

eipascope

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About Eipascope

Eipascope is the bulletin of the European Institute of Public Administration and is published annually. The contributions to Eipascope are written by EIPA faculty members and occasionally by associate members, and are directly related to the Institute's fields of expertise. Through its bulletin, the Institute aims to increase public awareness of current European issues and to provide information about the work carried out by the Institute. Most of the pieces are of a general character and are intended to make issues of common interest accessible to the general public. Their objective is to present, discuss and analyse policy and institutional developments, legal issues and administrative questions that shape the process of European integration.

In this issue the editors have introduced two changes. Regular readers of Eipascope will note that the **A** 'Articles' are now slightly longer, allowing the authors to explore in greater depth important themes in the European Union and its Member States. All articles are intended to be thought-provoking and, rather than representing a final word, we very much hope that this will spur further discussion and debate.

The second change is the introduction of **U** 'Updates'. These are shorter than the preceding articles and are designed to update our readers on what our staff consider to be important developments in specific fields of expertise. The intention is to incorporate updates into future issues of Eipascope. We hope that you will find this new feature stimulating and helpful. Please note that it is intended to link the current and any future updates to forthcoming EIPA activities.

In addition to articles and updates, Eipascope aims to keep its audience informed about the activities EIPA organises, and in particular about its open seminars and conferences, for which anyone who is interested can register. Information about EIPA's activities carried out under contract (usually with EU institutions or the public administrations of the Member States) is also provided in order to give an overview of the subject areas in which EIPA is active, and to indicate the possibilities on offer for tailor-made programmes.

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Institutional information is given on members of the Board of Governors, as well as on changes, including those relating to staff members at EIPA Maastricht, Luxembourg and Barcelona.

The full text of current and back issues of Eipascope is also available online. It can be found at: <http://publications.eipa.eu>

Eipascope dans les grandes lignes

Eipascope est le bulletin d'information de l'Institut européen d'administration publique et paraît une fois par an. Les articles publiés dans Eipascope sont rédigés par les membres du personnel scientifique de l'IEAP ou occasionnellement par des membres associés, et portent directement sur les domaines d'expertise de l'IEAP. À travers son bulletin, l'Institut entend sensibiliser le public aux questions européennes qui font l'actualité et lui fournir des informations sur ses activités. La plupart des contributions sont de nature générale et visent à rendre des questions d'intérêt commun accessibles au grand public. Leur objectif est de présenter, discuter et analyser des développements politiques et institutionnels, ainsi que des questions juridiques et administratives qui façonnent le processus d'intégration européenne.

Dans ce numéro, le comité de rédaction a introduit deux nouveautés. Les lecteurs réguliers d'Eipascope remarqueront que les **A** articles sont désormais un peu plus longs, ce qui permet à leurs auteurs d'explorer de façon plus approfondie des thèmes importants concernant l'Union européenne et ses États membres. Tous les articles cherchent à provoquer la réflexion et, loin de constituer un point final, ont vocation à susciter d'autres débats.

La deuxième nouveauté est l'introduction de **U** « Mises à jour ». Celles-ci sont plus courtes que les articles précédents et visent à actualiser les connaissances de nos lecteurs sur ce que le personnel de l'Institut considère comme des évolutions marquantes dans des domaines d'expertise spécifiques. L'objectif est d'inclure ces mises à jour dans de futurs numéros d'Eipascope. L'Institut espère ainsi stimuler votre intérêt et vous apporter un éclairage utile. Veuillez noter que le but est de créer un lien entre les mises à jour actuelles et futures et les activités à venir de l'IEAP.

En dehors des articles et des mises à jour, Eipascope souhaite tenir son lectorat informé des activités organisées par l'IEAP et, plus particulièrement, de ses séminaires et conférences ouverts qui sont accessibles à toute personne intéressée. Il fournit aussi des renseignements sur les activités de l'IEAP qui sont réalisées dans le cadre d'un contrat (généralement avec les institutions de l'UE ou les administrations publiques des États membres) afin de donner un aperçu des domaines thématiques de l'Institut et des possibilités qu'il offre pour la réalisation de programmes sur mesure.

Il contient également des informations institutionnelles sur les membres du Conseil d'administration ainsi que sur les mouvements de personnel à l'IEAP Maastricht, Luxembourg et Barcelone.

Le dernier Eipascope et les anciens numéros sont aussi accessibles en ligne et en texte intégral. Ils sont disponibles sur le site <http://publications.eipa.eu>

Foreword Director-General EIPA



It is with great pleasure that I welcome the readers of Eipascope to this new issue of the bulletin from the European Institute of Public Administration. EIPA staff are proud to present to our audience the latest developments in their areas of expertise. In this issue you will find a kaleidoscope of contributions relating to various topics that are relevant in the context of European integration.

EIPA's mission is to support the European Union and its Member States, as well as countries associated with EIPA, by providing relevant and high quality services to develop the capacities of public officials in dealing with EU affairs. The Institute offers its services to officials from the EU institutions and related bodies, to civil servants within the national and regional administrations, as well as to the legal professions of the Member States, applicant countries and other countries in the framework of their relationship with the EU.

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EIPA's added value is bridging practice and theory at European level in the fields of European governance, policies and law, and European public management. Furthermore, EIPA:

- offers distinctive services for learning and development;
- creates and disseminates relevant knowledge in the core areas, based on comparative studies, exchanges of best practices and interdisciplinary analysis;
- offers advice and consultancy;
- provides structural support for relevant European networks and projects.

Since its establishment in 1981, EIPA provides short-term training programmes to civil servants at its Headquarters in Maastricht, at its Centres in Luxembourg and Barcelona, but also in the European capitals in order to provide tailor-made activities as close to public administration as possible. More than 15 000 participants from all over Europe and beyond attended our courses during the last year – showing an increase in numbers compared to previous years. The positive feedback from our clients has been encouraging and motivating for all EIPA staff to further develop our portfolio. Among others, new activities in the important areas of the Common Agriculture Policy (CAP), the European Semester, Data Protection/IT Security are in preparation, and will be published in our Catalogue for 2015. The demand for tailor-made e-Learning modules is also a trigger for EIPA to develop new offers for EU institutions and EU Member States. If I have piqued your interest in learning more about EIPA, I invite you to visit our website for more information: www.eipa.eu.

I wish you a pleasant read of the new Eipascope!

Prof. Dr Marga Pröhl

Capitalising upon the EU's Economies of Scale

Mr Guy Verhofstadt



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After a long period of economic growth and European integration in the 1950s and 1960s, our continent then faced fifteen years of high unemployment and jobless growth. It was also a period in which there was a lull in European integration and a number of Member States suffered from weak democratic institutions. German economist Herbert Girsch dubbed this situation 'eurosclerosis'.

Europe was only cured of its disease when the Delors Commission tabled a White Paper that contained 300 concrete measures which, eventually, led to the Single European Act (1986). Building upon this the Single Market came into force on 1 January 1993 allowing the free movement of goods, services, capital and labour. Companies had been anticipating this leap forward in European integration for several years and the Single Market meant the beginning of a new era for Europe: one with growth and jobs. In practical terms this represented 2.77 million new jobs, an increase in GDP for the EU27 of around 2.13% and an average of €500 in extra income for each person by 2008.¹

Today, Europe is stuck again in a period of zero growth and high unemployment. We need to look for new opportunities to capitalise upon the potential economies of scale the EU has to offer. How might we do this?

First of all, we need a real banking union and a fully integrated capital market. This is in order to restore the transmission mechanism between banks and the real economy. A common bank resolution fund must be fully operational as soon as possible.

Secondly, the European Central Bank, the European Commission and the European Investment Bank will have to jointly launch 'future bonds' in order to provide the necessary funding for projects that have a real return on investment. These future bonds will pool funds with private investors to address crucial missing links at the European level: in our transport network, our energy grid, or digital infrastructure.

Thirdly, this new economic approach needs to be accompanied by measures that strengthen European democracy in a concrete way – no big political philosophies, but tangible results. The European Parliament, as the only directly elected body of the EU, needs to be given a right of initiative and more budgetary responsibility. It is impossible to explain to people that their representatives in Brussels cannot instigate their own legislation.

It is also crucial to have a European Commission that really makes use of its right of initiative in an intelligent way, especially by using the internal market as a mechanism to let the economies of our Member States converge and oblige them to work towards joint goals – not as a diktat from Brussels through contractual arrangements, but by creating common objectives, on pensions, labour markets, productivity, investment in research and development, and education. Even if people do 'not fall in love with an internal market', as Delors allegedly said, they fall in love with politics that delivers.

¹ European Commission, *20 Years of the European Single Market: Together for new growth*: Publications Office of the European Union, Luxembourg, 2012, p. 13.



Politics, Legitimacy and Institutional Balance: What is the EU and Why is the Commission?

Dr Edward Best*, Head of Unit 'European Decision-Making', EIPA Maastricht

The 2014 European elections were intended to boost the legitimacy of both the European Parliament and the European Commission. The person nominated by the European Council as the next Commission President was the candidate of the European political party which won most seats, and was thus 'elected' by Parliament. This process may prove to have contributed to multi-level political participation in the long run. However, it has not (yet) halted the trend of an ever lower turnout in European elections, while the results produced a further weakening of the core centrist, and pro-integration groups in Parliament. Jean-Claude Juncker, the incoming President, stressed that his Commission would be political, not technocratic. He has also suggested that the democratic legitimacy of the Commission comes from the European Parliament. The Commission has always been institutionally accountable to the Parliament, but its role in promoting the general interest of the Union also depends upon its being seen as independent and impartial, and not directly linked to short-term party politics. The legitimacy of this role lies largely in the treaty which created the Commission. On the other hand, greater sensitivity to organised political opinion at EU level is a counterweight to politicisation by national influences, and the supranational appointment of the President is a balance to the composition of one member from each Member State, now including several former Prime Ministers. This may prove to be a new institutional hybrid which is actually rather well suited for the uncertain political times ahead.

Introduction

The 2014 elections to the European Parliament, and the new procedure for choosing the President of the European Commission in the light of those elections, have come at testing times for the EU. On the external front, as discussed by Simon Duke in his contribution to this number, developments in the Ukraine and Russia in particular are forcing us to address the issue of what kind of 'power' the EU is turning out to have, or to be. Internally, the EU, like some Member States, is feeling the effects of revived nationalist feelings, even as the logic of integration in its traditional form seems to be taking most of the EU inexorably in the direction of deeper political union.

All this comes at a time when new frontiers for democratic legitimacy have been opened up in the management of economic and monetary union. All Member States must satisfy conditions laid down in the reinforced Stability and Growth Pact, and must prevent either fiscal or macroeconomic imbalances. In addition, Eurozone countries must submit their draft budget plans each autumn to the Commission for comments before they are adopted. The first experience of this was predictably mild in substantive terms. Nonetheless, it is a new step in the politics of European integration that national parliaments – even if they are not in crisis – are formally obliged to receive external approval in one of the most sensitive areas of traditional sovereign competence, namely the power to decide on taxation and public expenditure within their country. It seems to be universally recognised that there is a missing element: namely, appropriate mechanisms to assure democratic legitimacy and accountability. Yet there are no easy answers. At the end of 2012 the 'four Presidents' produced a paper on 'genuine economic and monetary union'. They argued that:

*'One of the guiding principles is that **democratic control and accountability should occur at the level at which the decisions are taken.** The implementation of this guiding principle is key to ensuring the effectiveness of the integrated financial, budgetary and economic policy frameworks. This implies the involvement of the European Parliament as regards accountability for decisions taken at the European level, while maintaining **the pivotal role of national parliaments, as appropriate.**'¹ [emphases added]*

Functional logic of this nature is pulling inexorably, here too, in the direction of stronger powers for the European Parliament (although some argue that an equally just principle would be for control to occur as close as possible to the level at which decisions are **felt**). However it is not obvious, even in the best of circumstances, how to establish roles for national parliaments which will be seen as 'appropriate' by voters. Moreover, the European Parliament itself does not have a direct role in budgetary surveillance, while it remains uncertain whether all citizens would feel that it has the full 'social legitimacy' required to play such a role in the future.

Likewise, the European Commission must be able to play a strong and credible supervisory role. For this it must not only demonstrate technical competence; it must also enjoy acceptance by national parliaments and citizens as a rightful and appropriate actor in this context. This role depends on being seen as objective and impartial, but leaves open the question of political accountability.

This tension was all the greater in the case of the Commission's participation, together with the International Monetary Fund (IMF) and the European Central Bank (ECB), in the 'Troika' which defined the strong conditionality of the 'bail-out' programmes with Greece, Ireland, Portugal and Cyprus, using mechanisms which are outside the normal EU framework. Even within the EU system, however, the Commission has suffered a further relative decline in its institutional weight, as the European Council and the European Parliament have both enjoyed a

'A European Commission under my leadership will be committed to filling the special partnership with the European Parliament, as laid down in the Framework Agreement of 2010, with new life. I want to have a political dialogue with you, not a technocratic one.'

Jean-Claude Juncker, European Parliament, 15 July 2014



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strengthening of their roles. This has not been accompanied by a corresponding change in the apparent bases of the Commission's legitimacy, just when the Commission is being called upon to take the lead in enforcing unpopular policies. Even the most pro-EU media can tell the public that 'The unelected EU executive, the European Commission, now has the power to veto national budgets.'²

What is the remedy? The obvious answer has seemed to lie in making the Commission, or at least its President, be visibly 'elected'. The European elections of 2014 were thus seen as an opportunity to boost the legitimacy of both the European Parliament and the Commission, the President of which would be elected from among the candidates proposed by the European political parties.

This contribution sets out to assess what has happened, and addresses several questions. Has the new process strengthened public support for the European Parliament? Do we seem to be moving towards a multi-level party-political system? Is the kind of politicisation of the Commission which has been taking place likely to affect how that institution is publicly perceived? And what does all this mean for the future of the Commission as an 'independent' institution, charged with promoting the general interest of the Union?

The European Parliament

One of the most troubling facts in Euro-politics has been that, whereas the European Parliament steadily received ever greater formal powers since the 1980s, the average turnout in European elections across the EU decreased every time since the first direct elections were held; the respective percentages for the seven elections held every five years between 1979 and 2009 are 62, 59, 58, 57, 50, 45, 43. Each step to decrease the 'democratic deficit', in the sense of trying to replicate at EU level the institutional structure of democratic politics familiar from national experiences, seems to take place in parallel with an increase in the 'legitimacy gap', in the sense of public perceptions of the rightfulness of the process itself.

One basic challenge has been seen to lie in the widespread public perception that voting in European elections has no visible consequences. No government can be thrown out, and there are no easily identifiable changes in policy outcome as a result. One response to both these challenges seemed to be provided by more openly linking the elections to the European Parliament and the appointment of the European Commission. The Treaty now stipulates that the European Council is to propose a candidate for Commission President, 'taking into account the elections to the European Parliament'. That candidate is then 'elected' (or rejected) by the Parliament. The Parliament adopted a Resolution in November 2012 in which it '[u]rges the European political families to nominate candidates for the Presidency of the Commission and expects those candidates to play a leading role in the parliamentary electoral campaign; stresses the importance of reinforcing the political legitimacy of both Parliament and the Commission by connecting their respective elections more directly to the choice of the voters.'³ The Commission issued a Recommendation in March 2013 insisting that Member States, as well as national political parties, should inform voters of the affiliation between national parties and European political parties, and that:

*'European and national political parties should make known, ahead of the elections to the European Parliament, the candidate for the function of the President of the European Commission they support and the candidate's programme.'*⁴

Many observers had doubts. How distinctive could one really expect EU programmes – of candidates or of European parties – to be, even in terms of intentions? How realistic was it to suggest that a winning candidate would actually be in a position to press through any programme? The President of the Commission is certainly not comparable to a chief executive in the sense of a presidential system at national level; and EU legislation is the result of multiple processes of compromise and consensus-building. And, above all, should the Commission not be, while sensitive to political opinion, institutionally independent of party politics?

Influential political voices, including German Chancellor Angela Merkel and European Council President Herman Van Rompuy, were also heard to say that they did not accept that the appointment of the Commission President should, or would, automatically stem from the preferences of Parliament. However, they saw which way the wind was blowing and, to mix metaphors, went with the flow (unlike British Prime Minister David Cameron who maintained his principled opposition and insisted on being publicly overwhelmed by the political tide in a vote in the European Council).

Candidates (widely referred to by the German term for 'lead candidates' – *Spitzenkandidaten*) were nominated by most of the European political parties, debates took place, and the elections produced a result in which the largest party in the European Parliament, with 30% of the seats, was the European People's Party (Christian Democrats). The European People's Party (EPP) candidate, Jean-Claude Juncker, was formally nominated by the European Council at their meeting on 26-27 June, and then 'elected' by the European Parliament on 15 July. The European Parliament had once more achieved a step change in its institutional powers.

Over the following weeks, Mr Juncker, as President-elect, in 'common accord' with the Council and on the basis of proposals made by the Member States, defined the College that would be proposed for approval by the Parliament and subsequent

appointment by the European Council. The team was presented on 10 September. One member was already known, the High Representative for Foreign Affairs and Security Policy, who would also serve as a Vice-President in the College (hence the abbreviation HR/VP). For this post, the European Council had on 30 August appointed Italian Foreign Minister Federica Mogherini, when also appointing Polish Prime Minister Donald Tusk as next President of the European Council. Mr Juncker proposed a new structure for the Commission, with seven Vice-Presidents (including the HR/VP) who would lead 'project teams'. Hearings with EP Committees took place in October. Although several candidates were assessed unenthusiastically in the Parliament, only one was rejected by the EP and had to be replaced. The final team was approved by the Parliament on 22 October, with 423 voting in favour, 209 against and 67 abstaining.

Has the '*Spitzenkandidaten*' process succeeded in strengthening public support for the European Parliament?

If one measures this support in terms of electoral participation, then the answer is 'no', or at least 'not yet'. In advance of the elections, various actors seemed to have sufficient confidence in the impact of the process that they appeared to stake the legitimacy of EU politics on an increase in the participation rate. Initial results suggested that the average turnout had been 43.09%, very slightly up from the 42.97% registered in 2009. This prompted some actors and observers to conclude, with an element of premature triumphalism, that the elections had indeed been different this time and, at least implicitly, that the *Spitzenkandidaten* had contributed to this apparent success.

Yet two months after the elections, on 25 July, the final figures were discreetly published on the EP website. They showed that the downward trend had in fact continued, with an EU average turnout in 2014 of 42.54%. The rates of participation had gone up in only nine Member States, although the impact of these increases was amplified by the fact that these included France, from 40.63% to 42.43%, and Germany, from 43.27% to 48.10%. On the other hand, a new record low for any country was recorded in Slovakia, where a mere 13.05% of voters participated in the elections.

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To this can be added that in many countries there was an increase in participation by citizens who are not supportive of the European Parliament. Indeed the May 2014 elections brought a new level of representation for Europeans who do not favour further (if any) 'supranational' integration, and who do not accept that the EU institutions should enjoy democratic legitimacy as higher-level political authorities rather than as functional necessities for managing cooperation between nation states.

As for the impact of the *Spitzenkandidaten* process, the European Parliament's own post-elections survey indicated that only 5% of voters were motivated by the connection between the election results and the choice of the next Commission President.⁵

It can still be reasonably argued that, even if this time it was actually not so different, this is only the beginning of a new stage; the next time will matter more. In one version, it is expected that citizens will observe the performance of the EU over the coming years, attribute the results delivered at least in part to the efforts of the President of the Commission, and vote in favour of or against that individual and his party next time. This will, so it is argued, be a key contribution to consolidating multi-level party politics, primarily along left-right lines.

A different version holds that all the elements which have been taking place – not only innovations such as the personalisation of EU politics which seem to promise positive change, but phenomena such as the increase in organised criticism of the EU which at first sight appear negative – should be seen as strands in a broader sort of politicisation of European integration. If people do take a position and get involved, even

critically, then, to paraphrase Oscar Wilde, perhaps it doesn't matter what they are saying, so long as they are talking about EU. Out of this new process of debate and contestation may come a new kind of multi-level political construction. This may not fully reflect state-inspired institutional arrangements and traditional left-right cleavages, but it could prove to be more mature and stable in the longer term.

Do we seem to be consolidating a left-right multi-level system?

The left-right dimension of Parliament has in fact been somewhat weakened following the elections in terms of its make-up. One may, in crude terms, see the three main centrist groups, the Christian Democrats (EPP), Social Democrats (Progressive Alliance of Socialists and Democrats in the European Parliament – S&D) and Liberals (Alliance of Liberals and Democrats for Europe – ALDE), as together representing not only the middle ground in left-right terms, but also the pro-integration core. There are differences over particular policy approaches. National interests, and different national understandings, may sometimes cut across group lines. Positions on integration range from committed federalism to more cautious pro-Europeanism, but the great majority of members may be counted upon to support measures which

aim at least to consolidate the Union. The weight of these three groups together has fallen over the last ten years from 76% of total EP seats in 2004 to 63% in 2014. Both the EPP and ALDE have seen a drop of around one-quarter in their respective shares, while the S&D share has remained more or less the same.

Around this core, we have a range of other groups

which are more sceptical about political integration. The biggest winner in percentage terms over the last ten years has been the Group of European Conservatives and Reformists (ECR), now the third largest group in the Parliament, who are self-defined as 'eurorealists' believing in 'a new direction for the EU, which does not destroy the organisation or undermine cooperation'.⁶ The rise in share in 2009 mainly reflected the move of the UK Conservatives away from the EPP.⁷ In 2014, the additional increase was due to the inclusion of some national parties which were not seen by all ECR members to fit into the group's core vision,⁸ and has rather diluted its coherence. The Greens are perhaps the most clearly recognisable multi-level political party in Europe. However, their representatives sit in the European Parliament in a group jointly with the European Free Alliance, whose seven representatives from Scotland, Catalonia, Wales, Valencia and Latvia 'advance the cause of Europe's stateless nations, regions and disadvantaged minorities'.⁹ Their possible Green-ness is largely coincidental.

The further one goes from the core group, the more it becomes clear that coherent positions on policy issues at European level are not always to be expected. The EFDD, which changed its name to Europe of Freedom and Direct Democracy in 2014, states that, out of 'respect for national differences and interests' the EFDD Group 'respects the freedom of its delegations and Members to vote as they see fit'.¹⁰

The Parliament itself has noted that the Commission's 'normal role [...] is to act as an independent principal protecting the EU interest and ensuring the implementation of EU rules within the limits established by the Treaties'.

One way of obtaining an indication of the degree of organisation is to look at the rate of coincidence between membership of EP groups and membership of related pan-European parties. This may loosely be taken as a proxy for the relative degrees of multi-level organisation, even though the degree of political cohesion at the level of European parties should not be exaggerated. The percentages in Figure 1 refer to the share of individual MEPs who sit in a group and who belong to a national party which is affiliated to the corresponding European party. The table shows a very clear pattern which parallels the point made above, namely that the centrist, pro-integration core group shows a very high level, while the level decreases the further one moves away from the centre.

The impact on Parliamentary outcomes of this new situation may thus be less strong than the increase in EU-sceptical numbers may seem to suggest, since the latter groups tend to be less internally coherent when it comes to voting, compared to the more disciplined and experienced core. Yet the fact remains that, just at a time when traditional left-right political assumptions are being cited as a basis for fundamental European institutional choices, that dimension has been weakened, while the axis of 'more-or-less-integration' as a dimension of choice has been strengthened, and the presence has increased of identity politics, single-issue parties and organisations which challenge both orthodox economic recipes and traditional party politics.

The European Commission

On 15 July the new European Parliament elected Jean-Claude Juncker as the next President of the European Commission. Presenting his Political Guidelines for the Next Commission, Mr Juncker promised the Parliament that he would fill with 'new life' the 'special partnership' as laid down in the 2010 Framework Agreement between the Parliament and the Commission. 'I want to have a political dialogue with you', he said, 'not a technocratic one.'

This emphatic denial of technocratic tendencies is shaped strongly by the sensitivities surrounding the Commission's role in the Euro crisis. The Parliament itself had already expressed strong concerns in March 2014, in its resolution on the role of the Troika. The whole system for managing the economic crisis has seemed to many people to be out of control and open to democratic challenge. As one eminent analyst put it:

*'the legitimacy of a technocratic-authoritarian regime that depends exclusively on output-oriented promises, and whose exercise of governing powers interferes massively and visibly with the interests and life chances of millions of citizens, must be considered extremely fragile.'*¹¹

Figure 1: Coincidence of membership of EP political groups with membership of related European political parties (August 2014)

EP Group	EPP	S&D	ECR	ALDE	GUE/ NGL	Greens/ EFA	EFDD	NI
Number of MEPs	212	191	70	67	51	50	48	52
European Party								
European People's Party – Christian Democrats (EPP)	96%							
Party of European Socialists (PES)		94%						
Alliance of European Conservatives and Reformists (AECR)			61%					
European Christian Political Movement (ECPM)			3%					
Alliance of Liberals and Democrats for Europe (ALDE)				63%				
European Democratic Party (EDP)				10%				
Party of the European Left (EL)					57%			
European Green Party (Greens)						72%		
European Free Alliance (EFA)						10%		
Movement for a Europe of Liberties and Democracy (MELD)							4%	
European Alliance for Freedom (EAF)								37 MEPs 6 MS
Alliance of European National Movements (AENM)								7 MEPs 2 MS

Source: own compilation from figures on websites of the EP and the parties, consulted 19-21 August 2014.

Notes:

1. A political group must be composed of at least 25 members (MEPs) from at least 7 Member States (MS). Members who do belong to a group are counted in the Parliament as Non-Attached (NI).
2. In August 2014, one national (in fact regional) party was a member of one European party but sat in an EP group with a different affiliation. This was the Flemish New Flemish Alliance (**NVA**), which remained a member of the EFA party, but chose to join the ECR (thus making the ECR the third-largest group in the Parliament).
3. Membership of the EP Groups was agreed in some cases over a short period of time in June 2014. Some national parties may become members of the corresponding European political parties in the future.
4. Four of the Non-Attached Members (one member from the German **NPD**, and three from the Greek **Golden Dawn**) represent parties which have been loosely coordinated in the far-right European National Front, together with the Spanish **Falange**, **National Rebirth of Poland**, the Italian **New Force** and the Romanian **New Right**.

Addressing the European Parliament in July, Mr Juncker promised:

'to replace the "troika" with a more democratically legitimate and more accountable structure, based around European institutions with enhanced parliamentary control both at European and at national level [...]

'The measures taken during the crisis can be compared to repairing a burning plane whilst flying. They were successful overall. Yet mistakes were made. There was a lack of social fairness. Democratic legitimacy suffered as many new instruments had to be created outside the legal framework of the European Union.'



Berlaymont Building, Brussels

The idea that economic governance and crisis management should be brought as far as possible into the EU framework receives widespread support in principle, even though important questions are posed with regard to the role that should be played by non-Eurozone countries (and EP members) in EU decisions affecting the Eurozone (which raises interesting parallels with the debate in the UK following the Scottish referendum on independence).

However, Mr Juncker has also seemed to propose a significant shift in the underlying assumptions about the sources of legitimacy of the EU institutions, and of the European Commission in particular.

Political or 'politicised'?

Mr Juncker has emphasised that his is to be a very 'political' Commission. Its members include former Prime Ministers as well as ministers from the Member States who have considerable political experience and who will, as he stressed, be sensitive to public opinion. Yet beyond this, the presentation of the proposed new College was clearly intended also to demonstrate that there would be the same balance of political opinion within the Commission as within the Parliament. Underneath the names of the nominees were the abbreviations of the European political party to which their national party was affiliated (although in one case this was then withdrawn). The balance was roughly the same as that in the European Parliament, at least for the core groups.

It is not a new phenomenon for Commissioners from the respective European political families to meet, nor for the political background of the Commission President, and the team as a whole, to be taken into account when the College is set up. This kind of 'politicisation' has been growing for

some time, together with the 'presidentialisation' of the Commission which has taken place, especially since the Nice Treaty (coming into force in 2003) first provided for the European Parliament to give its approval to the candidate for Commission President. The candidate in 2004, who was in the end José Manuel Barroso, had thus to be politically in line with the EPP/ALDE majority in the Parliament – and between the Member State governments of the day. The Lisbon Treaty provisions have further strengthened the perception that the political groups could and should influence the strategic programme of the President, and the annual work programmes of the Commission. Mr Barroso in 2009 was already required to present and defend Political Guidelines for the Next Commission.

This partial 'parliamentarisation' of the Commission may be seen as a response to the crisis of legitimacy suffered by the Commission at the end of the 1990s (with the resignation of the Santer Commission in 1999). It may also, as discussed below, be a counterbalance to the influence of national interests over (or in) the Commission, and the role of the European Council in the strategic direction of the Union.

Yet, the 'political balance' between the groups in the European Parliament should not be confused with, and certainly not replace, the 'institutional balance' between the Commission and the Parliament (or the Council for that matter).

In the Mission Letter which he sent to all candidates for the new Commission on 10 September 2014, however, Mr Juncker seemed to identify the Parliament as the unique source of legitimacy for the Commission. ***'The Commission's relationship with the European Parliament is the source of our democratic legitimacy. This must, therefore, be a political and not a technocratic partnership.'*** [emphasis added]

In October outgoing Commission President Barroso himself lent his voice to those who had been expressing concerns that this kind of 'party-politicisation' of the Commission may now be going too far.

*"I think the Commission has to be – and my commission was – a political body. But it should not be a politicised or partisan body. [...] I think the Commission should remain a political body, but my advice would be to avoid partisan lines of fracture and polarisation," he adds. "I'm proud that we have avoided to become a mini-parliament, because party politics is for the Parliament, not for the Commission. **The day the Commission becomes a mini-parliament it loses its authority.**"* [emphasis added]¹²

Even more relevant is what the Parliament itself has recently said in this respect. In its March 2014 resolution, even while affirming the need for the European Parliament to have stronger powers, the Parliament itself noted that the Commission's 'normal role [...] is to act as an **independent principal** protecting the EU interest and ensuring the implementation of EU rules within the limits established by the Treaties'.¹³ The key word here is 'principal'. In other words, the Commission has, certainly when it comes to those kinds of task, an independent basis of legitimacy in the treaties which created it.

At this point, it is worth recalling what the Treaty on European Union actually says about the nature and role of the Commission.

Article 17

1. The Commission shall promote the general interest of the Union and take appropriate initiatives to that end. It shall ensure the application of the Treaties, and of measures adopted by the institutions pursuant to them. It shall oversee the application of Union law under the control of the Court of Justice of the European Union. It shall execute the budget and manage programmes. It shall exercise coordinating, executive and management functions, as laid down in the Treaties. With the exception of the common foreign and security policy, and other cases provided for in the Treaties, it shall ensure the Union's external representation. It shall initiate the Union's annual and multiannual programming with a view to achieving interinstitutional agreements.
2. Union legislative acts may only be adopted on the basis of a Commission proposal, except where the Treaties provide otherwise. Other acts shall be adopted on the basis of a Commission proposal where the Treaties so provide.
3. The Commission's term of office shall be five years.
The members of the Commission shall be chosen on the ground of their general competence and European commitment from persons whose independence is beyond doubt.
In carrying out its responsibilities, the Commission shall be completely independent. [...] the members of the Commission shall neither seek nor take instructions from any Government or other institution, body, office or entity [...].

This is a broad range of tasks to be played by one body, and different kinds of tasks may have different requirements in terms of capacity, and of legitimacy. The European Union is not a polity with a full and simple separation of powers, and the European Commission is an organisation which has to fulfil quite different functions in the system of European governance. Some of these functions continue to rest on the concept, and image, of the Commission as an independent and impartial European actor (Guardian of the Treaties) which can, together with the Court of Justice, be trusted to ensure both fairness in the application of the rules, as well as a long-term strategic approach to the integration process, without being dependent upon the results of short-term electoral political cycles.

The EP as a balance to national interests and the European Council

There may therefore be a limit to how far the Commission should, in the interests of its institutional independence, be seen to subordinate itself to the European Parliament. At the same time, however, this rather strong pursuit of EU-level legitimacy may be understood as an inevitable counterweight in present circumstances to the other form of politicisation which has characterised the Commission in the past, namely the influence of the Member States, and to the role of the European Council.

The fact that the Commission continues to be composed of one representative nominated by each Member State

government represents a serious limitation on options concerning the Commission's independent nature and image.

The Lisbon Treaty states (still) that the College of Commissioners should in 2014 be reduced to a number equivalent to two-thirds of the Member States. This has not been put into effect (taking advantage of a way out which was deliberately left open in the relevant treaty article), mainly in response to the concerns of the Irish population who voted against ratification of the Lisbon Treaty in 2008. It has thus been accepted as a fact that the peoples of the Member States will feel more confident that their interests will be taken into account if they know that there is one of their own 'around the table', and that this presumed perception outweighs other factors in contributing to Commission legitimacy. This has largely been seen to concern smaller countries, who have historically seen in the Commission an ally *vis-à-vis* the larger countries. However, it is also a fact that the legitimacy of a Commission in which one of the largest countries was temporarily not represented could come under strain in the event of a major decision

directed at that country over an infringement procedure or a decision on state aid.

There is some benefit for decision-making in the fact that Commissioners are able to recall in the College the particular realities of the countries they respectively know best. The Collegial table, however, is one at which limited business is done. The idea that the plenary College of Commissioners discusses all major issues is rather distant from reality. Decisions taken in the name of the Commission are prepared on the basis of various organisational practices intended to ensure collegiality and consistency at a lower level. Even assuming that

The Commission continues to have its own separate source of 'original' democratic legitimacy, namely its basis in the EU treaties by which it has been established by the Member States to serve as an independent yet accountable body within the 'institutional balance' of the Union.

rotation had come into force, this would only have meant that, for a period of five years, one-third of the Member States would not have a representative in the College, the political level of the Commission. This would presumably not have prevented the Commission from conducting consultations with representatives from all national administrations through Commission Expert Groups, or from consulting all national parliaments through the 'political dialogue'. Proposals would then be negotiated in the Council with all Member State governments anyway.

Moreover, the fact that there is one Commissioner from each of the 28 Member States involves numerous challenges. Most obviously, there are just too many Commissioners for the effective distribution of tasks (or for genuine equality). Mr Juncker has grasped this nettle by naming seven Vice-Presidents who are to be responsible for Project Teams and

to coordinate the work of other Commissioners. This is widely seen as both inevitable and promising, although it was not fully clear at the time of writing how far this approach will go, and how these arrangements will work in practice.

Perhaps more important is that the difference between the EU institutions is consequently even less clear to the European public. The Council of Ministers is made up of representatives of each Member State government; so is the College of Commissioners. Not only does the Commission give the appearance of being more intergovernmental in nature, the challenge arises (very publicly) of how to deal with national interests and national preferences. It has been obvious, when recent Commissions have been put together, that Member States have tried to ensure that their respective representatives should be given responsibilities which are of particular national interest. The approach of Mr Juncker, when presenting his team, was to confront the issue head on: that is, to offer portfolios in several cases precisely to countries which face, in those areas, challenges in reconciling national preferences with European approaches. Thus, for example, the UK candidate, Lord Hill, was offered financial services, a sector in which the UK has direct interests on behalf of which it could normally be expected to lobby, even at the expense of the EU 'general interest'; having a UK national as responsible Commissioner could make this harder to get away with. Likewise, the French candidate, Pierre Moscovici, was given the economics portfolio, precisely at a time when France was facing possible criticisms, even sanctions, for breaking EU budgetary rules.



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This is not to say that the Member States could simply impose their own candidates. On the contrary, they faced significant restrictions when proposing names. The insistence of the Parliament on at least one-third of the Commissioners' being female, in particular, led to a much stronger role of the President-elect in selecting candidates.¹⁴

The emphasis on the European Parliament as the source of legitimacy may also have been seen as reinforcing the Commission's strategic role *vis-à-vis* the European Council, and perhaps Mr Juncker's own role *vis-à-vis* its President. Reporting on the summit of 26-27 June 2014, the website of the European Council (with a touch of presumably unintended irony) used as its headline 'EU leaders choose Juncker to lead the future of the Union' and then, as a sub-heading, 'European strategic agenda'.

'EU leaders [had] agreed on a strategic agenda which focuses on 5 main objectives and the means to achieve them: stronger economies with more jobs; societies enabled to empower and protect all citizens; a secure energy and climate future; a trusted area of fundamental freedoms; effective joint action in the world.'

'Leaders repeated their commitment to reforms and fiscal consolidation, but also their will to carry out the investments needed for the future. To balance fiscal discipline with the need to support growth, the EU's existing fiscal framework offers possibilities which should be used.'

'President Van Rompuy said: "We are all committed to the Stability and Growth Pact and that it is a matter of making best use of the flexibility that is built into the existing Stability and Growth Pact rules."'

Neither the Commission nor the Parliament was explicitly mentioned in the seven-page document. Whoever would be in charge in the Commission, they seemed to be saying, policy options were already circumscribed, and further strategic direction would come from the European Council whose role, according to the treaty, is to 'define the general political directions and priorities' of the Union.¹⁵

On 15 July, Mr Juncker presented to the Parliament his **Political Guidelines for the next European Commission**, entitled **A New Start for Europe: My Agenda for Jobs, Growth, Fairness and Democratic Change**.¹⁶ The two documents are largely similar in content, although Mr Juncker did include several detailed proposals of specific concern in the Parliament. However, he also seemed to claim the right of initiative at strategic as well as legislative level: his Agenda would serve

as the starting point for the Union's 'annual and multi-annual programming' (which is indeed, under the treaty, explicitly to be 'initiated' by the Commission).¹⁷ For this purpose, he said, the Commission 'will also be able to draw on the "Strategic Agenda for the Union in Times of Change", as adopted by the European Council [...] and on the orientations that will be given by the European Parliament in the months to come'.

Conclusions

Concerns regarding the independence of the Commission are sometimes misrepresented as reflecting a desire to see it as a completely 'neutral' body, responsible only for technically competent drafting of legislation and for impartially supervising the implementation of EU policies. This could indeed reduce the role of the Commission to that of a super-secretariat, and is a distortion of what is at stake.

The Commission has been sliding into 'Euro-party-politicisation' for some time. The bilateral Framework Agreement of 2010 claimed that it would 'increase the legitimacy and the political responsibility of the European Commission'. This formulation presupposes that the Commission should be 'politically responsible' in the sense of being 'responsive' to majority opinion in the Parliament, as compared to 'institutionally accountable' to the Parliament as a whole. The Commission has always been institutionally accountable to the Parliament and this dimension of EU-level political accountability remains a necessary counterweight to the national dimension which continues to shape the composition of the College. However, there is no need to go beyond this and to suggest that the **only** source of democratic legitimacy of the Commission is the European Parliament.

The Commission continues to have its own separate source of 'original' democratic legitimacy, namely its basis in the EU treaties by which it has been established by the Member States to serve as an independent yet accountable body within the 'institutional balance' of the Union. The issue does not concern so much the right of initiative with regard to individual pieces of legislation. It is already the case that the impetus for new acts comes from a variety of sources; the Commission is called upon to play a more technical role in 'managing legislative pressure' in an effective way. The point is more the need for a body which can act in the general interest for the long term, as well as to perform supervisory and quasi-judicial functions for which party-politicisation would be inappropriate.

The Commission should be seen to have its own place, between the Parliament and the Council and a creature of neither. If nothing else, the *Spitzenkandidaten* process has helped prompt debate about the nature of institutional legitimacy in the EU, which is salutary in itself. The discourse surrounding the appointment procedures may be understood partly as reflecting the needs of the moment and should perhaps not be over-interpreted; there may well be a certain rhetorical readjustment in the coming years.

Moreover, the outcome of the 2014 process, as all actors have pursued their interests amid the constraints and opportunities of the post-Lisbon system, may in fact turn out to be the start of a new phase in the institutional arrangements of the peculiar 'partial polity' which is the European Union. With a supranational President elected by the European Parliament, and a more intergovernmentally-based College which is largely populated by senior politicians from the Member States, the result may be a new institutional hybrid which is actually rather well suited to the politically uncertain times ahead.

Notes

- * The author is grateful for comments received from Simon Duke, Sabina Lange and Eviola Prifti. Some parts of this contribution draw on Best, E., *EU Law-Making in Principle and Practice*, EIPA/Routledge, 2014. Some points were previously presented in Best, E. and S. Lange, 'European elections and questions of legitimacy', BEPA (Bureau of European Policy Advisers) Monthly, European Commission, No. 74, May 2014.
- ¹ Herman Van Rompuy, President of the European Council, in close collaboration with: José Manuel Barroso, President of the European Commission; Jean-Claude Juncker, President of the Eurogroup; Mario Draghi, President of the European Central Bank. *Towards a Genuine Economic and Monetary Union*, 5 December 2012.
- ² 'EU finance ministers aim to defuse Paris, Berlin row', *Euronews*, 13 October 2014.
- ³ European Parliament, Resolution on the elections to the European Parliament in 2014. 2012/2829(RSP), 22 November 2012.
- ⁴ Commission Recommendation of 12 March 2013 on enhancing the democratic and efficient conduct of the elections to the European Parliament (2013/142/EU). OJ L79 of 21 March 2013.
- ⁵ This means, more precisely, that 'on average, 5% of voters chose this item from among the three answers they could give as a reason for voting'. In three countries, this figure reached or exceeded 10%: in Austria (12%), Germany (10%) and Luxembourg (10%). European Parliament, Directorate-General for Communication, Public Opinion Monitoring Unit/TNS Opinion, '2014 post-election survey. European Elections 2014. Analytical Overview'. Brussels, October 2014, p. 4.

- ⁶ <http://ecrgroup.eu/about-us/the-ecr-in-the-european-parliament>. Consulted 1 October 2014.
- ⁷ The ECR replaced the former Union for Europe of the Nations (UEN) group on the Eurosceptical centre-right of the Parliament's groups in 2009.
- ⁸ These include the seven representatives of the German anti-Euro party, Alternative for Germany (AfD); the four representatives of the Danish People's Party, with its open opposition to the EU; and the two representatives of the Finns Party. On the other hand, the New Flemish Alliance (NVA) is more pro-EU than most members of the ECR.
- ⁹ <http://efa.greens-efa.eu/267-presentation.html>. Consulted 1 October 2014.
- ¹⁰ EFDD Charter, <http://www.efdgroup.eu> consulted 22 August 2014. The European Alliance for Freedom led by Marine Le Pen of the French National Front and Geert Wilders of the Dutch Freedom Party, which failed to constitute a political group, also explicitly denies the necessity of any common political ground between its members: 'Concerned with issues of freedom and democracy in the EU, the EAF does not operate within the Left-Right political paradigm and its members come from across a wide political spectrum. At the national level, therefore, EAF members do not necessarily subscribe to the politics and beliefs of other members of the Alliance.' <http://www.eurallfree.org/?q=node/65> consulted 22 August 2014.
- ¹¹ Fritz W. Scharpf, *Political Legitimacy in a Non-optimal Currency Area*. MPIfG Discussion Paper 13/15, 2013, p. 24.
- ¹² *European Voice*, 15 October 2014.
- ¹³ European Parliament resolution of 13 March 2014 on the enquiry on the role and operations of the Troika (ECB, Commission and IMF) with regard to the euro area programme countries (2013/2277 (INI)), para. 53 [emphasis added].
- ¹⁴ I am indebted to Sabina Lange for this point.
- ¹⁵ Article 15(1) TEU.
- ¹⁶ Ten priorities were identified: A New Boost for Jobs, Growth and Investment; A Connected Digital Single Market; A Resilient Energy Union with a Forward-Looking Climate Change Policy; A Deeper and Fairer Internal Market with a Strengthened Industrial Base; A Deeper and Fairer Economic and Monetary Union; A Reasonable and Balanced Free Trade Agreement with the U.S.; An Area of Justice and Fundamental Rights Based on Mutual Trust; Towards a New Policy on Migration; A Stronger Global Actor; A Union of Democratic Change.
- ¹⁷ Article 17(1) TEU.

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The EU's Existential Crisis: Far from Academic

Dr Simon Duke*, Professor, EIPA Maastricht

The emergence of a potential caliphate to the south of Europe and a highly uncertain and volatile situation to the east, along with upheaval in the Middle East, has concentrated minds on the more immediate external challenges facing Europe. August 2014 was a month of not only remarkable challenges to European stability and peace, but it also highlighted the presence of an ongoing existential crisis for the EU. At its core, this is a crisis about the identity, role and purpose of the EU on the international stage. Although there are plenty of strategies in EU external relations, it is argued that what is missing is a compelling overarching strategy explaining what the links and priorities are between the various sub-strategies. This calls for a broad strategic vision from the EU institutions and the Member States alike. In the absence of a fundamental strategic rethink of the Union's global strategy, the frequently project-based foreign policy risks condemning the Union to growing irrelevance.

Introduction

The emergence of a potential caliphate to the south of Europe and a highly uncertain and volatile situation to the east, along with upheaval in the Middle East, has concentrated minds on the more immediate external challenges facing Europe. August 2014 was a month of not only remarkable challenges to European stability and peace, but it also highlighted the presence of an ongoing existential crisis for the EU. At its core, this is a crisis about the identity, role and purpose of the EU on the international stage.

The contribution is divided into two parts, the first addressing issues of role, identity and purpose, which are key to understanding the existential crisis. The reasons behind the sense of strategic drift in the EU's external actions are examined, with the key point being that both the Union and the world around it have changed and this, in turn, calls for a shift in self-perception and a keener understanding of the nature of change in the international system.

The second part examines what, if anything, might give the EU a keener sense of its strategic role, identity and purpose. Ironically, the main challenge identified is not a shortage but a surfeit of strategies, but with the absence of an obvious common thread. In the absence of a fundamental strategic rethink of the Union's global strategy, the current *ad hoc*ism and project-based foreign policy risk condemning the Union to growing irrelevance.

Role, identity and purpose

Theory, Schmeory

Any debate about strategy, roles, identity and purpose risks repeating arguments that have been filling academic journals for well over a decade now. Ian Manners is often attributed the main role in kicking off what became a fundamental and divisive debate about the role and identity of the EU on the international stage. The core of Manners' argument is that 'the most important factor shaping the international role of the EU is not what it does or what it says, but what it is'.¹ Although his arguments are rooted in earlier debates from the 1980s about the extent to which the Union is, or should be, a 'civilian' or 'military' power, he claimed that the EU is 'different from pre-existing political forms and that this difference pre-disposes it to act in a normative way'.² This is not the time or place to rehash the extensive debates surrounding the Union's supposed or actual normative nature. Suffice it to say that inherent ambiguity about the EU's own identity, or the nature of European integration's *finalité*, has significantly complicated the task of understanding 'what it is' in external relations. If the EU is indeed a fundamentally normative actor, what it does and says sometimes point in the other direction.

Existential dilemmas



Søren Kierkegaard

The changes in the international system, noted at the outset, have also faced the Union and its members with a decidedly 'modern' or Hobbesian world – or even post-Hobbesian world in the sense that the assumed vulnerability of individuals and the security of states has in some senses been reversed. This has led some to portray the Union's supposed normative identity as a weakness rather than a strength in today's international system. As Adrian Hyde-Price has argued, the EU has increasingly come to serve as the institutional repository for the 'second order concerns of its member states'.³ Hence, to realists the normative identity of the EU is a matter of convenience for the Member States as they pursue their 'first-order' concerns such as the promotion of exports.

The role of the European Union is also seen by some as a social 'construct.' Under this approach the social environment plays the main role in shaping identities and outlook, and this is then replicated through the actions of the EU and its constituent parts. The agents (in this case the EU and its members) and the environment in which they operate (the international system) are mutually constitutive.⁴ The importance of self-belief leads to a heavy emphasis upon speeches, statements and declarations as a way of understanding the social construct.

The different theoretical themes that preoccupy scholars may seem farremoved from the policy world. They are in some senses, but they also pose core questions about how to perceive, and thus how to understand, the world around us. They also invite policy makers to consider the factors that lead to change in the international system. Of course, the same theoretical approaches can also inform impressions of the European Union from outside. Equal emphasis has therefore to be placed on how external actors perceive the Union's global role; something that is often challenging in notoriously inward-looking Brussels politics. Theory can thus provide some

of the basis analytical tools that can be employed in the first stages of any strategic reassessment, by academics and policy-makers alike.

What you see depends on where you sit

The predominant rhetoric of the EU is a liberal one based, above all, upon the idea that the Union enjoys a power of attraction, especially to its

neighbours, because of who and what it is. This is often related to notions of distinctiveness, as in Javier Solana's claim that the EU has 'a distinctive European approach to foreign and security policy' in the 2008 revision of the European Security Strategy.⁵ A similar idea was touched upon five years earlier by Robert Cooper who argued that the European Union exemplified a post-modern system that, unlike the Hobbesian modern world, 'does not rely upon balance; nor does it emphasize sovereignty or the separation of domestic and foreign affairs'.⁶ The post-modern system was built upon a conscious rejection of the modern system that led to nationalism and eventually war. It soon became more than a system and approached an order, in the sense that it was highly structured by treaties and

In the absence of a fundamental strategic rethink of the Union's global strategy, the current *ad hoc*ism and project-based foreign policy risk condemning the Union to growing irrelevance.

organisations (such as the Treaty of Rome and the Conventional Forces in Europe treaty). In this order, organised mutual interference was not only tolerated, but key to limiting national sovereignty. In foreign policy, post-modernism implied the 'continuation of domestic concerns beyond national boundaries and not vice versa. Individual consumption replaces collective glory as the dominant theme of national life. War is to be avoided: acquisition of territory by force is of no interest' (Cooper: 2003, 53).

Although it is easy to overstate the post-modern thesis and the EU's uniqueness (Canada and Japan would presumably also qualify under the same rubric), the explicit rejection of nationalism in favour of integration is a key tenet of liberal interpretations of international relations. It follows that for post-modern states the predominant interest is in expanding the area of cooperation, either through integration (membership) or through other forms of association. The EU has tried to do this in a variety of ways, such as the direct appeal to regionalism (as in the case of the African Union), or through a dense network of association or partnership agreements. In each case, the relevant agreements include the idea of the EU as *exemplar* with various degrees of conditionality attached to the conscious effort to replicate the Union's core values and principles.

The notion that the EU is somehow distinct, or exceptional, carries its own dangers. By placing such stress upon a model of external relations reliant upon the EU as exemplar, alongside the somewhat arrogant assumptions about the Union's powers of attraction, leaders within the EU institutions and the Member States failed to notice the emergence of a decidedly 'modern' world – not only around the EU but on its very doorstep and, indeed, within it (most notably the resurgence of nationalism). To John Mearsheimer, a well-known American realist scholar, 'Elites in the United States and Europe have been blindsided by events only because they subscribed to a flawed view of international politics. They tend to believe that the logic of realism holds little relevance in the twenty-first century and that Europe can be kept whole and free on the basis of such liberal principles as the rule of law, economic interdependency, and democracy'.⁷

The events of August 2014 may be seen as a catalyst but, in reality, they only serve to put into stark relief a process of strategic drift that has been going on for at least a decade. During this time the EU often promoted doublestandards, under the flag of pragmatism; its members often failed to support the Union's external actions adequately and occasionally undermined them; the external relations of the Union lacked internal cohesion and have even demonstrated elements of competition (trade v development v foreign and security policy) or at least lack of coordination; the Union's external public diplomacy has often proven one-way and has reached either the wrong people or too few; while there has been a lack of courage or vision when it came

to the Union's global role. The overall sense of drift became even more pervasive due to the all-consuming concentration on the financial crisis for much of the last five years. Even the *pièce de résistance* of the Union's external actions – enlargement – is set to wither with Juncker's announcement that 'no further enlargement will take place over the next five years'.⁸

What can arrest this sense of strategic drift? The response, in short, should be for the new incumbents in the Commission, the European Council and the High Representative

for Foreign Affairs and Security Policy to embark upon a fundamental geo-political and geo-economic reassessment of the EU's role, identity and purpose on the international scene.

Strategy

No strategy please, we're the EU ...

Demands for strategic vision, even a 'grand strategy', have been debated outside the EU institutions for several years now and it has steadily intensified.⁹ Most recently, Shada Islam noted that, 'A strategic rethink of Europe's global outreach is urgent [...] In a world where many countries are wracked by war, terrorism and extremism, EU foreign policy cannot afford to be ad hoc, reactive and haphazard'.¹⁰ Yet demands for strategic vision, let alone grand strategy, have often been met with a knowing look, or a roll of the eyes, since the EU just doesn't 'do' grand strategy. The more acerbic observations lament the naiveté of 'academics' who believe that it is remotely possible for the EU institutions, let alone 28 Member States, to have a productive discussion about strategy.

Some, like the Foreign Affairs Council in May of this year, claim that there is 'a common strategic vision' uniting the Union and its members. If this is so, its substance is either not evident (to the Member States in particular) or, worse still, persuasive.¹¹ Other responses, emanating from the European External Action Service (EEAS), point out that an overarching strategy already exists in the form of the 2003 European Security Strategy (revised in 2008). The claim, however, that it is 'in many respects still valid and pertinent to date' is disputed within the EU institutions. Most recently, the Court of Auditors noted that the European Security Strategy 'does not reflect the evolving geopolitical events which have transformed the world'.¹² Indeed, this strategy starts off by noting that, 'Europe has never been so prosperous, so secure nor so free' – notions that can certainly be challenged a decade later.¹³ Put rather more bluntly by Olivier De France and Nick Witney, Brussels 'continues to shun any elaboration of or revision of the ten-year old European Security Strategy. So the essential conceptual framework that should guide priorities in foreign and security policy, and the allocation of defence resources, is missing'.¹⁴ In its stead, *ad hoc*ism and project-based foreign policy prevail.

The events of August 2014 may be seen as a catalyst but, in reality, they only serve to put into stark relief a process of strategic drift that has been going on for at least a decade.

Strategic Mission?



Federica Mogherini
Source: <http://www.eunews.it>

Again there is growing evidence of the perceived need to adjust the EU to the changing realities of the international system. This goes back to at least 2010 when Herman Van Rompuy opened up the gates for a debate on the role of Europe in the world when he asked, 'For instruments to work optimally, one needs to link them to a common strategic vision. Where do we go? Who are our partners? Where do we want to be in ten or twenty years' time ahead?'¹⁵ Having asked essential questions, any debate was swiftly overtaken by the exigencies of the financial crisis. Yet, the appetite for strategic debate was not entirely extinguished as Catherine Ashton illustrated in October 2013, when she observed that 'Europe faces rising security challenges within a changing strategic context while the financial crisis is increasingly affecting its security and defence capability. These developments warrant a strategic debate among Heads of State and Government'.¹⁶

Contrary to the arguments above, it is worth noting that the Commission has on several occasions tried to reflect either broadly on the EU's role on issues like the internal security of the Union, which led to the adoption of a strategy in 2010, or the external trade-related, **Global Europe**.¹⁷ There is less evidence of any geo-political analysis and thinking going on from the EEAS side to support the development of a more political global outlook. The emphasis under Catherine Ashton was on developing the so-called strategic partnerships with key third parties – a term which still lacks much meaning or substance.¹⁸ Nor it is true that the Member States would scoff at the mention of a more strategic basis for EU external actions. In fact, it is the opposite. A number of Member States have advocated the need for strategic review. Italy, Poland, Spain and Sweden even commissioned a think-tank process for a European Global Strategy to facilitate this process.¹⁹ Others chose to highlight the role of security and defence which, in strategic terms, remains the least integrated aspect of the Union's external actions. For instance, the French 2013 Defence White Paper appears to go in a similar direction when it stated that building a 'European approach to defence and security is a priority' and, to this end, 'the impetus must come from the highest political level of the Union, i.e. the European Council. It must determine the role that Europe intends to play on the international stage and the nature of the world order that Europe wishes to promote [...]'.²⁰ The idea of an EU *Livre Blanc* 'which could [...] be an opportunity to express a shared vision' was also floated.²¹ In a parallel manner, the European Parliament has also demanded a White 'Book' on European defence. For its part, the Commission advocated the development of 'a strategic approach covering all aspects of military and non-military security'.²²

In some senses, the European Union's strategic persona is far from under-developed and may, if anything, be overdeveloped.

In spite of the anticipation of some form of strategic debate, the European Council chose to sidestep it in December 2013, aside from the charge to the Commission and the High Representative to 'assess the impact of changes in the global environment' and to report to the Council in the course of 2015 'on challenges and opportunities arising for the Union'.²³ Ashton had already touched upon a number of challenges in a preparatory document for the European Council, which

included cyber-attacks, the consequences of climate change, and 'increased competition for energy, water and other resources both at a national and international level'.²⁴ If there is the appetite, the European Council has opened up the possibility for

the incoming High Representative and Commission to lay the foundations for a profound strategic debate. So far, Juncker has indicated no particular interest in any such debate with the focus being very much upon Mogherini's role in steering and coordinating the work of the relevant Commissioners with regard to external relations.²⁵ Yet, even this mandate opens up the wider question of to what end is any steering or coordination to be done?

Drowning in strategies, but not a strategy to be found

In some senses, the European Union's strategic persona is far from under-developed and may, if anything, be overdeveloped. The presence of the 'strategic partners' mentioned above, 140 country strategies, numerous regional strategies (at least 16), thematic strategies (on the environment, energy, non-proliferation, cyber security or counter-terrorism, to cite but a few) or continental strategies (Africa or the Arctic), paints a picture of a Union literally drowning in strategies. The aim of any strategic reassessment should **not** be to tear all of these up, but to imbue them with a clearer sense of what

links them together into a coherent, or comprehensive, strategic vision. The question of what priorities any strategy should have, whether it be thematic global commons issues, our specific geographical locale, like the European Neighbourhood, or the United States, are of course important. But, they are secondary to the task of identifying the essential elements linking together the strategies above, that then give them a more coherent direction and purpose – a type of *meta* strategy. Two candidates are often mentioned in this regard: democracy and human rights; and multilateralism and the rule of law. Both are compelling, but closer inspection suggests that neither are implemented in a manner that is fully convincing.

On the first, in 2011 Catherine Ashton referred to the need 'to have human rights running as a silver thread through a truly integrated range of external policies'.²⁶ Her speech to the European Parliament came just after the launch of an ambitious joint communication to the Parliament and the Council entitled, 'Human Rights and democracy at the Heart

Strategic visionaries?



Donald Tusk [L] and Jean-Claude Juncker [R], European Commission
Source: <http://www.euractiv.com>

of EU External Action – Towards a More Effective Approach.²⁷ It is true that democracy and human rights are scattered across the EU's external policies as well as the instruments and agreements with countries, regions and multilateral organisations. But, this has not been matched with actual results due to the 'frequent gap between the EU's principles and its actions on democracy and human rights, and the fact that when the EU does act to promote democracy and human rights, this often has limited impact.'²⁸ This is in part a result of the well-known diplomatic dilemma of balancing interests and values, as in cases of Egypt, Ethiopia or Russia, but it also reflects the sometimes reluctant support from the Member States for measures designed to bolster democracy and human rights, such as sanctions. In some specific areas, like trade, there is a paucity of information on how trade-related conditions (positive and negative) impact upon human rights and democracy.

A second candidate is multilateralism. The 2003 European Security Strategy states that, 'In a world of global threats, global markets and global media, our security and prosperity increasingly depend on an effective multilateral system. The development of a stronger international society, well-functioning international institutions and a rule-based international order is our objective.'²⁹ The United Nations is often placed at the core of the concept, especially when it comes to security issues and setting the standards for global governance, but the term stretches beyond this to include many other formal and informal organisations and arrangements (such as the World Trade Organisation, the International Criminal Court, the Council of Europe, the G-20 and the G-7, to name but a few). It also extends to the bilateral aspects of the Union's relations with its strategic partners to develop what has been termed 'partnerships for effective multilateralism.'³⁰

Catherine Ashton herself made reference to 'effective multilateralism with the United Nations at its core, in search of lasting solutions to critical international peace and security challenges.'³¹ This is a natural centre of gravity for the Union's external actions given the advantage enjoyed by the Union's members in terms of membership (constituting one-eighth of all votes in the General Assembly and one-fifth of the membership of the Security Council), but also the shared interest in many of the global commons issues (such as climate change, energy, water scarcity and the role of women). At the same time, this is seen as an historical anachronism by many rising powers and one that reflects the world of 1944-1945 and not that of the twenty-first century, which has led to demands for readjustment in European membership of a number of international financial institutions, often with American backing. The apportionment of seats and voting rights within the United Nations will therefore be one of the tests of the Union's commitments to multilateralism.

The European Union is also faced with the simple fact that the international system remains by and large Westphalian – a system designed by and for states. A reminder of this was the Union's attempts to improve its leverage and visibility by securing enhanced observer status in the United Nations

General Assembly. This was thwarted on the first attempt, but on the second yielded limited speaking rights for the President of the European Council and the High Representative at the plenary meetings held at the beginning of each regular session of the General Assembly. These rights were certainly below what the Union envisaged necessary to play its role as a truly global actor or, put another way, 'it is inconceivable for the world's number one donor of development aid to be unable to secure relatively easily the support of the majority of states in the UNGA on an issue of instrumental importance to it.'³²

References to 'effective multilateralism' are often accompanied by reference to the rule of law. The EU has traditionally pursued an expansive or 'thick' approach to the rule of law which enables the Union to claim general positive influence, but the lack of clear benchmarks makes any casual links between any dialogue and results spurious. The need to conceptualise the Union's understanding of the rule of law and benchmarks for its application are urgently needed, with the caveat that the Council of Europe could legitimately claim to be the obvious benchmarking body, in which case any such exercise should follow their lead. In any event, neither body has produced a 'single and authoritative document clarifying what the rule of law entails and how one may assess a country's adherence to this principle in theory as well as in practice.'³³ Since the Union cannot claim a monopoly over defining or understanding the rule of law, a clear idea of how the concept gives the Union a relative advantage, or how it might be benchmarked

and how it complements existing policies such as the European Consensus on Development, would assist the development of this important concept from a soft ideal to an obligation in the Union's external actions.

Although there are clear candidates for the essential 'threads' linking together

the various sub-strategies they are in some cases, like multilateralism or the rule of law, not yet fully conceptualised. As has also been suggested, they are not consistently implemented which leads to the fundamental questions of role, identity and purpose posed at the beginning. Based upon a clearer idea of the threads joining together the EU's external strategies, a clearer sense of priorities is urgently needed. Not all issues or countries can possibly be of equal importance. Attempts to avoid this issue only lend an Alice in Wonderland quality to the proceedings (it was the Dodo who famously said, 'everybody has won, and all must have prizes').

Conclusions

The analysis above suggests that there is a growing need for a strategic reassessment of the EU's global role, identity and purpose. This is not a new issue, but this summer's events, such as those in the Ukraine or the activities of ISIL to the south, have made this need even more apparent. Any strategic reassessment should in the first place aim at understanding the nature of change in the international system. A number of conceptual tools to facilitate this reflection were suggested at the outset. In the second place, careful thought should be devoted to the nature of the linkages between the existing

The European Union is also faced with the simple fact that the international system remains by and large Westphalian – a system designed by and for states.

sub-strategies at regional, country and thematic levels. Third, once the nature of the essential elements linking the sub-strategies is evident, they not only have to be integrated but also implemented consistently. This will imply hard choices, such as those between energy and human rights; but it is these choices, guided by a clearer sense of strategic vision, that will shape the role, identity and purpose of the Union. These three elements must also be participatory and must involve the Member States and other interested parties, such as EU Centres of Excellence, universities and think tanks. This will, inevitably, be a difficult process but it is also necessary, given the undesirable consequences of continued *ad hoc*ism and muddling through.

The questions posed above are challenging, but are ones that will hopefully exercise the minds of the new Commissioners, members of the European Parliament, the High Representative and the EEAS. Concerns about streamlining and coordination are of course important, but in the absence of a compelling strategic vision it is not clear what is being streamlined, and to what ultimate end coordination is pursued. The world will move on with, or without, the EU shaping it.

Notes

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¹ Manners, I., 'Normative Power Europe: A Contradiction in Terms?', *Journal of Common Market Studies*, Vol. 40, No. 2, 2002, p. 253.

² Ibid. p. 242.

³ Hyde Price, A., 'Normative power Europe: a realist critique', *Journal of European Public Policy*, Vol. 13, Issue 2, 2006, pp. 222-224.

⁴ See Christiansen, T. et al, 'The Social Construction of Europe', *Journal of European Public Policy*, Vol. 6, No. 4, 1999, pp. 528-544.

⁵ *Report on the Implementation of the European Security Strategy: Providing Security in a Changing World*, Brussels, S407/08, 11 December 2008.

⁶ Cooper, R., *The Breaking of Nations: Order and Chaos in the Twenty-First Century* (New York: Atlantic Monthly Press, 2003), p. 27.

⁷ Mearsheimer, J., 'Why the Ukraine Crisis is the West's Fault', *Foreign Affairs*, Vol. 93, No. 5, September/October 2014, p. 78.

⁸ Juncker, J. C., *A New Start for Europe*, p. 10.

⁹ See Howorth, J. 'The EU as Global Actor: Grand Strategy for a Global Grand Bargain?', *Journal of Common Market Studies*, 2010, Vol. 48, No. 3, pp. 455-474; and Biscop, S., 'EU Grand Strategy: Optimism is Mandatory', *Egmont Security Policy Brief*, No. 36, July 2012.

¹⁰ Islam, S., 'Why Global Europe must change in an 'Anxious Age'', *Friends of Europe*, 4 September 2014. www.friendsofeurope.org.

¹¹ 3312th Council meeting, Foreign Affairs, 9542/14, 12 May 2014, p. 17.

¹² Special Report: *The establishment of the European External Action Service*, European Court of Auditors, Luxembourg 2014, p. 8, 11, & 26.

¹³ *European Security Strategy: A Secure Europe in a Better World*, Brussels, 12 December 2013.

¹⁴ De France, O. and N. Witney, *Europe's strategic cacophony*, European Council on Foreign Relations, April 2013, p. 10. At the time there were only 27 EU members, Croatia joined in July 2013.

¹⁵ Address by Herman van Rompuy, President of the European Council, to the College d'Europe, PCE 34/10, 25 February 2010, Bruges, p. 5.

¹⁶ *Preparing the December 2013 European Council on Security and Defence: Final Report by the High Representative/Head of the EDA on the Common Security and Defence Policy*, Brussels, 15 October 2013, p. 2.

¹⁷ Communication from the Commission and the European Parliament and the Council, The EU Internal Security Strategy in Action: Five steps towards a more secure Europe, COM(2010) 673 Final, Brussels, 22 November 2010; and *Global Europe: Competing in the World* (Brussels: European Commission).

¹⁸ Those with China, Russia and the United States were developed first, followed by those with Brazil, India and South Africa. The concept has now been extended to ten strategic partners in total, with a specific rejection of a 'one size fits all' approach which, although logical, makes any overarching strategic interests even more difficult to identify.

¹⁹ See Towards a European Global Strategy: Security European Influence in a Changing World, 28 May 2013. <http://www.euglobalstrategy.eu>.

²⁰ *French White Paper on Defence and National Security 2013*, Ministère de la Défense, July 2013, p. 63.

²¹ Ibid. Loc cit.

²² Communication from the Commission to the European Parliament, The Council, the European Economic and Social Committee and the Committee of the Regions, *Towards a more competitive and efficient defence and security sector*, Brussels, COM(2013) 542 final, 24 July 2013, p. 16.

²³ *European Council*, 19 December 2013, Brussels, p. 10.

²⁴ *Preparing the December 2013 European Council on Security and Defence: Final Report by the High Representative/Head of the EDA on the Common Security and Defence Policy*, 15 October 2013, p. 1.

²⁵ Mission Letter, Federica Mogherini, from Jean-Claude Juncker, President-elect of the Commission to Federica Mogherini, High Representative of the Union for Foreign Policy and Security Policy/Vice-President of the European Commission, Brussels, 10 September 2014, p. 3.

²⁶ Ashton, C., *Human Rights and Democracy at the Heart of EU External Action – Towards a More Effective Approach*, Speech to the European Parliament, 13 December 2011. http://eeas.europa.eu/top_stories/2012/060112_hr_silverthread_en.htm.

²⁷ European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Increasing the Impact of EU Development Policy: An Agenda for Change*, COM(2011) 637 FINAL, Brussels, 12 October 2011.

²⁸ European Think Tanks Group, *Our Collective Interest: Why Europe's problems need global solutions and global problems need European action*, September 2014, p. 39.

²⁹ *European Security Strategy*, 2003, p. 9.

³⁰ Grevi, G. and A. de Vasconcelos (eds.), 'Partnership for effective multilateralism: EU relations with Brazil, China, India and Russia', *Chaillot Paper*, No. 109, May 2008.

³¹ Catherine Ashton, *Address by EU High Representative Catherine Ashton at the UN Security Council on the cooperation between the EU and the UN on international peace and security*, 140214/02, New York, 14 February 2014.

³² Wouters, J. et al, 'The Status of the European Union at the United Nations after the General Assembly Resolution of 3 May 2011', *Global Governance Opinions*, Leuven Centre for Global Governance Studies, July 2011, p. 8.

³³ Pech, L., 'Rule of Law as a guiding principle of the European Union's external action', *CLEER Working Papers*, No. 3, 2012 (The Hague: Centre for the Law of EU External Relations), p. 30.



The 'Deep and Comprehensive Free Trade Agreements': an Appropriate Response by the EU to the Challenges in its Neighbourhood?

Wolfgang Koeth, Senior Lecturer, EIPA Maastricht

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Ten years after it was set up, the European Neighbourhood Policy (ENP) has not lived up to its expectations. Initially copied from the model of the EU's enlargement policy, it was supposed to lead to privileged relationships through closer political and economic integration between the EU and its neighbours in the east and south. The lack of interest from most partner countries in engaging in meaningful reforms, the Arab uprisings, and the growing assertiveness of Russia had all forced the Union to revise its approach and to propose more concrete measures rather than lofty laundry lists of well-meaning policy objectives. In line with its revised approach to trade policy – which no longer relies on the WTO, but focuses on striking bilateral agreements – the EU has started putting trade relations at the core of its relations with the countries of the Neighbourhood. The 'Deep and Comprehensive Free Trade Agreements' (DCFTAs) are hence promoted as a template for substantial reforms leading to closer regulatory integration between the EU and its partners. Whereas the DCFTAs can be a powerful tool for the countries that are not only politically committed to a higher level of integration, but are also ready to translate their commitment into political reforms, the linkage between the DCFTAs and the ENP is doubtful: given the extreme differences between its neighbouring countries, any one-size-fits-all approach is bound to fail.

Introduction

The European Neighbourhood Policy (ENP) was set up a decade ago with the aim of surrounding the EU with a 'ring of friends' with whom it would eventually share 'everything but the institutions'. This policy towards its (new) neighbours to the east and south, reinforced by the 2008 Union for the Mediterranean (UfM) and the 2009 Eastern Partnership (EaP), was meant to build on the success of the EU's enlargement policy. The enlargement process successfully managed to stabilise the often fragile new democracies in Central and South Eastern Europe by rewarding political and economic reforms with generous assistance and, importantly, the strategic perspective of becoming a member of the European Union.

Ten years later, it appears that the EU's approach *vis-à-vis* its neighbours did not bring about the anticipated results. Russia, the most important of the EU's neighbours, decided to stay out of the ENP, since Moscow deemed it inappropriate to be treated as a mere object of EU policy, and regarded on the same level as other post-Soviet republics. Belarus, the 'last European dictatorship', showed no interest whatsoever in embracing the discourse on common norms and values. Although the policy could be assessed rather positively for the small republics of Georgia and Moldova, the effects of the EU's neighbourhood policy in Ukraine were dramatic: the intra-Ukrainian debate about whether to seek closer association with the EU or Russia triggered events that no one had even dared to imagine merely a year ago: the annexation of Crimea by Russia, a full-blown military conflict and thousands of (often civilian) casualties.

The achievements of the ENP in the south were less dramatic, but they can hardly be assessed as being successful.

At best, the actual results of the ENP in this region have been negligible. At worst, the ENP can be seen as a strategic miscalculation, that may have tarnished the credibility of the EU's discourse in the Arab world; rather than supporting democratic forces and actors of change (like civil society) until after the so-called Arab spring, the Union frequently associated with authoritarian rulers, in the hope that they could be nudged, over a longer period of time, into observing the Union's values and principles, but without endangering its own interests (energy security, trade, migration, etc.). In the aftermath of the Arab revolutions, the credibility of both the European Union and its members has been strained by the previous associations, especially among the younger generation.

In order to try and bridge the gap between aspirations and concrete measures, the EU has over recent years shifted the focus of the ENP towards trade policy, as the most effective (and, it was hoped, least divisive) part of the EU's foreign policy. It thus introduced a new instrument: the Deep and Comprehensive Free Trade Agreements (DCFTAs). It was unveiled first in the east, and later in the south.

The ENP: one size fits all?

Initially, the ENP applied the same policy and instruments to the post-Soviet republics in the east, and the Arab countries plus Israel in the south. Whereas among the partners in the east, the EU was widely perceived as a role model, the appeal of the 'European way of life' was – economic prosperity aside – rather limited in most of the Arab countries of the south.¹ The economies, political systems and societies in both regions could not be more different. But, when it came to administrative cooperation, the EU often found it easier to cooperate with the Southern neighbours: most of them were former colonies, so their administrative systems often resemble those of their former colonial overlords. A common administrative language largely facilitates the contacts between European politicians and officials and their Arab counterparts.² Although most countries in both east and south still frequently rely on heavily regulated and non-competitive industries, the existing southern model of state paternalism is not entirely unfamiliar to Europeans, as it mirrors systems and structures of the last century. In the east, however, the chaotic demise of a former centrally planned economy, mostly relying on heavy industry, engendered a caste of oligarchs who acquired control of key economic sectors through their political connections. In these countries, the resulting symbiosis of oligarchs and politicians is still one of the major obstacles on the path towards a genuine free market economy.

Although most countries in both East and South still frequently rely on heavily regulated and non-competitive industries, the existing Southern model of state paternalism is not entirely unfamiliar to Europeans.

The 2008 Paris summit for the Mediterranean, which set up the UfM on the initiative of French President Sarkozy, was an indicator that the 'one size fits all' approach of the ENP was hardly the appropriate framework for bilateral cooperation. The ENP instruments proved inadequate and showed

little added value compared to other forms of more traditional bilateral assistance. The 'mutual commitment to common values' referred to in the 2004 ENP strategy,³ hardly reflected the mind-set of the mostly authoritarian rulers in the south, since they did not share the EU's view on the rule of law, good governance and respect for human rights. The joint common declaration at the funding summit of the UfM therefore fails to mention these common values. But even without such a reference, it is, with hindsight, ironic to see Bashar al-Assad, Zine El Abidine Ben Ali and Hosni Mubarak cheerfully shaking hands with European leaders and committing themselves to 'build together a future of peace, democracy, prosperity and human, social and cultural understanding'.⁴ When the 2010 Arab uprisings and its aftermath swept away a number of the signatories of the Paris summit, the EU and its members found itself in the difficult position of having to explain why it had established such close links with authoritarian regimes that had demonstrably held the EU founding principles of democracy and human rights in such low esteem.

For its Eastern Neighbours, the situation was quite different. Among its 'European Neighbours' (as opposed to the 'Neighbours of Europe'), the ENP had, from its commencement, more chances of becoming a successful foreign policy

instrument. Here, the EU proved to be a strong role model, where only the most socially conservative fringes of society would contest the essence of the common values as a matter of principle. There was some reasonable hope in Brussels that the ENP methodology – cut and paste from the enlargement policy – could be repeated. After all, the desire to belong to the club of wealthy and well-governed European states had triggered deep and structural home-made political, institutional and economic reforms in other former socialist countries in Central and Eastern Europe. If the Baltic countries could transform in one-and-a-half decades from run-down, poor, demoralised and unstable Soviet republics to solid democracies with a booming economy, why couldn't the Ukraine, Moldova and the others do the same?

This reasoning, appealing as it may be, had one fundamental flaw. Whereas the Baltic states had a realistic perspective of EU membership (with all its economic and political benefits) as their ultimate reward, the remaining post-Soviet republics were never meant to join the Union, as public opinion in the Member States (and thus their politicians) was sceptical and suffering from so-called enlargement fatigue. But Moldova, Georgia, Armenia, and, with interruptions, the Ukraine, felt that they should be part of the European family.

Following the setting up of the UfM and the short war between Russia and Georgia in 2008, the EU invited the six Eastern members of the ENP at the Prague Summit in 2009 to form the 'Eastern Partnership', with the main objective being to 'accelerate political association and further economic integration between the EU and interested partner countries'. Underpinning the partnership were 'commitments to the principles of international law and to fundamental values, including democracy, the rule of law and the respect for human rights and fundamental freedoms, as well as to market economy, sustainable development and good governance'.⁵ These were, incidentally, the EU's founding principles and basic conditions for candidate countries to join the European Union. Politically, many countries in the east saw this as a veiled promise that the doors to the EU would be, in principle, open to them.

However, the Eastern Partnership declaration went beyond the lyrical waxing about common and shared values. It also introduced a new instrument, that would allow the Eastern Partners to benefit from **quasi** full access to the EU's market, while, at the same time, making these countries adopt large parts of the *acquis* and therefore binding them economically closer to the Union: the so-called 'Deep and Comprehensive Free Trade Agreements'.

The 'Deep and Comprehensive Free Trade Agreements'

The DCFTAs perfectly integrate themselves into the new approach to EU trade policy. Prompted by the failure of the WTO member countries to reach a comprehensive agreement on trade liberalisation that would include the 'behind the border' issues (such as regulatory issues, rules on foreign investment and investment protection, government procurement),⁶ the EU started to fundamentally review the

Common Commercial Policy (CCP – the official name of the EU's trade policy). Until then, the EU had been a strict defender of multilateral trade liberalisation led by the WTO, and therefore refrained from concluding bilateral trade agreements. But given the 'deep coma' of the Doha Development Round by the mid-2000s, the EU started in the second-half of the first decade to follow the US by striking regional and bilateral trade deals

as a second best option. The global financial crisis from 2007 onwards strengthened the assumption that trade, rather than internal consumption, would in the future be the main motor of economic growth – also given the relative decline of Europe *vis-à-vis* the emerging economies. As tariffs on goods were already low by global standards, further benefits would therefore derive from removal of regulatory obstacles (such as different norms and standards) or from opening markets to European providers of services. The new generation of trade agreements which the EU was

striving to conclude with its partners would therefore be of a much wider scope than traditional agreements: they should be 'deep and comprehensive'.

At the 2009 Prague summit, the EU proposed to use the DCFTAs as cornerstones of their future relationship with the Eastern Partnership. These legally binding agreements, conferring rights and obligations on both sides, would be part of even more comprehensive political agreements, the 'Association Agreements'. These Association Agreements would include a wide range of political issues from visa facilitation to transport policy and the fight against terrorism. They would replace the outdated Partnership and Cooperation agreements (PCAs),⁷ signed during the 1990s with most of the countries in question.

There is no clear-cut definition of an Association Agreement (AA). They find their legal source in Article 217 of the TFEU, stating that 'The Union may conclude with one or more third countries or international organisations agreements establishing an association involving reciprocal rights and obligations, common action and special procedure'. By looking at the text of the AAs, it becomes clear that the most innovative part of it is not the political agreement (which often just codifies current practice),⁸ but the trade part (the DCFTA). It is in this part that the mutual rights and obligations become apparent.

The DCFTA thus comes quite close to integrating the partner state into the Single Market, although with some limitations: limited access to EU agricultural markets, limited access to EU funds and no say in setting the common rules. Whereas economic benefits and incomes from new sources (VAT or income tax) are expected to materialise only over time, the partner countries are likely to lose access to the Russian market (which accounts for 25% of Ukraine's exports, on par with exports to the EU) in the short term and face immediately disappearing income from customs duties. For the EU, the economic impact of the DCFTAs is likely to be slightly positive, also given that Member States seem to have hedged many of the sectors that are likely to be in direct competition.

The right choice? Campaign for the Referendum on the Independence of Crimea, March 2014



Source: <http://www.unitednews.com.pk>

In the end, the main motivation for both partners signing DCFTAs is not economic, but rather political. The leaders of Ukraine, Georgia and Moldova have repeatedly stressed their countries' aspirations to become a member of the EU.⁹ For them, DCFTAs are not the end point, but only the first step towards fully fledged membership, while at the same time getting out of the Russian orbit.¹⁰ For the EU, not being able to give these countries a membership perspective, the DCFTA at least gives the partner countries a second best option of a privileged relationship through contractual relations of some substance (such as mutual rights and obligations), that make a difference with the earlier (and largely outdated) more declaratory agreements, that in the current geopolitical context appear to be rather inappropriate.

Can DCFTAs inspire new life in relations between the EU and its Southern Neighbours?

The political considerations that prompted the EU to propose DCFTAs as a new and more substantial form of cooperation to the Eastern Partners in 2009 were largely absent during the 2008 Paris founding summit of the UfM. It was clear from the beginning that the Southern Partners had no possibility (and no ambitions) to become EU members, therefore there was no need to offer any compensation for a lack of membership perspective – one of the motivations behind offering DCFTAs to its eastern neighbours. The UfM has long been regarded as a vanity project of former French President Sarkozy with a rather vague objective ('promoting stability and prosperity through political, social and cultural dialogue as well as economic cooperation'). It proposed no new instruments and only referred to existing Agreements. Whereas the Paris declaration made a general mention of an unspecified 'Deep Free Trade Area' in the Euromed region to be set up by 2010, no mechanisms to achieve this aim were set up.

After the Arab revolutions in 2010-2011, which swept away a number of autocratic regimes in the Southern Mediterranean (including the then co-President of the UfM, Hosni Mubarak), the cleavage between the rhetoric of the UfM and reality became even more obvious. In fact, the EU and its Member States had repeatedly closed their eyes to the numerous violations of the basic principles of democracy, political pluralism and fundamental freedoms enshrined in the common declaration: in exchange, they could count on these regimes in the fight against illegal migration and terrorism.¹¹ It was the Commissioner responsible for the Neighbourhood Policy, Stefan Füle, who was the first to admit after the Arab uprisings that the approach of the EU to the Southern Neighbourhood was inadequate, admitting that the EU had been 'hiding behind words like "creating a zone of stability, prosperity and peace"'.¹²

Realising that it had undermined its own credibility in the region by clearly favouring its own security concerns and commercial interests over its commitment to EU values,¹³ the EU tried to adapt to the new situation by adopting a number of measures: a packet of short-term measures (Partnership

for democracy and shared prosperity); addressing the 'three Ms' (Money, Markets, Mobility) in March 2011; a revised ENP strategy in May which introduced a concrete instrument that would help to support 'deep democracy'¹⁴ and to establish a 'deep and comprehensive free trade area' through Deep and Comprehensive Free Trade Agreements. These all became part of the ENP South vocabulary.

The DCFTAs: one size fits all revised?

Although initially designed as an instrument for the east, the DCFTAs became, with the revised ENP strategy, an instrument of choice for the south. But whereas in the east the DCFTAs were considered a standard solution, they became a mere

option in the south, depending on the political will of the partner country to engage in deep cooperation – and thus more relevant for the countries with strong economic stakes in the EU (such as Morocco and Tunisia). The Association Agreements the EU had concluded with most of the Southern Neighbours between 1995 and 2005 already provided for a free trade zone for manufactured goods; moreover, bilateral agreements on agricultural products were also concluded with a number of

countries. The envisaged value added would therefore come from the 'behind the border' provisions of the DCFTA (like regulatory issues, investment protection, intellectual property, and phytosanitary measures). However, these are areas the Southern countries are traditionally less keen to discuss, as they were generally seen as strengthening the positions of EU producers and service providers and thus increase existing trade deficits with the Union. Highly regulated areas such as telecoms and air transportation are still a convenient source of income for many governments in the south, which they are wary of opening up to competition. The degree of enthusiasm of most Southern countries to negotiate such agreements has been, as a consequence, rather limited (at the time of writing, only Morocco is actually negotiating a DCFTA).

The muted enthusiasm for the DCFTAs in the south contrasts with that to the east. Aside from Belarus and Azerbaijan,¹⁵ Ukraine, Moldova, Georgia and Armenia immediately embraced the DCFTAs, not so much for their content – bar Georgia, neither of these countries had previously shown particular interest in the structural reforms of their arcane regulatory systems that are at the core of these agreements – but rather for their symbolic power, as these agreements were seen as a first step towards EU membership, similar to the Association agreements (Europe Agreements) which were signed with the Central European States prior to their accession in the 1990s. In spite of frequent signals from the EU that this was not a realistic perspective, the Ukraine (with the notable exception of the Yanukovich government) and Georgia made EU integration a strategic priority. Moldova and Armenia have also publicly asked for a membership perspective. But more than it being a deep desire to embrace European values, the interest of the local elites for closer



integration with the EU might be explained by its potential to gain more leverage *vis-à-vis* Russia and its rival project for regional economic integration, the Eurasian Customs Union.¹⁶

European v Eurasian Union

The Eurasian Customs Union had until recently not figured prominently on the Brussels radar. Being an offspring of the EU's enlargement policy, the ENP had largely relied on the attractiveness of the European model and on the EU's normative power that had so far remained unrivalled in Europe: the idea of having to compete with a competitive role model did not come spontaneously to the EU's policy makers. However, the growing economic power of Russia and its matching geopolitical ambitions over the last decade had changed this basic parameter. For Russia, the DCFTAs with the countries of what it considers its 'near abroad' or special zone of influence, are perceived as a direct challenge to its regional ambitions for political and economic leadership.¹⁷

There are few illusions in the Eastern Neighbourhood about the nature of the Customs Union/Eurasian Union: even if President Putin has denied that he is seeking to resurrect the defunct Soviet Union, his description of the implosion of the Soviet Union as the greatest geopolitical catastrophe of the 20th century is still well remembered in the region. Although it contains a few supranational elements, there is little doubt about the real ownership of the Moscow-based Customs Union. Experience has shown that, rather than dangling the carrot of economic integration, Russia has been using trade measures as a stick to punish neighbouring countries for political misbehaviour.¹⁸ Therefore, the argument that Russia's opposition to the DCFTA was prompted mainly by economic concerns – due to the fear of an influx of cheap goods from the EU that would harm its local producers¹⁹ – does not sound too convincing.

The quite aggressive reaction of the most important 'Neighbour of the Neighbours' to the DCFTAs thus hit the EU by surprise. Even if the EU insists that the DCFTAs were never directed against Russia, and that even with a DCFTA in place nothing would be standing in the way of free trade between the Eurasian Customs Union and the EU's Eastern neighbours, it was nevertheless clear that once the DCFTA was signed, no signatory would be able to become a member of the Customs Union, as commitment to this body (loss of ability to decide on its own customs tariffs) would be incompatible with the obligation to reduce customs tariffs with the EU.

As the question of trade integration in the eastern region turned into a zero-sum-game, the partners had to make their choice:

Since the end of the cold war a quarter of a century ago, the EU has been living with the conviction that it had no enemies; security threats would come from non-state actors.

in the case of Armenia, which had on several occasions in the past expressed its wish for an EU integration perspective, the Russian suggestion that the country should not put at risk the benefits coming from closer integration with Russia (Armenia relies heavily on Russian security;²⁰ energy and remittances) and therefore drop the AA/DCFTA²¹ was successful. Initially, it seemed as if Russia's approach would also work in Ukraine. But the decision of the Yanukovich government in late 2013 to suspend preparations for the signing of Ukraine's AA/DCFTA sparked massive civil protests (so-called 'Euromaidan') in support of political association and economic integration with the EU. The unrest spreading from Kiev to the whole country – which culminated in President Yanukovich being forced to flee to Russia – was used as the pretext by President Putin to justify the annexation of Crimea and to support separatist forces in Eastern Ukraine. When the DCFTA was finally signed by the pro-European Yatsenyuk government in September 2014,²² Ukraine had lost control over large parts of its territory and suffered several thousand casualties among its soldiers and civilian population. Ukraine had finally made its pro-European choice, but at a very high price.

A painful waking in a not so post-modern world?

Could the EU have seen this coming? In fact, since the end of the cold war a quarter of a century ago, the EU has been living with the conviction that it had no enemies; security threats would come from non-state actors: regional conflicts, terrorism and organised crime.²³ Therefore, the simple fact that another state could not only oppose its plans, but also openly try to challenge them, not shying away from a military conflict, had been unimaginable merely a year ago. Neither was such a possibility mentioned as a potential risk in the Impact Assessments that were carried out on behalf of the Commission. But unlike the EU, Russia has not yet arrived in a post-modern world: it rather sees its interest through the prism of the first-half of 20th century zero-sum *realpolitik*, where geopolitical influence comes as a result of military and economic power. This was something that was already apparent with its military incursion into Georgia in 2008, although not widely acknowledged at the time. The signing of the AA/DCFTA was thus interpreted by Russia as a direct challenge to its geopolitical aspirations, which thus demanded a harsh response.

As often happens, it was an event outside its borders that pushed the EU towards a common position. The imposition of sanctions on Russia, following the annexation of Crimea and Russia's role in destabilising Eastern Ukraine, has shown that the Union is, in principle, ready to stand up for its values, even if this comes at a high price. Whatever credibility was lost in the south, might be made up in the

The Eurasian Customs Union:
the EU's competitor in the east?



Source: <http://rt.com/business>

east. For this, the EU disposes of a whole range of foreign policy instruments such as trade, technical assistance (i.e. to help Ukraine to wean itself from Russian gas),²⁴ or the CFSP/CSDP. And, not to forget, its most powerful foreign policy instrument: enlargement.

Could an enlargement perspective make a difference?

There is an ongoing debate on whether a clear enlargement perspective for Ukraine could have prevented – or rather exacerbated – the current crisis. It is often assumed that an enlargement perspective is a factor of stabilisation for a country, as the stakeholders would divert their energies away from internal struggles to a common objective. On the other hand, if the rather technical AA/DCFTA proved to be so divisive that it led to a civil war and later to a Russian incursion, would a fully-fledged accession process have poured even more oil onto the fire, leading to an even stronger reaction from Russia?

Russia intervened in the Ukrainian conflict thinking that its intervention would be widely endorsed by the local population. There was little doubt that many Russians in Crimea and in Eastern Ukraine would welcome a Russian intervention, just as Russian speakers in Abkhazia and Southern Ossetia did in 2008.

The attractiveness of Russia as a role model for Russian speakers in the region can be explained by a number of factors: the economic upturn that coincided with the beginning of Putin's first term in office in 2000 provided Russian citizens with a previously unknown increase in living standards – a process that largely bypassed most neighbouring former Soviet Republics, as it was founded on increased revenues generated from exploiting natural resources, in particular oil and gas. Economic wellbeing therefore substituted for democratic process as a source of legitimacy. Largely insensitive policies adopted by the governments of neighbouring countries *vis-à-vis* their Russian minorities and Russia's claim to act as a protector of Russian speakers throughout the region further increased the legitimacy and attractiveness of the Russian State to its diaspora.

Whereas a clear accession perspective would not in itself have diminished the attraction of Russia to ethnic Russians across the border, it would most likely have stopped Ukraine from further pushing native Russian speakers into the same direction. Being locked into an accession mechanism would have arguably prevented the Ukrainian authorities from pursuing populist policies which resulted in the further alienation of its Russian-speaking minority.²⁵ The example of

the enlargement process in the Central and Eastern European countries had shown that the requirements to comply with EU standards (which include the rights of minorities) had considerably diminished the temptation of candidate countries to adopt populist measures directed against national minorities as a means of diverting from more fundamental political issues.

In addition, the attraction of Russia for native Russian speakers in Ukraine appeared to be popular in the absence of any other more appealing outlooks: although the AA mentioned the objective of a visa-free regime, the AA/DCFTA, was generally not seen as bringing tangible results for Ukrainians. The fact that few understood the content of the rather technical agreement allowed Russia to manipulate Russian speakers in Ukraine via the widely received Kremlin-sponsored audio-visual media, by presenting this agreement as detrimental to their interests. For sure, in the case of an EU accession perspective, Russia would have tried to manipulate the public through the same channels,²⁶ but it would

have had less leverage, as the benefits of EU membership (full freedom of movement, rising standards of living, full access to EU markets, funds and programmes) are widely acknowledged even in Eastern Ukraine.²⁷ Moreover, even Russian speakers in Eastern and Southern Ukraine are aware that being part of Russia has a downside: whereas Ukraine abolished military service in 2013 (although it was reintroduced in 2014, as a result of the crisis) the perspective of doing compulsory military service in the Russian army is hardly appealing for the Russian-speaking young men of the diaspora.

The Arab uprisings: hitting the EU by surprise



Source: <http://knowyourmeme.com>

The reasons why many Arab countries signed up to the ENP and the UfM were very different from what the EU had in mind: a nice occasion to legitimise their autocratic regimes and their control of their country's resources.

chance has been missed. But for what remains of Ukraine and the other Eastern partner countries, a clear perspective is still likely to drastically increase the political will of these countries to engage in deep reforms and to overcome the divisions within their societies. In times where a number of current candidates and potential candidates have put EU accession on the backburner, and where the UK is considering leaving the Union, would it not be fair to give a chance to those European countries that are willing and committed to fulfilling their European ambitions and to show the existing members that EU membership is still something to be appreciated?

Whilst it would be difficult to claim with certainty that the course of history would have been changed with a prospective accession, it is clear that such a prospect would have made public support for a Russian intervention less widespread. This would have raised the opportunity cost of intervention and reduced the leverage of President Putin to destabilise the country through territorial annexation and through fostering rebel militias. This

And the outlook for the south?

The situation of the DCFTAs in the Southern Neighbours is very different: although the EU is not the only actor striving for political influence in the ENP South, the EU has – in spite of the ever-increasing role of China – no direct competitor in the region when it comes to trade integration. The EU is, by large, the biggest trading partner for all of these countries. Even if a DCFTA would be likely to further increase the trade deficit of many of them with the EU, they are expected to bear economic benefits for these countries – in the long run. However, as many of the countries already have free trade provisions (including for agricultural products) as parts of their existing Association Agreements, their appetite for further, more comprehensive liberalisation, which would force them to reform their economic and political systems, is often limited. But without joint ownership and commitment, the DCFTAs would have little added value.

For the EU, there are certainly economic benefits resulting from the opening of government procurement, regulatory convergence or the harmonisation of rules and standards. But more than the expected economic benefits, or the hope of substantial reform, the EU's offer to conclude DCFTAs with these countries mainly stems from the perceived need to fill the largely empty shell of ENP/UfM with some substance. The EU seems to have been pushed by events to use this tool in the absence of any other more suitable and meaningful instruments. But the DCFTAs might not be the right instruments for those that should not have qualified for a privileged relationship in the first place. The reasons why many Arab countries signed up to the ENP and the UfM were very different from what the EU had in mind: a nice occasion to legitimise their autocratic regimes and their control of their country's resources. By getting too closely involved, the EU did not change its neighbourhood, but compromised its own values. Moreover, some of the regimes that followed the Arab uprisings, even if fully democratically legitimised, have scarcely embraced 'European values'. The suspicion that the EU uses concepts such as human rights, democracy and the rule of law in an opportunistic way, as a vehicle to fulfil its own strategic ambitions and interests, won't go away easily. Although there are important differences between the Arab neighbours of Europe (with Israel being a case apart), many feel uncomfortable *vis-à-vis* the EU's constant highlighting of its own value system which they see as Eurocentric²⁸ and sometimes smacking of paternalism.

Conclusions

The DCFTAs are a specific instrument for inspiring life into the ENP, which itself is a product of the EU's post-modern approach to the world: the baseline of this approach is that the EU has no external enemies and that its basic values are, in principle, shared and coveted by everyone. The whole remaining challenge would therefore be to identify the appropriate means and instruments to achieve the common goal.

The Arab uprisings and Russia's aggression against Ukraine have forced the EU to say farewell to this illusion. The Union will need to differentiate its approach, by reserving a number of tools (like the DCFTAs) for its privileged partners which share the Union's world view and values, aspire to a high level of integration, and have the deep and comprehensive political will to implement the matching necessary reforms.

This seems to be the case for a number of countries in the east, but far less so in the south. Where the political will for more integration is absent, both sides should realise that fostering the illusion of a privileged partnership serves no one; the use of traditional means of diplomacy and instruments of classical foreign policy ('external action', in the EU's parlance) would be more appropriate: development assistance, CFSP/CSDP, and, if not yet in place, more classical forms of trade liberalisation – without necessarily being 'deep and comprehensive'.

Notes

- ¹ There are, however, important differences within the region: whereas countries such as Tunisia, Morocco and Jordan have traditionally sought for closer integration with the EU, the degree of interest of countries as Algeria, Syria and Libya in the ENP and in closer relations with the EU had been negligible.
- ² For example, in its 'Twinning' programmes, one of the main technical cooperation mechanisms of the ENP, the Commission gives to the countries of the Southern Neighbourhood far greater autonomy within the planning, preparation and implementation of programmes than to the Eastern countries.
- ³ In total, the 'common values/shared values' are mentioned 20 times in the 2004 ENP communication.
- ⁴ Joint Declaration of the Paris Summit for the Mediterranean. Paris, 13 July 2008.
- ⁵ Joint Declaration of the Prague Eastern Partnership Summit Prague, 7 May 2009
- ⁶ In trade circles generally referred to as the 'Singapore issues', a reference to the World Trade Organization Ministerial Conference of 1996 in Singapore.
- ⁷ These agreements became outdated due to internal developments in both the EU and its partner countries. The PCAs refer to the partner countries as 'countries with an economy in transition', which is no longer appropriate after the recognition of their market economy status and their accession to the WTO. Moreover, the level of bilateral cooperation has gradually extended beyond the scope of the PCAs, for example in the field of police and judicial cooperation in criminal matters.
- ⁸ Some provisions of the AA with Moldova were already outdated at the time of signing: the visa-free regime stipulated in the agreement had already been established in March 2014, three months before the signing of the AA.
- ⁹ *'The borders of Europe now stretch from the coast of Portugal to beyond Kiev. We have chosen Europe: it is not just a question of geography, but a matter of shared spiritual and moral values.'* Address by Viktor Youshenko, President of Ukraine, to the European Parliament, 23 February 2005. http://europa.eu/rapid/press-release_DN-05-102_en.htm. On Moldova, *'We have an ambitious target but I consider that we can reach it: doing everything possible for Moldova to become a full member of the European Union when Romania will hold the presidency of the EU in 2019'*. Moldovan Prime Minister Iurie Leanca, 29 April 2014. On Georgia, *'Georgia should never leave the path of European integration. The more closely Georgia integrates with EU institutions, the more Russia will have to rethink its policy towards Georgia'*, Georgian President Mikheil Saakashvili 8 November 2011. <http://www.euractiv.com/europes-east/saakashvili-georgia-leave-path-e-interview-508800>.
- ¹⁰ In August 2014, the Ukrainian government presented a bill to Parliament to cancel Ukraine's status as a non-aligned state. If passed, the law would ban Ukraine from joining any political unions which would prevent it from eventually achieving 'its key and sole goal' – membership in the European Union (P. M. Yatsenyuk before the Verkhovna Rada, 29 August 2014).

- ¹¹ In the early days of the civil movement, French foreign minister, Ms Alliot-Marie, offered assistance to the Ben Ali regime by providing French security forces and its *savoir-faire* in controlling social unrest. <http://www.bbc.co.uk/news/world-europe-12591452>.
- ¹² Stefan Füle witnessing before the Select Committee on the European Union Foreign Affairs, Defence and Development Policy Inquiry on Libya, Evidence Session No. 2., Heard in Public, Questions 16-21, Tuesday 15 March 2011.
- ¹³ The EU deplored the violence perpetrated by the Ben-Ali regime only with one month's delay – after Ben Ali had fled the country and France dropped its support to the regime. http://europa.eu/rapid/press-release_MEMO-11-23_en.htm.
- ¹⁴ Defined in the strategy as 'the kind that lasts because the right to vote is accompanied by rights to exercise free speech, form competing political parties, receive impartial justice from independent judges, security from accountable police and army forces, access to a competent and non-corrupt civil service – and other civil and human rights that many Europeans take for granted, such as the freedom of thought, conscience and religion'.
- ¹⁵ These two countries are not eligible to sign DCFTAs due to their non-membership of the WTO, a basic conditionality put forward by the EU, as well as the poor state of democracy and human rights.
- ¹⁶ The Eurasian Customs Union, set up in 2010 as a successor of the 2000 Eurasian Economic Community, currently comprises Russia, Belarus and Kazakhstan (Ukraine being an observer). In 2015, it will be transformed into the Eurasian Union.
- ¹⁷ Russia is still militarily engaged in all Eastern Partnership countries except for Azerbaijan.
- ¹⁸ As proven by a string of bans against Moldovan, Georgian and Ukrainian agricultural products for alleged health reasons following political disagreements. <http://www.rferl.org/content/moldova-wine-russia-import-ban/25102889.html>.
- ¹⁹ It was in order to alleviate this concern that the EU unilaterally decided upon signing the agreement that the provisions of the DCFTA with Ukraine will be applied only from 2016 onwards (but with Ukraine having access to the EU market from the moment of signing).
- ²⁰ In particular the Russian military advisors in Nagorno Karabach.
- ²¹ Armenia declared shortly before the planned signature of the Agreement at the Vilnius Summit in November 2013 that it would no longer seek to sign an AA/DCFTA with the EU, but rather join the Russian-led Customs Union instead.
- ²² The non-trade related parts had already been signed by Ukraine in March 2014.
- ²³ EU security strategy 2003, revised 2008.
- ²⁴ According to Enerdata, Ukraine is the second most energy-wasteful nation in the world spending about \$457 to generate each \$1,000 of output. For comparison, France, Germany and Italy spend \$100 to generate the same amount. If EU energy efficiency standards were applied to Ukraine, the country could be largely energy self-sufficient.
- ²⁵ Such as the attempted repeal in February 2014, of the 2012 language law. This law had given the Russian language the status of an official language in a number of majority Russian-speaking regions. Its repeal provoked a backlash against the Euromaidan movement in Crimea and Eastern Ukraine, which ultimately culminated in the annexation of Crimea by Russia. However, after being internationally criticised (among others by the OSCE High Commissioner on national Minorities), the repeal bill was finally withdrawn.
- ²⁶ Russian state media tend to heavily focus on the more negative effects of EU integration. EU surveys in Latvia and Lithuania have shown that there is a correlation between the consumption of Russian media and attitude towards the EU. <http://euobserver.com/eu-elections/123973>.
- ²⁷ According to a 2011 poll, 46% of Ukrainians are in favour of EU accession, however with high regional differences: whereas 74% are supportive in the west, only 26% of respondents in Crimea and the Donbass declared themselves favourable. Remarkably, a majority (58%) of young people (age 18-29) support EU accession, with no variation between regions. <http://dif.org.ua/en/publications/press-relizy/dfefwgr.htm>.
- ²⁸ An often heard complaint in the south is that the concept of the European reading of the 'Rule of Law' – one of the basic principles of the EU (albeit not precisely defined) – completely disregards the Islamic version of the Rule of Law, the Sharia, which is designated as a source of legislation in most Arab constitutions.



From Strengthening Administrative Capacity Building (ACB) to Public Sector Innovation (PSI): Building Blocks and Successful ‘Bridges’

Alexander Heichlinger, Expert; Manager EPSA, EIPA Barcelona
Nick Thijs, Senior Lecturer, EIPA Maastricht
Julia Bosse, Research Assistant, EIPA Barcelona

Accounting for almost 50% of countries' GDP in the EU28, Europe's public sector plays a decisive role with regard to socio-economic development and competitiveness. Being faced with global challenges such as the economic crisis, demographic change, and strains of increasing expectations in public services and institutions, it is indispensable for the public sector to modernise and innovate. This article argues that the concept of 'Administrative Capacity Building (ACB)' does not only lead to performance improvement of institutions and of the provision of public goods and services (internal dimension), but also – and more importantly – to good governance, thus the building of trust and social capital. ACB is therefore a prerequisite for innovation in the public sector.

The authors seek to present different aspects and elements of ACB (the building blocks), referring to its components policy (structural development of organisations), people (professional development of employees) and systems (instruments to tap tacit and implicit organisational knowledge). It is shown that ACB is a priority in the European context, as it is an integrated element in the governance of the EU's overarching strategy Europe 2020, its strategic and operational levels, as well as the alignment of (funding) programmes. Finally, three flagship initiatives by EIPA (the European Public Sector Award and its spin-offs and knowledge transfers, the Common Assessment Framework, and the 'ACB toolbox'), which illustrate the bridges towards public sector innovation, will be highlighted and presented as best cases for a well-functioning public sector.

Introduction

The public sector accounts for almost 50% of countries' GDP in the EU28.¹ In its triple function as regulator, provider and employer (with approx. 75 million employees), it is not only Europe's biggest single 'industry', but it moreover has a crucial role to play in Europe's socio-economic development, progress and competitiveness. However, for the last six years, most public administrations across Europe have experienced continued strains on their public finances, with the first signs of tentative recovery appearing only recently, while being persistently confronted with rising welfare costs due to the effects of the financial crisis and demographic change. At the same time, public authorities have been aiming to live up to citizens' expectations and 'do more with less' with a view to better and wider service provision despite reduced staff levels and tightening budgets.

In fact, the public sector has always been under pressure to increase productivity, to deliver more citizen-centric services and to enhance democratic participation. However, the current challenges of globalisation, technology, increased mobility of people, goods and services, ageing, societal change, and climate change are now more likely than ever before to have a more fundamental impact on the role of the public sector in Europe.² These developments – coupled with the importance of the public sector for Europe's growth and recovery – call for stable and strong institutions, but which are at the same time flexible, agile, and open to change, and thus increase capacities and boost innovation. **But how can this be achieved?**

On a European scale, the prerequisites for the modernisation of public administration and successful reform are often dealt with under the concept of 'administrative and institutional capacity building'.

This concept can be found in varying notions at EU level, such as 'modernising public administration' in the framework of the European Semester, or 'quality of public administration',³ especially in relation to the European Social Fund (ESF). The latter describes broad and systemic concepts that go beyond the technical aspect of training civil servants to address the core issue of 'how public authorities interact with and deliver services to businesses and citizens'.⁴ In return, administrative capacity has good governance as its ultimate objective,⁵ and thus the building of trust and social capital. The above-mentioned concept is closely related to that of public sector innovation. In this sense, administrative capacity creates the pre-condition for making innovation happen in the public sector through reform and the strengthening of institutions, as well as human capital: 'The objective of administrative capacity development, with regard to public sector innovation, is to systematically embed it into operations of the public sector and thus harness innovation when it happens'.⁶ To this end, 'innovation' (in the public sector) is often seen as the creation of 'newness' which goes beyond the average situation or existing modes of – for instance – service delivery. Although innovation should demonstrate a clear leap of creativity, it may not have reached its full level of 'maturity'.⁷

In this article, the authors will examine in detail the various discussions around administrative capacity, its building blocks,

as well as showcasing several examples (bridges) in which EIPA takes the lead or is deeply involved, and on why and how it may work and lead to more innovation in the public sector. In a nutshell, only a well-functioning and developing public sector can be the cornerstone for prosperity and growth in Europe.

Defining and developing administrative capacity: its building blocks

Capacity building/development has a long history in development aid to third world countries. The term capacity building was introduced in the late 1980s, but builds on previous concepts starting from that of institution building in the 1950s. Capacity building/development contrasts with its conceptual predecessors on a number of points. First of all, capacity building issues began to take a more 'macro reform' perspective in the late 1980s and 1990s. Secondly, more attention was paid to the broader environment in a country (or a sector or region) in terms of building capacity. The broader institutional and social patterns of a country were 'the rules of the game' (the conditions) within which the 'players' have to function. Thirdly, because organisations often are interdependent actors whose activities are embedded in larger systems of networks, a more multi-sectoral and systematic approach began to emerge. The management of relationships between actors and between levels began to matter more. Increased efforts were directed towards partnerships, linkages, networks, stakeholder involvement, integrated planning and inter-organisational coordination.⁸ The various aspects are well reflected in the widely used OECD definition of capacity building: '*Capacity building is the process by which individuals, groups, organizations, institutions and societies increase their abilities to: 1) perform functions, solve problems and achieve objectives, and 2) understand and deal with their development in a broader context and in a sustainable manner.*'⁹

In their latest (May 2014) 'Governance Report', Lodge and Wegrich divide administrative capacity into four categories:¹⁰

1. **Delivery capacity** as the resources an administration has available to perform its tasks;
2. **Regulatory capacity** as the way in which the state regulates economic and social activities and in which it monitors and promotes adherence to the rules;
3. **Coordination capacity** as the ability to steer mediation and negotiation processes between parties involved at different administrative levels and among non-state actors;
4. **Analytical capacity** as the state's ability to assess the performance of its system, anticipate future developments, and plan future demands accordingly.

In addition to those categories, an internal and external component should be taken into account. The 'internal orientation' of administrative capacity building focuses on improving the provision of public goods and services by the various public institutions as an end in itself. It focuses more on performance of the institutions and internal pressures. The more 'external orientation' derives from the economic, environmental, social or health field. This orientation is built on the premise that institutional and administrative

The public sector has always been under pressure to increase productivity.

capacity building is intrinsically interlinked with broader society, including competitiveness and socio-economic development.¹¹ In this respect, the strengthening of administrative capacity has as its final goal to contribute to good governance and should not be deemed an aim in itself.

Figure 1: The general context of good governance



'Public Administration Reform is usually thought as a means to an end, not an end in itself. To be more precise we should perhaps say that it is potentially a means to multiple ends. These include making savings in public expenditure, improving the quality of public services, making the operations of government more efficient and increasing the chances that the policies will be effective. On the way to achieving these important objectives, public management reform may also serve a number of intermediate ends, including those of strengthening the control of politicians over the bureaucracy, freeing public officials from bureaucratic constraints that inhibit their opportunities to manage and enhancing the government's accountability to the legislature and the citizenry for its policies and programmes'.¹²

There are three broad elements of institutional and administrative capacity building which can be distinguished: **policy** (including structure); **people**; and **systems**.¹³ These dimensions relate to three specific types of capacities that are subjects of administrative reform interventions.

Figure 2: General elements of capacity building



Source: Ecorys, Assessment of administrative and institutional capacity building interventions and future needs in the context of European Social Fund, 2011, p. 49

The first cluster deals with **structural development of the organisation as a whole** and seeks to enhance the existing organisational structures and mechanisms that are in place in order to improve the conditions for policy making and implementation. In particular, organisational development focuses on the legal and regulatory framework, management structures and capacities, as well as on procedures and mechanisms for consultation, coordination and cooperation. In this cluster, 8 general building blocks for strengthening administrative capacity can be identified:

1. **Strategic planning and evidence-based management** allowing the formulation and monitoring of objectives and goals;
2. **Stakeholders' involvement** in all components of the **policy cycle** (design, decision, production and evaluation);
3. **Appropriate administrative structures** (ministries, agencies, fusion of organisations, etc.);
4. **Simplification** and rationalisation of administrative procedures;
5. **Management of partnerships** with different crucial actors in the field (e.g. other governmental bodies, NGOs, private and business partners);
6. **Results orientation**: impact assessment, evaluation, monitoring and audit to assure the transparency and accountability in terms of efficiency and effectiveness;
7. **Socially responsible behaviour**: ethical, environmental, non-discrimination, gender equality;
8. **Tackling corruption**.

With regard to the dimension of **people**, the goal is individual capacity development. This area falls within the broader scope of human resource management and includes the aim of equipping individuals with information, knowledge and training to enable them to effectively carry out their tasks. Interventions focus on recruitment and career management as well as on the existing incentive and merit systems:

9. **Professionalisation of senior and leading civil servants/managers** (selection, training, mandates and accountability, etc.);
10. **Modern HR policy and management** (recruitment system, incentives, professionalisation, appraisal, involvement, career development, competence management, etc.).

Finally, the dimension of **'systems and tools'** refers to the development of instruments, methods, guidelines, manuals, systems, procedures, forms, etc., which enable organisations to tap into tacit and implicit knowledge (the type which primarily exists in the thoughts of individual people), and to transform it into explicit knowledge that can be shared across organisations. ICT infrastructure (and e-Government in particular) is considered an important intervention tool to improve service delivery:

11. **The use of Total Quality Management Models** (Common Assessment Framework, European Foundation for Quality Management, International Standards Organisation, Balance Score Card, etc.);
12. **User/customer orientation**, involvement and empowerment (needs analysis, satisfaction measurement, administrative burden reduction, one-stop-shop solutions, etc.);
13. **Management of Resources** (financial, knowledge, technology, facilities);
14. **Process management**, optimisation and re-engineering of business processes in order to achieve the defined goals on output and outcome;
15. **e-Governance**; strengthen internal efficiency and external service delivery (e.g. e-Procurement, e-Government, information and communication);
16. **Continuous improvement** by building the learning organisation through knowledge management, bench learning and benchmarking, internal and international networking and fostering innovative solutions (including European Public Sector Award, Observatory on Public Sector Innovation, European Public Administration Network, etc.).

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These 16 building blocks define the overall framework for designing measures to strengthen administrative capacity.

Strengthening ACB in the European context: a priority?!

It goes without saying that administrative and institutional capacity building is an integrated element in the governance of the EU's overarching strategy, Europe 2020, for smart, sustainable and inclusive growth and is consequently also translated to the level of EU funding. Thus, it represents a clear golden thread running through the different strategic and operational levels of alignment and programming in the European Union.

As indicated above, it has been integrated as a core aspect of 'modernising public administration' for the last three editions of the 'Annual Growth Survey' and is thus used in the framework of the European Semester.¹⁴ The European Semester, as a European economic governance mechanism, monitors the effective and timely implementation of the EU 2020 at Member State level, as well as the prevention and correction of macro-economic imbalances. With the Annual Growth Survey in mind, countries receive 'Country-specific recommendations' to stay on track for the EU 2020 targets.

In 2013, more than half of the Member States received such country-specific recommendations for rendering their public administrations more effective and for improving governance. To this end, 'modernising public administration' tackles the cross-cutting areas of general governance (administrative effectiveness), administrative modernisation (e.g. e-Government services and their take-up), quality of public investment (e.g. strategic budgeting and planning,

strategic human resource management), administrative burden on businesses (e.g. time and cost to start a business, time to obtain licences), quality, independence and efficiency of justice and corruption.¹⁵

Administrative capacity building is also reflected in the European funding instruments, in particular in thematic objective 11 'enhancing institutional capacity of public authorities and stakeholders and efficient public administration' of the European Structural and Investment Funds (ESIF). This objective is addressed concretely by the European Social Fund (ESF) and the European Regional Development Fund (ERDF). Moreover, some specific calls of the centrally managed funds like Horizon 2020 or even COSME focus on the exchange of best practices among public administrations and on rendering the public sector more efficient.

Administrative capacity building in practice: successful 'bridges' towards public sector innovation

The current buzz around public sector innovation and manifold ACB actions, conferences and initiatives on an international scale is prominently reflected in examples like the **Observatory on Public Sector Innovation (OPSI)**¹⁶ of the

OECD, or the **LIPSE** project (Learning from Innovation in Public Sector Environments)¹⁷ within the 7th Framework Programme on Research and Development, as well as the well-known **UNPSA** (United Nations Public Service Award and Day).¹⁸ This clearly shows that there is no shortage of demand for such initiatives and the need for collation of best practices and knowledge exchange in the quest for transferrable models for public sector modernisation and reform.

Three flagship initiatives (by EIPA) in support of this mission will be briefly presented: 1) the **EUPAN** and the **Common Assessment Framework (CAF)**; 2) The **European Public Sector Award (EPSA)** scheme and a sample of its prominent knowledge-transfer activities and spin-offs; 3) the construction of a '**Toolbox on ACB**' at EU level.



EUPAN and the Common Assessment Framework (CAF)

The European Public Administration Network (EUPAN) is an informal network of the Directors-General responsible for public administration in the Member States of the European Union, the European Commission and observer countries. The informal structure of the Network is steered by the Ministers responsible for public administration. There was an increasing need within the European Union at the end of

the 1990s for a more intensive and formal response in order to optimise cooperation with respect to the modernisation of government services in the Member States and the preparation for the upcoming enlargement.¹⁹ In 1997, this need was given substance with the formation of a steering committee at European level, which subsequently became the IPSG – the Innovative Public Services Group, acting under the aegis of the network of the Directors-General. The IPSG working group developed a quality tool specifically intended for and adapted to the public sector. This resulted in the year 2000 with the Common Assessment Framework (CAF) – an easy to use and free entry tool based on Total Quality Management for self-assessment in the public sector, which could help public administrations across the EU to understand and employ modern management techniques.



CAF is based on the premise that excellent results in organisational performance, citizens/customers, people and society are achieved through leadership driving strategy and planning, people, partnerships, resources and processes. It consequently looks at the organisation from different angles at the same time. Many of the 16 ACB building blocks mentioned above can be found or are linked to the CAF model. In this way the CAF model itself is an instrument to strengthen the capacity of public sector organisations.



The year 2001 saw further development around the CAF: the European CAF Resource Centre (CAF RC) was established at the European Institute of Public Administration in Maastricht, the Netherlands. It has the aim of being a

European consultancy and training centre of expertise on CAF implementation. Furthermore, the CAF RC carries out research on the use of the model to further develop it and aims to stimulate the European CAF network of national correspondents, as well as being a source of inspiration to the European CAF community.²⁰

In the past 14 years the CAF has also become more mature. In this process three different phases can be distinguished: a **first phase** focusing on the self-assessment (i.e. the introduction of TQM principles and values in the public sector by using the CAF; a **second phase** concentrating more on the improvements after the self-assessment (i.e. the implementation of the actions that were the result of the discovery of many areas of improvement during the self-assessment);²¹ and a **third phase** drawing attention to the mature culture of excellence in an organisation (i.e. the work done in the context of the discussions on the new Procedure for External Feedback).²²

The European CAF Resource Centre keeps track of the (over 3700) organisations using the CAF model. In this way and via the national and European CAF Users' events, the dynamic of working with CAF is spread and public sector organisations all over Europe are stimulated to exchange practices and come together to learn.

EPSA: a strong driver for public sector reform and search of excellence

'EPSA has emerged as a framework for mapping innovative practices, including a comprehensive set of criteria, definitions and categories. This provides a basis for carrying out meaningful analysis and comparisons of countries. Through collecting and sharing these practices, EPSA is adding genuine European value, encouraging learning and inspiring a culture of public sector innovation.'

László Andor, European Commissioner for Employment, Social Affairs and Inclusion, 2013



EPSA is a unique and prestigious platform in Europe, as well as a powerful source or supplier of best practises ('case-maker') from among Europe's public sectors. It rewards projects that address relevant European public challenges and are crucial drivers for innovation and change in the way public actors operate in the 21st century. With more than 800 cases from 36 European countries and institutions, which have been thoroughly assessed by external and independent evaluators since 2009, and which provide an insight into proactive approaches of hundreds of public administrations, EPSA makes (best) practices transparent, transferrable and available to all public administrations. It offers a rich 'data/information treasure' and the possibility to transfer this knowledge while ensuring the extraction of lessons learnt and understanding of respective trends in public reforms.

The main goal of EPSA is a combination of both awarding and learning (platform). Both targets are interrelated and contain benefits for the (potential) applicant. Considering that public administrations' learning methodologies differ substantially, ranging from an autodidactic approach, involving internal and external consultants and advisors or by networking, EPSA contributes directly and indirectly to all these forms of learning.²³

In a recent survey carried out by EIPA among the EPSA 2011 and 2013 Best Practice recipients (105 in total) on the impact of the award scheme for the applicants, several benefits could be identified (with a response rate of 69%): 45% of the applicants considered the process of writing the application (in English) to be highly beneficial; the same percentage of respondents replied that their project received reinforced internal attention leading to further developments and improvements thanks to being awarded in the EPSA. These answers were followed by 34% of applicants who considered the Evaluation Summary Notes (ESN) – the results of the four-step external evaluation process – as being very valuable (i.e. external consultants' involvement), and 30% who got inspiration from exchanging best practices with others (i.e. networking). The positive answers from the majority of applicants (102 compared to 3 BPCs!), clearly show that the EPSA is perceived to bring about positive change and impact for awarded projects.

The EPSA 2015 is about to be launched (www.epsa2015.eu will soon be live for further information) and will again recognise and reward those outstanding public achievements which can further motivate innovators in the public sector in their efforts to reform and change.

EPSA spin-offs and knowledge transfer

EIPA also pays special attention to sharing and exchanging these good practices from the EPSA scheme with the aim of minimising both the wastage of resources in the public sector and the wastage of time spent 're-inventing the wheel'. The so-called **EPSA Transfer by EIPA** covers various formats and transfer routes such as (classical) training, research, advice or consultancy role or matching and broker role (among participants).²⁴

In the following, three examples of this knowledge-transfer are highlighted: one is the '*joint journey in search of local public management excellence*' and cooperation of seven cities – all former EPSA rewarded applicants, the cities of Bilbao (ES), Birmingham (UK), Mannheim (DE), Milan (IT), Tallinn (EE), Tampere (FI) and Trondheim (NO) – which

sector, and how have these ideas materialised in practice?; Why have public management reforms become such a prominent issue?; Which relevant models and methods have been influential?' have inspired recent debates in this field. The authors' ambition was to contribute sophisticated answers and to illustrate what the driving forces are behind the huge number of public management reforms over the last three decades, as well as validating their findings against 16 EPSA (best) practices.

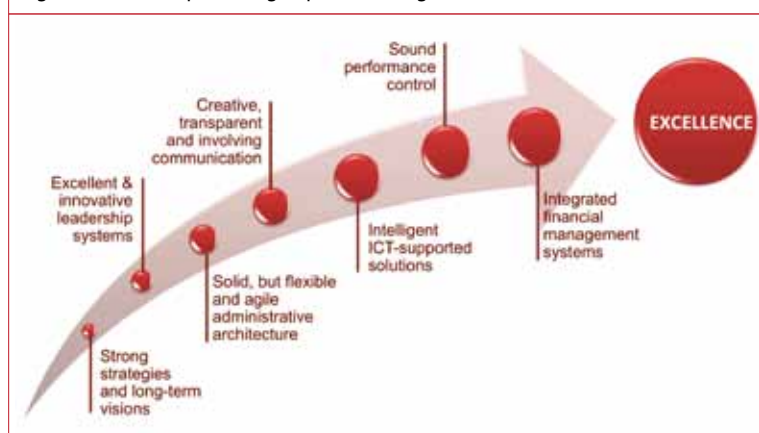


Finally, a most recent flagship example of an EPSA spin-off is the high-level European '*City Economic and Financial Governance (CEFG) Group*' (www.cefg.eu). Dedicated to creating a space for mutual learning in the field of economic and

financial governance, the City Council of Barcelona initiated this high-level strategic partnership together with the cities of Dublin (IE), Hamburg (DE), London (UK), Milan (IT) and Vienna (AT), many of which are former EPSA rewarded applicants. The CEFG Group thus unites larger European cities, representing a total of approx. 30 million inhabitants in their respective metropolitan areas, that aim towards a different way of doing politics – politics that are committed to quality management, sustainability and liquidity of public sector finances as guarantors of Europe's economic competitiveness, its social policies and thus ultimately the wellbeing of their citizens. Over the course of four meetings burning issues such budget practices, integrated financial management systems, their financial accounting practices in relation to the European Public Sector Accounting Standards (EPSAS) as well as national and European accounting systems will be discussed and their effects on economic development and growth analysed.

This timely initiative has already raised a great level of interest in the European environment and is also supported through active participation by the European Commission – Eurostat as it coincides with their efforts to formulate the EPSAS and to apply them EU wide.

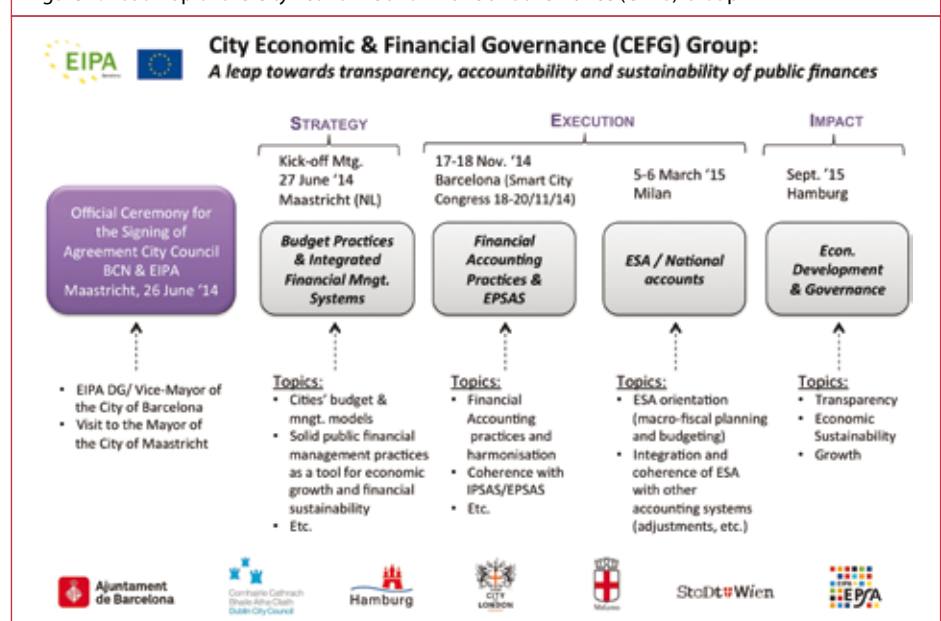
Figure 3: Seven steps leading to public management excellence



resulted in a publication accessible to all public actors (and available in English, Spanish and German).²⁵ The objective of this assignment was to examine, compare and contrast the successful local management models of seven partner cities. Telling their success stories in the different areas of local public management in Europe allowed their knowledge and know-how to be transferred to other public administrations. By highlighting their local experiences, these seven cities also boosted the accountability and legitimacy of their actions, whilst enhancing their visibility and supporting the building of capacities throughout Europe. Each city case was first analysed in terms of background, strategy (for change) development, 'journey', results and innovation power (key enablers and drivers) ('... the making of...') and it concluded by presenting seven steps leading to excellence in public management.

A second prominent example of the EPSA knowledge transfer and contribution to ACB, this time from both an academic as well as practice angle, is the book *Public Management in the 21st Century – Trends, Ideas and Practices*.²⁶ Research questions such as 'What kind of ideas are behind the remodelling of the state and public

Figure 4: Roadmap of the City Economic and Financial Governance (CEFG) Group



Creation of an 'ACB toolbox' at EU level

As mentioned in part 2, the topic of administrative capacity is gaining increased attention on the European agenda. In the new programming period (about €3 billion expected in 2014-2020), the Member States are asked to propose measures to build administrative capacity. A European Commission inter service group, coordinated by the Directorate-General for Employment, Social Affairs & Inclusion (DG EMPL), in collaboration with EIPA is drafting non-binding guidelines for Member States on how to strengthen the functioning of the public sector and invest in administrative capacity.



The initiative for the toolbox arose out of the European Semester of economic policy coordination with Member States, the Annual Growth Survey which consistently highlights good governance in the public administration and judiciary as being essential to economic success, and the resultant Country-Specific Recommendations to Member States. Moreover, there is no single DG in the European Commission with sole competence and an unambiguous leading role. Most have some interest, large or small. Hence, the toolbox is conceived as non-prescriptive policy guidance by highlighting the Commission's and other Member States' initiatives, and in particular by drawing on examples of relevant practices from the Member States as a form of peer-to-peer exchange, structured around key messages. The other main rationale for the toolbox is the future use of European Structural and Investment Funds (ESIF), which include ACB as an area of eligible spending. The ESIF are currently being programmed, with the idea being that the toolbox provides guidance in the implementation of these funds (as programmes tend to focus on priorities and measures, but with relatively little detail of how they might be converted into projects).

The toolbox, which will be available electronically and online by the end of 2014, is currently structured around 7 main themes: **Better policy-making; Tackling corruption; Professional & well-performing institutions; Improving service delivery; Enhancing the business environment; Strengthening the judicial system; and Managing public funds effectively.**

Conclusions

Institutional and administrative capacity building has been a feature of the public sector agenda for many decades. Whereas in the early years ACB was mostly oriented towards developing or transition countries, focused on structures, institutions or functions, more recently ACB widened (from organisational to macro level) and deepened (tackling various topics, cf. 16 building blocks above) its scope sufficiently to approximate a form of strategic public administration reform which ultimately may lead to and foster public sector innovation (PSI).

With this in mind, and despite the continuing lively debate on whether well-established administrative capacities lead to or allow more public sector innovation (ACB -> PSI) or the opposite (i.e. (radical) innovative changes result in more capable administrations (PSI -> ACB)), the EU stresses the

importance of public administration reform, making a well performing public sector an indispensable factor for the larger EU2020 objectives. Therefore, improving the functioning of public administration should indeed be an end in itself; but just as importantly, it contributes to the strengthening of the overall (good) governance of a region/country. The possibilities provided to the Member States during the new programming period 2014-2020, will hopefully push countries to take measures to strengthen their administrative capacity.

In defining and implementing reform initiatives, inspiration might be found from insights gained in previous (best) practices from other public sector organisations/Member States, and can help to abort unsuccessful and scale-up successful ABC/PSI initiatives. Making them available, visible and usable is therefore a crucial aspect in ACB or in any kind of learning. EIPA is contributing to this exposure of interesting examples and identifying key aspects of these domains.

Notes

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The Scope of Directive 2014/24/EU on Public Procurement

Rita Beuter, Senior Expert, EIPA Maastricht

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Introduction

The legislative package in the field of European public procurement includes three new directives: the procurement directive, namely Directive 2014/24/EU on public procurement, which repeals Directive 2004/18/EC on public works, supply and service contracts; the utilities Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors, which repeals the current directive applying to utilities, Directive 2004/17/EC; and for the first time a directive on the award of concession contracts, Directive 2014/23/EU.

The new EU public procurement directives including those on the award of concessions were published in the Official Journal of the EU on 28 March 2014 and entered into force on 17 April 2014.¹ Member States are now required to transpose most of the provisions within 24 months; however, for some provisions, for example in the area of electronic communications, longer deadlines for national implementation (54 months) are provided for.

The European procurement reform is aiming at 'simplification and flexibilisation' of the procurement procedures; strategic use of procurement; better access for small and medium-sized enterprises (SMEs) and sound procedures. In the proposal from the European Commission (EC) from 2011² the issue of governance and professionalisation of procurement received special attention. Yet, the EC's proposal that each Member State would designate a single national oversight body which would be responsible for controlling, monitoring and for the application of the procurement rules has not found its place in the directive, due to considerable opposition from the Member States.

This brief note will limit itself to examining the scope of the new procurement directive, Directive 2014/24/EU, and will not address the manifold changes relating to other key areas. It will neither address changes to the utilities directive, nor examine the new directive on the award of concessions contracts. The objective of this rather technical policy note is to familiarise contracting authorities with the revised scope of the directive, as one of the key questions to be answered is whether a contract is covered by the procurement directive and which rules need to be followed.

Structure

A cursory look at the directive will demonstrate an extension of its length, not so much in terms of the number of articles (extension from 84 to 94 articles), but by extending the number of recitals (from 51 to 138) and the Annexes (from 12 to 15). Relevant substantive text and clarifications are included in the recitals, the preamble of the directive, and a few provisions which were included in the core text of Directive 2004/18/EC have now been moved to the Annexes. When reading the 94 articles of the directive it is apparent that they cannot be fully comprehended without considering the recitals. The text of the recitals has become even more relevant than in Directive 2004/18/EC and Member States need to be aware that when transposing the provisions consideration needs to be given to the recitals, as they provide guidance to the interpretation of the directive.

The new directive is restructured and provides clarification as to the scope, definitions, exclusions and the general rules. The rules relating to public works concessions are now covered by the new concessions directive and service concessions, which were excluded from Directive 2004/18/EC are included in the new concessions directive.

Services

In the new procurement directive, the distinction between Part A and Part B services has been abolished.³ Under Directive 2004/18/EC services are divided into two groups: A and B services, depending on their potential cross-border trade. Part A services cover 16 service categories and the full procurement rules do apply to these services. The so-called less tradable Part B services cover 11 categories whereby category 27 is 'other services' and Part B services are only subject to a few rules of the directive (technical specification and contract award notice) and they are governed by the general principles of the Treaty.

Under the new procurement directive, services are fully covered by the procurement rules unless they are explicitly excluded or covered by the so-called 'light regime', which applies to social, health and cultural services and to some other services that are exhaustively listed in Annex XIV of the directive. The light regime requires *ex ante* and *ex post* publicity for contracts with a value equal to or above EUR 750 000. Contracting authorities are required to comply with the principles of transparency and equal treatment of economic operators. Member States need to develop national procedural rules for these specific service contracts, implying more freedom for the Member States as they are not limited by those procedures which are exhaustively listed in the directive.

Certain legal services, to the extent that they are not excluded, as well as hotel and restaurant services are covered by the light regime. This is surprising since the Evaluation Report on the Impact and Effectiveness of EU Public Procurement Legislation had shown a high degree of cross-border trade for these specific sectors.⁴ Hence, on the basis of the results of this evaluation the Commission had these services included under the full regime in its proposal. Recital 10 of the Commission's proposal states '[...] the full application of this directive is extended to a number of services (such as hotel and legal services, which both showed a particularly high percentage of cross-border trade)'.⁵

Contracting authorities need to be aware that references to nomenclatures need to be made by using the Common Procurement Vocabulary (CPV) which prevails in comparison to other classification systems, as clarified in Article 23, Annex II and Annex XIV.⁶ There is no longer the prevalence of other classification systems such as NACE (*Nomenclature statistique des activités*) or CPC (Central Product Classification) in case of different interpretations. This implies that the CPV classification is binding and it avoids legal uncertainty. Furthermore, Recital 119 explains that '[...] reference to a division does not implicitly entail a reference to subordinate subdivisions. Such comprehensive coverage should instead be set out explicitly by mentioning all the relevant positions, where appropriate as a range of codes.' This is of particular relevance to some of those services which are excluded by specific CPV codes in Article 10, those research and development services in Article 14, and most



importantly those services which are explicitly listed in Annex XIV, falling under the light regime. For example, only those services which are explicitly identified at the level of category or group, i.e. the lower levels of the hierarchical system of CPV codes, are covered and not the entire division which would include the entire range of services.⁶

For certain health, social and related services, the directive provides that contracts can be reserved for organisations '[...] which are based on employee ownership or active employee participation in their governance, and for existing organisations such as cooperatives to participate in delivering these services to end users.' Recitals 118 and 119 further explain that the scope is limited. Those services which are covered are listed by reference to specific CPV codes in Article 77 and include for example, supply services of domestic help personnel, preschool education services, library, archives, museums and other cultural, training and sporting services. The list of services

under the reserved contract rules is considerably narrower than those services covered in Annex XIV. It is up to the Member States to decide whether they want to provide for this possibility when transposing the directive, as this provision is optional. The conditions which need to be fulfilled by the organisations are set out in Article 77.

As indicated above, the distinction between Part A and Part B services has been abolished, which implies a broadening of the scope of the directive; yet there are many additional new exclusions for specific services. Article 10 (d), for example, includes a whole range of legal services which are excluded from the directive, such as services provided by lawyers, notaries, providers designated by court or connected with the exercise of official authority. Other new exclusions include the civil defence, civil protection and danger prevention services provided by non-profit organisations or associations. Furthermore, political campaign services awarded by a political party in an election campaign are not covered by the procurement rules. Some changes have been introduced concerning audiovisual and financial services, as well as loans. It is clarified that public passenger transport services by rail or metro are governed by a different legal regime.⁷ When purchasing these services, contracting authorities are not required to follow the procurement rules as laid down in this directive.

As for research and development (R&D) services, the directive clarifies in Recital 35 that only those R&D services which are not co-financed by the private sector fall under the procurement rules, and where the R&D activities accrue to the benefit of the contracting authority itself. R&D services on security and defence materials are excluded as they are governed by the rules of the defence and security procurement directive, Directive 2009/81/EC.⁸ The covered R&D services are explicitly and exhaustively listed in Article 14.

The specific defence and security exclusions are dealt with in Article 15: these are contracts falling either under the scope of the defence and security procurement rules, contracts excluded from Directive 2009/81/EC, exempted contracts due to the protection of the essential security interests of a Member State, exemptions covered by Article 346(1) TFEU, or secret contracts.



Public-public cooperation

For the first time, rules are included concerning 'in-house contracts' as well as public-public cooperation for contracts concluded exclusively between contracting authorities governed solely by the public interest. Following the many cases before the Court of Justice of the EU (CJEU), these provisions determine the conditions under which contracting authorities do not need to apply a procurement procedure. These detailed rules will provide guidance to the contracting authorities, yet, it is expected that the cases before the Court will continue.



Modification and termination of contracts

The scope of the procurement rules is extended beyond the conclusion of the contract, by including new provisions on the modification and termination of contracts. Article 72 of the directive (modification of contracts during their term) clarifies in which cases contracts and framework agreements can be modified without going through a new procurement procedure, and in which cases a substantial change leads to a retendering of the contract. This article is based on the case law of the CJEU and provides additional clarifications.⁹ For example, for additional works, services or supplies which were not included in the original contract, the directive provides considerably more flexibility for contracting authorities in comparison to the situations allowing for a negotiated procedure without prior publication of a contract notice under Directive 2004/18/EC (Article 31 (4)). Contracts may be modified successively under certain conditions, as the 50% value limit for additional works, supplies and services applies to the single modification and not to the aggregate value of contracts. The specific requirements are addressed in Article 72 (1b) and (1c). Contracting authorities which make use of these possibilities are required to publish a notice and justify the circumstances.

Member States must ensure that contracting authorities are able to terminate contracts during its term under certain conditions and in line with national legislation (Article 73). Contracting authorities should be able to terminate a contract in one of the following cases: a) a substantial modification of a contract; or b) if the economic operator should have been excluded from the procedure on the basis of the mandatory exclusion grounds (Article 57 (1)); or c) if the CJEU concludes that a contract has been awarded in breach of EU law (infringement procedure under Article 258). The last case applies when Member States argue that their national legislation does not provide for the termination of contracts.

Conclusions

This brief note concentrated on the revised scope of the new procurement directive. Other key innovations in relation to procedures, optional and mandatory exclusion criteria, strategic procurement and the codification of the case law in the new directive could not be addressed in this short contribution. EIPA organises comprehensive seminars on the new rules and on the transposition requirements for the procurement directive and the directive on the award of concession contracts.

Notes

- ¹ Directive 2014/24/EU of the European Parliament and of the Council on public procurement and repealing Directive 2004/18/EC, 26 February 2014, OJ L94 of 28 March 2014, pp. 65-242. Directive 2014/25/EU of the European Parliament and of the Council on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC, 26 February 2014, OJ L94 of 28 March 2014 pp. 243-374. Directive 2014/23/EU of the European Parliament and of the Council on the award of concession contracts, 26 February 2014, OJ L94 of 28 March 2014, pp. 1-64.
- ² European Commission, Proposal for a Directive of the European Parliament and of the Council on public procurement, COM (2011) 896 final, 20 December 2011.
- ³ Part A and B services are those services listed in Annex II A and Annex II B of Directive 2004/18/EC.
- ⁴ European Commission, Evaluation on the Impact and Effectiveness of EU Public Procurement Legislation, SEC (2011) 853 final, 27 June 2011.
- ⁵ Regulation (EC) No 2195/2002 of the European Parliament and of the Council of 5 November 2002 on the Common Procurement Vocabulary (CPV), OJ L 340, 16 December 2002. This was amended by Commission Regulation (EC) No 213/2008 of 28 November 2007, OJ L 74, 15 March 2008.
- ⁶ On the 'light regime', reserved contracts and the CPV Codes hierarchy, see Smith, S., 'Articles 74 to 77 of the Public Procurement Directive: The New "Light Regime" for Social, Health and Other Services and a New Category of Reserved Contracts for Certain Social, Health and Cultural Services Contracts', *Public Procurement Law Review*, Sweet and Maxwell, Issue 2, 2014, pp. 159-168.
- ⁷ Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70 (OJ L315, 3 December 2007, p. 1).
- ⁸ Directive 2009/81/EC of the European Parliament and of the Council on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC, 13 July 2009, OJ L216 of 20 August 2009, pp. 76-136.
- ⁹ On modification of contracts and the new rules see Treumer, S., 'Contract Changes and the Duty to Retender under the New EU Public Procurement Directive', *Public Procurement Law Review*, Sweet and Maxwell, Issue 2, 2014, pp. 148-155.



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The Modernised Directive on Professional Qualifications and its Impact on National Legislations

Dr Katerina-Marina Kyrieri, Lecturer, EIPA Maastricht

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In 2005, the Professional Qualifications Directive 2005/36/EC entered into force which consolidated the *acquis communautaire* of 15 directives in the above field of EU law. With this legislation, the EU has reformed the system for recognition of professional qualifications, in order to help make labour markets more flexible, further liberalise the provision of services, encourage more automatic recognition of qualifications in a context of mutual trust, and to simplify administrative procedures.

Eight years later, the Council of the European Union adopted the modernised Directive 2013/55/EU. Modernising the legislation of professional qualifications was considered as key to improving the mobility of EU citizens in the Single Market. This contribution is thus designed to contribute to the debate about the impact of migrant workers on the labour market, and particularly examine the relationship between the recognition of professional qualifications and occupational mobility. In particular, it addresses the question of modernisation, analyses the main features of the amending Directive, and sketches its implications for national authorities in terms of transposition. As a final point, the article advocates the potential value of the Directive in reducing the crisis-induced unemployment so long as the governments' political will to regulate professions is accompanied by a fundamental revision of national skills policies.

Introduction

The capacity for occupational mobility is essential if the EU economy is to be efficient and effective in the global market and if skills mismatches and/or shortages across sectors,

countries and regions are to be alleviated. The critical factor in building this capacity requires the **development of the human capital** potential of the EU citizens **through their right to move and work** in another Member State (Article 45 TFEU), together **with processes for its recognition and transferability across the EU**.

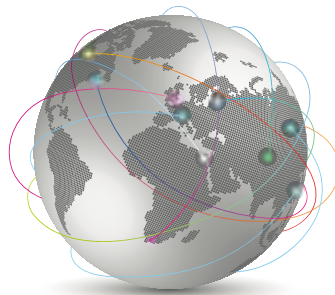


The **Modernised Professional Qualifications Directive** is a step forward towards improving the **professional mobility** in respect of mutual trust. Not only are labour markets expected to work more efficiently in the absence of diversities in the national qualification systems, but customers and patients will also benefit equally from the internationalisation of the free movement of professionals. The assessment and transparency work on regulated professions through increased cooperation between the Member States can help in the fight against unemployment. However, the extent to which the Directive will have a positive impact on crisis-induced unemployment remains uncertain.

On 19 December 2011, the Commission published a proposal for a revision of the Professional Qualifications Directive (2005/36/EC),¹ which the Council eventually adopted on 20 November 2013, with the amending Directive 2013/55/EU taking effect on 17 January 2014.² The updating of the Directive on the recognition of professional qualifications, one of the priorities identified in the Single Market Act – published in April 2011³ – is that modernisation was required to adapt the legislation on regulated professions⁴ to an evolving labour market. This was necessary not only in the

light of modern technologies, but also due to simplification reasons by having a smoother system of recognition, aiming to support the mobility of professionals, offering or seeking a job across the EU. Improving mobility of EU citizens is an important element of matching labour supply and demand and thereby contributing to meeting the Europe 2020 targets for sustainable and inclusive growth.

The need for further simplification and amendment of the existing rules was clear; the rate of professional mobility is still low; yet, 28% of the Europeans of a legal employment age (persons aged 15 years and older) are considering working abroad.⁵ Furthermore, at least 15% of all SOLVIT cases concern issues of professional qualifications,⁶ including difficulties with compensatory measures, problems with education levels (e.g. European Qualifications Framework versus Bologna Process), and differences in scope activities. Also, restrictions to free movement of persons and services are abundant in the case law of the Court of Justice (CJEU),⁷ and the working age population in many Member States (MS) is expected to shrink by 6 million persons (1 million for health professionals by 2020).⁸ On top of that, the demand for highly qualified workers continues to increase, with this projected to rise by over 16 million jobs in the EU between now and 2020;⁹ along the same lines, professionals trained at vocational schools such as in the craft sector will also be needed.



The modernised Directive

The amending Directive applies to professionals wishing to establish themselves by practicing a regulated profession in an EU country other than that in which they obtained their professional qualifications. The interactive map of regulated professions published in May 2014 reveals the causes of obstacles in sectors and professions where the modernisation in accordance with Article 59 of the Directive may have the greatest effect.¹⁰

Additionally, it establishes rules concerning partial access to a regulated profession¹¹ granted on a case-by-case basis¹² and recognition of professional traineeships pursued in another MS.¹³ It is not applicable to the professions governed by specific Directives, such as statutory auditors and lawyers (advocates).¹⁴



Whilst extending its scope to trainees and apprentices, the Directive continues to offer three different routes on recognition. In particular, it foresees:

1. Automatic recognition for a limited number of professions (doctors, dentists, nurses, midwives, pharmacists, veterinary surgeons and architects); yet, it introduces changes in the definition of the minimum training requirements¹⁵ and offers avenues to establish 'common training frameworks'¹⁶ based on a set of knowledge, skills

and competences which are not yet concrete and exemptions may apply for health professionals.¹⁷

2. Mutual recognition for a large majority of professions; however, it is only in cases where the qualifications of a professional differ substantially, or the length of time spent in the profession falls short of those required by the host MS, that the latter may impose justified compensatory measures such as an adaptation period or an aptitude test to close the gap and grant access to a profession.¹⁸
3. Provisions of services or work on a temporary and/or occasional basis with improvements on documents' obligations and procedures.¹⁹ In such situations, professionals can in principle work on the basis of a declaration made in advance which covers detailed information of the establishment, insurance and professional competences in another MS. As regards professions in public health and safety sectors, it is permitted to undertake a prior check of qualifications, language text and any disciplinary actions taken.

The modernisation of the Directive reaffirms the underlying philosophy of mutual recognition and trust between MS, whilst developing on existing rules by introducing brand new elements and exploring innovative ways to better reflect this concept in practice.

A key feature is the introduction by 2016 of a European Professional Card (EPC), taking the form of an electronic certificate.²⁰ This will be delivered in the home MS and transmitted via the Internal Market System (IMI) to the host MS, to present the documents for the recognition process, both for permanent and temporal mobility. The issuance of the EPC will not provide an automatic right to practice a particular profession if there are registration requirements or other control procedures already in place in the host MS before the EPC is used. Following a call for expressions of interest in the introduction of the EPC announced on 18 October 2013, the European Commission proposed the creation of a Focus Group and a more thorough examination of the EPC implementation conditions for seven professions as a first wave (doctors, nurses, pharmacists, physiotherapists, engineers, real estate agents and mountain guides).²¹ Whilst awaiting the implementing act, it is unknown how the Commission will use the responses

to assess the suitability of the EPC for the professions concerned, as well as its impact on EU countries, including value for professionals, competent authorities and costs/fees in relation to administrative procedures.

As regards professions with health implications and professionals dealing with children, the facilitation of service provision has to be ensured in the context of strict respect for public health, patient safety and consumer protection. The Directive has no prejudice towards measures necessary to ensure a high level of health and consumer protection. More concretely, it launches a proactive alert mechanism which foresees that the competent authorities of an MS shall inform the competent authorities of other MS about those professionals who have been restricted or prohibited to practice, even temporarily, by national authorities or courts.²² However, it does not explain how to address the differences in the national disciplinary systems (e.g. 'black lists', persecutions, prohibitions, enhanced supervisions, investigations or court decisions). Furthermore,

the control of language skills is reinforced for health professions. The applicable rule to all is that professionals shall have the necessary language skills to practice the profession in the host MS. However, when it concerns health professionals, there are no limitations for the control. Member States' competent authorities have a great margin of appreciation as to how (e.g. language testing or evidence of language competencies) and when (before or after the registration) they will apply the linguistic obligations, thus making access to the profession a two-step process.

Conclusions

The extent to which skills acquired in one country are accepted and valued in another is one of the most significant non-administrative barriers to the **free movement of labour** and this is why MS have given the EU competence to encourage **mutual recognition of qualifications**. Nevertheless, this agenda is far from complete and when human capital is not largely consolidated in qualifications, there is no obvious way in which migrants can demonstrate their suitability for jobs in a new setting. The Commission has not proposed a new Directive, but rather a targeted modernisation of the existing provisions driven notably by the objectives of reducing the complexity of procedures, promoting mutual recognition through efficiency and patient safety, and enhancing administrative cooperation through the IMI system and Points of Single Contact.²³ To further improve the mobility of EU citizens, it is imperative that **national policy makers step back and consider not only matching labour supply and demand by boosting the supply of skills and qualifications, but also stimulating greater employer demand for effective support, investment and utilisation in skills.**²⁴ The next advancement is whether the overall shortage of skilled workforce calls for an adjustment of the above features/provisions for both EU citizens and certain third-country nationals such as family members of EU citizens, long-term residents, refugees, and 'blue card' holders. This adjustment would not only underpin the enhancement of mobility within the EU, but also in the context of the revised European Neighbourhood Policy.

On the Professional Qualifications topic, the European Institute of Public Administration (EIPA) organises trainings every year which aim to inform civil servants about the new developments, and assist them with the understanding and correct implementation of the Directive's provisions.

Notes

- ¹ Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255/22, 30 September 2005). <http://eur-lex.europa.eu/LEXUriServ/LexUriServ.do?uri=OJ:L:2005:255:0022:0142:EN:PDF>.
- ² To date, Member States run consultation processes related to the method of implementation of the revised Directive so as to collect views from all stakeholders directly affected by its provisions.
- ³ Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, *Single Market – Twelve levers to boost growth and strengthen confidence – 'Working together to create new growth'*, SEC(2011) 467 final, COM(2011), 206 final, pp. 7 and 11.

- ⁴ A regulated profession implies that access to a profession is subject to a person holding a specific qualification according to national laws or regulations; there are 800 categories of regulated professions across the 28 EU MS; (for further information visit the Regulated Profession Database). Training requirements for obtaining such professional requirements can differ from country to country and may, therefore, make the practice of a profession in another MS quite difficult, if not impossible.
- ⁵ Commission Staff Working Paper, *Impact Assessment – Accompanying document to the Proposal for a Directive of the European Parliament and of the Council amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation on administrative cooperation through the Internal Market Information System*, COM(2011) 883 final, SEC(2011) 1559 final, SEC(2011) 1558 final, p. 2.
- ⁶ European Commission MEMO 11/923, *Modernisation of the Professional Qualifications Directive – Frequently Asked Questions*, 19 December 2011, p. 3. http://europa.eu/rapid/press-release_MEMO-11-923_en.htm?locale=en.
- ⁷ For example: Case C-2/74, *Jean Reyners v. Belgium* [1974] ECR 631/ECLI:EU:C:1974:68; Case C-33/74, *Johannes Henricus Maria van Binsbergen v Bestuur van de Bedrijfsvereniging voor de Metaalnijverheid* [1974] ECR 01299/ECLI:EU:C:1974:131; Case C-115/78, *J. Knoors v Staatssecretaris van Economische Zaken* [1979] ECR 00399/ECLI:EU:C:1979:31; Case C-246/80 *C. Broekmeulen v Huisarts Registratie Commissie* [1981] ECR 02311/ECLI:EU:C:1981:218; Case C-107/83 *Klopp* [1984] ECR 2971/ECLI:EU:C:1984:270; Case C-340/89, *Irène Vlassopoulou tegen Ministerium für Justiz, Bundes- und Europaangelegenheiten Baden-Württemberg*, [1991] ECR I – 02357/ECLI:EU:C:1991:193; Case C-19/92, *Dieter Kraus v Land Baden-Württemberg* [1993] ECR I – 01663/ECLI:EU:C:1993:125; Case C-55/94, *Reinhard Gebhard tegen Consiglio dell'Ordine degli Avvocati e Procuratori di Milano* [1995] ECR I – 4165/ECLI:EU:C:1995:411.
- ⁸ Public health emerged as a particular issue during the evaluation; thus safeguards for patients who have concerns about language skills and malpractice needed to be included in the modernised Directive.
- ⁹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 'An Agenda for new skills and jobs: A European Contribution towards the full employment', COM(2010) 682 final, 23 November 2010, p. 9.
- ¹⁰ Article 59 requires MS to provide the Commission with a list of their regulated professions and undertake an assessment of the justification and proportionality of the rules in place; visit European map of regulated professions. http://ec.europa.eu/internal_market/qualifications/regprof/index.cfm?action=map.
- ¹¹ Article 4f.
- ¹² The competent authority of the host MS shall grant partial access to a professional activity when all the following criteria are met: 1) The professional is fully qualified to exercise in the home MS the professional activity for which partial access is sought in the host MS; 2) Differences are so large that the application of compensation measures would amount to requiring the applicant to complete the full programme of education and training required in the host MS to have access to the full regulated profession in the host MS; 3) The professional activity can objectively be separated from other activities falling under the regulated profession in the host MS.
- ¹³ Article 55a.
- ¹⁴ Council Directive 77/249/EEC of 22 March 1977 to facilitate the effective exercise by lawyers of freedom to provide services [1977] OJ L 78/17; Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State

other than that in which the qualification was obtained, [1998] OJ L 77/36.

¹⁵ For example, for doctors the Directive clarifies that the basic medical education ought to be based on 5500 training hours carried out within a minimum of 5 years (Article 24(2)).

¹⁶ To initiate this project, the profession should be regulated in at least one-third of MS (Article 49a(2b)).

¹⁷ An MS shall be exempted from the obligation of introducing the common training framework if there are substantial differences between the common training framework and the training required in its territory, which entail serious risks for the public health or safety of the service recipients (Article 49a(5c)).

¹⁸ Article 14.

¹⁹ Articles 7 & 8.

²⁰ The European Commission shall, by means of implementing acts, adopt necessary measures to ensure the uniform application of the provisions on the EPC which shall not take the form of a physical card due to the risk of falsification or becoming outdated.

²¹ These are not yet confirmed and discussions are currently continuing. This list also does not preclude other professions being considered at a later date. The European Commission has proposed that the implementing act will be adopted by the end of 2014 and provisions in each Member State must be made so that the EPC is available for the professions in the first wave by the end of the transposition period and for the second wave of professions to run in 2018.

²² Likewise the 'Pilot' on the EPC; no public announcement has been made by the European Commission on the implementation of the Alert Mechanism.

²³ Articles 50(3), 56(2a), 57, 57a, 57b.

²⁴ Chartered Institute of Personnel and Development, *The Growth of EU Labour – Assessing the Impact on the UK Labour Market*, September 2014, pp. 27 and 33. http://www.cipd.co.uk/binaries/the-growth-of-eu-labour-assessing-impact-uk-labour-market_2014.pdf.

Recent Publications

Books



EU Law-making in Principle and Practice

Best, E.
ISBN 978-9-292-03014-8
Routledge – EIPA 2014/02 – 188 pages

EU Law-making in Principle and Practice offers a coherent overview of how particular pieces of EU law are produced and shows how they are adopted, from start to finish, resulting in an account of the process which is of both practical and academic interest. The title presents a holistic view of EU law-making using an adapted 'policy cycle', giving a concise account of the principles and practices involved in policy initiation, legislative decision-making, and delegated and implementing acts, as well as considering EU law-making in the perspective of good governance. The title includes many procedural details, as well as illustrative examples, which are not found in other books.



European Agencies in between Institutions and Member States

Everson, M.*, C. Monda, E. Vos* (eds.)
ISBN 978-9-041-12843-0
Kluwer Law International, in the series European Monographs – January 2014 – 312 pages

Despite concerted efforts in recent years to define the position of agencies in the Union framework, a clear overall view of their role and powers in relation to the EU institutions and to the Member States is still lacking. Their hybrid character as part of the composite EU executive, and the fact that increasing powers are delegated to them, makes an understanding of the efficacy and accountability of agencies ever more important.

Benefitting from both academic and practitioner insights from law, political and social sciences, this important book offers an in-depth analysis of the current challenges surrounding European agencies in terms of their design, autonomy, supervisory competence, and legal nature. Among the topics covered are the following:

- realities of the accountability mechanisms currently in place;
- impact of agency acts on the EU's institutional balance of powers;
- agencies as global actors acting on behalf of Member States and EU external relations;
- agencies derived from former networks of national regulators;
- non-hierarchical 'par' nature of agencies *vis-à-vis* corresponding national authorities;
- agencies as crucial amalgams between EU institutions and Member States;
- effect of the Meroni doctrine;
- new financial supervisory agencies resulting from recent economic and financial crises;
- special role of telecommunications agencies; and
- intricacies of the relationship between agencies and the European Parliament.

Because EU agencies are designed to facilitate the implementation of EU law at the national level, powers are increasingly conferred on them in order to ensure that rules are enforced effectively and uniformly. The time has come, however, to confront the many questions of legality and constitutionality that remain. This book responds to the vital question regarding the role and powers of agencies in relation to their manifold 'principals', the EU institutions and the Member States, and lays a firm foundation for managing the challenges ahead.



Microfoundations of Policy Implementation

Nicolaides, P.**

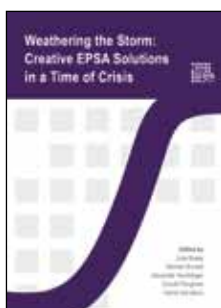
ISBN 978-92-9203-020-9

Routledge – EIPA 2013/01 – 130 pages

The European Union (EU) has a compliance problem: there are persistent failures in the implementation of EU rules and policies by the member states. This book examines how policy implementation may be improved. It explains the nature of policy mistakes, proceeds to consider how individual public authorities and organisations can avoid making policy mistakes and then, in the light of its findings, derives how the EU may induce its member states and their public authorities to improve their compliance with EU rules and policies.

Basically, this is a book about how the right incentives at national level can improve institutional performance and contribute towards more effective application of EU rules across member states without having to confer new competences to the EU. Its premise is that strengthening the capacity of organisations to learn should not only lead to better performance, but should also stimulate useful policy experimentation across the EU.

Although this volume focuses on the obligations of EU membership and how to strengthen compliance, the proposed solutions have broader applicability. Improved organisational capacity for policy implementation will also be beneficial in those areas where the EU has no formal competence. Just as member states can learn from each other, so can policy officials in different policy fields. Good practices can spread.



Weathering the Storm: Creative EPSA Solutions in a Time of Crisis

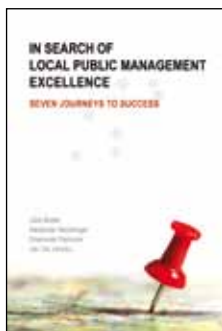
Bosse, J., M. Burnett, A. Heichlinger, C. Rongione and H. Scholtens (eds.)

ISBN 978-90-6779-218-9

Free of charge – EIPA 2013/02 – 114 pages

The economic storm faced by European public administrations continues unabated. Budget cuts and austerity measures coupled with unpleasant tax increases have been extensively applied, though they have not always delivered the expected results. Difficult choices lie ahead for Europe's public sector in order to stabilise public finances, while continuing to deliver the services needed more than ever by an increasing number of citizens as a result of the economic pressure. Trends over time which exacerbate such pressures are unlikely to be reversed in the medium term.

This publication aims to sketch out the trends, ideas and solutions in the various creative public management and service reforms on the one hand, whilst pinpointing common elements or obstacles in their delivery – The Research Part. Key findings, among many others, include active strategies to promote economic growth, the ability to enhance social inclusion, the use of transparency as a means to promote better governance, or the smart deployment of ICT to boost trust in government and improve service delivery. On the other hand, the best and top-ranked 47 practices (15 nominees and 32 additional best practice certificate recipients) are subsequently described, allowing the reader to not only get an idea of the innovation and drivers behind the cases, but also to directly contact the owners behind the applications in order to encourage the learning and transfer potential. These outstanding public achievements span sectors such as economic and urban development, sustainable development, justice and police, education and training, sports and youth, public health, social media, and human resources management. This part – The Catalogue – is supported by data and statistics on the applications (e.g. type, country, size, fully or partly EU co-financed).



In Search of Local Public Management Excellence – Seven Journeys to Success

Bosse, J., A. Heichlinger, E. Padovani* and J.O. Vanebo*

ISBN 978-90-6779-217-2

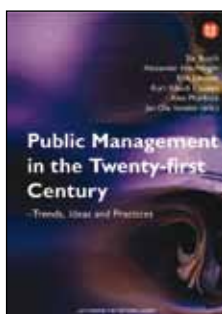
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A well-functioning local public sector is the cornerstone for prosperity and growth. Cities are being confronted by significant pressures and challenges, such as demographic change, an increasingly culturally diverse population, the impact of new technologies, social polarisation and segregation, urban sprawl, and environmental threats to the urban ecosystems. More importantly, the difficulties of the economic system are a reality for many local communities due to the dynamics of globalisation of economies. This exacerbates the well-known problem faced by local policymakers and managers of 'doing more with less'.

This book seeks to examine, compare and contrast seven European cities – Bilbao (ES), Birmingham (UK), Mannheim (DE), Milan (IT), Tallinn (EE), Tampere (FI), and Trondheim (NO) – which have proven their success in adopting creative and excellent solutions. This is done by combining a solid scientific approach of comparison, with a more practical examination of the cases ('...the making of...'). It concludes by presenting seven steps leading to excellence. Each case is first analysed in terms of background, strategy development, 'journey', management control system and financial management, results, and innovation power (key drivers and enablers). These success stories from different areas of local public management – from comprehensive local business-change processes, to smaller and bottom-up projects – aim to show other cities that various routes to smart solutions are possible. The only thing left to find out is: are they ready to take on the challenge?

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Public Management in the Twenty-first Century – Trends, Ideas and Practices

Busch, T., A. Heichlinger, E. Johnsen*, K. Klaudi Klausen*, A. Murdoch* and J.O. Vanebo* (eds.)

ISBN 978-82-1502-199-7

Universitetsforlaget – 2013 – 320 pages

What kind of ideas are behind the remodelling of the state and public sector, and how have these ideas materialised in practice? In this book the authors illustrate what are the driving forces behind the huge amount of public management reforms over the last three decades. Trends and ideas of public management reforms in practice are validated by data from European Public Sector Award cases (2009 and 2011).



The Maastricht Treaty: Second Thoughts after 20 years

Duke, S. and T. Christiansen** (eds.)

ISBN 978-04-1564-126-5

Routledge – 2013 – 184 pages

The Maastricht Treaty, signed in 1992 and ratified in the following year, is widely seen as a landmark in the evolution of the European Union. It introduced into the treaty framework revolutionary new elements such as the co-decision procedure between the Council and the European Parliament, cooperation in the area of Justice and Home Affairs, the Common Foreign and Security Policy and the 'euro' as a single currency for the majority of the then member states. It also introduced the concept of European citizenship into the treaty, reflecting the rising expectations of both citizens and decision-makers in the European project, and upgraded the role of the European Council at the summit of the EU's institutional structure.

Twenty years later, each of these innovations remain of central importance for the process of European integration, while current developments provide a valuable opportunity to reflect on the historical decisions taken in Maastricht in order to assess their significance and examine the subsequent evolution of the Union.

This volume brings together an international group of leading scholars in the field in order to provide such an assessment, with each article both looking back over the developments within each of these domains as well as looking ahead to the way in which the EU is positioned to address current challenges.

Book chapters

Best, E. and T. Christiansen**, 'Regionalism in international affairs' in Baylis, J., S. Smith and P. Owen (eds.) *The Globalization of World Politics* 6th edition, (Oxford: Oxford University Press, 2013), pp. 401-416.

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Working Papers



The New Instrument for Pre-Accession Assistance (IPA II): Less Accession, More Assistance?

Koeth, W.

Free of charge – working paper 2014/W/01 – 15 pages

The EU enlargement engine seems to have run out of political steam. Support within the member countries for future enlargement is at all-time low, while some of the candidate countries have also seemed to put the enlargement process on the backburner. However, at least rhetorically, the EU is still committed to the enlargement process and maintains its entire enlargement tool box, such as the Instrument for Pre-Accession (IPA) – one of the most important EU external financial instruments. The new IPA regulation (IPA II), adopted in March 2014, clearly reflects the fact that the enlargement process is on a holding pattern.



Strategic planning tools for European negotiators to defend their national interests in the Council of the European Union

Lavadoux, F. and M. Grasset

Free of charge – working paper 2013/W/02 – 106 pages

Also available in [French](#)

Negotiating in the Council of the European Union poses some challenges that are common to most international negotiations but there are other dimensions that are a lot more specific. In order to understand better the specific nature of negotiations on a European level and to develop some practical guidelines for European negotiators, it is important to situate European negotiations in the more general context of the theory on international relations and to remember that European negotiations are governed by the general principles which characterise the negotiation theory. This working document has three objectives; after having reminded ourselves of the fundamental principles that govern European negotiations, it aims to provide a general foundation, which in turn will be useful for preparing most negotiations within the Council.

A series of practical recommendations will then be made in order to contribute to the strategic thinking of the negotiator responsible for defending the interests of his or her Member State within the Council.

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- Handbook which identifies and describes possible approaches and best practices to improve access to justice and legal aid.
- Handbook of the Working Group on Criminal Law in order to prepare a tool equivalent to the so-called '*fiches belges*'.
- Handbook on good practices concerning the resolution of cross-border family conflicts – with a special focus on cross-border disputes relating to parental responsibility.
- Handbook describing approaches and best practices in the use of new technologies for case management, circulation of documents, data collection in the legal field and communication of case law to the public.
- Research report 'Overview of the current situation in the ENPI South region and comparative review of national experiences in the field of resolution of cross-border family conflicts'.
- Research report 'Procedural simplification in the ENPI South Partner Countries'.

EIPA Luxembourg – European Centre for Judges and Lawyers,
Lot 2 – 'Study on the State of Play of Lawyers Training in EU Law'. The studies are published on the e-Justice portal https://e-justice.europa.eu/content_the_european_judicial_training_policy-121-en.do. The study was carried out by a consortium led by EIPA Luxembourg JUST/2012/JUTR/PR/0064/A4

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* Not an EIPA staff member.

** Former EIPA staff member.

*** Author formerly published under Kajnc, S.

Institutional News

Order of Merit of the Republic of Hungary

Prof. Dr Marga Pröhl receiving the Officer's Cross of the Order of Merit of the Republic of Hungary from the Hungarian Ambassador, His Excellency Mr Gyula Sümeghy. He presented it on behalf of the President of Hungary, His Excellency Mr János Áder. Maastricht, 27 May 2014



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Agreement between the City Council of Barcelona and EIPA

Official signing of the Agreement between the City Council of Barcelona and EIPA and kick-off meeting of the City Economic and Financial Governance (CEFG) Group, Maastricht, 26 June 2014.

[Clockwise from right: The signing with Sònia Recasens, Deputy Mayor of Barcelona, Responsible for Economy, Enterprise and Employment and Prof. Dr Marga Pröhl.

Ceremony of the signing at EIPA Headquarters.

Sònia Recasens receiving a gift at the Town Hall from Onno Hoes, Mayor of Maastricht]



Meeting with Mr Kyriakos Mitsotakis

During the Greek Presidency a meeting took place with Mr Kyriakos Mitsotakis, Minister of Administrative Reform and e-Government, to discuss possibilities for future collaboration, Athens, 4 June 2014.

[From left to the right: Dr Katerina-Marina Kyrieri, Prof. Dr Marga Pröhl, Mr Kyriakos Mitsotakis and Mr Nikos Michalopoulos, Deputy General Director of Administrative Organisation and Procedures and full member of EIPA's Board of Governors]



Cooperation with the Faculty of Arts and Social Sciences (FASoS)

The signing of the renewal of the cooperation agreement with the Faculty of Arts and Social Sciences (FASoS) of Maastricht University, which offers a Master course in European Public Affairs. Maastricht, 28 August 2014.

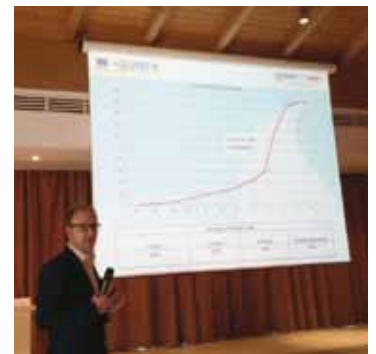
[From left to the right: Dr Edward Best, Dr Sabina Lange, Prof. Dr Marga Pröhl, Prof. Dr Ruud De Wilde and Dr Karolina Pomorska]



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6th European CAF Users Event

The CAF Resource Centre of EIPA once more supported this year's event, which focused on 'Impact and Results with CAF'. It was hosted by the Italian Presidency of the Council of the European Union. Rome, 14 November 2014.





Paola Bruni (IT)

Research Assistant

Fields of Specialisation: Project Cycle Management; EU project monitoring and evaluation; Public administration policies; European Neighbourhood Policy; Instruments for Pre-Accession Assistance; EU macro-regional strategies.

Paola Bruni first joined EIPA in 2012 as an intern, and then became a Research Assistant in the Unit 'European Public Management'. In the same year she completed her second level Master degree from the School of Government at LUISS University of Rome (Italy), specialising in International Public Affairs. She also holds two Bachelor degrees, one in European Studies from the La Sapienza University of Rome, and one in International Relations from the University of Political Science in Perugia. In 2008 she completed a traineeship at the Regional Office for Europe in Marche (IT), dealing with the management of European projects and funds.



Mihalis Kritikos (EL)

Lecturer

Fields of Specialisation: EU decision-making; risk regulation; health law; environmental law; climate change law; food law; governance of science.

Dr Mihalis Kritikos joined EIPA in February 2013 as a Lecturer in the Unit 'European Decision-Making'. Mihalis is a legal expert in the field of EU decision-making, risk regulation, health law, environmental law, climate change law, food law and the governance of science and new technologies. In 2008 he won the UACES Prize for the Best Thesis in European Studies in Europe; he is also a visiting Lecturer at several European universities and an invited speaker at a series of annual conferences on environmental law, food and feed law, the governance of research and innovation, energy law and nanotechnology/biotechnology law. His publications appear in several refereed journals and he is the author of the monograph 'GMO Regulation in Europe' (Palgrave-Macmillan). His expertise lies in the fields of climate change, food safety, technology assessment, health law, sustainable development, nanotechnology, licensing requirements, regulatory compliance and regulatory control of new and emerging risks.

Mihalis has worked as a Research Programme Manager for the Ethics Review Sector of the European Commission (Directorate-General for Research and Innovation) dealing with legal, ethical and governance issues arising during the design and development of a wide range of new and emerging technologies; he was also Senior Associate in the White and Case law firm in the EU Regulatory and Environment Affairs Department. Mihalis was also a Lecturer at the University of Exeter (Department of Law) and taught EU Law for several years at the London School of Economics and Political Science (LSE). He holds a Bachelor in Law (Athens Law School), Master degrees in European and International Environmental Law and Environmental Management (University of Athens and EAEME respectively) and a PhD in European Biotechnology Law (LSE).



Piotr Maciej Kaczyński (PL)

Lecturer

Fields of Specialisation: European institutions; EU decision-making; European Parliament; Inter-institutional relations; External representation; Regional integration

Piotr Maciej Kaczyński joined EIPA in November 2014 as a Lecturer in EU decision-making affairs. He has previously worked as a political advisor in the European Parliament (2012-2014), research fellow and head of programme at the Centre for European Policy Studies (CEPS 2007-2012) in Brussels, and the Warsaw-based Institute of Public Affairs (ISP 2004-2007). He has widely published on EU politics and institutions, as well as on EU foreign policy, including Polish Council Presidency 2011: Ambitions and Limitations (SIEPS, Stockholm, 2011); The Treaty of Lisbon: A Second Look at the Institutional Innovations (co-authored, Brussels, 2010); and Ever Changing Union: An Introduction to the History, Institutions and Decision-Making Processes of the European Union (co-authored, CEPS, Brussels, 2011). He is also an associate research fellow of EUROPEUM Institute for European Policy in Prague, and advises the Polish Robert Schuman Foundation. He has consulted for the Council of Europe, various members of the European Parliament and the Ministry of Foreign Affairs of Poland, for which he has authored five reports on EU-related issues. In 2012 he was awarded the Marshall Memorial Fellowship. Piotr graduated in International Relations from Warsaw University (2002), and in European Studies from the College of Europe (2004).

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Susanne Møller Nielsen (DK)

Capacity-Building Specialist

Fields of Specialisation: Capacity-building in public administrations; Strategy development and planning techniques; Institutional assessment; EU policies; EU Structural Funds; EU enlargement and Instrument for Pre-accession Assistance (IPA); Project pipeline creation; Consulting services.

Susanne Møller Nielsen joined EIPA in September 2014 as Capacity-Building Specialist. She holds a Master of Political Science, and has more than 17 years of professional experience related to European integration and capacity-building of public administrations, as well as working with EU institutions and central and regional governments.

Ms Nielsen has worked in the field of regional development and strategic use of EU Structural Funds and EU Community programmes for regional growth, job creation and private sector promotion. She has direct experience in design and management of EU regional cooperation projects with VET schools, private enterprises, employment offices, regional development agencies, municipalities and NGOs.

She also has extensive experience relating to EU enlargement processes and has worked in pre-accession countries as Team Leader, Key Expert and Twinning advisor on building administrative capacities and training of public officials. In particular, she has focused on preparation for the European Social Fund as well as reform processes regarding regional development, employment, social inclusion, and vocational and education training. Furthermore, she has been involved in human resource development strategies, sector approaches for IPA, as well as having implemented reviews of institutional arrangements related to policy-making and implementation.

Ms Nielsen is an experienced trainer accredited by the European School of Administration. She has designed and delivered numerous capacity-building activities to public officials on EU policies, best practices, strategic planning and PCM, in EU countries, candidate countries and Asia.



Roberta Ribeiro Oertel (DE)

Lecturer

Fields of Specialisation: The constitutional and judicial system of the European Union; EU judicial cooperation (particularly civil matters); EU competition law; private international law; contract law; alternative dispute resolution and family law.

Roberta Ribeiro Oertel joined EIPA Luxembourg – European Centre for Judges and Lawyers in September 2013 as a Lecturer. She studied Law at the Pontificia Universidade Catolica de Sao Paulo, Brazil (1996-2000). She went on to obtain a Master in International Law (2003) from the University of Strasbourg, France. In 2013 Roberta also submitted a PhD at the Faculty of Law in Strasbourg.

Roberta has worked for the Ecole régional des Avocats du Grand-Est in Strasbourg (2006-2010), where she was Director of legal training for lawyers responsible for developing and preparing training. Since then, she has been teaching regularly at the Ecole des Avocats de Paris (EFB) in a number of projects related to European law in the field of civil and commercial matters.

Before joining EIPA, Roberta worked as a lawyer in Strasbourg (2007-2010) and Brazil for several years (2001-2013). She also represented interests of private companies in Brussels in the field of competition law, arbitration, mediation and international trading (2004-2005).



Harrie Scholtens (NL)

Seconded National Expert

Fields of Specialisation: Local government; Change management and risk management; Governmental benchmarking; HRM; Implementation of local e-Government; Client orientation in local government; Cooperation and merging of municipalities.

Harrie Scholtens joined EIPA in January 2013 as a Seconded National Expert. Previously, he worked as Secretary/City Manager of the former Municipality of Middelharnis in the Netherlands.

As a change manager he was responsible for the modernisation of two organisations in different municipalities, in which a fresh view of internal and external communication and citizens' participation was crucial. The modernisation was realised from the bottom up, and his leadership can be characterised as people-orientated. From 2010 to May 2012 he was in charge of the project team for the merging of four municipalities on the island Goeree-Overflakkee in the Province of South Holland in the Netherlands. Also in this case, citizens' participation, as well as internal and external communication, were important factors.

He has represented the Dutch Organisation of City Managers in national working groups in the field of e-Government.

Harrie Scholtens is co-author of the book 'Weathering the Storm: Creative EPSA Solutions in a Time of Crisis' published by EIPA, and he has also written two publications for the 'Governance Connect' website about merging municipalities and developments in public administration.

EIPA Young Professionals' Programme

In 2014 EIPA launched its first Young Professionals' Programme; in September 2014 four Young Professionals started working at EIPA.



Antonio Brugarolas (ES)

Antonio combines a unique blend of academic and practical experience in the legal, political and financial fields, in both the private and public sector. He holds two five-year degrees (*Licenciatura*) in Law and in Political Science from the Universidad de Educación a Distancia (UNED), after having started with the combined double degree programme at the Universidad Autónoma de Madrid (UAM), as well as a Master in Finance and Law from the Duisenberg School of Finance (Amsterdam). Amongst others, he has worked for Santander Corporate Banking UK (London) and the European Investment Fund (EIF) in Luxembourg, where he was involved with JEREMIE mandates and the fund of funds operating in Spain (Neotec).

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Adrian Poher (FR/UK)

Adrian has both British and French nationality. He grew up in France where he gained the Baccalaureate, before going on to obtain a BSc in International Business and German, as well as an MSc in Social Responsibility and Sustainability from Aston Business School, Birmingham (UK). Adrian has worked as a Sustainability and Social Entrepreneurship Consultant in the UK, Spain, Germany and France.



Eviola Prifti (BE)

Eviola holds a Bachelor in Political Science and a Master in International Relations from the Université Libre de Bruxelles (ULB), as well as a Master degree in European Political and Administrative Studies from the College of Europe (Bruges). Before joining EIPA, she worked as an Associate Analyst at the European Union Institute for Security Studies (EUISS) and as an Academic Assistant at the College of Europe (Bruges). She has considerable experience in conducting research and delivering trainings on EU affairs to postgraduate students and to high-level civil servants from both the EU and the Western Balkan countries.



Anna Stawinski (DE)

Anna holds a Bachelor in European Studies from Maastricht University and a double Master in Analysing Europe (Research Master) from Maastricht University and an International Master of European Studies (IMPREST) from the Institute of European Studies of the Jagiellonia University in Krakow. She also holds the Dutch certificate (*Basiskwalificatie Onderwijs* (BKO)) in Teaching in Higher Education (academic lecturing). She has worked as a Media Consultant (1.5 years) and as a Lecturer and course coordinator at the University of Maastricht (three-year assignment). As a Lecturer she supervised Bachelor papers, mentored students and coordinated the negotiation skills training as well as a pre-Master course.



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* Member of the Bureau/Membre du Bureau.

** The appointment will be formally approved at the December 2014 Board meeting.

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European Institute of Public Administration
P.O. Box 1229
6201 BE Maastricht
the Netherlands

Tel.: +31 43 32 96 222
Fax: +31 43 32 96 296
Website: www.eipa.eu

European Institute of Public Administration

Headquarters Maastricht
European Institute
of Public Administration
Maastricht, the Netherlands
Tel.: +31 43 32 96 222
Fax: +31 43 32 96 296
E-mail: info@eipa.eu

EIPA Luxembourg
European Centre
for Judges and Lawyers
Luxembourg, Luxembourg
Tel.: +352 426 230 1
Fax: +352 42 62 37
E-mail: info-lux@eipa.eu

EIPA Barcelona
Barcelona, Spain
Tel.: +34 93 245 13 13
Fax: +34 93 245 13 12
E-mail: info-bar@eipa.eu

EIPA's Representative Office
Brussels, Belgium
Tel.: +32 25 02 10 06
Fax: +32 25 11 67 70
E-mail: info-bru@eipa.eu

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