative.org/read/)>. According to this document, the only constraints on reproduction and distribution [in Open Access], and the sole role for copyright in this domain, should be to give authors control over the integrity of their work and the right to be properly acknowledged and cited. This substantive scope is maintained by the Berlin and Bethesda Declarations of 2003.

<sup>14</sup> European Commission Recommendation (EU) 2018/790 on access to and preservation of scientific information of 25 April 2018.

<sup>15</sup> 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, PE/28/2019/REV/1, OJ L 172, 26.6.2019.

<sup>16</sup> Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe - the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013, PE/12/2021/INIT, OJ L 170, 12.5.2021.

<sup>17</sup> Horizon Europe, General Model Grant Agreement, n16. / EIC Accelerator Contract, Version 1.2 of 01.04.2024. <[https://ec.europa.eu/info/funding-tenders/opportunities/docs/2021-2027/common/agr-contr/general-mga\\_horizon-euratom\\_en.pdf](https://ec.europa.eu/info/funding-tenders/opportunities/docs/2021-2027/common/agr-contr/general-mga_horizon-euratom_en.pdf)>.

<sup>18</sup> Even though the main advantage of open access publications is that OA removes the price barriers and permission-related restrictions for users, open access publications are not created for free - instead, the cost is not paid by the users. See Georgieva, K. and Marinov, E., (2015). Open Access - Definitions, Legal Framework, Advantages. <[https://adis.org/ERIS\\_conference/2015/sbornik-ERIS-2015.pdf](https://adis.org/ERIS_conference/2015/sbornik-ERIS-2015.pdf)>.

## Is ‘Open’ the Solution? Challenges to the OA Model

Notwithstanding the variety in terminology, the main routes an open access publication might take are two. One is through the so-called ‘primary’ OA outlets, such as peer-reviewed journals for primary open access publishing (Gold OA). The other main OA channel is the so-called ‘self-archiving’ (Green OA). This is the practice of authors depositing a copy of their published or pre-publication works for secondary parallel publishing in an OA repository. Both routes, however, come with their own obstacles and inefficiencies. Bjork classified the barriers to open access into six different categories: legal framework, information technology infrastructure, business models, indexing services and standards, academic reward system, and marketing and critical mass.<sup>19</sup> In this respect, it should be acknowledged that the two main types of OA channels face different challenges. These challenges make it so that OA publishing is not as popular as one might expect and does not necessarily decrease the overall cost of publication for academic institutions.<sup>20</sup>

Firstly, in terms of ‘primary’ OA outlets, OA policies can further go in two main avenues – publishing in publicly funded OA journals, or publicly funded publishing in commercial journals. OA journals may be typically funded by universities and research organizations, or they may follow collaborative OA publishing models.<sup>21</sup> However, according to a recent study, although the low market entry threshold has allowed many competitors to appear in the OA publishing market, traditional commercial publishing houses have used their advantageous publishing resources to regain a dominant position in the market.<sup>22</sup> As open access expands and accelerates the application and commercialization of research results, publishing in OA journals is beneficial in the way it increases the return on public and private investment in the field. However, the cost of knowledge dissemination is transferred from readers to authors, prevent academics from developing countries from publishing their research in OA journals, which builds a new paywall in scholarly communication.<sup>23</sup>

Furthermore, independent OA journals encounter challenges with entering the reputational value market. On the one hand, a significant challenge facing open access journals is their limited inclusion in mainstream commercial indexing services, which are crucial for locating high-quality scholarly publications. Although partially stemming from the perception of indexing services as aligned with traditional establishments,<sup>24</sup> this exclusion is mostly associated

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<sup>19</sup> See Björk, n 2.

<sup>20</sup> Shu et al, n 9.

<sup>21</sup> Naim, K., Brundy, C. and Samberg, R.G. (2021). Collaborative transition to open access publishing by scholarly societies. *Molecular Biology of the Cell*, 32(4), pp.311-313.

<sup>22</sup> Shu et al., n 9.

<sup>23</sup> Ibid.

<sup>24</sup> Björk n 2.

with indexing services typically prioritising established journals with a proven track record thus posing entry barriers to relatively young and experimental journals. According to Communia's Policy Paper on Access to publicly funded research, notwithstanding the emergence of new open access journals, the scientific publications market has been unable to self-correct.<sup>25</sup> One probable reason for the market not self-correcting is the fact that big scientific publishers have made themselves indispensable concerning both indexing and the academic reward system. Apart from the challenges emerging journals face in terms of attracting quality submissions and establishing academic credibility, there is also a persistent concern regarding the connection between big publishers and scientometrics services and the potential conflict of interest associated with it. Thus, the problem of hindering access to the results of publicly funded research, where 'primary' OA outlets are concerned, has a very pronounced competition law component. This is also true in terms of the academic reward system.

Next, publications can also be made 'primarily' available under open access in traditional, paywalled journals. In this case, the government or a university would pay to the commercial publisher a compensation fee for 'opening' the publication to the public. The so-called Hybrid OA, which consists in public bodies paying traditional subscription-based journals to publish specific academic works under open access in an otherwise paywalled editions. In other words, this publishing model allows for a mix of open access and subscription-based content within the same journal. Hybrid OA (as well as Gold OA controlled by traditional publishers) is in the heart of the so-called *transformative agreements*<sup>26</sup> and seem to be the preferred route to open access on a national policy level. However, this open access policy approach also leads to what is known as 'double-dipping', wherein publishers exploit the exclusive rights over publicly funded research results without compensating the academic authors or reviewers, while also receiving payment from the public to make the work accessible. It turns out that, somewhat counterintuitively, the combination of both subscription and publishing costs for public interest users increases the global cost of OA publishing.<sup>27</sup>

The other main OA route - Green OA, also called 'self-archiving', typically involves secondary publishing in not-for-profit repositories. These can include institutional repositories (managed by universities or research institutions) or subject-specific repositories, which mainly function as secondary outlets complementing the mainstream channels of journals and conference pro-

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<sup>25</sup> Communia (2024). Policy Paper n 17 on Access to publicly funded research, notwithstanding the emergence of new open access journals, the scientific publications market has been unable to self-correct <<https://communia-association.org/policy-paper/policy-paper-17-on-access-to-publicly-funded-research>>.

<sup>26</sup> See the recent Agreement between Bulgaria and Elsevier <<https://www.elsevier.com/open-access/agreements/bulgaria>>.

<sup>27</sup> Shu et al., n 9.

ceedings.<sup>28</sup> This type of open access is operating independently of the academic reward system, the latter having both positive and negative effect on individual academics' carriers. On the one hand, Green OA has the benefit of independence of big publishers, typically leading to increased visibility and citations, which in turn can indirectly enhance authors' academic standing and incentivise further uploads. On the other, repositories seldom feature significant publications alone. Usually, authors use these repositories to expedite the dissemination of their manuscripts, which are often concurrently submitted elsewhere. Alternatively, academics deposit versions of publications that might have already been published in a high impact factor journal. The biggest downside of this 'Green OA' route is the possible legal – mostly contractual – barriers for republication. Given the very limited bargaining power that researchers have vis-à-vis big commercial publishers, they usually are not able to retain much of their copyright over their own work, so they could republish it elsewhere without breaching their publishing contract or getting themselves blacklisted by high impact factor outlets. Even in cases where publishers allow for self-archiving, it is conditioned upon publishing a previous, non-reviewed version of the publication, and after the expiration of a specified period, called an 'embargo period'.

## The Secondary Publications 'Hack'

In this context, in the past decade numerous EU countries introduced a legally guaranteed self-archiving opportunity called a secondary publication right (SPR). The term 'SPR' may cover a variety of special legal regimes empowering – or obliging – authors of academic literature to retain some of the usage rights over their publicly funded works vis-à-vis scholarly publishers to facilitate open access to scientific literature. The Knowledge Rights 21 programme has issued a statement<sup>29</sup> containing an overview of the existing national SPR regimes as of the beginning of 2023, covering Spain,<sup>30</sup> Italy,<sup>31</sup> Germany,<sup>32</sup> Austria,<sup>33</sup> France,<sup>34</sup> the Netherlands<sup>35</sup> and Belgium.<sup>36</sup> However, this list presents

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<sup>28</sup> See Björk, n 2.

<sup>29</sup> Knowledge Rights 21 (2023). A Position Statement from Knowledge Rights 21 on Secondary Publishing Rights <<https://www.knowledgerights21.org/wp-content/uploads/2022/10/KR21-Secondary-Publishing-Rights-Position-paper-v1.1.pdf>>.

<sup>30</sup> Art 37, para 2 of the Spanish Law 17/2022 on Science, Technology and Innovation.

<sup>31</sup> Art 4, para 2 of the Italian Law of October 7, 2013, n. 112, G.U. n. 236. In Italy, there is also an attempt to introduce SPR - the so-called Legge Gallo - pending since 2018. See DDL n. 1146, 'Modifiche all'articolo 4 del decreto-legge 8 agosto 2013, n. 91, convertito, con modificazioni, dalla legge 7 ottobre 2013, n. 112, nonché introduzione dell'articolo 42-bis della legge 22 aprile 1941, n. 633, in materia di accesso aperto all'informazione scientifica' <<https://www.senato.it/leg/18/BGT/Schede/Ddlter/51466.htm>>.

<sup>32</sup> Section 38, para 4 of the German Copyright Act (*UrhG*).

<sup>33</sup> Art 37a of the Austrian Federal Law on Copyright in Literary and Artistic Works and Related Rights.

<sup>34</sup> Art L533-4 of the French Research Code.

<sup>35</sup> Art 25fa of the Dutch Copyright Act.

<sup>36</sup> Art XI.196 § 2/1 of the Belgian Economic Law Code.

a mix of both ‘secondary publication right’ (SPR) and so-called ‘secondary publication obligation’ (SPO) solutions. It also does not include the most recent developments in this field in Slovenia<sup>37</sup> and Bulgaria.<sup>38</sup> A recent study of the European Commission has identified SPR regimes proper in six member states – Germany, the Netherlands, Austria, France, Belgium and Bulgaria.<sup>39</sup>

In the meantime, significant efforts have been made to conceptualise SPR. The mechanism has been defined as an author’s right, as well as an exception and/or limitation to copyright. Most popular takes on the nature of SPR as a right include categorising it as an incarnation of the author’s moral right to disclosure,<sup>40</sup> or as a ‘secondary’ usage right.<sup>41</sup> Notwithstanding doctrinal approach, however, all the SPR regimes existing on the national level are, in their essence, imperative contract adjustment mechanisms, uniformly positioned within copyright contract law to balance power dynamics between authors and publishers. In all cases identified by the Commission study of May 2024,<sup>42</sup> the author is the holder/beneficiary of SPR as a copyright tool. The object of the right varies across Member States but usually pertains to short scientific contributions in periodicals. A crucial condition for SPR to apply is for the publication to be the outcome of publicly funded research. The effect of existing national provision constitutes, without exception, in preventing the alienation of specific usage rights and thus imposing, in certain circumstances, statutory rights retention in a specific scope. In this, SPR has a twofold purpose. On the one hand, it serves as a safeguard of authors’ rights within the heavily commercialised ecosystem of scientific publishing. Through SPR, the academic researcher, as a primary rightsholder, avoids being coerced into a ‘buyout’ scenario, wherein negotiation for retaining certain rights from a publisher, who holds significantly stronger bargaining power, becomes unnecessary. Thus, the individual author can actively facilitate a secondary dissemination of the publication, securing its higher visibility and citability.

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<sup>37</sup> Decree No. 00704-212/2023 of 25 May 2023 on the implementation of scientific research work in accordance with the principles of open science, as per the Slovenian Scientific Research and Innovation Activities Act.

<sup>38</sup> Article 60, para 2 and seq. of the Bulgarian Copyright and Neighbouring Rights Act. For an overview of the introduction of a non-overridable zero-embargo SPR in the Bulgarian Copyright and Neighbouring Rights Act in December 2023, see Lazarova, A. (2024). Introducing a zero-embargo Secondary Publication Right in Bulgaria Kluwer Copyright Blog <<https://copyrightblog.kluweriplaw.com/2024/02/09/introducing-a-zero-embargo-secondary-publication-right-in-bulgaria/>>.

<sup>39</sup> European Commission, Directorate-General for Research and Innovation, 2024. Improving access to and reuse of research results, publications and data for scientific purposes - Study to evaluate the effects of the EU copyright framework on research and the effects of potential interventions and to identify and present relevant provisions for research in EU data and digital legislation, with a focus on rights and obligations. Publications Office of the European Union. <<https://data.europa.eu/doi/10.2777/633395>>.

<sup>40</sup> Dore & Caso, n 10.

<sup>41</sup> Tsakonas et al., n 1.

<sup>42</sup> In the Dutch case - it is ‘the creator (maker)’ of a short academic work.

On the other hand, the main strategic goal associated with SPR is the wide dissemination of scientific research. Some authors describe the role of SPR in this respect as a ‘Green Open Access *backstop*’<sup>43</sup> that ensures availability of publicly funded research where Gold and Hybrid OA fail.

Considering the above, it is important to note that all currently available national SPR regimes cover open access in the ‘making the publication accessible to the public’ variety of the term.<sup>44</sup> Commentators are divided regarding the possibility of expanding the scope of this particular tool to also include reuse. The LIBER model SPR clause – a template developed by the Association of European Research Libraries to advocate for the retention of authors’ rights when publishing their research – states that no contractual or other restrictions on the reuse of the scholarly work should be enforceable regarding a scholarly work whose author has been majority funded by public funds.<sup>45</sup> Others believe that the insistence on the use of open licenses and public domain dedication tools, like CC-BY and CC 0, which are the Creative Commons tools most commonly imposed by OA journals and funders, while preventing academic publishers from controlling copyright, does not effectively restore meaningful control to authors.<sup>46</sup> In my view, SPR as a copyright mechanism could not sustainably cover free reuse of a publication on top of free access to it, since such a major restriction to the contractual autonomy of both authors and publishers might not withstand a proportionality assessment.

Furthermore, what is referred to as SPR in some countries is in fact an obligation to re-publish publicly funded research, referred to as Secondary Publication Obligation (SPO), or a statutory clause promoting open science. This is the case in Spain, Germany,<sup>47</sup> Italy, Slovenia, and recently - Bulgaria,<sup>48</sup> making the latter the first EU state to adopt a comprehensive legislative approach

<sup>43</sup> Zeinstra, M. (2024). Secondary Publishing Rights in the Netherlands. Right2Pub: Balancing Publication Rights. <[www.knowledgerights21.org/wp-content/uploads/KR21-Maarten-Zeinstra.-April-2024.-SPRs-in-the-Netherlands.pdf](http://www.knowledgerights21.org/wp-content/uploads/KR21-Maarten-Zeinstra.-April-2024.-SPRs-in-the-Netherlands.pdf)>.

<sup>44</sup> For a comprehensive break-down of existing national SPR provisions, see European Commission, n 39.

<sup>45</sup> LIBER Draft Law for the Use of Publicly Funded Scholarly Publications <<https://libereurope.eu/draft-law-for-the-use-of-publicly-funded-scholarly-publications/>>.

<sup>46</sup> van Eechoud, M. (2023). FAIR, FRAND and open-the institutionalization of research data sharing under the EU data strategy. In Improving intellectual property (pp. 319-329). Edward Elgar Publishing.

<sup>47</sup> Germany is the first country to combine, albeit partially, SPR and SPO. While SPR is regulated under federal copyright law, SPO is mandated in the Baden-Württemberg’s State Higher Education Act, requiring universities to ensure researchers exercise secondary publication rights. The latter legislative solution faced legal scrutiny, with University of Konstanz law professors challenging it on grounds of academic freedom. The case now rests with the Federal Constitutional Court, addressing the constitutional competence over university obligations rather than the core of the SPO itself. See Fischer, G. (2023). *Zweitveröffentlichungsrecht und Causa Konstanz: Bundesverfassungsgericht vor Entscheidung* <<https://irights.info/artikel/zweitveroeffentlichungsrecht-bundesverfassungsgericht-konstanz/31878>>.

<sup>48</sup> See the new Bulgarian law on the Promotion of Scholarly Research and Innovation, promulgated in issue 39 of the State Gazette of 1 May 2024 <<https://dv.parliament.bg/DVWeb/showMaterialDV.jsp?idMat=214107>>.

to secondary publications, incorporating both a right and an obligation to republish at the national level.<sup>49</sup> SPOs can complement existing SPRs and vice versa, highlighting the need for a comprehensive EU approach to secondary publications, integrating legislative measures from copyright, open data, and open science domains.

## A Truly Functioning Internal Market for Knowledge

At the EU level, policies on open science are framed in the context of the European Research Area (ERA) and rely on strategic documents, recommendations, programs and funder policies.<sup>50</sup> One of the main relevant documents is Recommendation (EU) 2018/790 of the European Commission on access to and preservation of scientific information of 25 April 2018, according to which Member States should define and implement clear policies for the dissemination of scientific publications resulting from publicly funded research and for open access to them. They should ensure that scientific organisations that receive public funding for their activities provide open access to scientific publications to their researchers. The other main avenue for promoting OA publications and open data at the EU level are research funding programmes, such as FP7, H2020 and Horizon Europe. Mirroring the Commission's approach, most countries rely on a mix of strategic and operative documents, funding programs and institutional policies to further the open science agenda.

The only comprehensive legislative framework concerning 'open' access and reuse currently available at the EU level is that on open data. However, 'open data' is not so much about scientific data, as it is about transparency in government and more precisely – open access and reuse of public sector information. At the EU level, the legal framework governing open data is delineated in the Public Sector Information/Open Data Directive (EU) 2019/1024.<sup>51</sup> This directive primarily addresses the unrestricted accessibility and reuse of data collected by public sector entities, such as state institutions. However, data managed by universities and research organizations that emerges from publicly funded research is regulated only partially by this legislation.

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<sup>49</sup> For a commentary on the open science provisions in the new Bulgarian Research law, see Lazarova, A. (2024). Unlocking Knowledge: Bulgaria Takes Next Steps in Open Science Legislation. <<https://www.knowledgerights21.org/news-story/unlocking-knowledge-bulgaria-takes-next-steps-in-open-science-legislation/>>.

<sup>50</sup> According to Horizon Europe's granting agreements, 'The beneficiaries must ensure open access to peer-reviewed scientific publications relating to their results.' See Horizon Europe, n 16.

<sup>51</sup> The Open Data Directive (EU) 2019/1024 (last revision of the Public Sector Information Directive 2003/98/EC, amended by Directive 2013/37/EU), which has the objective to maximise the reuse of public data to further stimulate digital innovation in products and services, has expanded its scope from traditional public sector information to cover certain instances of data resulting from publicly funded research. Bulgaria implemented Directive (EU) 2019/1024 in its Law on the Access to Public Information.

The adoption of national SPR and SPO regimes in many EU countries has led to SPR becoming a policy hot topic at the EU level as well. On 23 May 2023, the Council of the EU issued its Conclusions on high quality, transparent, open, trustworthy and equitable scholarly publishing,<sup>52</sup> welcoming the adoption of the Secondary Publication Right in a number of Member States and prompting the Commission to act towards the introduction of this mechanism at the EU level. Furthermore, according to the European Commission's 'European Research Area Policy Agenda – Overview of actions for the period 2022-2024', one of the actions foreseen within the Priority Area of 'Deepening a truly functioning internal market for knowledge', is the development of a legislative and regulatory framework fit for research, that would enable open access and reuse of publicly funded R&I results, access and reuse of publications and data for research purposes and the seamless flow of research knowledge and data across the EU based on Article 179 TFEU and academic freedom.<sup>53</sup> In addition, at a workshop organised in February 2024 by the European Commission Directorate-General for Research and Innovation (DG RTD), the Commission presented the preliminary results of a study carried out under ERA Policy Action 2. ERA Action 2 specifically targets data and copyright law interventions to ensure free access and reuse of publicly funded research, facilitating a seamless flow of scientific knowledge and data across the EU.

To support these goals, the EU Commission funded a study analysing the impact of current EU and national legislation on research access and reuse, aiming to advance reform proposals. The study, conducted between July 2023 and May 2024, consisted of three phases. The first phase mapped relevant regulatory texts and reviewed EU and national Open Science Plans, focusing on key Copyright Directives, legislative interventions in data and digital markets, and the EOSC system. This analysis identified strengths and weaknesses in the EU *acquis* and national implementations, categorising provisions as 'enablers' or 'disablers' of Open Science and assessing the harmonisation level of 'enablers' across the 27 Member States. The second phase involved extensive surveys and interviews with key stakeholders, gathering quantitative and qualitative data on the impact of copyright and data legislation on research. These insights informed the evaluation of various intervention options, considering social and economic variables. The third phase refined the original reform proposals, offering legislative and non-legislative options to align IP and data disciplines with ERA's Open Science objectives. The study's findings highlight the need for specific legislative reforms to support the full and effective implementation of Open Science across the EU. According to the resulting report, the possible

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<sup>52</sup> Council of the European Union (2023). Council conclusions on high-quality, transparent, open, trustworthy and equitable scholarly publishing. Brussels, 8827/23 <<https://data.consilium.europa.eu/doc/document/ST-8827-2023-INIT/en/pdf>>.

<sup>53</sup> European Commission, (2021). European Research Policy Agenda - Overview of actions for the period 2022-2024, <[https://commission.europa.eu/system/files/2021-11/ec\\_rtd\\_era-policy-agenda-2021.pdf](https://commission.europa.eu/system/files/2021-11/ec_rtd_era-policy-agenda-2021.pdf)>.

harmonisation of the mandatory Secondary Publication Right regime is one of the main prospective measures to be undertaken by the Directorate-General for Research and Innovation to reach these goals. These findings were detailed in an exhaustive study „to evaluate the effects of the EU copyright framework on research and the effects of potential interventions and to identify and present relevant provisions for research in EU data and digital legislation, with a focus on rights and obligations“ published in May 2024.<sup>54</sup>

## A Digital Knowledge Act for the EU

In the meantime, European civil society organizations have been calling for the introduction of a common legislative solution at the EU level that would ensure facilitated access to publicly funded research and public sector materials, removing barriers that prevent knowledge institutions from fulfilling their public mission in the digital environment. These initiatives have led to calls for a stand-alone horizontal regulation, which advocates are calling a ‘Research and Education Act’<sup>55</sup> or an ‘EU Digital Knowledge Act’,<sup>56</sup> to be adopted in the next legislative cycle. An EU-wide SPR regime would have a central role in such future legislation. A ‘digital knowledge’ regulation would also cover a harmonised obligation to republish publicly funded research outputs, immediately upon publication. The EU legislator could embrace a more holistic approach towards secondary publications, combining measures from the legislative field not only of copyright, but also of open data and open science.

To further strengthen the European open science ecosystem, policymakers could consider implementing horizontal legislation to harmonise additional legal mechanisms supporting these regimes. These could include an EU-wide ‘works for hire’ framework allowing Research Performing Organisations (RPOs) and Research Funding Organisations (RFOs) to disseminate works created under employment or assignment relationships through non-profit repositories; strengthening the existing research exceptions and introducing a ‘user right’ for public institutional users to openly republish publicly funded research results; limiting the institutional users’ liability in case of copyright infringements that do not happen knowingly and arise in the context of a

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<sup>54</sup> European Commission, n 39.

<sup>55</sup> See, for example, KR21’s Action Plan - Knowledge Rights 21 (2024). Knowledge for a Stronger Europe. <<https://www.knowledgerights21.org/wp-content/uploads/KR21-EU-Action-Plan.pdf>>.

<sup>56</sup> Communia (2023). A Digital Knowledge Act for Europe <<https://communia-association.org/2023/12/12/a-digital-knowledge-act-for-europe/>>; Open Future (2023). A Digital Knowledge Act for Europe. <<https://openfuture.eu/policies-for-the-digital-commons/digital-knowledge-act/>>; Creative Commons (2024). CC Supports a new Digital Knowledge Act for Europe - Creative Commons. <<https://creativecommons.org/2024/02/12/cc-supports-a-new-digital-knowledge-act-for-europe/>>; Wikimedia Europe (2024). We need a Digital Knowledge Act. <<https://wikimedia.brussels/we-need-a-digital-knowledge-act/>>.

good-faith pursuit of universities', research institutes', libraries' and archives' public service mission.<sup>57</sup>

Lastly, a future digital knowledge regulation should draw inspiration from the recently adopted complex digital legislation, such as the Digital Services Act (DSA)<sup>58</sup> and the Digital Markets Act (DMA),<sup>59</sup> by adopting an interdisciplinary approach to access to knowledge, research and innovation. Such regulation should foresee monitoring of gatekeepers and should address potential competition and conflict of interest issues inherent to the traditional scientific publishing business model. It should also promote independent infrastructures and indexing mechanisms, as well as modernise the academic reward system to encourage transparency and diversity in scholarly publishing.

## Conclusion

The issue of access to the results of publicly funded research presented in this study, is clearly a complex one and cannot be tackled solely by public funding of open access publishing. It also seems that, at present, the EU level open science strategic and operational documents and programmes do not exercise sufficient pressure to achieve an effective and consistent system for open access and reuse of publicly funded research results in general and publications in particular. Nor do research funding organisations' requirements or research performing organisations' rights retention policies. All these considerations direct to the conclusion that a future legal solution to barriers to the dissemination of the results of publicly funded research should strive for an interdisciplinary approach, as is the current trend at the EU level, but also contain a straight-forward mechanism empowering academic authors to share research outputs irrespective of market realities.

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<sup>57</sup> See for instance Communia's proposal that knowledge institutions be sheltered from liability for copyright infringement, so long as they act in a responsible and prudent way, having reasonable grounds to believe that they have acted in accordance with copyright law. Communia (2024). Policy Paper n 18 on limitation of liability for knowledge institutions. <<https://communia-association.org/policy-paper/policy-paper-18-limitation-of-liability-for-knowledge-institutions/>>.

<sup>58</sup> 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).

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# INTERCOMPREHENSION OF ROMANCE LANGUAGES, PLURILINGUALISM AND LANGUAGE POLICY

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## *Abstract*

*One of the defining characteristics of the European Union (EU) is multilingualism. In his comprehensive work *La ricerca della lingua perfetta nella cultura europea*, Umberto Eco (2018) explores the search for a common perfect language for Europeans. The aim of our study is to find out what the EU language policy is in line with Romance languages. The paper describes the state of Romance language teaching at secondary level in Europe and compares it with Slovak schools at the same level. We use a survey carried out by the Eurydice Information Network, which is the European Commission's instrument for collecting information on the education systems in the Member States of the European Union, to determine the state of foreign language teaching in Europe. Furthermore, we provide a comparative analysis of the results with statistical data regarding foreign language teaching at secondary level in Slovakia obtained from the Ministry of Education of the Slovak Republic. After assessing the status and prospects of Romance language teaching, we suggest possible solutions to the situation of Romance languages in Slovakia, while intercomprehension can be considered as such. Finally, we offer possible approaches to the teaching of intercomprehension at the university level in the non-philological field.*

**Keywords:** language policy, foreign language teaching, European Union, Romance languages, intercomprehension

The importance of language policy for the EU and individual Member States is not a new topic. Representatives of government and research institutions are dealing with this issue. Tosi (2007: 13) recalls that the first principle on which the 'common European home' was built during the historic Rome Conventions is 'the recognition of cultural diversity across the continent. The founding fathers believed that each national language was an expression of the distinctiveness of

the nation'. In a multicultural society that embraces interculturality, it is essential to find a 'common language', that is, a language that serves for mutual communication and cultural interaction. In a culturally heterogeneous society, we are inevitably confronted with the concepts of plurilingualism<sup>1</sup> and multilingualism<sup>2</sup>, which are often mentioned in contemporary literature due to the state in which the world has found itself in recent years as a result of wars, the financial crisis and the associated political and economic migration.

## **Uniformity in language education and minimalist plurilingualism**

The phenomenon of multilingualism has been accepted by the EU as the status quo, and perhaps that is why it has stopped looking for ways to a single language of communication (lingua franca) but has moved on to exploring ways and means to exploit the potential of multilingualism and multicultural coexistence. Nevertheless, the primacy of English and its status as a language of communication, i.e. a de-facto lingua franca, in many scientific disciplines must be acknowledged. In its language policy, the EU declares the development and promotion of language education, which is why the Council of Europe's Language Policy Department was set up in Strasbourg in 1998-2000 to promote plurilingualism and multiculturalism, and why the European Commission issued an Action Plan for the Promotion of Language Learning and Linguistic Diversity in 2003. The development of plurilingual competences is intended to promote interaction between EU citizens. (Kubekova, 2020: 58) Therefore, these institutions advocate the protection of cultural plurality, where language is the instrument through which culture is expressed. Thus, the EU is perhaps the only international organization that seeks to put all the languages of its member states on roughly equal footing, although this is a difficult goal to achieve. Other international organizations, such as the UN, NATO or the Red Cross, have established several official languages to avoid communication problems.

Linguistic pluralism is also one of the strategic topics of the European Commission's education policy. This strategy was included in the White Paper on Education and Training and later in the Memorandum on Lifelong Learning, published on 30 October 2000 as part of the Lisbon Strategy, which sets the goal of every European citizen being proficient in three Community

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<sup>1</sup> It is an ability of an individual to use several languages throughout their life in order to communicate according to their needs. According to the European Charter of Plurilingualism (Charte européenne du plurilinguisme, 2005: 2), plurilingualism is an important factor in building awareness of democratic citizenship and is also the most desirable and effective form of communication, as it incorporates the values of tolerance and acceptance of diversity. (Zazrincová, M., Chovancová, K. 2015)

<sup>2</sup> It is a social phenomenon, linked to a specific community of people in a specific territory. (Zazrincová, M., Chovancová, K. 2015)

languages by promoting language learning from pre-school level, then during vocational training, and by introducing systems of assessment and quality assurance for language learning (Proserpi, 2010).

According to B. Cassen (2008: 81), language policy is a means by which regional, national and international bodies deal with the hegemony of one language (currently English) in the 'language market'. The aim is not so much to combat English as to promote other languages in accordance with the logic of linguistic pluralism.

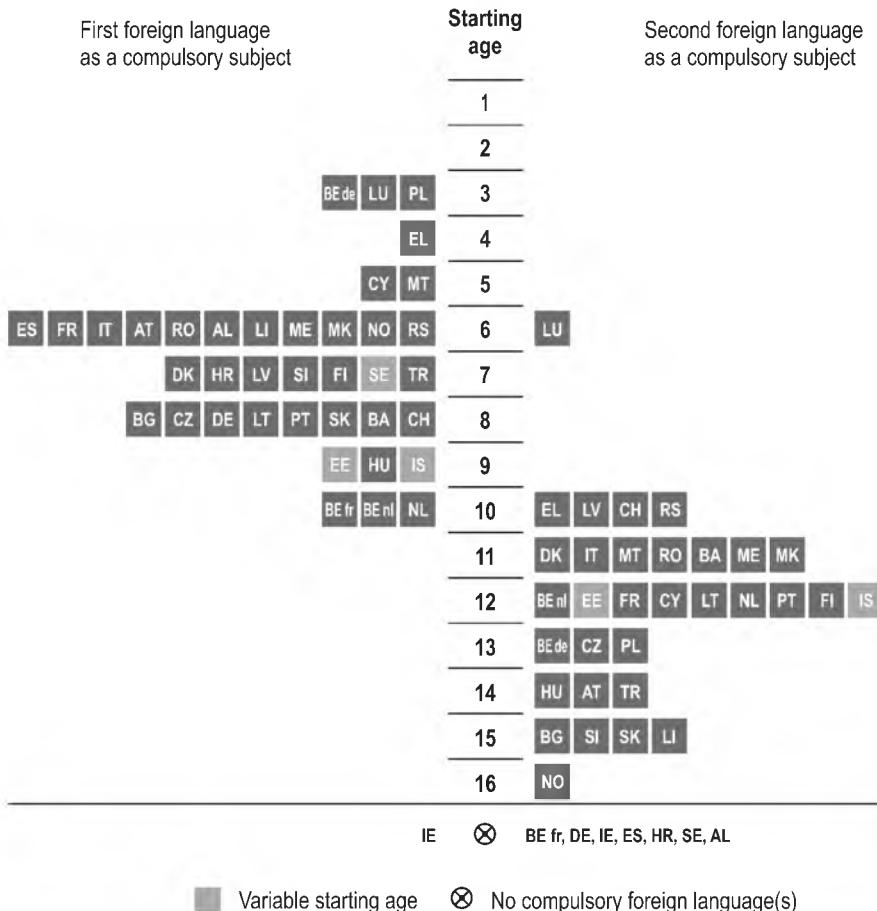
Key data on teaching languages at school in Europe provides detailed data on foreign language teaching in Europe in 2023. With the aim of monitoring policy developments in the field of foreign language teaching in Europe, the document includes data from 39 education systems from the 37 member countries of the Eurydice network, i.e. the 27 EU Member States, Albania, Bosnia and Herzegovina, Montenegro, Iceland, Liechtenstein, Norway, North Macedonia, Serbia, Switzerland and Turkey. Data from Eurostat and two international OECD surveys - PISA 2018 and TALIS 2018 - are also included. The report contains up to 51 indicators on foreign language policies at European and also at national level, such as the inclusion of foreign languages in the curriculum, the number of foreign languages, the extent to which they are taught, first and second language achievement, the involvement of migrants in the teaching of a country's language, the qualifications of teachers and their international mobility, and so on. The main source of data is the Eurydice network, which provides qualitative data on language policies and activities in schools (Birch, P., Baïdak, N., De Coster, I. et al., 2023).

In this paper we focus on teaching two foreign languages in primary and secondary education, and, as a starting point for university education, we compare it with the situation in Slovakia.

In the education system of the EU Member States, students start learning a foreign language at the age of 6-8. Slovakia is one of the countries where the majority of students start learning a foreign language at the age of 8, although there are also schools where it starts at the age of 6. These are mostly selective primary schools where children have to fulfil certain criteria to be admitted for study.

The Barcelona European Council in 2002 called on EU Member States to develop measures to improve their citizens' knowledge of two foreign languages. Two thirds of education systems have responded to this call by extending the duration of foreign language learning from one to seven years. This measure has had an impact on the starting age of compulsory foreign language learning, which has been lowered.

The Figure below shows the age at which students are required to learn a first and a second foreign language in each Member State. (Birch, P., Baïdak, N., De Coster, I. et al., 2023: 44)

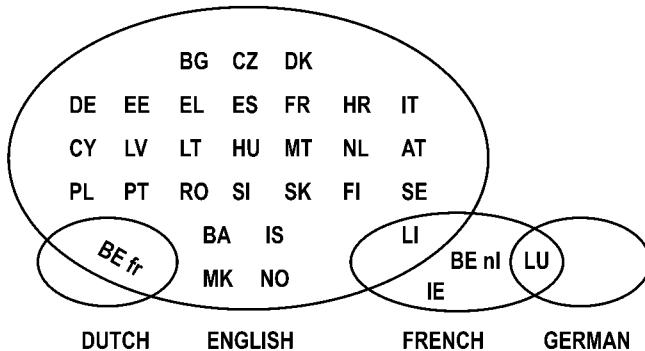


*Figure 1: starting ages at which the first and second foreign language are compulsory subjects for all students in pre-primary, primary and/or general secondary education (ISCED 0-3), 2021/2022*

Source: Euridice

Figure 1 below whose primary source is Euridice, shows foreign language learning is compulsory before primary education in some countries. In the EU as a whole, 86.1% of students in primary education were learning at least one foreign language in 2020. The chart also shows data on learning a second foreign language, which stood at 59.2% in the EU in 2020.

In most EU countries, students start learning a second foreign language as a compulsory subject in upper primary or lower secondary education. In some countries, such as Bulgaria, Austria, Hungary, Slovenia, Slovakia, Liechtenstein, Norway and Turkey, the second foreign language is taught at upper secondary level. Figure 1 also shows that there are countries in Europe that do not have a policy on the learning of two foreign languages.



*Figure 2: The most learned foreign language in primary and secondary education (ISCED 1\_3), 2020*

Source: Eurydice, based on Eurostat/UOE data  
(data extracted 15 December 2022)

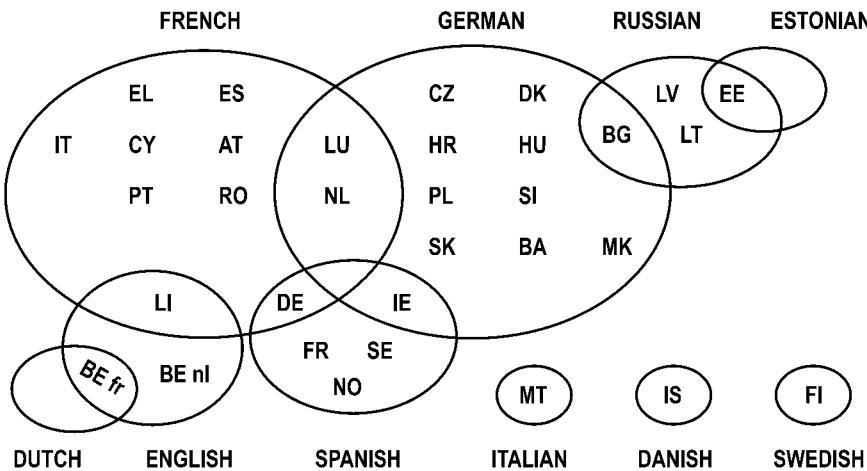
The Eurydice source also provides Figure F2, which shows that English is the most widely taught foreign language in Europe. In almost all European countries, it is so at primary and secondary level, where English is a compulsory subject in many countries. There are very few countries where the majority of students learn a foreign language other than English. As to the Romance languages, at the European level, French is the only Romance language that is studied as the first language. Ireland, an English-speaking country, is one of the countries where French is the most taught foreign language.

In Luxembourg, French ranks third after German in primary and secondary education. At lower secondary level, all students study both German and French. In Liechtenstein, all students at lower secondary level study French and English. In Belgium, students routinely learn the languages of the other communities. In particular, in the Flemish Community of Belgium, French is the most widely taught language at all levels of education. In primary education in Spain, France and Italy, all or almost all students (99-100%) learn English.

Figure 3 shows the second language learning in Europe according to the Eurydice survey, while only taking into account languages taught to more than 10% of learners (and the corresponding levels of education).

French is one of the most popular foreign languages, not only among Romance languages, in many central and southern European countries. It is the second most widely taught foreign language (to at least 10% of students) in Germany, Greece and Spain, taught in Germany, Greece, Spain, Italy, Cyprus, Luxembourg, the Netherlands, Austria, Portugal, Romania and Liechtenstein. The study of French is less widespread in the countries of Eastern Europe (except Romania) and in the Nordic countries. Spanish is the second most studied foreign language among the Romance languages.

In Ireland, at upper secondary level in Germany, and at lower and upper secondary level in France, Sweden and Norway. Italian is a popular foreign language in Malta. Portuguese does not appear as the second foreign language in any European country.



*Figure 3: The second most-learned foreign language in primary and secondary education (ISCED 1-3), 2020*

Source: Eurydice, based on Eurostat/UOE data (data extracted 15 December 2022)

How does the promotion of Romance languages in Slovakia relate to EU language policy? Until 2015, studying two foreign languages was compulsory in primary and secondary schools in Slovakia: English as the first language, while students could choose a second language from a range of languages such as German, French, Spanish, Italian and Russian. Between 2015/16 and 2019/20, English was compulsory in Slovak primary schools from year 3 (students aged 8), and students could choose another world language in addition to English from year 7 (students aged 12). Since 2019/20, there has been yet another change: students can now choose their first foreign language other than English in year 3, but they will have to study it as a second foreign language in year 7 (at the age of 12).

According to the statistical data of the Ministry of Education of the Slovak Republic, in 2023, the representation of Romance languages at Slovak grammar schools was as follows: French 9%, Spanish 14% and Italian 0.13%. The statistics provided by the Ministry of Education do not indicate the percentage of students who could study Portuguese. Comparing these statistics with those of 2007 (before the abolition of the obligation to study two foreign languages), 28% of students studied French as a second language in secondary education, 5% Spanish and 0.7% Italian, and no data are given for the study of Portuguese in that year.

**Table 4: Distribution of second foreign language selected at primary school in Slovakia (2010-2023)**

	year							
	2013/14	2015/16	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23
<b>ENG</b>	99%	98%	98%	99%	99%	99%	99%	99%
<b>DE</b>	60%	60%	61%	59%	60%	58%	57%	56%
<b>FR</b>	13%	9%	8%	8%	8%	8%	8%	9%
<b>SPAN</b>	9%	10%	9%	11%	11%	12%	13%	14%
<b>ITAL</b>	0,1%	0,1%	0,1%	0,9%	0,7%	0,5%	0,9%	0,13%
<b>RU</b>	15%	17%	16%	17%	16%	15%	15%	14%

*Source: <https://www.cvtisr.sk>, Own processing*

The data in Table 4 clearly indicate that the prospects for the development of Romance languages in secondary schools are not very favourable, and this, undoubtedly, has negative consequences for subsequently studying these languages at university.

With the development of new technologies, the use of the Internet and, of course, the considerable number of English speakers, English is establishing itself as the first foreign language in most European countries.

Other foreign languages need to make greater efforts to maintain their position in the ‘language market’, especially in the field of foreign language teaching. The growing interest in the internationalization of study programmes is a response to the internationalization of companies and their requirements to recruit multilingual candidates (Rošteková, 2018). This may be a reason why young people should learn more foreign languages, but in reality, few of them find sufficient motivation to continue learning more foreign languages at advanced levels.

### **Intercomprehension and „language bridge“**

English has become the first foreign language in most of Europe and could therefore be used as a ‘bridge’ to the study of other languages. As Filomena Capucho (2011) explains, „the notion of ‘language bridge’ (cf. Klein, Reissner, 2006) is therefore particularly useful in cases where English (now the first foreign language taught at school in most European countries) can play a crucial role“.

One possible solution is the teaching of Intercomprehension (IC) for mutual language understanding, which may be attractive to learners because they are simultaneously learning several languages within the same language family at the level of text comprehension.

The most widely used methods for teaching intercomprehension are EuRom4, EuRom5, Galatea, Galanet, Galapro, EuroComRom, Itinéraires romans, ICE, Eurocom.

In order to understand a text in a language, learners whose first and second, etc. language belongs to the same language group can use a set of related linguistic features, which refer to different levels of analysis (morphological, syntactic, and lexical). When teaching languages belonging to the same group, features of linguistic proximity are often under-utilised because linguistic proximity is usually seen as a problem rather than an advantage.

IC uses the detection of meaning-transparent zones in the text, which facilitate the understanding of the text and its meaning. IC uses deductive techniques by applying a model called the „seven sieves“ (CFR. Klein & Stegmann, 2001).

In IC classes, students „rely“ on the Romance language they already know, as mentioned above (French or Spanish), but also on English and, in some cases, on Slovak (their mother tongue). Our experience of teaching IC clearly confirms that students want to continue and develop their knowledge of Romance languages as they progress in their IC studies. As mentioned above, IC develops the ability to understand a non-native or unfamiliar language due to similarities with other languages within the same language family. The application of IC in foreign language teaching has many advantages and approaches that can facilitate the understanding and learning of a new foreign language. One of the ways in which IC can be used in foreign language teaching is by comparing morphological, syntactic and semantic structures between several languages with which the learner is familiar. Identifying similarities and differences between languages can help learners make faster progress in understanding and remembering a new language.

Paradoxically, even a slight advance in the study of IC gives the opportunity to work with more challenging texts which also contain phrases and collocations. Phraseology is an area of linguistics to which students are only introduced at a more advanced level. However, phraseologists encourage the study of phrases from the earliest stages of language learning. González Rey (2012, p. 67) defines phraseology not only as ‘the teaching of the phraseology of a language, but also as the teaching of the whole language through its phraseology’. With the inclusion of phraseology in IC, we encounter multi-disciplinary approaches in foreign language teaching, where there is an intersection between phraseology, professional texts, didactics and intercomprehension.

In our research, to test the appropriateness of including phrases and collocations in the teaching of IC, we selected text fragments containing phraseological units from the domain of professional language and general language that contain cultural content (Europeanisms).

We chose phraseological units from the fields of international relations, diplomacy, political science and economics.

We have indicated that we use four Romance languages in the classroom, Spanish, French, Italian, Portuguese and occasionally Catalan. In this study we have selected only three languages (Spanish, French, Italian), supplemented by English as a 'bridge' language and a vehicle language, in our case Slovak.

In terms of textual typology, we worked with descriptive and informative texts available on the Internet, thus guaranteeing their authenticity. The texts are of different genres as we have used different reports, minutes of European Parliament meetings, definitions, fragments of journalistic and legal texts.

In the classroom, we consider a linguistic continuum that respects the geographical continuum, which means that we work with texts in blocks made up of the languages of the Iberian Peninsula (Portuguese, Spanish) and a second block made up of French, Italian or Catalan. (Kubeková, 2018)

As mentioned above, in addition to phrases from general and specialized language, we also included collocations consisting of a noun and an adjective „virtual“ in the IC class. We took into account semantic considerations and equivalence. We included the adjective „virtual“ because of the frequent use of this adjective in compound expressions in many disciplines and because of the rich lexical production with this adjective in the languages to be compared. The adjective virtual can be found in collocations in almost all scientific disciplines, in research, industry, medicine, in the educational process, telecommunications, transport, computer science, social sciences, the environment, or in the arts, e.g.: *virtual university, virtual auditorium, virtual museum, virtual democracy, virtual market, virtual currency, virtual assistant, virtual communication, virtual reality, virtual library, virtual battery, virtual cemetery*, etc. Many of these collocations have more than one adjective or they have multiple synonyms. In our research we also used the multilingual terminology database IATE(7) - InterActive Terminology for Europe. The database contains selected terminology in all EU languages and also offers the possibility to consult Latin terms and definitions. IATE currently contains 6,944,534 terms.

The survey was conducted among students of the IC courses, which are mainly attended by students with Slovak as their mother tongue. As mentioned above, we offered the students collocations containing the adjective virtual and asked them to determine the semantic transparency or opacity on a scale of three semantic levels. For example, the collocation virtual water was on the side of the least transparent expressions. Up to 83% of the IC students found the collocation virtual water semantically opaque, but they had no problems identifying the collocation in the text based on interlanguage similarity.

Eng.: *virtual water*<sup>3</sup>

Esp.: *agua virtual*

Fr.: *eau virtuelle*

It.: *acqua virtuale*

Sk.: *virtuálna voda*

On the other hand, 81% of the students considered the collocation virtual currency to be semantically transparent, they were able to explain the meaning and easily identify it in the text.

Eng.: *virtual currency*

Esp.: *moneda virtual*

Fr.: *monnaie virtuelle*

It.: *moneta virtuale/ valuta virtuale*

Sk.: *virtuálna mena*

For example, one of the technical terms we worked with was virtual democracy, which is interesting because it has a large number of synonyms, but virtual democracy is only found in Spanish, but the students easily identified the term in the text:

Eng.: *e-democracy / electronic democracy / digital democracy / online democracy / cyberdemocracy / internet democracy / teledemocracy*

Esp.: *democracia virtual / democracia electrónica / e-democracia / democracia digital / ciberdemocracia*

Fr.: *démocratie électronique / démocratie en ligne / cyberdémocratie / démocratie numérique*

It.: *democrazia elettronica / teledemocrazia*

Sk.: *virtuálna demokracia*

Similar results were observed for Europeanisms or internationalisms of biblical origin or from Greek mythology. The presence of Europeanisms in Slovak as well as in other European languages is a favourable factor in foreign language teaching. Europeanisms are suitable for IC because they are found in all European languages. This fact led us to conclude that: 1. it is easy for students to identify them in the text; 2. it is easy to decode and understand them; 3. it is not difficult to remember them. It is important to emphasise that texts of this type are used in the final part of the semester programme of intercomprehension. (Kubekova, 2018)

## Conclusion

From the above, we can conclude that specialized language, compound terms and also collocations are suitable for the study of IC. The closer the

<sup>3</sup> Definition: amount of water required to produce a certain good. Van der Zaag, P. and Savenije, H., Principles of Integrated Water Resources Management, UNESCO-IHE Institute for Water Education, Delft, October 2014, p. 42, <https://pietervanderzaag.files.wordpress.com/2015/02/principles-of-integrated-water-resources-management-october-2014.pdf> [27.10.2015]

collocations were to the term, the easier they were for students to understand, as in the example of collocations with the adjective „virtual“.

When the EU abandoned the search for a ‘perfect language’ for its citizens and embraced its multilingualism and multiculturalism as an asset to be proud of and protect, it took this as a challenge and began to emphasise education of students in foreign languages and thus the mastery of at least two foreign languages. The EU has set up programmes for students, teachers, researchers, workers and companies to help develop language skills and promote the mobility of students in European universities and workers in the European labour market. With the enlargement of the European Union and its link with the complex phenomenon created by globalisation, the importance of foreign languages has grown. Due to the diversity of their contacts, companies are increasingly looking for the ability to communicate in several languages for newly recruited staff. For companies, the challenge is of huge importance, as the lack of foreign language communication ability may cause them some market shares. For job seekers, being recruited quickly by companies settled in Slovakia or abroad requires having several foreign languages communication skills, which appears to be the only option to be able to be well integrated in a globalized world. (Mortreuil, F. - Rošteková, M. 2019: 215)

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# THE STATEMENT ABOUT THE RETREAT FROM MULTICULTURALISM IN EUROPE BEYOND SUPERFICIAL POLITICAL RHETORIC

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## *Abstract*

*During the last quarter of the 20th century there was a clear trend across Western European democracies toward an increased recognition and accommodation of diversity through a range of multicultural policies and ethno-cultural and religious minority rights. Since the mid-1990s, all these multicultural policies and established measures to grant additional rights to minorities, have met with serious public and political resistance. This shift in the public attitudes (actively voiced by politicians from across the political spectrum) from tolerant multicultural acceptance of cultural diversity towards civic-integrationism and neo-assimilationism (that treat cultural diversity in a completely different way), has given rise to a phenomenon that has got the name of „the retreat from multiculturalism“. The present text is dedicated to the critical reconstruction of this phenomenon and to the verification of the validity of the main claims and arguments underlying it.*

**Keywords:** multiculturalism, neo-assimilationism, group rights, identity politics, diversity management

In the winter of 2010-2011, several high-ranking European politicians, including Chancellor Merkel, Prime Minister Cameron, and President Sarkozy, made high-profile speeches announcing that multiculturalism was dead or had 'utterly failed'.<sup>1</sup> The judgment pronounced on multiculturalism by those politicians received a wide public response and quickly acquired the status of a main argument in support of various anti-immigrant and anti-multiculturalist

<sup>1</sup> It's about Angela Merkel's speech in Potsdam on 16 October 2010, (Guardian, 18 October 2010), 'David Cameron's speech on radicalisation and Islamic extremism, Munich, 5 February 2011', (New Statesman, 5 February 2011), and Nicolas Sarkozy's interview in TF1 channel on 10 February 2011, (Agence France Presse, 12 February 2011).

theses, without this judgment itself being satisfactorily argued by those who initially pronounced it. A critical reading of that hasty judgment, that I will try to suggest here, will show that it is deeply problematic, both theoretically and empirically. It is not based on verifiable data or authoritative research, the kind of which was not lacking in 2010, but on assumptions concerning problems of heterogeneous origin, often having nothing to do with the very multiculturalism which they are referred to.

The thesis of the paper is that the criticism of multiculturalism (as well as the concept of multiculturalism itself) is not so homogeneous and monolithic as it is often presented to us by those who wrongly believe that political statements proclaiming the failure of multiculturalism target the same issue and/or that multicultural policies lead to the same negative results wherever they have been experimented with. In my book „Multiculturalism and the Limits of Toleration“ (2019) I discuss this issue in detail and suggest using a differentiated approach to the topic of failed multiculturalism, so that the situation in each country is considered separately. The advantage of this approach is that it considers both the contextual conditioning of the multicultural policies considered problematic, as well as the specifics of the political environment in which these policies are implemented.

The starting point of this paper is the critical reception of multiculturalism from the early 2000s, and, in particular, the rise of the thesis about the *retreat from multiculturalism* and the search for new types of policy approaches to managing cultural diversity. And more specifically, the new approaches that I will focus on here are the civic-integrationist and neo-assimilationist ones.

In the last three decades, we have been offered the thesis of retreating from multiculturalism, of rethinking and rehabilitating the theory of cultural assimilation (Alba & Nee, 2003; Brubaker, 2001; Gans, 1999) as an adequate alternative to the failed multiculturalism, which has encouraged social fragmentation and the emergence of the so-called ethnic enclaves and parallel societies (see Heitmeyer 1996; Meyer 2002; Halm/Sauer 2006; Schiffauer 2008).

One of the first scholars who diagnoses and analyses the processes of „retreat from multiculturalism“ is the German political sociologist Christian Joppke (Joppke, 2004: 237-257). According to him, at the end of the 20th century all West European immigration countries had experienced a policy shift marked by the rejection of multiculturalism and the adoption of civic integrationism that emphasizes the importance of building and maintaining national unity rather than recognizing and accommodating cultural diversity. Joppke believes that the turn from multiculturalism (based on group-differentiated policies going beyond the limits of liberalism) to civic integration (based on a strong assertive form of liberalism) can be explained both by the lack of public support for multicultural policies and by the inherent shortcomings and failures of these policies, especially with respect to socio-economic marginalization and self-segregation of migrants (Joppke 2004: 244).

Another well-known defender of the thesis of the „retreat from multiculturalism“ - Rogers Brubaker - found that the Western world in the 1980s and 1990s experienced an unprecedented flowering of multiculturalism discourse, but with reaching its limit at the end of the 1990s this development took a different direction. It was then that the first signs of what Brubaker calls „the return of assimilation“ appeared.

The assimilation Brubaker talks about does not imply a pressure towards cultural homogenization, it only requires adaptation to the most general principles or core values of liberal societies. The „return“ identified by him is not a return to the much-discredited assimilationist policies of the 1960s, it is a return to the idea of assimilation, but conceived in a new way, namely, as „assimilation without assimilationism“ (Brubaker 2001: 539). This kind of assimilation „is opposed not to difference but to segregation, ghettoization and marginalization“ (Brubaker 2001: 543), and in this sense it differs significantly from the old, hostile to difference concept of assimilation. Brubaker's thesis can be summarized as follows: at the very end of the twentieth century, we see both a retreat from the self-exhausted multiculturalist approach to diversity and an advance of a neo-assimilationist approach to it. Unlike the old assimilationist approach that assumes the virtual eradication of differences or the complete acculturation of immigrants into a homogenous social body, a neo-assimilationist approach recognizes difference-within-similarity, aiming for a direction of change, not a particular degree of similarity among immigrants to be integrated.

The first thing I find disturbing in the theses of Joppke, Brubaker and their followers is the very understanding of the „retreat from multiculturalism“ as a counteraction to a problem common to all West European societies, the causes of which are the same everywhere. I think that, at least at this stage, the retreat from multiculturalism (which is still so much talked about in Europe today) is a local rather than a global phenomenon and that even where it can be really identified it has been brought about by different factors. It affects some countries more than others, it has different contextual-dependent ways of coming to light, it covers different aspects of social inclusion, integration policies and immigrant lifestyles, which vary from country to country and depend on the approaches to cultural diversity established in each country. Therefore, despite the shared rhetoric used by the multicultural sceptics all over Europe, it is difficult to discern a common target for the different attacks on multiculturalism. This is clearly visible in the 2010-2011 critical speeches of the already mentioned political leaders, who, as if in complete unison with each other, proclaimed that multiculturalism had failed, although each of them meant something different, talking about this „failure“. Criticizing multiculturalism, David Cameron aimed at an overly tolerant attitude toward extremist Islam, Angela Merkel at the slow pace of Turkish integration, and Nicolas Sarkozy at Muslims who pray in the street (Bowen 2012: 18).

The legitimacy of the proclamation about the failed multiculturalism is relative, situational, fluid and changing, it depends on many contextual and

local factors. To speak of the failure of multiculturalism in general (or even to speak of multiculturalism in general, without taking into account its various dimensions<sup>2</sup> and polysemic nature) is a sign of a reductionist, decontextualized approach, which does not take into account that even if somewhere one or several aspects of multiculturalism did not work according to one's preconceived expectations, it/their „failure“ cannot be automatically transferred to multiculturalism in general, nor can it/they be explained by the existence of the same prerequisites for it/them everywhere.

Perhaps the main question in the debate about the validity of the thesis about the *retreat from multiculturalism* is whether this thesis can be confirmed or rejected empirically. Here, I think we should turn our attention to the main source of empirical data regarding the current state and sustainability of multicultural politics in Western democracies and in particular in European ones. Such a reliable source of empirical information is the Multicultural Policy Index (MPI) developed by a research team at Queen's University in Canada under the direction of Keith Banting and Will Kymlicka (Banting & Kymlicka 2020). MPI is one of the most significant and authoritative scholarly research projects that monitors the evolution of multicultural policies across twenty-one countries with a liberal democratic form of government over the past 50 years. It takes into account the presence or absence of such policies in each of these countries in five separate periods of time – 1980, 1990, 2000, 2010 and 2020 – thus tracking the development of these policies over time. Quantitative data and qualitative assessments of policy changes are collected from policy documents, program guidelines, legislation, government news resources, and secondary sources.

MPI covers three types of minorities: immigrant groups, historic national minorities, and indigenous peoples. Regarding immigrant groups, eight policy indicators are listed<sup>3</sup>, where the presence or absence of each policy gives a score between 0 and 1. On each indicator, countries are scored 0 (no such policy), 0.5 (partial) or 1 (clear policy). Thus, the maximum score one country can get is 8. By aggregating the scores of that range of public policy indicators representative of multiculturalism, we obtain a useful and accurate measure

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<sup>2</sup> In my latest book, I identify five such dimensions of multiculturalism (Antonov 2019). Some authors (Werbner 1997; Hall 2000; McLennan 2001) even go further in emphasizing the multiplicity of multiculturalism, conceptualizing it in the plural, guided by the conviction that it is more accurate to talk about *multiculturalisms*. According to the British social anthropologist Pnina Werbner „there are as many multiculturalisms as there are political arenas for collective actions“ (Werbner 1997: 26).

<sup>3</sup> The eight indicators are: (1) constitutional, legislative or parliamentary affirmation of multiculturalism; (2) the adoption of multiculturalism in school curriculum; (3) the inclusion of ethnic representation/sensitivity in the mandate of public media or media licensing; (4) exemptions from dress-codes, Sunday-closing legislation etc.; (5) allowing dual citizenship; (6) the funding of ethnic group organizations to support cultural activities; (7) the funding of bilingual education or mother-tongue instruction; (8) affirmative action for disadvantaged immigrant groups. (<https://www.queensu.ca/mcp/immigrant-minorities>)

of a nation-state's approach towards cultural diversity and a reliable information about the recognition, accommodation and support of minorities within an immigrant-receiving nation-state (See Table 1).

**Table 1: Multiculturalism Policies for immigrant Minorities Summary Scores from 1980, 1990, 2000, 2010, 2020**

	Total score (out of 8)				
	1980	1990	2000	2010	2020
<b>Australia</b>	5.5	8	8	8	8
<b>Austria</b>	0	0	1	1.5	1.5
<b>Belgium</b>	1	1.5	3.5	5.5	5.5
<b>Canada</b>	5	6.5	7.5	7.5	7
<b>Denmark</b>	0	0	0	0	1
<b>Finland</b>	0	0	1.5	6	7
<b>France</b>	1	2	2	2	1.5
<b>Germany</b>	0	0.5	2	2.5	3
<b>Greece</b>	0.5	0.5	0.5	2.5	2.5
<b>Ireland</b>	1	1	1.5	4	4.5
<b>Italy</b>	0	0	1.5	1.5	1.5
<b>Japan</b>	0	0	0	0	0
<b>Netherlands</b>	2.5	3	4	2	1
<b>New Zealand</b>	2.5	5	5	6.5	6.5
<b>Norway</b>	0	0	0	3.5	4.5
<b>Portugal</b>	0	1	3	3.5	3.5
<b>Spain</b>	0	1	1	3.5	3
<b>Sweden</b>	3	3.5	5	7	7
<b>Switzerland</b>	0	0	1	1	1
<b>United Kingdom</b>	2.5	2.5	5	5.5	6
<b>United States</b>	3.5	3	3	3	3.5
<b>AVERAGE</b>	1.3	1.9	2.7	3.6	3.8

Source: *The Multiculturalism Policy Index*<sup>4</sup>

<sup>4</sup> *The Multiculturalism Policy Index*, retrieved from: [https://www.queensu.ca/mcp/sites/mcpwww/files/uploaded\\_files/immigrantminorities/ImmigrantMinorities\\_Table1\\_SummaryScores\\_2020.pdf](https://www.queensu.ca/mcp/sites/mcpwww/files/uploaded_files/immigrantminorities/ImmigrantMinorities_Table1_SummaryScores_2020.pdf)

What MPI shows us is quite different from what the defenders of the „retreat“ thesis convince us of. I will briefly present some of the more important results from the measurement of multicultural policies for immigrant minorities provided by MPI showing the degree of divergence between these two positions. The data from 1980 show that Australia (5.5 score) and Canada (5 score) occupy the leading position, and that at that time there were still few countries in Europe with policies to support cultural diversity. The European countries with the highest indicators at that time are Sweden (with a score of 3), Great Britain and the Netherlands (with a score of 2.5). Among the countries with the lowest indicators, we can see Germany, Austria, Italy, Spain, Portugal, Denmark, Finland, Norway and Switzerland - all with 0 score. But in the last surveyed period (2020), the indicators of most European countries regarding the development of multicultural policies have risen and there are no more countries whose score is zero. Great Britain and Sweden maintain their leading position and increase their score more than twice compared to the first surveyed period. Among the countries that made the most serious progress between 1980 and 2020, we see Sweden (from 3 score in 1980 to 7 score in 2020), Finland (from 0 to 7), Great Britain (from 2.5 to 6), Belgium (1 to 5.5), Norway (0 to 4.5) and Ireland (1 to 4.5). Spain (from 1 to 3), Portugal (from 0 to 3.5), Germany (from 0 to 3) and Greece (from 0.5 to 2.5) show more modest indicators, but with the same upward trend. In Austria, Italy, Switzerland and Denmark, the trend is also upward, although this is very weakly expressed. In 2020, the score of France and Spain is slightly lower (-0.5) compared to the previous survey from 2010, nevertheless, it is higher than it was in 1980. We observe clear reversal of the upward trend only in the Netherlands after 2010, which from being a leading country in terms of the applicability of multicultural policies in the first three surveyed periods turns out to be at the bottom of the ranking in the last two periods. In the Netherlands, the decline is really noticeable - from 4 score in 2000 to 1 score in 2020, which gives us reason to talk about a real retreat from multiculturalism in this country. Nowhere else is such a retreat observed.

If we summarize the data relating to the European countries covered by the MPI, we will find that except for France and Spain (in 2020) and the Netherlands (in 2010 and 2020), nowhere else in Europe can the statement about the retreat from multiculturalism be proved empirically. All other European countries either maintain their positions from the previous surveyed period or show growth compared to it. Analysis of multicultural policies clearly reveals the resilience of multiculturalism or even its expansion. In Western Europe as a whole, the trend is invariably upward. In each of the surveyed time periods, we observe a growth compared to the previous one (Table 2). Although the Dutch case is often used as irrefutable evidence of a real retreat from multiculturalism, it does not represent the general trend in Europe. On the contrary, the general trend is towards a gradual strengthening rather than abandoning of multicultural policies.

**Table 2: Multiculturalism Policies for Immigrant Minorities Summary Scores from 1980, 1990, 2000, 2010, 2020**

	1980	1990	2000	2010	2020
<b>Average score of the 16 European countries covered by the MPI</b>	0,7	1,2	2,0	3,2	3,4

Source: *The Multiculturalism Policy Index*<sup>5</sup>

If we trust the information that MPI gives us, then we can conclude that the *retreat* thesis is often highly exaggerated and even misleading, as it attributes a Europe-wide character to phenomena and processes that, at least at this stage, have a local character - they refer only to a few European countries and cannot be attributed to European societies as a whole. This, in turn, shows us that there is a discrepancy between the political rhetoric, which in the last three decades often presents multiculturalism as an exhausted and failed experiment, and the political practice, which testifies to its sustainability and even - to the consolidation of its positions in most European societies.

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<sup>5</sup> *The Multiculturalism Policy Index*, retrieved from: [https://www.queensu.ca/mcp/sites/mcpwww/files/uploaded\\_files/immigrantminorities/ImmigrantMinorities\\_Table1\\_SummaryScores\\_2020.pdf](https://www.queensu.ca/mcp/sites/mcpwww/files/uploaded_files/immigrantminorities/ImmigrantMinorities_Table1_SummaryScores_2020.pdf)

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The Agenda of the New  
EU Institutional  
Cycle

**Fourth panel:**



# **EU MEDIA POLICY IN A SHIFTING INFORMATION ENVIRONMENT**

# NAVIGATING MEDIA FREEDOM IN THE EU: CHALLENGES AND SOLUTIONS

## Keynote speech

**Maja Sever**

*President of the European Federation of Journalism*

Over the past two years, since I was elected as the president of the European Federation of Journalists (EFJ)<sup>1</sup>, I have engaged in numerous discussions about the importance of defending journalism as a public good.

In Europe, significant laws such as the Copyright Directive<sup>2</sup>, the Digital Services Act<sup>3</sup>, the Artificial Intelligence Act<sup>4</sup>, the Anti-SLAPP Directive<sup>5</sup>, and the European Media Freedom Act (EMFA)<sup>6</sup> have been enacted<sup>7</sup>, and funds have been allocated for various journalism-related projects.

The most important for journalists is the European Media Freedom Act<sup>8</sup>. As the final text of the EMFA was formally adopted EFJ calls once again on the Member States to be efficient and ambitious in implementing this crucial legislation.

The final green light given to the EMFA by European governments – except Hungary – could not be timelier as the situation is worsening in several EU countries, where public service media are being used politically and weakened

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<sup>1</sup> The **European Federation of Journalists (EFJ)** is the largest organisation of journalists in Europe, representing over **320,000** journalists in **77** journalists' organisations across **45** countries. The EFJ was created in 1994 within the framework of the IFJ Constitution to represent the interests of journalists' unions and associations and their journalists. It has established an independent legal status as an international non-profit association in February 2013 according to the Belgian law. The EFJ promotes and defends the rights to freedom of expression and information as guaranteed by Article 10 of the European convention on human rights.

<sup>2</sup> Directive (EU) 2019/790

<sup>3</sup> Regulation (EU) 2022/2065

<sup>4</sup> COM(2021) 206 final

<sup>5</sup> DIRECTIVE (EU) 2024/1069

<sup>6</sup> Regulation (EU) 2024/1083

<sup>7</sup> Yurukova, Mariya, The Role of the Member States' Digital Services Coordinator for Ensuring Coordinated and Consistent Enforcement of the Digital Services Act, Proceedings from the Tenth International Scientific Conference of the European Studies Department „The State of the European Union - a need for unity and solidarity“, editor/s: Shikova, I., Simeonov, K., Tsvetkova, N., Radoykova, G., Yurukova, M., Publisher: Minerva, 2023, pages:176-187, ISBN:978-954-8702-62-1

<sup>8</sup> Regulation (EU) 2024/1083

financially, instead of guaranteeing citizens independent, plural and quality information as their mission requires.

Few days after adopting EMFA EFJ follows situation in Slovakia, drastic changes to the appointment and competence of oversight bodies would set up government control and effectively end the public broadcaster's independence, contradicting Article 5 of the EU's Media Freedom Act.

In Italy, recent major politically influenced internal management changes at Radiotelevisione Italiana (RAI) and attempts to shrink even further the financial autonomy of the Italian broadcasting service are another worrying development that the EMFA should prevent.

Article 5(2)) reads: „Member States shall ensure that the procedures for the appointment and the dismissal of the head of management or the members of the management board of public service media providers aim to guarantee the independence of the public service media providers (...) They may be dismissed before the end of their term of office only exceptionally where they no longer fulfil the legally predefined conditions required for the performance of their duties laid down in advance by national law or for specific reasons of illegal conduct or serious misconduct as defined in advance by national law.“<sup>9</sup>

„The acute situations in Slovakia and Italy show the importance of immediate and ambitious application of the EMFA, which is not only aimed at preventing political interference, but also at preventing the weakening of public service media due to a lack of financial sustainability,“ said the co-chair of the EFJ Broadcasting Expert Group (BREG), Rolf Johansen<sup>10</sup>.

The EFJ welcomes the introduction of the media pluralism test as a positive step to prevent threats to media plurality and independence from market concentration. It also welcomes better protection of online content produced by news media and journalists from the power of the platforms.

In a nutshell, the EMFA establishes minimum rules for the protection of journalists' sources, strict guarantees for the independent operation of public service media and their financial viability, transparency in media ownership and state advertising, as well as editorial independence in newsrooms.

The EFJ and its affiliates will now work to ensure that the EMFA delivers on its promises: to hold governments accountable for ensuring media pluralism and editorial independence across the 27 Member States, and to ensure that journalists are protected from undue political or other influence.

EFJ believe that law and mechanism could be stronger, But now that the EMFA has been adopted, the real test lies with how this act will be implemented

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<sup>9</sup> Regulation (EU) 2024/1083

<sup>10</sup> EFJ calls for immediate and ambitious implementation of the European Media Freedom Act, Retrieved from: <https://europeanjournalists.org/blog/2024/03/26/efj-calls-for-immediate-and-ambitious-implementation-of-the-european-media-freedom-act/>

and enforced in the EU Member States. In the EU is needed both political will at national level, but also from the European Commission and the newly created board to oversee its application.

As part of the MFRR project in 2023 and 2024, EFJ issued over 1500 warnings due to media freedom violations. Since May 2023, the EFJ has co-signed 201 warnings to the Council of the European Platform for the Protection of Journalism. Our colleagues continue to perish in wars. In Gaza, more than 140 journalists have been killed. EFJ are committed to providing help, support, and tangible assistance. EFJ raise global awareness of the dangers faced by our colleagues as they courageously report the truth in Gaza and Ukraine. Statistics show that our work remains insecure even in regions not affected by war.

Recommendations for the protection of journalists' safety have been established, and at the national level, in the different EU Member States are developing mechanisms for the systematic protection of journalists' safety.

The European Federation of Journalists disputes the conclusions of a study<sup>11</sup> commissioned by the European Commission to assess the implementation of the EU Recommendation on the protection, safety and empowerment of journalists. The report points to supposed progress that in fact remains marginal, if not ineffective.

The press release states that „since the Recommendation was adopted in 2021, most Member States (19 out of 27) have either adopted a dedicated Action Plan (Denmark, Lithuania, Sweden) or created a dedicated structure or committee (Greece, Latvia, Italy). The majority also either have or are planning to put in place a comprehensive governance supporting the safety of journalists“.<sup>12</sup>

The executive summary of the study states that „eight EU Member States (Croatia, Denmark, Greece, Ireland, Latvia, Lithuania, The Netherlands, Sweden) have established a specific governance system, eight (Austria, Belgium, France, Germany, Italy, Portugal, Slovenia, Spain) have adopted initiatives only covering specific aspects of the Recommendation (e.g. ensuring the safety of journalists covering protests and demonstrations), while three (Cyprus, Slovakia, Malta) are currently in the process of developing a governance framework. Among eight Member States with established governance systems, three (Denmark, Lithuania, Sweden) have adopted a dedicated Action Plan and three (Greece, Latvia, Italy) have adopted a more „practical“ approach with the creation of a

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<sup>11</sup> European Commission, Directorate-General for Communications Networks, Content and Technology, Study on putting in practice by Member States of the recommendation on the protection, safety and empowerment of journalists - Final report, Publications Office of the European Union, 2024, <https://data.europa.eu/doi/10.2759/205635>

<sup>12</sup> EU: No real progress in protecting journalists, contrary to what a European study claims, Retrieved from: <https://europeanjournalists.org/blog/2024/05/10/eu-no-real-progress-in-protecting-journalists-contrary-to-what-a-european-study-claims/>

dedicated structure. Greece and Latvia have created a dedicated Task Force, while Ireland introduced a Media Engagement Group (MEG). Finally, in two countries – Croatia and the Netherlands – dedicated protocols ensuring the safety of journalists have been adopted.<sup>13</sup>

It is quite shocking that this study notes progress in the measures taken by the governments of most of the EU member states,“ reacted EFJ GS Ricardo Gutiérrez. „The evaluators, who know nothing about journalism, are out of touch with the realities experienced by journalists in Europe. The report often confines itself to a quantitative approach, without really seeking to assess the quality of government initiatives, as is the case for the so-called task force set up by the Greek government“<sup>14</sup>.

Another cause for concern is the study’s observation that it is allegedly difficult to set up mechanisms for monitoring press freedom violations at national level, even though mechanisms are proving effective at European level (MFRR Platform, Council of Europe platform).

The EFJ nevertheless welcomes some of the factual findings of the study:

Journalist associations are „at the forefront of training“: the study highlights a clear pre-eminence of journalist associations in delivering training for journalists. Consultations show that media professionals can find training within 16 EU Member States (the study also notes that many training initiatives are not supported either by the public authorities or by companies in the sector);

Social and economic protection measures are currently limited, particularly for freelance journalists. „Dedicated social or economic protection for journalists is still in the early stages, indicating a need for more comprehensive measures“<sup>15</sup>;

Cooperation among stakeholders remains a work in progress, with only half of EU Member States establishing mechanisms for collaboration. Concrete measures to enhance personal protection, rapid response, and support mechanisms for journalists need further development;

A small number of Member States have developed initiatives to address online safety. The shortcomings of the Member States should have led the authors of the study and the European Commission to take a much less optimistic view of the situation. Freedom of the press is fundamental to the EU democracies. EU cannot afford to turn a blind eye to the global inaction of governments.

Statistics show that our work remains insecure even in regions not affected by war.

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<sup>13</sup> EU: No real progress in protecting journalists, contrary to what a European study claims, Retrieved from: <https://europeanjournalists.org/blog/2024/05/10/eu-no-real-progress-in-protecting-journalists-contrary-to-what-a-european-study-claims/>

<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

EFJ continue to witness the persistent impunity for crimes against journalists, which includes the lack of progress in the investigation of Giorgos Karaivaz's murder, the overturning of convictions against Slavko Čuruvija's murderers, and the coerced resignations of special prosecutors in Ján Kuciak's case. Moreover, numerous countries are seeing an increase in orchestrated campaigns of defamation and discrediting of journalists, particularly during election periods, frequently orchestrated by political factions' intent on silencing journalists.

EFJ are fighting disinformation, political pressures, and market challenges. Being a journalist today is certainly not easy.

As technology advances, adversaries of media freedom are adapting by utilizing AI tools to sway public opinion. Consequently, it is imperative that our legislation evolves in tandem with swift technological advancements and that EU is establishing laws and regulations to guarantee the transparency and accountability of major technology firms. This will safeguard the autonomy of journalists and the uninhibited sharing of journalistic content.

While EFJ are trying to compel major digital platforms to halt the spread of fake news and emphasize the importance of the right to freely share journalistic content, EFJ are being surpassed by news of the development of artificial intelligence, which some media houses are already using to replace journalists and their work. That is why EFJ signed the Paris Charter on Artificial Intelligence<sup>16</sup>, the first document in journalism that defines the ethics and principles that journalists, editorial offices, and media houses around the world should adopt and apply in their work with artificial intelligence. The Charter outlines ten key principles for preserving the integrity of information and the social role of journalism. Among other things, the fundamental principles demand that ethical considerations must guide technological choices within the media, and human action must remain central to editorial decisions. The media must responsibly differentiate between authentic and synthetic content, and also be involved in the global governance of artificial intelligence to defend the sustainability of journalism when negotiating with technology companies. This is certainly another battleground where all stakeholders must unite to protect citizens' right to information and ensure the ethical management of technologies, which should remain as tools and aids in the work of journalists, rather than as replacements for genuine journalistic work.

But let us briefly return to the initial settings.

It is crucial to develop effective strategies and strong legislation, but ultimately, the most important element is the individual, the journalist. That is why, amidst all the challenges that lie ahead, including compliance with legislation, acquisition of new skills, and adaptation to technologies, it is

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<sup>16</sup> PARIS Charter on AI and Journalism, 2023, Retrieved from: <https://rsf.org/sites/default/files/medias/file/2023/11/Paris%20Charter%20on%20AI%20and%20Journalism.pdf>

paramount to empower and protect the labour and professional rights of journalists. Strong and secure journalists are the foremost defence against disinformation, fake news, and various political pressures. Free and independent journalists are the cornerstone of every democratic society.

As Europe draws closer to crucial elections for the European Parliament, the necessity for independent journalism serving the public interest and robust journalists has never been greater. Journalists must have the freedom to act and report without facing pressure or intimidation.

The European Federation of Journalists has published a Manifesto entitled „Stand up for Journalism as a Public Good,”<sup>17</sup> aimed at heightening awareness of the vital need to defend the rule of law, media freedom, and media pluralism. It outlines actionable steps to ensure the sustainability and safety of journalism, as well as the regulation of artificial intelligence.

EFJ advocate for the promotion of sustainable journalism, the public and transparent investment in high-quality journalism, and the assurance of independent and enduring funding for public media services. EFJ call for fair compensation from big tech companies for the use of journalistic content and for journalists' copyrights. From the EU, EFJ expect the provision of funds for the continuous financial support of independent journalism, media literacy initiatives, the monitoring of attacks on journalists, and support mechanisms. Furthermore, EFJ insist on creating a secure environment for journalists to eliminate impunity and prevent attempts to silence them with SLAPP lawsuits, as well as to protect them from the misuse of spyware. In the realm of artificial intelligence, EFJ demand greater transparency regarding training data and synthetically generated content, obligatory compensation for creators, and the establishment of guidelines for the ethical use of artificial intelligence.

The essential message in times of significant pressures and challenges faced by journalists in their daily work is that ensuring their safety and the protection of their professional and labour rights is fundamental to the struggle for robust, independent, and free journalism.

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# ASSESSING LESSONS LEARNED: INSIGHTS FROM THE 2019 EUROPEAN PARLIAMENT ELECTIONS COVERAGE IN BULGARIAN ONLINE MEDIA

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## *Abstract*

*In 2024, Bulgarians participated for the fifth time in electing their representatives to the European Parliament. Unlike the general trend observed across the EU, which indicates higher voter turnout, Bulgaria has maintained a relatively stable turnout rate across its last three European elections.*

*The role of media content in shaping the public agenda is substantial, as it highlights current and significant topics. While media alone cannot guarantee the impact of the issues they cover, it plays a crucial role in establishing an agenda and framing public interest. Thus, media significantly influences audience perceptions and attitudes towards particular issues or events. This role of the media as gatekeepers of information becomes even more critical during election campaigns. However, it remains questionable whether online media in Bulgaria provides sufficient information to enable citizens to make informed choices about their European Parliament representatives.*

*This paper presents findings from a 2019 study analysing the online media coverage of the 2019 European Parliament election campaign in Bulgaria and compares these findings with a similar study conducted in 2024. The primary hypothesis posits that only a few lessons have been learned from previous European Parliament election campaigns, which impedes citizens' ability to be adequately informed about EU agenda topics and to elect representatives who will effectively advocate for their rights and interests.*

**Keywords:** European election, online media, media coverage, 2019, 2024

## **Introduction**

Between 6-9 June 2024 the Elections for Members of the European Parliament (MEPs) were held in 27 Member States of the European Union (EU). This

was the fifth time since 2007 when Bulgaria became one of the EU Member States and the Bulgarians have the right to vote in the European elections . In 2024, for a second consecutive time over 50 percent of EU citizens voted in the European parliamentary elections<sup>1</sup>. This year the turnout reached the highest voter turnout since 1994, when it was 56 percent. Based on the data provided by the Central Election Commission, 32.57% of eligible Bulgarian voters participated in the European Parliament elections in May 2019, while this figure was 33.78% in 2024<sup>2</sup>. Despite this, the number of voters was higher in 2019 by 21 845, due to a decrease in the number of eligible voters over the five years following the latest census in the country. Consequently, it can be concluded that there has been no significant change in voter turnout between the last two European Parliament elections in Bulgaria, but the country does not follow the general trend for higher turnout in the EU.

The media content largely shapes the public agenda on current and important topics.<sup>3</sup> This thesis is based on the fact that the media cannot independently guarantee the effect of the topics and events they cover in their publications, but they can set an agenda of issues, thereby framing public interest and consequently having a significant influence on the audience's perception and attitude towards a given problem or event. Given this, the role of the media as gatekeepers of information is even more significant during an election campaign. Therefore, analysing the media and tracking whether they present the facts about elections such as those for the Members of the European Parliament (EP) objectively enough is indicative of the functioning of a democratic society.

According to the 2019 Reuters Institute for the Study of Journalism report on the news in the digital environment, 88% of Internet users in Bulgaria use online news sources, including social media, highlighting the great importance of online news content in shaping public opinion<sup>4</sup>.

This is why the paper is focusing of the content shaping the 2019 EP election campaign in the online media in Bulgaria and is trying to answer the question are the lessons learned if we compare the online coverage in 2019 and in 2024. The main data presented in this report are from a study conducted in 2019 and published in Bulgarian in 2022, titled „The 2019 European Elections in the Content of Bulgarian Online Media“.<sup>5</sup> The conducted research was carried

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<sup>1</sup> Official website of the European parliament (2024) 2024 European election results. Available at: <https://results.elections.europa.eu/en/index.html>

<sup>2</sup> Official site of the Central Election Commission in Bulgaria, Available at: <https://results.cik.bg/europe2024/aktivnost/index.html>

<sup>3</sup> Mccombs, M. & Shaw, D. (1972) *The Agenda - Setting Function of Mass Media*, Oxford University Press.

<sup>4</sup> Nic Newman et al. (2019) *Reuters Institute Digital News Report 2019*. University of Oxford, 2019. Available at: [https://reutersinstitute.politics.ox.ac.uk/sites/default/files/inline-files/DNR\\_2019\\_FINAL.pdf](https://reutersinstitute.politics.ox.ac.uk/sites/default/files/inline-files/DNR_2019_FINAL.pdf).

<sup>5</sup> Юрукова, М. (2022) *Европейските избори през 2019 г. В съдържанието на българските онлайн медии*. В: Изборите за ЕП през 2019 г. Отразяване в българските онлайн медии. София: Университетско издателство СУ „Св. Климент Охридски“, с. 20-62.

out by a team with expertise in the field of media policies and studies including students from the Department of European Studies at the Faculty of Philosophy in Sofia University „St. Kliment Ohridski“<sup>6</sup>. The methodology is based on media content analysis, a method frequently used in the fields of public relations and mass communications, because the quantitative content analysis is useful for analysing media content, such as topics or issues, the volume of mentions, and messages<sup>7</sup>. For the analysis of internet or online media, a tool was developed comprising 19 questions with a total of 164 possible responses. This tool was used to code 2,259 communication units<sup>8</sup>. The period for the data collection was from 6 to 26 May 2019. Other research methodologies applied within the study include general scientific methods such as synthesis and comparative analysis of public information. The main limitations and specificities associated with the analysis of online media content related to the 2019 European Parliament elections in Bulgaria are further outlined and systematized in a separate academic publication.<sup>9,10</sup> The same study for the 2024 elections is currently in the process of data collection and the comparison made in this report are not based on the data, but on the main tendencies observed so far during the process of analyses.

## **Informative Value of the Content in the Bulgarian Online Media during the 2019th EP Election Campaign**

The content provided by Bulgarian online media in 2019 predominantly serves an informational purpose, but its nature is mainly general informative (*Figure 1*).

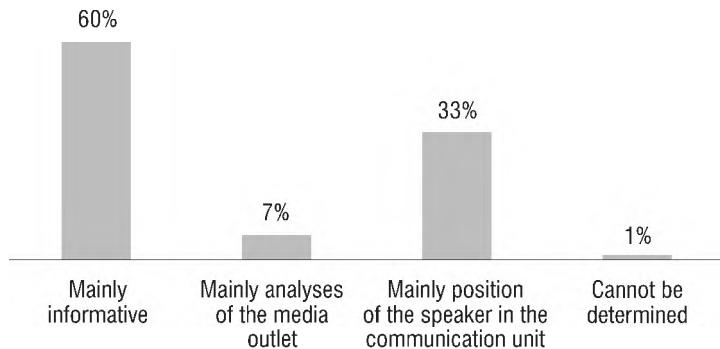
<sup>6</sup> Юрукова, М. (2022) *Европейските избори през 2019 г. В съдържанието на българските онлайн медии*. В: Изборите за ЕП през 2019 г. Отразяване в българските онлайн медии. София: Университетско издателство СУ „Св. Климент Охридски“, с. 20-62.

<sup>7</sup> Macnamara, J. (2025) Media content analysis: Its uses; benefits and best practice methodology. In: Asia Pacific Public Relations Journal, 6(1), 1-34.

<sup>8</sup> The scope of the content analysis in 2019 includes 34 websites of media and online media outlets news.bnt.bg, bnr.bg, vesti.bg, blitz.bg, nova.bg dnes.bg, bradva.bg, 24chasa.bg, dnevnik.bg, fakti.bg, offnews.bg, dariknews.bg, pik.bg, webcafe.bg, news.bg, frognews.bg, btvnovinite.bg, novini.bg, mediapool.bg, segabg.com, clubz.bg, actualno.com, capital.bg, trud.bg, epicenter.bg, glasove.com, monitor.bg, svobodnaevropa.bg, standartnews.com, bgonair.bg, kanal3.bg, lentata.com, terminal3.bg и tvevropa.com. The study focuses on the media content generated by public media, with particular emphasis on the official news websites of BNT and BNR (bntnews.bg and bnr.bg). The two primary criteria for selection were popularity in Bulgaria and the presence of news content on the websites. This group includes online editions of both traditional and new media within the Bulgarian media market, specifically the official websites of public and commercial media outlets-televisions, radios, print media, and entirely online news sites.

<sup>9</sup> Юрукова, М., И. Иванова, Б. Ангелов (2020) *Европейски избори през 2019: ограничения в анализа на медийното съдържание онлайн в България*. В: Сборник с доклади от VII международна конференция на катедра „Европеистика“, СУ. София: Минерва, с.196-218.

<sup>10</sup> Юрукова, М. (2022) *Европейските избори през 2019 г. В съдържанието на българските онлайн медии*. В: Изборите за ЕП през 2019 г. Отразяване в българските онлайн медии. София: Университетско издателство СУ „Св. Климент Охридски“, с. 20-62.

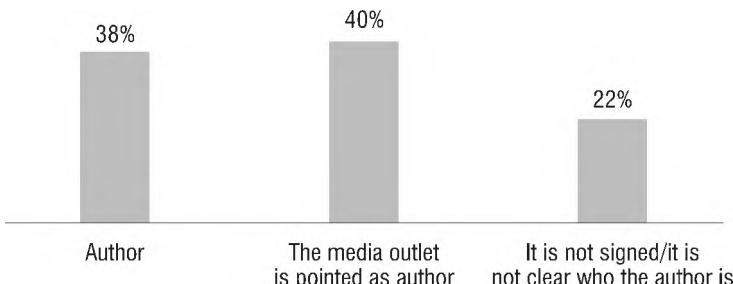


**Figure 1. Informative Value**  
(% of the total number of analysed communication units)

One-third of the publications within the scope of the study primarily convey or present the positions, opinions, or evaluations of others outside the media, often involving statements from specific politicians. Few analytical materials are prepared by online media for their audience. In the specific case of the European elections, this trend turns the media into a kind of platform without commentary but also as an amplifier of politicians' actions and positions. This is due to the lack of context and additional information being sought and analysed. This leads to the transfer of some media functions as setting the agenda of the society to politicians and political parties in terms of forming an impartial and independent agenda that serves the public interest rather than specific political interests. This trend intensified in 2024, as shown by the data from the same study conducted for the 2024 elections, which is currently in the process of publication.

## Authorship and Cited Sources

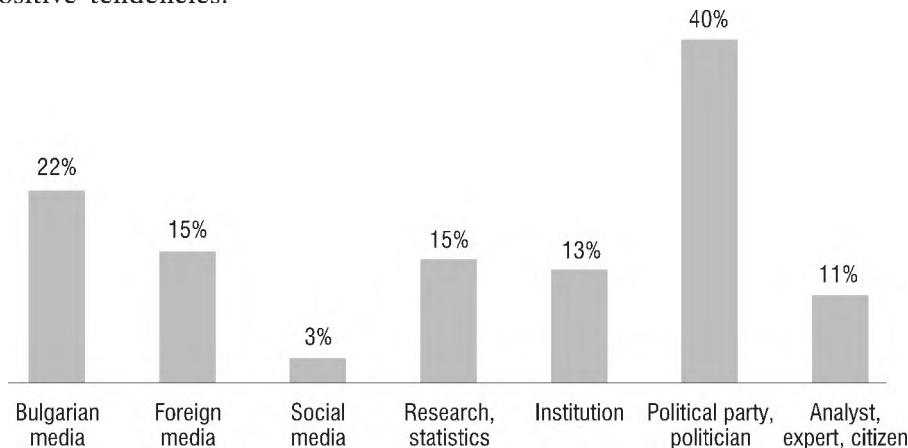
The identification of the author and the ownership of the media outlet is significantly important to media content consumers. Firstly, it clarifies who is speaking. Secondly, it contributes to the accountability and responsibility of the media to its audience.



**Figure 2. Authorship**  
(% of the total number of analysed communication units)

The findings regarding the authorship of the communication units raise concerns about the lack of responsibility, as over one-fifth have no specified author, leaving the audience unclear about who is communicating with them (Figure 2).

Another prominent trend is that the authors of the publications hide behind the general formulation that the media outlet itself is the author. This lesson looks like it was learned because at least at the observation level on the content for the EP elections in the online media in Bulgaria it looks like the cases of non-signed publications is decreasing compared to 2024 which is one of the positive tendencies.

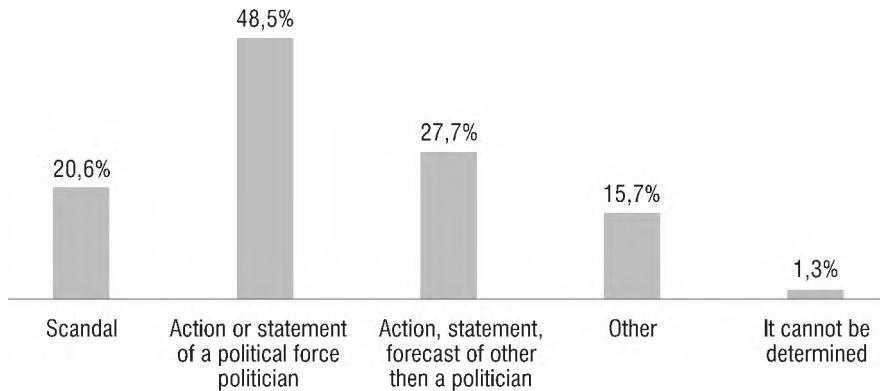


*Figure 3. Sources Referenced by Online Media  
(% of the total number of analysed communication units)*

In approximately one-tenth of the communication units, there is no reference for the source of information by the media. Bulgarian online media most frequently cite politicians in their publications related to the coverage of the pre-election campaign for MEPs (Figure 3). Given the topic, this is expected, but the model of merely reporting what politicians say is common among the media, leading to a lack of high-quality media content and consequently a lack of context for content consumers. In 2024 the communication units who are cited other media is increasing which is helping to track the initial source of any piece of information.

## Event Triggers

The study results indicate that in nearly half of the publications, the main reason for creating the content is related to a statement or action by a politician or political party. Largely, the agenda for the 2019 MEP elections is set by politicians and the parties they represent.



**Figure 4. Event Triggers**  
*(% of the total number of analysed communication units)*

In comparison, actions or statements by subjects outside the political class are the basis for less than one-third of all publications. The pre-election campaign for the European elections in Bulgaria in 2019 was also accompanied by numerous scandals and contentious topics, which were heavily popularized by online media and are the main reason for creating about one-fifth of online news content.

In 2024 it looks like these results will be like the ones in 2019.

### Information Levels of Covered Topics

The study results fully confirm the thesis that the European elections are perceived as second-order national elections<sup>11,12</sup> in 2019 and in 2024.



**Figure 5. Coverage Level of Topics - EU or Bulgaria**  
*(% of the total number of analysed communication units)*

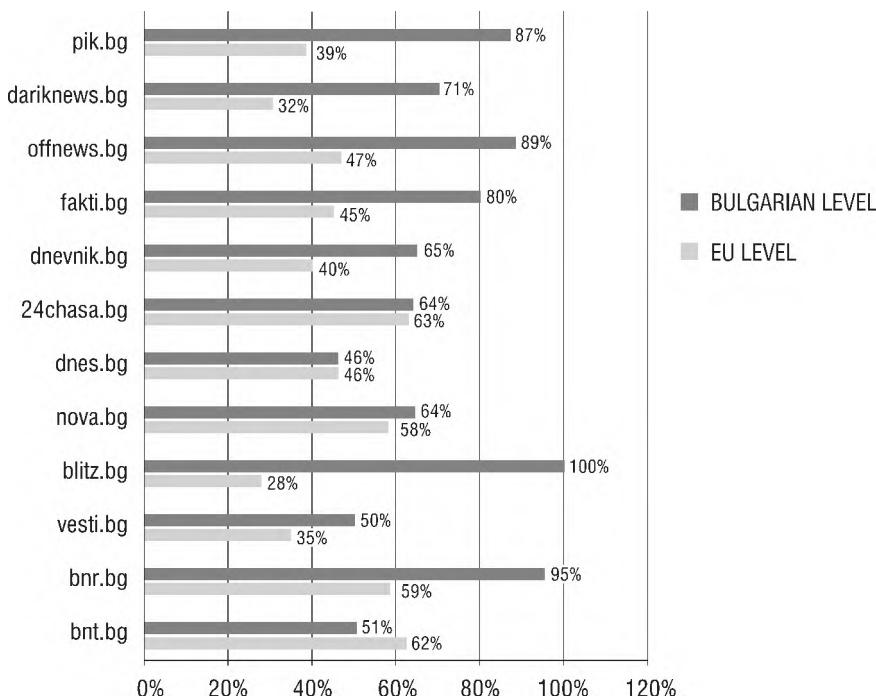
<sup>11</sup> Reif, K., Schmitt, H. (1980) *Nine second-order national elections: A conceptual framework for the analysis of European election results*. European Journal of Political Research, 8, 3-44.

<sup>12</sup> Hix, S., Lord, C. (1997) *Political Parties in the European Union*. European Union series, St. Martin's Press.

Although European elections are covered, the publications themselves much less often deal with topics on the EU-level agenda. On the contrary, the focus is on specifically Bulgarian problems, which are sometimes linked to European themes.

On the website *monitor.bg*, the issues related to the 2019 MEP elections are almost entirely covering the problematics at the national level, with only 8% of them addressing some of the topics at the European level. An indicative example is the media website *blitz.bg*, where the coverage of topics is primarily at the national level, while issues addressed at the EU level are rare (28%), and their informative value is marginal.

Several media outlets stand out by covering topics at the EU level more often than at the Bulgarian level. Such examples include the website of the public broadcaster BNT (*bnt.bg*), which positively impacts the information provided to users. It is the most popular online media where the ratio favours content reflecting the European level of the topics discussed, rather than the Bulgarian level. Other such media include *mediapool.bg*, *clubz.bg*, and *tvevropa.com*, while *terminal3.bg* stands out as a news website where all publications address the problem at the European level, though it is also one of the media within the study's scope with a very small number of communication units.



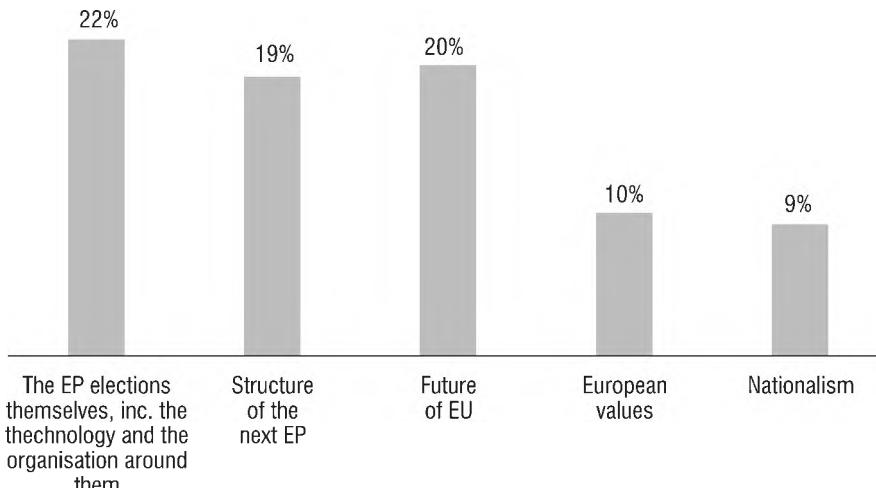
**Figure 6. Coverage Level of Topics in the Top 10 Most Popular Media (Bottom-Up) and the Two Public Media (% of Total Analysed Communication Units for Each Media)**

## Topics and Fields Covered

The debate is so insubstantial and/or unrelated to significant policy issues on the EU agenda that the reasons for politicians' actions or statements are often the elections and their organization, rather than public issues on which a clear political position is expected. Additionally, the analysis shows that European elections and primarily organizational issues related to them are used as a pretext for exchanging criticism between the ruling and opposition parties. Here lies the reason for the absence of topics such as joining the Eurozone or Schengen, where political parties have at least officially similar positions, and the lack of confrontation makes the topic unpopular for them. This tendency is observed as well during the 2024 EP elections. Overall, the study finds that citizens struggle to inform themselves about the dividing lines between parties on policies if they rely on online media in Bulgaria.

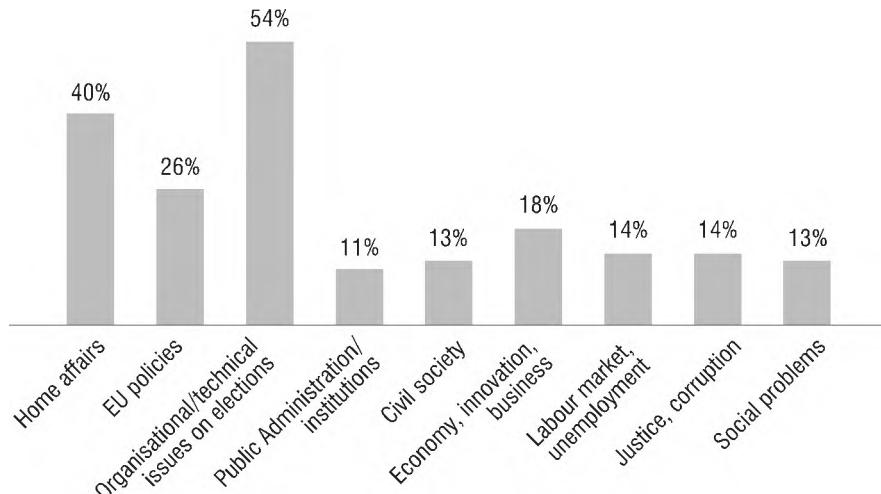
Over half of the publications cover organizational and technical issues related to the elections. Domestic political issues account for 40% of all publications, while those related to EU policies constitute 26%. The most frequently covered areas in the media are „economy, innovation, and business“ (18%), „labour market, unemployment“ (14%), „justice, judicial system, and corruption“ (14%), „civil society“ (13%), and „institutions“.

The issues at the EU level in most cases are generally covered and the informational content lacks specificity and depth. Topics such as the future of the EU, European values, and nationalism allow general political formulations, making them the most frequently addressed in publications. Organizational issues and the structure of the European Parliament are among the most popular topics covered by online media as well.



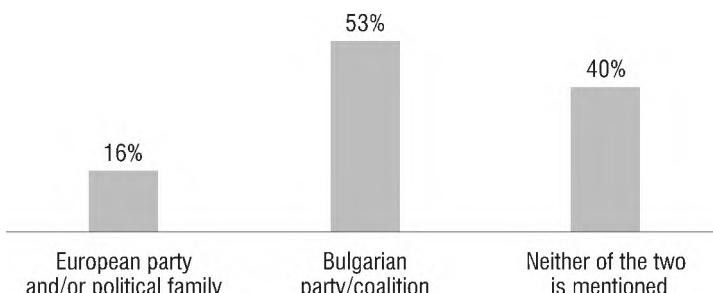
**Figure 7. Top 5 Topics Discussed at the EU Level**  
(% of Total Analysed Communication Units)

A much broader range of topics is discussed when they are considered at the Bulgarian level. Besides the elections and technical-organizational issues, the positions of national parties are frequently reflected in the media agenda. Voter turnout and campaigns to encourage more citizens to participate in the elections are also significantly covered. Through the lens of Bulgarian politics, topics such as „economy, innovation, and business“ and „labour market, unemployment“ are often addressed. Bulgaria’s place in the EU and political scandals are other dominant themes in Bulgarian online media.



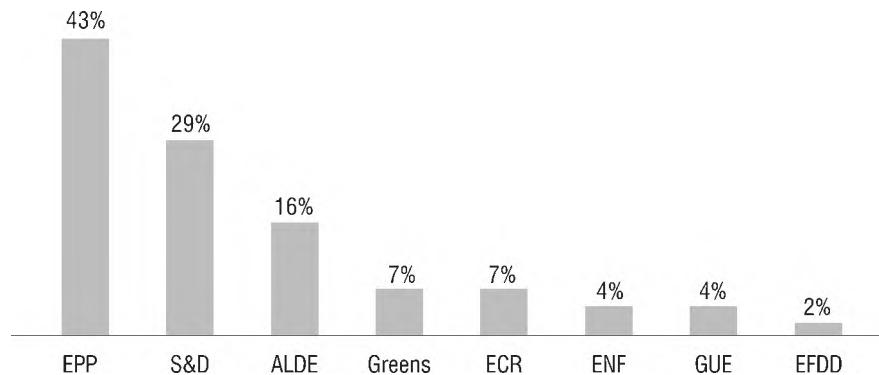
**Figure 8. Top Topics Discussed at the Bulgarian Level  
(% of Total Analysed Communication Units)**

In 72% of the communication units, at least one politician is mentioned by name. In just under 80% of them, the media speak neutrally about politicians, but in one-fifth of the publications, there are clear biases or heightened criticality, sometimes crossing the line of objective coverage. The most frequently mentioned politicians are Boyko Borissov, followed by Delyan Peevski and Korneliya Ninova, who are often the subject of certain attitudes – whether critical or rather flattering, depending on the observed media.



**Figure 9. Mention of Party/Political Family  
(% of Total Analysed Communication Units)**

In about 40% of all communication units, neither a European political family nor a Bulgarian political party or formation is mentioned by name. In contrast, over 50% of the publications mentioned at least one Bulgarian party, and 16% of them mention a European party and/or political family. Communication units that present discussions at the level of European political families are rare. Regarding party affiliation, it can even be noted that European parties are most often mentioned concerning Bulgarian political forces that are part of them.



**Figure 10. Mention of European Party/Political Family**  
(% of Total Numbers of Mentioned Parties)

Bulgarian citizens who obtain their information from online media are more informed about the three largest political groups in the European Parliament (EP), namely the European People's Party (EPP), the Progressive Alliance of Socialists and Democrats (S&D), which includes the Party of European Socialists (PES), and the Alliance of Liberals and Democrats for Europe (ALDE). Other European-level parties are sporadically mentioned and are mostly listed without relevant context or information regarding their policies at the supranational level. Online news consumers may have come across names such as the European Conservatives and Reformists (ECR), Europe of Nations and Freedom (ENF), European Green Party (Greens), European United Left (GUE), and Europe of Freedom and Direct Democracy (EFDD), but their coverage lacks informative value.

### Political confrontation

Over 60% of the communication units do not contain direct confrontation, indicating that the main opponents rarely engage in direct clash or debate. And in 2024 this percentage is expected to be higher. Nevertheless, the political landscape in Bulgaria changed for the last 5 years. In this period, six parliamentary elections took place and till the end of 2024 one more is expecting to happen if the parties of the 50 Bulgarian parliament cannot form a government. The results from the 2024 EP election are shaped by this political situation in the country and the results

were quite different. Six coalitions from 8 parties managed to send Members to the EP in 2019 in comparison to five coalitions from 6 parties in 2024.

## Conclusions

The results of the study show that the statements made by politicians during the 2019 EP election campaign in the online media in Bulgaria were dominated by national issues related to the welfare of citizens and the economy. However, these statements often did not align with the competencies that future Bulgarian MEPs would possess. This tendency is still valid in 2024. Important issues were marginalised. Likely due to the lack of public opposition between parties on topics such as Bulgaria's accession to Schengen or the adoption of the euro, these issues are almost absent from both the political agenda and media coverage, further substantiating the assertion that European elections are perceived as second-order national elections. The relationship between the absence of debate on substantial European issues and low voter turnout<sup>13</sup> cannot be conclusively proven within the scope of this study, but the study confirmed that this hypothesis is plausible.

It is noteworthy that although the election campaign is built on the principle of political party opposition, most of the analysed communication units do not contain direct confrontation. That is, the main opponents – the ruling party and the opposition – rarely engage in direct clashes or debates, preferring instead to exchange remarks through the media. There is also a tendency in certain media outlets to give more prominence to the statements and actions of certain political forces or their representatives, while other media focus on their opponents. This trend is concerning, especially as preferences in coverage are rarely marked as paid content, which clearly signals that there is another reason for a media outlet to prioritise certain political forces over others.

The positive trend is seen in 2024 comparing to 2019 regarding the higher rate of pointed authorship and of the references and citations. Nevertheless, it appears that many of the lessons have not been learned, and it remains difficult for Bulgarian citizens to make an informed decision about whom to support for membership in the European Parliament based on the content of leading Bulgarian online media.

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# MEDIA POLICY AND INFODEMIC: THE ROLE OF JOURNALISM IN A FRAGILE INFORMATION SOCIETY

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## *Abstract*

*An infodemic is a situation in which a lot of false information is being spread in a harmful way. It is a metaphor for virus-like spread of misleading information and disinformation. Although the term began to be used more often during the Covid-19 pandemic, it was officially diagnosed as the information crisis in the LSE Commission on Trust and Technology report in 2018. The report stated that the information crisis the world had faced was systemic, and it called for a coordinated long-term institutional response. Since then, the EU put a lot of effort in setting the policy framework to address this complex problem with countless social and economic consequences. After introducing the Communication and the Action Plan Against Disinformation (EC, 2018) the European Commission agreed on the key policy document – the Code of Practice on Disinformation (2018, 2022). The Code contains 44 commitments and 128 specific measures, in the 8 main areas, but none is related to journalism. The aim of this paper is to discuss the role of journalism as a profession of information verification, and a profession of publication the accountable and trustworthy information. EU media policy should provide a framework for trust in information society, and not platforms but journalism media should become the key partners in that framework.*

**Keywords:** information crisis, infodemic, media policy, media accountability, journalism

## **Introduction: Information society captured in an infodemic**

At a time when information is more available than ever, it is the paradox that we are living in an information crisis, moreover the time of infodemic. The term infodemic is originally coined by political analyst David Rothkopf (2003) in a commentary for the *Washington Post* and it was not used that often until the Covid-19 pandemic broke out worldwide in 2020. According to the

World Health Organization (WHO), the Covid-19-related infodemic was just as dangerous as the virus itself and WHO put a lot of effort initiating and elaborating the infodemic management (WHO, 2024). WHO defines infodemic management as „the systematic use of risk- and evidence-based analysis and approaches to manage the infodemic and reduce its impact on health behaviours during health emergencies.“ (Ibid.)

The London School of Economics and Political Science report stated that there are the „five giant evils“ that enable and maintain the information crisis: (1) confusion, (2) cynicism, (3) fragmentation of audiences, (4) irresponsibility of platforms and (5) apathy (LSE, 2018: 10). In order, (1) citizens are increasingly unsure of what is correct and who to believe; (2) citizens are losing trust even in credible sources of information; (3) citizens have access to potentially infinite knowledge, but the amount of facts about whose accuracy they agree to be correct is permanently decreasing; citizens are thus divided into groups that form separate „truth publics“ with their own parallel realities and narratives; (4) power over meanings is held by organizations that do not have high ethical standards of responsibility and exist outside the clearly defined coordinates of credibility and transparency; (5) as a result of all this, citizens decided to stay excluded from established structures of society and lose faith in democracy (LSE, 2018: 10). According to the conclusion of this report – „the information crisis is systemic, and it calls for a coordinated long-term institutional response.“ (LSE, 2018: 6)

However, it is a process that experienced its acceleration during the 2016 US presidential elections campaign. At that time, social networks Twitter and Facebook took the leading role in publishing and sharing false information. The so-called „fake news“ became a practice and one of the main tools in political communication during the elections campaign. Later it was shown that it benefited the election result of Donald Trump (Parkinson, 2016; Silverman & Singer-Vine, 2016). This fabricated information, published in the form of news, reported on prominent political and public figures, and linked them to controversial statements and events, which stimulated great interest even among the part of the public that, in principle, is not particularly interested in elections (Car, 2023). Such posts reached almost a million shares on Facebook and attracted a large number of reactions and comments. Although it was not only content that favoured the Republicans and Trump, but there was also liberal and left-oriented content that was apparently intended to harm Trump's campaign, the primary goal of this artificially generated social media communication was to provoke polarization and conflicts among citizens, inadvertently leading to increased mobilization of Trump supporters (Allcott & Gentzkow, 2017).

Generally, infodemic causes confusion and risk-taking behaviours. With unstoppable growing digitization which includes the expansion of platforms, information spread more rapidly. Sometimes, this can help to fill information voids more quickly, but can also amplify harmful messages. Due to all the mentioned threats, the EU put a lot of effort in setting the policy framework to

address the unstoppable problem of spreading disinformation. The European Commission's 2018 Communication introduced the „European approach to tackling online disinformation.“ (EC, 2018a) It was operationalised in the Action Plan Against Disinformation (EC, 2018b), and in the key policy instrument – the Code of Practice on Disinformation (2018, 2022). The Code contains 44 commitments and 128 specific measures, in the eight main areas: (1) Demonetisation: cutting financial incentives for purveyors of disinformation; (2) Transparency of political advertising; (3) Ensuring the integrity of services; (4) Empowering users; (5) Empowering researchers; (6) Empowering the fact-checking community; (7) Transparency centre and taskforce, and (8) Strengthened Monitoring framework. Obviously, non is related to journalism. On the other hand, European Commission decides to allocate a large amount of money to development of fact-checking as a new market within the media environment. Only in 2023 the Commission has published a call for proposals worth €850 000 to support EU fact-checkers in identifying and debunking disinformation (European Commission, 2023).

The aim of this paper is to elaborate the role of journalism as a profession, compare it with the role of fact-checking organizations, to identify the objectives of the media policy of the European Union and open discussion for future strategic goals and activities.

## **Fading role of journalism in the platform society**

Different policy arrangements of media and technology lead to different outcomes in media environment. The growing political polarization in European countries, as well as in the USA, is partly attributed to the decrease in the quality and credibility of content in the news media, the spread of disinformation on platforms, and the fragmentation of media audiences that are closed into niches of very narrowly defined interests directed towards only a certain type of information. In the time before social media, in the second half of the 20<sup>th</sup> century when mass media, primarily television, became one of the main information components of society, news in the mainstream media tended to be neutral and inoffensive with the aim of attracting the widest audience (Briggs & Burke, 2005). Neutrality and impartiality are emphasized as professional journalistic standards (Calcutt & Hammond, 2011).

The internet has disrupted the established order of production and dissemination of information and news. The development of information and communication technology in the 21<sup>st</sup> century has enabled citizens to instantly share information with a large reach, and at the same time has enabled them to choose to expose themselves in this „information forest“ only to those that fit into their personal value framework (Jomini Stroud, 2011). This first process started with a so-called „citizen journalism“ movement (Glasser, 1999) and ended with the oxymoron of „fake news“ (Car & Matas, 2021). This second process of multiple fragmentation of the public into „niche audiences“ resulted in the isolation of citizens into groups within which they are exposed to only one angle of seeing a problem, event, or process (filter bubble). A paradox has thus occurred that

at a time when information is available to citizens on the widest scale and with the greatest reach ever achieved in the history of humankind, citizens are faced with the emergence of an „information crisis“. It is a crisis which consequences are manifested in intensive changes in media systems (LSE, 2018). The result of these changes is the destruction of the institutional structures of media self-regulation and co-regulation, professional journalistic standards, and journalistic ethics, as well as legal privileges that support democratic processes of deliberation and consensus building (LSE, 2018: 7). What used to be public information has become a private sphere in which everyone chooses for himself what kind of content he or she will expose to and to what extent. At the same time, these contents are no longer professionally prepared by journalists and verified. In a media environment where media professionals have lost their dominant role, and artificial intelligence and the individual amateurs decide what content is ‘worth’ reading, banal, unverified, and tendentious content finds its way to easily conquered small, fragmented groups and suggests what they should opt for.

Especially in the last two decades, the political economy of news has significantly changed. Since news has become digital (Newman et al., 2023), many different subjects entered the arena of information and communication which is dominantly platformised (Poell and Nieborg, 2018). Van Dijck, Poell and de Waal’s definition of the platform society is based on four fundamental propositions: platforms are „fuelled by data,“ organized by algorithms, ruled by „ownership relations driven by business models,“ and „governed through user agreements.“ (van Dijck et al, 2018: 9-12) News is produced and distributed by a variety of actors beyond newsrooms and media companies. Platformisation is characterised with datafication, commodification, and algorithms-led selection. Platforms determine data, translate them into economic value, while algorithms use such data for selecting the most marketable contents or services to offer. The governance of each platform is determined by the specific version of these mechanisms they embed (Ibid.)

The European Union has followed the rapid consequences of these developments and created a comprehensive re-active regulatory package to influence the political economy of media and platforms. The General Data Protection Regulation (GDPR), the Digital Services Act (DSA), the Digital Markets Act (DMA), the AI Act and the Media Freedom Act (EMFA), among others, have laid down new baselines for the operation of media and digital platforms. However, the role of journalism as the profession of publication verified and accountable information, is not highlighted, and journalism newsrooms are not recognised as the key partners or key actors in all segments of above-mentioned EU media policy.

It seems that the important partners, on the one hand, have become platforms which by the definition are not media but only technologically supported virtual space where information and communication is exchanged. On the other hand, there are fact-checking organizations that pop up like mushrooms after the rain, using lavish funds from the EU. Still, it remains

unclear what specific information such organizations should check: journalistic reports published in the media? or information published by various institutions? or information published by anonymous individuals on platforms such as YouTube, Instagram, Facebook?

If we are talking about journalistic reports, if they are not double-checked in the newsrooms before publication, we should not even call them journalistic. The professional standards for journalism media or news media are clear. Unfortunately, today everything is named „media,“ and there is a large room for media policymakers to make clearer distinctions regarding the author's (un)professionalism. Amateurs are not journalists, and portals where amateurs publish texts should not be listed as journalism media outlet. Secondly, if it is about information published by institutions and organizations, it is the job of the court to punish them if it is discovered that they published disinformation. Therefore, it should be their internal professional obligation not to publish information before their services have verified it. And thirdly, if we are talking about information that individuals exchange on platforms, fact-checking such communication is just as fruitless as fact-checking a conversation in a bar, hair salon, or farmers' market. The only cure against such meaningless conversations, misinformation, disinformation and conspiracy theories is – knowledge.

However, new calls for fact-checking projects, application development, fact-checking toolkits, etc. are continuously published. A question arises – what are the implications of such European and national media policies towards political economy of news production, distribution, and consumption? Why the development of a new fact-checking market is encouraged, while it is not clear what kind of information fact-checkers should check – those published by journalists, or those published by institutions, organisations, citizens, or anonymous individuals, e.g. YouTube videos on conspiracy theory topics. Instead, why don't media policies promote publicly funded media with independent governance structures? Such public service media usually provide, or should provide, accurate and public-oriented coverage while upholding the rights of vulnerable groups (Benson, 2019; Cushion, 2017).

## Concluding remarks

In the evolving landscape of media, the emergence of fact-checking as a distinct market, substantially funded by the European Union, raises critical questions about the future of professional journalism and the reinforcement of its internal capabilities. This development prompts an examination of the broader implications for media policy in Europe and the expected outcomes of these initiatives.

Let us compare this situation with another public policy where citizens have tried to abuse the right to free speech. For example – public health. There are more and more pseudo-medical experts on social media and platforms who sell their experience and intuitive „knowledge“ in health, healthy diet, and dealing with various diseases and health conditions. The consequences of following

such pseudo-experts can be fatal. However, European and world health organizations are not combating them by establishing centres to check the accuracy of information published by these pseudo-health experts. Instead, public health policies prioritize the development of professional health institutions and the education of the public through public campaigns. Health literacy initiatives are designed to help individuals distinguish between credible and unreliable sources of health information.

In contrast, current media policy does not similarly emphasize the development of professional journalism or public education to differentiate between journalistic and non-journalistic content. The traditional role of journalism in publishing accurate information appears to have been diminished. Globally, the spread of fact-checking is viewed by some scholars, such as Amazeen (2020), as a reform movement within the journalistic community, necessitated by the decline of traditional journalism, the democratization of technology, and socio-political upheaval. Journalism is inherently a profession dedicated to information verification and the dissemination of trustworthy content. Deviations from professional standards are typically managed through laws and regulatory institutions designed to sanction and prevent such infractions. However, the current trend of establishing a separate profession of fact-checkers, often outside traditional journalistic institutions, raises concerns. It suggests a relinquishment of the core journalistic duty of verifying information, leaving it to non-professional entities, and then attempting to mitigate the resultant damage through fact-checking interventions. Distinguishing journalism media from all other kind of information, communication or entertainment media, applications or platforms would help creating media policies rely on professional expertise. The EU media policy should foster a framework that enhances trust in the information society, positioning journalism and especially public service media (see Car, 2024), and not digital platforms, as the cornerstone of this framework.

Restoring the value of published information is crucial. Historically, newspapers charged for their content, ensuring a level of accountability and quality. The prevalent model of free digital information has led to a decline in these standards. Journalism should remain a professional domain, staffed by experienced journalists, editors, and proofreaders who rigorously verify information and arguments (Graves & Amazeen, 2019). The role of these elite gatekeepers (Amazeen, 2020) is analogous to why only qualified professors should teach at universities.

The media industry today often promotes passive and uncritical consumption of content, prioritizing market interests (Ryan & Cook, 2015). If fact-checking is outsourced to specialized organizations rather than integrated into newsroom practices, the fundamental definition of journalism in the 21<sup>st</sup> century is called into question. The professional responsibility for accurate information dissemination should reside within journalistic institutions, not external fact-checkers. Strengthening regulatory and self-regulatory mechanisms within the media industry is essential. A comprehensive public media literacy campaign could

help society distinguish between reliable journalism reports and unverified private communication. Media policies should differentiate journalistic media from other information sources, creating a framework that values professional journalism. Professional journalists by the professional standards should be equipped to verify information from multiple independent sources, contextualize it, and present it in a manner that is understandable to the public, all while adhering to ethical standards.

And finally, to emphasize once again, the demand for high-quality, professional journalism is more significant than ever, yet the profession faces an unprecedented crisis. The era when journalists could influence political and economic outcomes through investigative reporting is often viewed with nostalgia. These historical examples of journalism as a watchdog of democracy highlight the critical role of the profession in exposing corruption and fostering societal change.

In conclusion, the media policy framework in Europe should prioritize the development and support of professional journalism. This approach will ensure the publication of accurate and trustworthy information, thereby maintaining the integrity and accountability of the news media in the digital age.

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# ARTICLE 4 OF THE EUROPEAN MEDIA FREEDOM ACT: A MISSED OPPORTUNITY? ASSESSING ITS SHORTCOMINGS IN PROTECTING JOURNALISTIC SOURCES

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## *Abstract*

*Article 4 of the recently approved European Media Freedom Act (EMFA) aims, first and foremost, to protect journalists as well as safeguarding their sources by prohibiting or at the very least limiting the use of state surveillance technology. Despite its apparently good intentions, there are several potential loopholes and shortcomings of this Article which are laid out in this paper. To begin with, Article 4 essentially legalises the use of spyware in EU law, albeit under exceptional circumstances. In addition, the provision permitting the retrospective authorisation of spyware opens up the possibility of journalists' rights being violated before the intervention of the law. The Article, furthermore, affords too much discretion for EU governments to deploy spyware. To compound matters, expanding the list of „serious crimes“ to offences such as intellectual property theft and piracy is disproportionate when weighed against the fundamental rights at stake. The scope, moreover, includes crimes carrying a custodial sentence of 5 years, as defined solely under national law, thus undermining the original purpose of EMFA, which is to harmonise national regulatory systems related to the media. Most concerning, however, is the loophole in this Article which fails to outlaw surveillance outsourcing to private entities. In sum, EMFA affords too much discretion for states to deploy draconian surveillance measures that ultimately threaten journalistic sources. To conclude, recommendations are elaborated to overcome the limitations and risks previously analysed.*

**Keywords:** EMFA, Article 4, Surveillance, Spyware, Journalism, Sources, Safety

## **Introduction**

Journalists are and continue to be one of the primary targets of repressive state surveillance measures (Freedom House, 2023; Bleyer-Simon et al., 2024). In the fulfilment of their crucial accountability and watchdog function, journalists are expected to investigate any wrongdoing or corruption in government, making

them highly vulnerable to the prying eyes of the state. In addition, journalists might frame the news in ways that challenge politicians' core narratives or report stories which undermine support for the ruling party. As a result, governments – while they would be reluctant to admit it – are resorting to drastic surveillance measures as part of a concerted effort to stifle criticism, promote self-censorship, ensuring that journalists 'toe the party line.' Countless numbers of journalists from around the world have been subjected to intrusive state surveillance. Jamal Khashoggi (Saudi Arabia), Javier Valdez Cárdenas (Mexico), Omar Radi (Morocco) and Maati Monjib (Morocco) are widely cited examples (see Woodhams, 2021, pp. 8-10 for a detailed summary on each case). While this maligned practice appears more widespread in third countries, many cases have been reported in Europe, as well<sup>1</sup>. One famous example is the case of a Greek journalist, Thanasis Koukakis, in 2021, who was allegedly targeted with Predator spyware by the Greek state agency, the National Intelligence Service (EYP). Worryingly, this phenomenon shows no signs of abating, with several cases reported in 2023, most notably, Alesya Marokhovskaya and Irina Dolinina Alesya Marokhovskaya, two Prague-based Russian journalists who were allegedly subjected to surveillance from Russian state agencies (Committee to Protect Journalists, 2023). In the same year, the Russian independent media outlet, *Meduza* (Latvia) had allegedly been affected with Pegasus software, although the perpetrator has not yet been identified (Access Now, 2023).

The findings from recent implementations of the Media Pluralism Monitor (MPM, 2022-24) repeatedly show that spyware is being used by several member states to snoop on journalists, particularly in Hungary (Bátorfy et al., 2022) but also in Latvia (Rožukalne and Skulte, 2024) and the Czech Republic (Štětka et al., 2024). According to the Investigation of the use of Pegasus and equivalent surveillance spyware (Recommendation), the abuse of human rights through the surveillance of „journalists, politicians, law enforcement officials, diplomats, lawyers, businesspeople, civil society actors, and other actors“ using Pegasus and equivalent software is widespread throughout the whole EU (Phillips, 2023:3). The PEGA committee even suspects that „all Member States have purchased or used one or more spyware systems“ (Veld, 2023). These findings are corroborated by Amnesty International's so-called „Predator files“ (2023), concluding that the EU had failed to adequately regulate spyware and uphold human rights standards, as well (Phillips, 2023:2). The same report highlights the deleterious effects of preexisting EU legislation and the lack of risk evaluation and government oversight, despite export regulations, when distributing these technologies, thus posing a threat to people's fundamental rights in general and journalistic sources in particular (Phillips, 2023:3). According to one scholar, cybersecurity companies are exploiting the regulatory fragmentation in the EU and the countries with lax legal protections particularly in Cyprus, Bulgaria, Greece (Feldstein et al., 2023).

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<sup>1</sup> As has been well-documented by several high-profile reports, such as the PEGA committee investigations, the deployment of spyware is widespread across Europe.

Noting these issues, the European Media Freedom Act is a timely and unprecedented piece of EU regulation which seeks to strengthen the pluralism and independence of the media within the European Union<sup>2</sup>. The Act aims, inter-alia, to ensure transparency of media ownership, prevent political interference in editorial decisions, protect journalists by safeguarding their sources and prohibiting the use of spyware against them, defend online media content from unjustified removal, establish a new European board for media services, and set standards for audience measurement systems and promote the transparent allocation of state advertising (Brogi et al., 2023). Following months of negotiations, in January 2024, the trilogue compromise text was approved by the Permanent Representatives' Committee and confirmed by a vote in the Committee on Culture and Education. On 13 March, the European Parliament voted on the agreement. On 26 March, EMFA received its final approval from the Council (Centre of Media Pluralism and Media Freedom, 2024).

In essence, the central aim of Article 4 is to protect journalistic sources<sup>3</sup> by prohibiting or restricting, as much as possible, the deployment of intrusive surveillance tools on journalists (Brogi et al., 2023). Article 4 is the EU's response to the increasing usage of sophisticated spyware technologies, which have strengthened the state's capacity for intelligence gathering and surveillance. Spyware technology can be understood as Janus-faced; on the one hand, this technology arguably enhances the state's ability to combat terrorism and criminal activity, on the other hand, it risks undermining people's privacy in general and the confidentiality of journalists' sources in particular (Brogi et al., 2023:48).

To summarise the main provisions in more detail, Article 4 of the European Media Freedom Act (EMFA) aims to safeguard journalistic sources by prohibiting the use of state surveillance upon journalists, save for rare and exceptional circumstances<sup>4</sup>. Article 4(1) grants media service providers (hereafter referred to as MSPs) the right to conduct economic activities in the internal market freely, save for those allowed under Union law, as per Article 4 para.1. Member States are prohibited from interfering with MSPs' editorial policies, and decisions (Article 4 para.2). Paragraph 3 obliges Member States to protect journalistic sources and confidential communication. However, this appears to be a rather vague and hollow commitment, especially considering the numerous derogations granted and loopholes introduced under this provision. Paragraphs 3a-c set out the kinds of surveillance activities which are prohibited. Member States cannot:

<sup>2</sup> This paper builds on the Centre of Media Pluralism and Media Freedom's study, in particular the section on Article 4 requested by the European Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE) titled: „The European Media Freedom Act: media freedom, freedom of expression and pluralism“ (Brogi, Borges, Bleyer-Simon, Carlini, Nenadic, Kermer, Reviglio, Trevisan, Verza, 2023).

<sup>3</sup> The protection of journalistic sources overlaps with values enshrined in the Charter of Fundamental Rights of the European Union (CFREU) in particular, personal data protection (Article 8 CFREU) and the freedom of expression (Article 10 CFREU).

<sup>4</sup> Article 4 seeks to safeguard editorial freedoms and independence, unless it complies with Article 52(1) of the Charter of the European Union and other Union law.

oblige MSPs to disclose information capable of identifying journalistic sources (referred to hereafter as the „forced disclosure“ provision); detain, sanction, intercept, surveil or search MSPs (referred to hereafter as the „detain-and-intercept“ provision) or deploy „intrusive surveillance software“ on the devices of MSPs (the so-called „anti-spyware“ provision). Paragraph 4 contains lays out the specific circumstances under which state surveillance measures may be allowed (the so-called „derogation provisions“). Significantly, it is worth noting that ex-ante judicial protection has been included in the final agreed text, meaning that state surveillance measures authorised by judicial bodies are permitted. Moreover, surveillance measures may be authorised for the investigation of offences listed in Article 2(2) of Framework Decision 2002/584/JHA or for „serious crimes“ as determined by the law of a Member State. Paragraph 6 ensures that state surveillance measures are subject to a regular review by a judicial authority to determine whether the conditions justifying their use continue to be fulfilled. Paragraph 7 invokes Directive (EU) 2016/680 (the so-called „Law Enforcement Directive“) which regulates the processing of personal data by law enforcement authorities. Paragraph 8 invokes Article 47 CFR, which guarantees the right to an effective remedy and a fair trial, and finally, Paragraph 9 ensures that the obligations placed on Member States under the Treaty on the Functioning of the European Union (TFEU) and the Treaty on European Union (TEU) are respected. Article 4 builds on several EU directives, Council of Europe conventions and European Court of Human Rights (ECHR) jurisprudence which tangentially strengthen source protection to different extents and with varying degrees of success (Brogi et al.,2023:49).

Before embarking on critically examining Article 4 of EMFA, it is important to place the legal treatment of spyware in a historical context to gain a richer understanding of how spyware was regulated in the past. The protection of journalistic sources can be traced back to 1981 with the ratification of the Council of Europe’s „Convention 108“ (Council of Europe, 2016a). While the Convention did not explicitly address journalistic sources, it established, for the first time, a legal framework for personal data protection. The overarching aim of this Convention was to protect individuals against potential abuses during the collection and processing of personal data. Moreover, the Convention, as per Article 12, outlawed Member States from limiting the transborder flow of personal data which indirectly helped foster cross-border flows of information (Brogi et al.,2023:49). Whilst the Convention aimed to protect personal data from unauthorised access, as per Article 7 of the Convention, certain derogations were established such as those pertaining to state security interests (Brogi et al.,2023:49). The Privacy and Electronic Communications Directive 2002/58/EC established a legal precedent in protecting the privacy in the handling of personal data in electronic communications, however, it did not specifically address journalistic sources. The Directive, nonetheless, included provisions which contributed indirectly to safeguarding the confidentiality of sources, in particular, Article 5(1) which prohibited the „listening, tapping, storage or other kinds of interception or surveillance of communications [...] without the consent

of the users concerned“. As with the Convention, certain derogations were introduced such as supporting criminal investigations and national security concerns (see, for instance, Article 15). In 2016, the EU adopted the General Data Protection Regulation (GDPR) requiring media service providers to implement appropriate safeguards in maintaining the confidentiality of journalistic sources. While the GDPR introduced measures to safeguard personal data, as per Recital 153, journalists have been granted several exemptions subject to a balancing test that weighs the overall public interest against individual rights and freedoms (Brogi et al., 2023:49). In 2019, the Whistleblower Protection Directive (2019/1937) came into force to further protect journalistic sources (see Recital 46 in particular). More recently, the European Commission has adopted Recommendation (C/2021/6650) „on ensuring the protection, safety and empowerment of journalists and other media professionals in the European Union“, which is an important component of source protection. Therein, the issue of surveillance against journalists was acknowledged, however, recommendations are, by definition, not legally enforceable so its potential impact in practice is questionable. More significantly, in April 2024, the Council of the European Union adopted the „anti-SLAPP“ Directive (EU) 2024/1069, which is expected to help thwart the chilling effect of strategic lawsuits against public participation (SLAPPs) on the free circulation of information.

Two laws in particular can be regarded as precursors to Article 4 on regulating spyware: (1) Regulation (EU) 2021/821 of the European Parliament (EUDUR) and of the Council of 20 May 2021, and (2) the Wassenaar Arrangement (WA). The former established a comprehensive Union regime for controlling the export, brokering, technical assistance, transit, and transfer of dual-use items, which include goods, software, and technology, used for both civilian and military purposes (Akin Gump Strauss Hauer & Feld LLP, 2021). In the context of spyware, the regulation seeks to prevent the misuse of such dual-use items for purposes that could violate human rights, including surveillance and repression. Similarly, the Wassenaar Arrangement (WA) „is an international export control regime that aims to promote transparency and greater responsibility in the transfer of conventional arms and dual-use goods and technologies“ (Du Bois et al., 2023). In the context of spyware, the WA plays a crucial role in setting out guidelines for the export of surveillance technologies used for both civilian and military purposes. Specifically, the Wassenaar Arrangement includes controls on the export of „intrusion software“ and „network surveillance systems“ to prevent their misuse for purposes such as unauthorised access to information systems, violation of privacy and human rights abuses. However, several scholars have criticised the aforementioned laws for putting state and commercial interests at the expense of human rights considerations (Riecke, 2023; Phillips, 2023). The EU Parliament’s PEGA Committee were also critical of these laws, claiming that they are deliberately too lax when it comes to national implementation (Phillips, 2023). Apart from these laws, there is a palpable lack of regulation at the supranational level on the deployment of spyware. Against this backdrop, despite stiff resistance

from several member states, the EU's attempt to prohibit the use of surveillance technology via EMFA should be applauded<sup>5</sup>.

## Article 4: A critical examination

The most noteworthy and welcome development of Article 4 EMFA is that the national security derogation has been stripped from the final agreed text, representing a significant coup for advocates of source protection, especially given that spyware has traditionally been justified by citing national security concerns, often serving as a pretext for suppressing dissent (PEGA Committee, 2023). Hitherto, „national security“ had been elusively defined in the legislative framework. For instance, the European Convention on Human Rights (ECHR) and the EU Charter do not elaborate on the scope of „national security“ (Council of Europe, 2016). Likewise, the definitional scope of „national security“ is unclear in both the „Convention 108“ (1981) and Directive 2002/58/EC. That said, the explanatory report of the revamped „Convention 108+“ provides a more comprehensive albeit vague definition, as per para.91: „the notion of national security should be understood in the sense of protecting the national sovereignty of the concerned Party interpreted having regard to the relevant case-law of the European Court of Human Rights“ (Council of Europe, 2016a). Indeed, the EU Agency for Fundamental Rights expressed concern about the lack of clarity regarding the definition of national security, advocating for a broader definition encompassing „major threats to public safety and including cyber-attacks on critical infrastructures“ (EU Agency for Fundamental Rights, 2017, p.53). To compound matters, legal interpretations of national security are nationally fragmented which is perhaps unsurprising as it „remains the sole responsibility of each Member State,“ as per Article 4 of the consolidated version of the Treaty of the European Union. Even so, the principle of subsidiarity – which governs how competences should be allocated between national and supranational levels of governance – is ambivalent as arguably when national security threats have cross-border implications such as organised crime, the EU shares a legal competence with the Member States, as per Article 67(3) of the TFEU (Du Bois et al., 2023; Brogi et al., 2023:51). This raises the important question of which legal framework applies in matters of national security when crime and public safety issues have increasingly cross-border implications. Upon reflection, therefore, the omission of national security from this Article is a remarkable development.

In addition, Art.4 para.4.d provides some form of ex-ante judicial protection, stating that state surveillance measures must be „subject to prior authorisation by a judicial authority or an independent and impartial decision-

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<sup>5</sup> Regulating spyware is long overdue particularly given Europe's is such a big player in the spyware industry with four prominent spyware companies based in Europe: *Gamma Group* in the United Kingdom, *FinFisher* in Germany, *Mollitiam Industries* in Spain and *Hacking Team* in Italy (Woodhams, 2021:5).

making authority or in duly justified exceptional and urgent cases, is subsequently authorised by such an authority without undue delay“. An ex-ante judicial review provides enhanced checks and balances for MSPs and mitigates the risk of illegitimate state interference. Such a development is not only desirable from a normative perspective but also complies with Art.10 of ECHR<sup>6</sup> aligning closely with the standards established in ECHR jurisprudence – as several scholars pointed out (Voorhoof, 2022). Notwithstanding these welcome developments, it is not clear what would happen in cases where no independent body is available. Presumably, judgment comes back to the national prosecutor which is potentially problematic particularly in countries whose judicial systems have been contaminated politically by ruling parties.

The inclusion of Article 47 of the Charter of Fundamental Rights of the European Union (CFR) safeguards – guaranteeing the right to an effective remedy and a fair trial – is also welcome (Para.8). Thus, under EMFA, the EU ensures that journalists now have the right to an effective remedy before a tribunal. If journalists' rights are violated through the use of spyware (such as their right to privacy, freedom of expression, and protection of journalistic sources), they can take legal action against entities that deploy spyware against them, seeking redress and compensation through the courts. Journalists targeted by spyware have the right to a fair trial by an independent and impartial tribunal. Journalists who may not have sufficient resources to pursue legal action against entities using spyware can access legal aid. This provision ensures that financial constraints do not prevent journalists from seeking justice. Another noteworthy improvement is the revisions made to the „detain-and-intercept“ provision (Article 4 para.3a) which is now wider in scope. Importantly, there is now the omission of „on the grounds they refuse to disclose such information“. Previously, state intervention was prohibited only in cases where MSPs *refused* to disclose information. However, this implies that interference is allowed when MSPs are not aware of the action or in cases where they do not refuse to provide information (Voorhoof, 2022).

Given the rapidly evolving advancements in surveillance technology, it seems prudent to remove explicit references to „spyware“ in Article 4. „Spyware“ is replaced by a broader, catchall term, namely „intrusive surveillance software“ (Recitals 23, 25-26 and Article 4 para.3c) defined in Article 2 as: „any product with digital elements specially designed to exploit vulnerabilities in other products with digital elements that enable the covert surveillance of natural or legal persons by monitoring, extracting, collecting or analysing data from such products or from the natural or legal persons using such products, including in an indiscriminate manner“. This definition encompasses a wider range of digital products and activities than spyware; while the latter typically refers to *software* specifically designed to monitor and collect data from a user's device without their knowledge or consent, „intrusive surveillance software“ includes any product with digital

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<sup>6</sup> The ECHR case of *Sergey Sorokin v. Russia* in 2022 underlined the necessity of ex-ante judicial review to safeguard journalistic sources (Brogi et al.,2023:51).

elements – such as hardware devices, embedded systems, hybrid systems, and digital services – able to exploit vulnerabilities in other digital products for the purpose of covert surveillance. This broader definition acknowledges that not all methods of covert surveillance involve spyware and these technologies are evolving rapidly.

While the step toward harmonising legislation to protect journalistic sources is welcome<sup>7</sup>, there are several shortcomings with this article which are laid out below (Brogi et al., 2023:50). The first concern about Article 4 is the provision of retrospective authorisation of intrusive state actions – specifically the „detain-and-intercept“ and „forced disclosure“ provisions – which countenance the possibility of journalists’ rights being violated before the law has been triggered. According to para.4d, Member States may take a state action provided that it is subsequently authorised by a judicial authority or an impartial decision-making authority without undue delay. This begs the question, however, what happens in cases where an action is adjudged as illegitimate, post-facto. In cases such as these, a journalist’s rights would have already been violated before the law has stepped in. Authorising state actions retroactively may lead to situations where journalists’ rights are violated before proper judicial oversight, thus undermining the principle of due process. According to National Bureau annual reports, in Bulgaria alone, from 2014-2020, 257 people were placed under surveillance without a prior warrant (ECHR, 2022). This begs the question: how many of these warrants were for legitimate non-politically motivated causes? Although no data is available, it is reasonable to suspect that a significant portion of them were issued illegitimately. This provision also opens the door to potential abuse with states possibly encouraged to conduct intrusive actions in the hope that they can obtain approval afterwards thereby increasing the risk of abuse. In other words, this provision risks tipping the balance of power in favour of the state to the detriment of individual rights such as the right to private life as enshrined in Article 8 of ECHR. It is not clear, furthermore, how promptly an adjudicating body should make a decision for it to satisfy the „undue delay“ requirement. The ECHR case, *Ekimdzhev and Others v. Bulgaria* (2022) is more explicit on what might be considered sufficiently prompt, stating that, „the surveillance operation must stop if the competent judge has not issued a warrant within twenty-four hours“ (ECHR, 2022). But even if such a time limit were imposed, it would still allow enough time for the forced – and potentially unlawful – disclosure of information, which could have a detrimental effect on the protection of sources. With this in mind, it might have been preferable to limit judicial authorisation to ex-ante measures, whilst ensuring that judicial decisions are made promptly to assuage any concerns that states may have.

Another concern is that the Article arguably undermines the *raison d’être* of an EU regulation which is to harmonise disparate national regulatory frame-

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<sup>7</sup> Especially in light of the increasingly cross-border nature of journalists’ work and explicit safeguards against spyware deployment now in place.

works. A case in point is Art. 4 Para 4bii which states that „other serious crimes punishable in the Member State concerned by a custodial sentence or a detention order of a maximum period of at least five years, *as determined by the law of that Member State*“ (emphasis added). This provision is potentially problematic as the list of serious crimes carrying a custodial sentence of 5 years is likely to vary considerably among member states. Furthermore, including Directive (EU) 2016/680 within the scope of Article 4 risks contributing to the fragmentation of EU law, as it delegates the duty to notify national enforcement agencies (EDRi, 2023:3). This reflects a broader pattern of national prerogative trends underpinning this article which risk diluting the effectiveness of the law in addition to eroding the coherence of legal standards across member states. As a corollary to the last point, para. 4a countenances derogations as long as they are provided for in national law; para 4c allows states to deploy intrusive surveillance measures in the case of „overriding public interests“. Additionally, paragraphs 4d, 6, and 8, in effect, allows member states to cherry-pick adjudicating bodies whom – while proclaiming to be ‘independent’ and ‘impartial’ – might still be more favourable to their cause. Related to this last point is the removal of the stipulation requiring that judicial authorities are ‘independent’ and/or ‘impartial’ from the final text. However, a possible implication of this omission is that „public prosecutors with administrative ties to the executive in certain Member States could still qualify for such a crucial control mechanism“ (EDRi, 2023:3).

Moreover, although the national security derogation has been removed from the final agreed text, it can reasonably be argued that it has been reintroduced through the backdoor<sup>8</sup>. Paragraph 9 states that „the Member States’ responsibilities as laid down in the TEU and the TFEU are respected“. This is reaffirmed in Recital 8 which states that: „this Regulation respects the Member States’ responsibilities as referred to in Article 4(2) of the Treaty on European Union (TEU), in particular their powers to safeguard essential state functions.“ Article 4(2) TEU states the following: „The Union shall respect the equality of Member States before the Treaties as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government. It shall respect their essential State functions, including ensuring the territorial integrity of the State, maintaining law and order and safeguarding national security. In particular, national security remains the sole responsibility of each Member State.“ But even if the reference to Article 4(2) is removed, arguably, the law, as it stands, still grants member states wide discretion to invoke national security interests to justify the use of spyware. The inclusion of Para.4.c. states that member states can deploy intrusive surveillance tools so long as it is „by an overriding reason of public interest“ – which includes grounds related to *public policy; public security; public safety; and public health*

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<sup>8</sup> MEP Clare Daly opined that the national security exemption remains but has merely been reworded (Euractiv, 2023).

(the so-called ‘ORPI’ principle)<sup>9</sup>. Not only does this give member states even more discretion to deploy spyware, but it can be argued that there is a very fine line between national security and the grounds contained in ORPI (EDRI, 2023). In other words, it is not immediately self-evident what are the main differences between public security and national security grounds, and to my knowledge, EU case law has not specifically addressed this issue<sup>10</sup>. Tellingly, the EU Agency for Fundamental Rights defines national security as „major threats to *public safety* and including cyber-attacks on critical infrastructures,” showing the interconnectedness of these terms (EU Agency for Fundamental Rights, 2017:53, emphasis added). If history is any reliable guide, Article 4 is, as it stands, unlikely to detract member states from deploying spyware under the guise of national security (EDRI, 2023; PEGA Committee, 2023).

Another shortcoming of Article 4 is the removal of the prohibition of access to encrypted data, which is becoming an indispensable tool for protecting journalistic sources<sup>11</sup>. The only reference to encrypted data is found in Recital 25 which includes within the broad term of intrusive surveillance software the activity of „access[ing] encrypted content data,” as prohibited under Para.3.c. However, as several legal scholars point out, recitals do not hold the same legal weight as article provisions (Klimas et al., 2008). At most, Article 4, para.3 states, albeit rather loosely, that „confidential communications are effectively protected“. The explicit outlawing of access to encrypted data was originally proposed in Amendment 109 of the European Parliament’s amendments which prohibited „access [of] encrypted content data on any device or in any machine used by media service providers“ (Paragraph 2 – point b a). This amendment would have rendered Article 4 more desirable from a journalist’s point of view, providing them with a much needed shot in the arm to disseminate and seek confidential information without fear of reprisal thereby ultimately strengthening freedom of expression.

The removal from the final agreed text of the European Parliament’s explicit commitment to protecting journalistic sources presents another shortcoming. Initially, as per Article 4 para.2.a, derogations from the „detain-and-intercept“ prohibition would have been permissible provided they did not „result in access to journalistic sources“ (Amendment 113). The provision reiterates this principle thereupon stating that actors „shall not retrieve data related to the professional activity of media service providers and their employees, in particular

<sup>9</sup> Directive 2006/123/EC defines ORPI as „reasons recognised as such in the case law of the Court of Justice, including the following grounds: public policy; public security; public safety; public health; preserving the financial equilibrium of the social security system; the protection of consumers, recipients of services and workers; fairness of trade transactions; combating fraud; the protection of the environment and the urban environment; the health of animals; intellectual property; the conservation of the national historic and artistic heritage; social policy objectives and cultural policy objectives“.

<sup>10</sup> EU law has hitherto abstained from explicitly defining these terms.

<sup>11</sup> Indeed, journalists increasingly rely on secure communications to safeguard their sources (Mijatović, 2023).

data which offer access to journalistic sources“ (Amendment 113). Thus, previously, an explicit categorical protection was in place barring access to journalistic sources, which is not present in the final agreed text. At most, a positive yet loose commitment states that „Member States shall ensure an effective protection of journalistic sources“ (Article 4 para.2a). Similarly, the European Parliament amendment (Article 4.2.a) which states that the ‘detain-and-sanction’ action may be conducted so long as it „is unrelated to the professional activity of a media service provider and its employees,“ has been removed, as well. Its omission, in effect, allows member states to carry out politically motivated surveillance. In short, there is ample wriggle room for states to circumvent rules purporting to safeguard journalistic sources (EDRi, 2023: 3).

Another concern with Article 4 is the expansion of the list of serious crimes which would permit member states to derogate from the prohibition of spyware. As per, Para.5.b.i, „Member states may deploy intrusive surveillance software, provided that the deployment is carried out for the purpose of investigating one of the persons referred to in paragraph 3, point (c), for: offences listed in Article 2(2) of Framework Decision 2002/584/JHA punishable in the Member State concerned by a custodial sentence or a detention order of a maximum period of at least three years“. Compared to the original EMFA proposal, the list of crimes has been expanded – by amendments proposed by the Council – providing member states wider discretion to circumvent the surveillance technology ban. Article 2(2) of Framework Decision 2002/584/JHA also includes less serious crimes such as swindling, forgery, intellectual theft, piracy, environmental crime, and also ironically cybercrime. Arguably, these crimes, without downplaying their seriousness, are disproportionate when weighed against the fundamental rights at stake (EDRi, 2023:3). For example, a journalist who downloads streaming content from a pirate website free of charge would be technically breaking intellectual property law. However, based on the reading of Article 4, this would legalise the state deployment of spyware. As a corollary of the last point, it would be interesting to know how many cases – involving journalists who committed crimes in which surveillance technology – had assisted the investigation of a crime. As spyware attacks are covert by their very nature, the precise motivation is rarely known, however, the conclusion of several reports is that the use of spyware mainly politically motivated which makes it all the more necessary that there is a categorical ban on the use of spyware for reasons related to the professional activities of journalists (Council of Europe, 2023b, Carnegie, 2023).

The most concerning ostensible loophole of this Article is that it fails to outlaw the outsourcing of surveillance to private entities. In this regard, the European Parliament’s amendments were much more comprehensive. Previously, the range of actors expected to comply with Article 4 was much wider in scope, extending to „Union institutions, bodies, offices and agencies and private entities“ (Amendment No. 105 and 106 related to Article 4.2.a). Article 4ccc, furthermore, prohibited commissioning a third party to deploy spyware

which would have helped prevent member states from delegating their „dirty work“ to private entities. This was also reaffirmed in the detailed list of derogations pertaining to Article 4.2a which state that: „Member States, including their national regulatory authorities and bodies, Union institutions, bodies, offices and agencies and *private entities* shall not retrieve data related to the professional activity of media service providers and their employees, in particular data which offer access to journalistic sources“ (Article 4.2.a, emphasis added). Crucially, the final agreed text does not cover instances in which national governments delegate the deployment of spyware to non-state actors. In cases such as these, the state would not be directly deploying spyware but posing a risk to journalistic sources, nonetheless (Brogi et al., 2023:50). Based on past events, it seems member states are quite willing to outsource certain tasks to private entities. Indeed, according to the CIMA Report, the private surveillance industry is booming, with states increasingly turning to the private sector to acquire off-the-shelf surveillance tools, avoiding the need to invest in developing such technology themselves (Woodhams, 2021:5). For example, during the period of 2011 to 2017, the Mexican government allegedly invested \$80 million in technology by the NSO Group, and in 2019, Columbia’s military spent \$800,000 on spyware from the Spanish company, Mollitiam Industries (Woodhams, 2021:4). According to Privacy International, „more than 500 companies globally now sell ‘systems used to identify, track, and monitor individuals and their communications for spying and policing purposes’“ (Privacy International, 2018; Woodhams, 2021:4). In the context of disinformation, there is mounting evidence that the Russian government has not only funded disinformation campaigns but outsourced their execution to private troll farms (Euractiv, 2024). This implies that while the state might not be engaging directly in spreading disinformation, they are doing so indirectly by delegating these ‘dirty deeds’ to public, semi-private or commercial entities (Brogi et al., 2023:50). This is why it is essential that any future law should include obligations for non-state or private entities as well in order to make the law more watertight against abuse.

## Recommendations

In light of the shortcomings highlighted in the previous section, the following recommendations are proposed to enhance the protection of journalistic sources within the EU, aligning with the original aim of Article 4.

- Ideally, a categorical ban on the use of spyware should be introduced unless there are reasonable and compelling grounds to use it such as when investigating a crime with substantial and not spurious evidence (Euronews, 2024). In addition, in the rare circumstance that the use of spyware may be justified, it should only be deployed on matters completely unrelated to the professional activity of the individual under observation.
- To develop a more water-tight and comprehensive anti-spyware regulatory framework, extending to private entities and „quangos“ (quasi-autonomous non-governmental organizations) which fall in-between public and private bodies.

- Future regulation should establish a clear affirmative right for journalists to use data encryption to protect confidential sources in line with the 2020 „Council Resolution on Encryption – Security through encryption and security despite encryption“ (IPI, 2023). By the same token, future provisions should explicitly outlaw access to journalists' encrypted communications, prohibiting the introduction of „backdoors“ into encryption technologies used by journalists. There should also be more support available to journalists and media outlets, particularly the smaller ones with fewer financial resources, incentivising them – via public support programmes or financial incentives – to use encryption technologies.
- As several scholars aptly point out, future EU and national legislation should raise the level of source protection to that which is already guaranteed by ECHR case law (Voorhoof, 2022; EDRI, 2023). ECHR jurisprudence already provides stronger safeguards for individuals subject to surveillance, but it is debatable whether this extends to media service providers in toto.
- The transparency, monitoring, and oversight of spyware technology should be enhanced. More specifically, manufacturers of spyware technology should be obliged to publish a list of their clients and governments should disclose which surveillance tools they are using and why. Regarding the latter, however, in order to not compromise the investigation of a serious crime, rare exceptions on transparency obligations may be granted. Enhanced transparency is also beneficial insofar as it may help victims of unlawful surveillance seek justice (Woodhams, 2021:6-7).
- In addition, manufacturers of spyware should be required to disclose which surveillance tools they are exporting, and to whom, as well as being required to conduct rigorous due diligence checks and vetting assessments to the countries, they are exporting the technology to. Future laws should oblige prospective customers of surveillance technology – whether states or private entities – to disclose the specific purposes and intended use cases for the technology. This information should be publicly available and exposed to rigorous oversight checks at the EU level so that state actions can be easily monitored.

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# NAVIGATING THE GDPR-DSA NEXUS: REGULATING PERSONAL DATA IN SOCIAL MEDIA AND SEARCH ENGINES

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## *Abstract*

*The Digital Services Act (DSA) brings forth significant new regulations concerning content moderation by intermediary service providers. Specifically, social media platforms and search engines are under scrutiny due to their critical role in disseminating information in modern society. Moreover, the new EU legislation must align with the General Data Protection Regulation (GDPR), which establishes guidelines to safeguard individuals' privacy rights. The article seeks to examine the overlaps between these two regulations and to underscore the main points of intersection in their synchronized application.*

**Keywords:** personal data, social media platforms, search engines, DSA, GDPR

In February 2024, the Digital Services Act (DSA)<sup>1</sup> came into full effect bringing significant new legal requirements concerning content moderation by the providers of online intermediary services like social media platforms and search engines that are under specific scrutiny due to their critical role in disseminating information in modern society. DSA together with the General Data Protection Regulation (GDPR)<sup>2</sup> form part of the new modern EU approach towards the regulation of the digital environment aimed to ensure a safe, predictable, and trustworthy online space in which the individual's privacy is protected. The article seeks to examine some of the overlaps between these two regulations and to underscore the main points of intersection in their

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<sup>1</sup> 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), OJ L 277, 27.10.2022, p. 1-102

<sup>2</sup> 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

synchronized enforcement referring to the case of social media platforms and search engines.

In 2024 social media platforms shape the characteristics and scope of the contemporary media environment, with active users exceeding 60 percent of the world's population.<sup>3</sup> Social media, as a technology-neutral expression, encompasses a variety of fast-evolving digital technologies and services that enable their users to share ideas and information, text and visuals online. Social media platforms typically feature user-generated content that encourages interactive communication and engagement through likes, shares, comments, and discussions. They offer avenues for community cohesion, individual freedom of expression, and information accessibility, yet they also present challenges such as the spread of misinformation, the proliferation of hate speech, direct or hidden discrimination, and privacy vulnerabilities. In recent years, there have been numerous examples of the influence of social media on the electoral process in European countries, challenging the democratic principles upon which they are built.

Search engines, which are computer software or internet sites used to find information based on user-provided keywords, are another technology with a similarly strong social influence. As gatekeepers to vast amounts of online information, search engines provide users with curated lists of relevant websites, the ranking of which influences the effectiveness of information dissemination to users. Social media significantly impact search result rankings by enhancing visibility and generating links to websites and information shared by users. Both social media platforms and search engines play a central role in enabling freedom of expression and access to information in modern society. However, the risks associated with facilitating access to misinformation and illegal content necessitate the adoption of an effective legal framework tailored to the challenges of the online space.

## **1. The EU regulatory model for the digital environment**

Considering the challenges of regulating the digital space as a technological architecture, the EU aims, as seen in both the GDPR and the DSA, to establish a comprehensive regulatory model to achieve effective governance. This model seeks to combine the expertise of public authorities, private companies, and civil society. From the perspective of regulatory instruments, it encompasses the possibilities of public and private regulation – hard and soft law, self-regulation, and co-regulation – to achieve effective protection of social values in the digital environment.

The EU regulatory model requires the mandatory establishment of a national authority for monitoring and controlling compliance with the respective regula-

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<sup>3</sup> Global Social Media Statistics: available at <https://datareportal.com/social-media-users> (as reviewed on 20.06.2024)

tions. For the GDPR, these are the data protection supervisory authorities, and for the DSA, they are the Digital Services Coordinators. Additionally, the model envisages the cooperation of national authorities within pan-European structures – the European Data Protection Board (EDPB) and the European Board for Digital Services, both of which work closely with the European Commission.

The goal of effectively protecting the fundamental rights in the EU is reflected in the adopted principles regarding the substantive and territorial application of the GDPR and DSA. These principles are tied to the location of the recipients of the provided services or activities conducted within the territory of the EU, which can lead to the extraterritorial application of EU regulations. Thus, social media and search engines can be subject to obligations even if they are not registered or do not have an establishment in an EU member state.

## **2. Defining social media and search engines in the framework of GDPR**

The EU data protection model is based on the concept of a „data controller,“ which is broadly defined and technologically neutral to ensure effective and thorough protection of data subjects. A data controller is any individual or organization that determines the purposes and means of personal data processing and assumes legal responsibility for the lawfulness of such processing.<sup>4</sup> The GDPR does not contain provisions specifically targeting social media and search engines. This means that in every case of personal data processing, an assessment must be made to determine whether they function as data controllers or data processors within the context of the general legal framework.

Regarding the determination of the role of search engines as data controllers, the CJEU decision from 2014 in the Google Spain case is of key importance.<sup>5</sup> According to the operative part of the decision, search engines are data controllers when the information they process to provide their service contains personal data. Their service includes finding information published or placed on the internet by third parties, automatically indexing it, temporarily storing it, and finally making it available to internet users in a specific order of preference. Furthermore, the Court specifies that the legal basis for personal data processing, in this case, is based on the legitimate business interests of the search engine, which requires a careful balance with the right to privacy and personal data protection of the data subjects.<sup>6</sup> The European Data Protec-

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<sup>4</sup> Article 4 (8) and article 5, par. 2 Regulation (EU) 2016/679

<sup>5</sup> CJEU, Case C-131/12, Google Spain SL and Google Inc. v Agencia Espacola de Protecciyen de Datos (AEPD) and Mario Costeja González, judgment of 13 May 2014

<sup>6</sup> CJEU, Case C-131/12, Google Spain SL and Google Inc. v Agencia Espacola de Protecciyen de Datos (AEPD) and Mario Costeja González, judgment of 13 May 2014, paragraph 73, 74

tion Board refers to the CJEU decision when issuing guidelines for determining data controllers, as part of soft law mechanisms aimed at supporting the implementation of the abstract provisions of the GDPR.<sup>7</sup>

Furthermore, in the case law of the CJEU for preliminary rulings, which provide authoritative interpretations of EU law, guidelines for applying the concept of data controller in the context of social media can be found. In a decision from 2018, the CJEU highlights that when determining the purposes and means of data processing, the data controller may act „alone or jointly with others“. In such cases, each party involved is qualified as a data controller and is obligated to comply with the relevant data protection provisions.<sup>8</sup> In the context of social media, the primary data controller for processing personal data is the platform itself, but users who create fan pages hosted by the platform also act as data controllers. According to the CJEU interpretation, the mere use of a social network such as Facebook does not automatically render a user jointly responsible as a data controller for the processing of personal data carried out by the platform. It requires a specific assessment to determine whether the social media user qualifies as a data controller, based on their involvement in determining the purposes and methods of data processing. The responsibility of various joint data controllers that may participate at different stages of processing and to varying degrees, should be assessed independently, considering all relevant circumstances of the case.<sup>9</sup>

Considering the growing popularity of social media and their public influence, the European Data Protection Board (EDPB) adopted two documents specifically aimed at social media providers and the application of GDPR in the conduct of their activities. First, the EDPS adopted Guidelines 08/2020 on the targeting of social media users, for the purposes of which it defines social media as online platforms that enable the development of networks of users, creating „accounts“ or „profiles“, to share information.<sup>10</sup> The document aims to address the application of GDPR principles concerning the collection and use of users' personal data for providing targeted messages as part of the service offered by social media platforms. The EDPS emphasizes that for the provision of this service, the social media platforms use not only information that the user has consciously shared but also information that is „observed or inferred,“ either by the social media provider or by third parties. It is noted that the processing is possible to include special categories of data within the meaning of Article 9 GDPR, as well as data of a highly personal nature, which requires conducting a Data Protection Impact Assessment (DPIA) and determining whether the processing is „likely to result in a high

<sup>7</sup> European Data Protection Board (EDPS), Guidelines 07/2020 on the concepts of controller and processor in the GDPR (adopted on 07 July 2021)

<sup>8</sup> CJEU, Case C-210/16, Wirtschaftsakademie Schleswig-Holstein, judgment of 5 June 2018, paragraph 30

<sup>9</sup> CJEU, Case C-210/16, Wirtschaftsakademie Schleswig-Holstein, judgment of 5 June 2018, paragraph 43

<sup>10</sup> European Data Protection Board (EDPS), Guidelines 08/2020 on Targeting of social media users (adopted on 13 April 2021), p. 4

risk<sup>11</sup>. Paying particular attention to the information asymmetry faced by social media users, the EDPS analyses the risks to their fundamental rights, especially in cases where targeting is based not only on data collected by the social media platform itself but also by third parties, such as website visits and browsing history.<sup>12</sup>

Further, in 2022 the EDPS adopted guidelines for recognizing and avoiding deceptive design patterns in social media platform interfaces, looking for a solution to the problem through interpretation of the EU data protection legislation and more specifically GDPR.<sup>13</sup> The document aims to assist social media providers as controllers of social media, that have the responsibility for the design and operation of social media platforms. „Deceptive design patterns“ are defined as the various cases when the interface design and user experience design of social media platforms violate the legally permissible limits of the GDPR included in the data protection principles.<sup>14</sup> These patterns are intended to influence users, often on a cognitive basis, into making unintended, unwilling, and/or potentially harmful decisions, particularly regarding their personal data. These decisions typically favour the interests of the social media platforms over the users' best interests. In its guidelines, the EDPS points out that the business model of social media often involves data processing by joint controllers of personal data. It is highlighted that each of them bears legal responsibility for the data processing, aligned with their role in determining the purposes and means of processing. It should be noted that DSA further complements GDPR by prohibiting online platform providers from designing interfaces that deceive or manipulate users, or otherwise distort their ability to make informed decisions.<sup>15</sup>

### **3. Social media platforms and search engines in the framework of the DSA**

The DSA aims to provide more effective protection of consumers' fundamental rights and to address the spread of illegal content and products, hate speech, and disinformation by establishing clear responsibilities for intermediary service providers, including social media and search engines. The goal is to achieve greater transparency with better accountability and oversight, as well as to promote innovation, growth, and competitiveness in

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<sup>11</sup> European Data Protection Board (EDPS), Guidelines on Data Protection Impact Assessment (DPIA) and determining whether processing is „likely to result in a high risk“ for the purposes of Regulation 2016/679 (Adopted on 4 October 2017)

<sup>12</sup> European Data Protection Board (EDPS), Guidelines 08/2020 on Targeting of social media users (adopted on 13 April 2021), p. 6-8

<sup>13</sup> European Data Protection Board (EDPS), Guidelines 03/2022 on Deceptive design patterns in social media platform interfaces: how to recognise and avoid them (adopted on 14 February 2023)

<sup>14</sup> Article 5 GDPR

<sup>15</sup> Article 25 Regulation (EU) 2022/2065

the EU's internal market. To achieve its objectives, the DSA establishes harmonized rules regarding the provision of intermediary services in the internal market, a framework for the conditional exemption from liability for providers of intermediary services, and rules concerning specific due diligence obligations.

Both social media and search engines fall within the scope of the concept of „information society services“ introduced in Directive 2000/31/EC (Directive on electronic commerce)<sup>16</sup> further amended in Directive (EU) 2015/1535.<sup>17</sup> According to the definition, the concept covers any service normally provided for remuneration, at a distance, by electronic means, and at the individual request of a recipient. For the purposes of the definition, it is clarified that the payment for the services may not come directly from their recipients, as is the case with the services that provide means for searching, accessing, and retrieving data.<sup>18</sup> This is usually the case with social media as well, where users are allowed to create their own „profile“ or „account“ for free to participate in the community.

Without prejudice to the provisions of other relevant EU legislation, the DSA imposes additional obligations and responsibilities on providers of those information society services that fall within the scope of the category „intermediary service,“ that are subdivided into three categories: services for „mere conduit,“ „caching,“ and „hosting.“<sup>19</sup> These are generally the services, consisting of the transmission or storage in a communication network of information provided by the recipient of the user. Further the DSA defines for the purposes of the regulation what online platforms and search engines constitute as types of intermediary services and introduces specific legal provisions concerning them to protect against the spread of illegal or other harmful information and activities by their users.

Social media as online platforms are defined as a subset of hosting services „that not only store information provided by the recipients of the service at their request, but that also disseminate that information to the public at the request of the recipients of the service.“<sup>20</sup> Special attention is directed towards the functionality that defines online platforms, enabling them to disseminate information provided by their users to the public or to a potentially unlimited number of individuals without further action by the user. This capability serves as a primary distinguishing feature from interpersonal communication services,

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<sup>16</sup> 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).

<sup>17</sup> Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1).

<sup>18</sup> Preamble, par. 18 Directive 2000/31/EC

<sup>19</sup> Article 3 (g) Regulation (EU) 2022/2065

<sup>20</sup> Preamble, par. 13 and Article 3 (i) Regulation (EU) 2022/2065

which are designed to facilitate direct interactive communication between specific individuals<sup>21</sup> and are not subject to the specific regulations applicable to online platforms. The DSA also defines the term „online search engine“ as an intermediary service for searching information on the internet, where users enter a keyword query and receive results.<sup>22</sup> Specific obligations for their providers are also included.

The DSA provides for a differentiation of obligations for providers of intermediary services according to their role, size, and impact in the online ecosystem. Thus, regarding micro and small enterprises, obligations are foreseen that are proportional to their capabilities and size, while ensuring that they remain accountable. In contrast, special obligations and responsibilities are further foreseen for very large online platforms, including social media, and search engines, which are designated by the European Commission based on the number of their active users in the EU.

#### **4. Balancing of rights under GDPR and content moderation of information including personal data under DSA**

The GDPR aims to protect the right to privacy of individuals by adopting a horizontal approach to regulating personal data and assigning broad responsibilities to data controllers regarding the design and implementation of specific measures for ensuring personal data protection. Thus, regarding the application of the right to be forgotten, the EU regulation mandates data controllers to balance the rights of data subjects against the public interest in information accessibility or other legitimate interests. The data controllers are entrusted with the responsibility of determining whether to retain or delete information online. Despite the guidelines provided by the GDPR regarding the balancing of interests, it does not regulate the procedure itself concerning decision-making nor does it impose requirements regarding the standards that must be met. Inquiries regarding the decision-making procedures and the burden of proof were raised before the CJEU and some guidelines were given.<sup>23</sup>

According to the DSA, the providers of intermediary services are not subject to a general obligation to monitor the information they transmit or store, nor are they required to actively seek facts or circumstances indicating illegal activity.<sup>24</sup> However, to ensure a safe, predictable, and trustworthy online environment, the online platforms are required to provide a content moderation process aimed at detecting, identifying, and addressing illegal content and information incompatible with their terms and conditions. The concept of

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<sup>21</sup> Article 2 (5) Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (Recast)Text with EEA relevance.

<sup>22</sup> Article 3 (j) Regulation (EU) 2022/2065

<sup>23</sup> Judgment of the Court (Grand Chamber) of 8 December 2022; Case C-460/20

<sup>24</sup> Article 8 Regulation (EU) 2022/2065

‘illegal content’ encompasses a broad definition, covering all information, irrespective of its form, related to illegal content, products, services, and activities.<sup>25</sup> It also covers information that violates the right to privacy in general or, more specifically, the right to personal data protection. Given their significant social influence, additional obligations related to content moderation are imposed on social media and search engines.

Unlike the GDPR, the DSA establishes specific requirements regarding the procedures for handling user notifications about illegal content, which must be addressed promptly, diligently, impartially, and objectively. Hosting services providers, including online platforms, 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. Moreover, online platforms must set up an Internal Complaints Handling System, which allows users to challenge decisions made by the online platform. Specific requirements are provided regarding the implementation of complaint procedures: the decision must be made by qualified personnel, not through automated means, and must be justified. Further, the online platforms are obliged to participate in procedures initiated before the certified out-of-court dispute resolution by certified bodies.

Under the DSA, online platforms are required to submit their decisions and statements of reasons for content moderation to the Data Transparency Database (<https://transparency.dsa.ec.europa.eu/>) established by the European Commission in September 2023. By July 2024, more than 12 billion statements of reasons have been submitted, indicating instances where online platform providers have identified illegal content or violations of their platform terms of use. In over 30 million cases, it is indicated that the identified violation falls under the category of data protection and privacy violations that led to reduced visibility of the content or its removal.

## **5. Targeted advertising based on special categories of personal data**

The processing of special categories of personal data under Article 9 of the GDPR, such as data revealing racial or ethnic origin, political opinions, or sexual orientation, is governed by specific rules due to the significant risks to the fundamental freedoms and fundamental rights of data subjects. In its case law, the CJEU upholds the fundamental prohibition on processing special categories of data established by the GDPR, stating that such processing is permissible only in the exceptional cases outlined in the Regulation, which must be interpreted strictly.<sup>26</sup> The CJEU also confirms that when an online

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<sup>25</sup> Article 3 (h) Regulation (EU) 2022/2065

<sup>26</sup> CJEU, Judgment of 4 July 2023, Meta Platforms Inc and Others v Bundeskartellamt (Case C-252/21), par. 74-76

social network operator collects data from websites or applications related to special categories of personal data visited by the user and links this information to the user's social network account, it constitutes processing special categories of personal data. It also acknowledges that the digital traces left by users during visits to websites or apps related to Article 9 of the GDPR categories do not constitute making their data public and therefore, they cannot be freely and unconditionally processed by the service providers.<sup>27</sup>

The DSA builds upon GDPR to reinforce the high level of protection concerning the processing of special categories of personal data. It prohibits online platform providers from targeting advertisements using user profiling based on the special categories of data outlined in Article 9 (1) of the GDPR. Additionally, the DSA prohibits the use of profiling for targeted advertising when providers can reasonably ascertain that the user is a minor, regardless of whether the profiling is based on special categories of personal data or not.<sup>28</sup>

## Conclusions

Both GDPR and DSA constitute a European legal framework designed specifically to regulate the digital environment, combining hard and soft law instruments. Their effectiveness relies on activating and integrating the diverse tools they encompass, alongside the collaborative engagement and participation of public institutions and private organizations targeted by these regulations. Following their role in the technological architecture of the digital space, private companies are entrusted with decision-making responsibilities concerning the protection of fundamental rights and freedoms, including limiting the dissemination of illegal content and safeguarding personal privacy. This approach necessitates the adaptation of traditional legal systems based on hard law, where public institutions play a pivotal role, to ensure the effectiveness of the new legal framework.

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# MEDIA PLATFORMS, ONLINE CONTENT AND GLOBALISATION – EUROPEAN PERSPECTIVE IN THE SHIFTING INFORMATION ENVIRONMENT

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## *Abstract*

*The digital age has transformed media consumption and production, profoundly shifting the information environment. Media platforms, including social networks and streaming services, play a huge role in this. The article examines the European perspective, highlighting the influence of online content and media platforms. It includes data from the EUMEPLAT project, conducted between 2020-2024 across 10 European universities. Platforms like Facebook, Twitter/X, Instagram, TikTok, YouTube, HBO, and Netflix have revolutionised content creation, distribution, and consumption, transcending national borders and enabling global media access.*

**Keywords:** video platforms, platformization of video, digital consumption, media transformation, platforms hegemony

In 2021, ‘The Economist’ declared that digital media are a good place, promoting the European culture. „Moments when Europeans sit down and watch the same thing at roughly the same time used to be rare,“ it said. „Now they are more common, thanks to the growth of streaming platforms such as Netflix.“<sup>1</sup>. Instead of fostering a shared European culture, the opposite effect might be occurring. Since most major web platforms are owned by American companies, a sizeable portion of the content consumed in Europe is imported from the United States or other dominant market countries.

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<sup>1</sup> Charlemagne, (2021), How Netflix is creating a common European culture - Streaming subtitled box sets is the new Eurovision, The Economist. (<https://www.economist.com/europe/2021/03/31/how-netflix-is-creating-a-common-european-culture> 10.06.2024)

The digital age has transformed media consumption and production, leading to a profound shift in the information environment. Media platforms, from social networks to streaming services, have become central to this transformation, playing a pivotal role in globalisation. This article explores the European perspective on these changes, focusing on how online content and media platforms influence and are influenced by globalisation. The article includes data and outcomes from EUMEPLAT project, a deep digital platforms research, held in the period 2020-2024 in 10 European universities.

Media platforms such as Facebook, Twitter/X, Instagram and TikTok, as well as the video on demand (VoD) platforms as YouTube, HBO, Netflix have revolutionised how content is created, distributed, and consumed. These platforms have transcended national borders with huge tempo in the last few years, enabling global access to diverse forms of media content online. In Europe, the adoption of these platforms has been rapid, facilitated by widespread of good quality internet access and mobile device usage.

One of the key aspects of globalisation is the cultural exchange facilitated by online content. European media consumers are exposed to a variety of cultural products from around the world, which can lead to a more homogenised global culture. However, this exposure also allows for the appreciation and dissemination of diverse cultural expressions. European media platforms have increasingly curated content to cater to both local tastes and global audiences. At the same time the platforms' algorithms have a key role in the consumption patterns. No strict rules about the translated video content, movies and series, no quotas about local (per country or on EU level) content brings to marginalization of European VoD content. Those are the main outcomes from the EUMEPLAT project research<sup>2</sup>.

The EUMEPLAT research shows that the most used platforms for video content in Europe are YouTube, Instagram and TikTok. For some countries they are also some country specific platforms, placed on fourth place: Vbox7 for Bulgaria, Twitch for Czech Republic and Sweden, Dailymotion for Germany and Greece<sup>3</sup>.

As for the VoD platforms, most used in Europe are HBO, Apple TV+, Amazon, Disney, Netflix<sup>4</sup>. About 64% of the content, consumed in Europe on Netflix is produced in North America<sup>5</sup>, compared with just 18%, produced in Europe.

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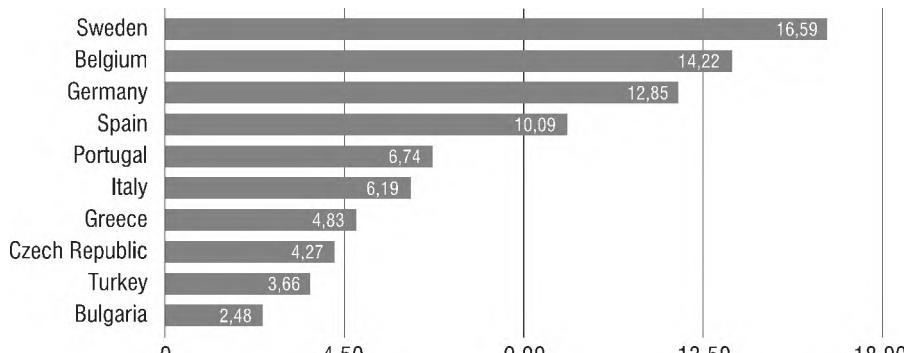
<sup>2</sup> Bosnakova, D., A. Miconi, J. Toms (2024), Hegemony: Platformization of Video, NBU, Sofia, p. 9

<sup>3</sup> Bosnakova, D., A. Miconi, J. Toms (2024), Hegemony: Platformization of Video, NBU, Sofia, p. 31-36

<sup>4</sup> Digital TV Europe, ([https://www.digitaltveurope.com/intelligence\\_type/reports/#close-modal](https://www.digitaltveurope.com/intelligence_type/reports/#close-modal) 15.06.2024)

<sup>5</sup> Bosnakova, D., A. Miconi, J. Toms (2024), Hegemony: Platformization of Video, NBU, Sofia, p. 41

**Table 1. Percentage of population with Netflix subscription per country**



*Source: EuroNews*

What comes with all this increasing online video consumption? Are the traditional media ready for this shift?

In one hand we have regulatory challenges. The expansion of global media platforms poses significant regulatory challenges for European governments and institutions. The European Union (EU) has implemented various regulations to ensure that these platforms adhere to local laws regarding content moderation, data privacy, and intellectual property rights. The General Data Protection Regulation (GDPR) is a notable example, aiming to protect European citizens' personal data in the digital space. On the other hand, comes the economic impact of the process. The globalisation of media platforms has significant economic implications. European content creators and media companies can reach international audiences more easily, creating new revenue streams. However, this also means increased competition from global players, particularly from the United States and China. European media companies must innovate to maintain their competitiveness in this shifting landscape.

Media platforms play a crucial role in shaping public opinion and political discourse. The European information environment has been influenced by the proliferation of online content, which can both inform and misinform the public. Issues such as fake news, misinformation, and the role of social media in election interference have become prominent concerns. The EU has taken steps to address these issues, promoting media literacy and implementing measures to combat disinformation.

Cultural diversity and preservation of languages are also topics, related directly to the hegemonization of the video platforms<sup>6</sup>. More than 50% (227 mentions) of the films on HBO are in English. Next most popular language is Spanish with just 6,73% (30 mentions). The data for the other platforms are very similar. Small countries and language groups almost do not exist on the VoD and other video sharing platforms.

<sup>6</sup> Gondola, J. (2024), The Impact of AI on Cultural Preservation and Ethics, Medium (<https://medium.com/@jamesgondola/the-impact-of-ai-on-cultural-preservation-and-ethics-48e7ecd42be1>, 12.06.2024)

In response to the dominance of private media platforms, public service media in Europe continue to play a vital role. However, their impact and reach are facing many challenges. Organisations such as the BBC, ARD, and France Télévisions provide content that serves the public interest, offering high-quality news, educational programming, and cultural content – types of content that is not very competitive, but has its public role. These institutions are adapting to the digital age by expanding their online presence and leveraging innovative technologies to engage with audiences. They have to shift their understanding of distribution and dissemination – process that needs fast decisions and implementation.

Next big challenge will be the AI. AI will significantly impact the transformation of media consumption and production, further reshaping the information environment. AI-driven algorithms on media platforms will enhance content creation, distribution, and personalization, offering users more tailored experiences, but also placing them into echo-chambers and limiting their free choice<sup>7</sup>. These algorithms can analyse vast amounts of data to predict user preferences, ensuring relevant content is delivered efficiently.

**Table 2. Languages of HBO films, IMDB, January 2023<sup>8</sup>**

N	Language	N of mentions	%
1	English	227	50,91
2	Spanish	30	6,73
3	French	27	6,05
4	Russian	20	4,48
5	Latin	18	4,04
6	Japanese	13	2,91
7	Italian	12	2,69
8	German	11	2,47
9	Mandarin	10	2,24
10-11	Chinese, Ukrainian	2 x 7	2 x 1,58
12	American Sign language	6	1,35
13-14	Hindi, Norwegian	2 x 5	2 x 1,12
15-18	Arabic, Portuguese, Turkish, Vietnamese	4 x 4	4 x 0,90
19-21	Estonian, Old English, Urdu	3 x 3	3 x 0,68
22-24	Czech, Hebrew, Korean	3 x 2	3 x 0,45
25-41	Afrikaans, British Sign Language, Cantonese, Dutch, Filipino, Greek, Indonesian, Latvian, Malay, Neapolitan, Quenya, Sanskrit, Serbian, Shanghainese, Sindarin, Swedish, Tagalog	17 x 1	17 x 0,22
<b>Total</b>		<b>446</b>	<b>100</b>

<sup>7</sup> Dhulipala, S. (2023), The echo chamber effect: How algorithms shape our worldview, Campaign. (<https://www.campaignasia.com/article/the-echo-chamber-effect-how-algorithms-shape-our-worldview/491762> 10.06.2024)

<sup>8</sup> Bosnakova, D., A. Miconi, J. Toms (2024), Hegemony: Platformization of Video, NBU, Sofia, p. 70

Other aspect goes to local languages - AI will also influence globalization by enabling real-time language translation, breaking down language barriers and facilitating cross-cultural communication<sup>9</sup>. This will allow media platforms to reach broader, more diverse audiences.

The shifting information environment, driven by the rise of media platforms and online content, presents both opportunities and challenges from a European perspective. Globalisation has facilitated cultural exchange and economic growth, but it has also introduced regulatory, political, and social complexities. As Europe navigates these changes, a balanced approach that embraces innovation while protecting local interests and values will be crucial.

However, instead of fostering a shared European culture, the dominance of not-European web platforms has resulted in much of the content being imported from the United States or other major market countries. This trend may undermine the development of a unique European cultural identity, also lost of diversity and local heritage. AI will further influence these dynamics by enhancing content creation, distribution, and personalization, offering users more tailored experiences while also enabling real-time language translation to facilitate cross-cultural communication.

AI's capabilities in detecting and managing misinformation will improve content quality and reliability, addressing the spread of fake news. Enhanced data analytics will provide deeper insights into user behaviour, helping media companies optimize their strategies and adapt to consumer demands. In Europe, AI's integration with existing high-quality internet infrastructure and widespread mobile device usage will accelerate the adoption and impact of media platforms, driving further innovation and connectivity across the continent.

The evolving information environment, influenced by media platforms and online content, presents a complex landscape for Europe and the world. While globalisation fosters cultural exchange and economic growth, it also brings regulatory, political, and social challenges, which have to be faced and solutions to be found collaboratively and rapidly.

AI will play a critical role in this transformation, enhancing content creation, distribution, and personalization, and facilitating cross-cultural communication through real-time translation. AI's ability to manage misinformation and provide deep insights into user behaviour will further shape media consumption and production. Europe's high-quality internet infrastructure and widespread mobile device usage will support rapid adoption of these innovations, driving further connectivity and innovation across the continent. A balanced approach that embraces technological advancements while safeguarding local interests and values will be essential for Europe, European media and people to navigate these changes successfully.

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<sup>9</sup> Bhalerao, Ch., (2023), How Filter Bubbles Are Biassing Your Opinions on Social Media, Medium. (<https://medium.com/data-and-beyond/how-filter-bubbles-are-biassing-your-opinions-on-social-media-9469b940154>, 10.06.2024)

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

Sofia, 2024

ISBN: 978-954-8702-64-5





9789548702645