

European View

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New Perspectives on Migration Policies

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Mikuláš Dzurinda

As I write this, the EU and its member states are in the midst of fighting the coronavirus (COVID-19) pandemic—a true ‘black swan’ event. The pandemic has engaged all of Europe’s attention and every resource available to our communities, both at the civilian and the governmental levels. Even as efforts to contain the coronavirus are ongoing, we can already see that the world after the virus will look different. But as much as COVID-19 is changing and accelerating certain trends in the world, other challenges must still be borne in mind: those that existed before the pandemic are still there and will remain if they are not tackled—regardless of COVID-19. Once we have contained the pandemic—and contain it we will—we should come back to a deep reflection on the longer-term challenges.

This issue of the *European View* is dedicated to one of these challenges: migration. Before touching on the migration topics that centre-right politicians and experts tackle in this issue, let me state some basic tenets for the EU’s approach to migration, as I see them. First, the EU and its member states have limited absorption capacity. This means that at the societal and administrative level it is simply impossible to admit an infinite number of people from third countries without risking social and political disruption. Second, refugees fleeing war and violence deserve our help and they should be able to rely on our assistance and legal protection: the Refugee Convention is binding. Third, the system should be set up so that our social policy systems are not abused. Those who are not refugees and whose skills are not needed for our labour markets should be disincentivised from coming to the EU. These tenets should remain unchanged even after the COVID-19 pandemic is beaten. Reflecting on the pandemic and its inevitable social, political and economic consequences, Europeans should resist the urge to turn inwards to the exclusion of the rest of the world. Nevertheless, as I write, people are being laid off, and it is quite likely that Europe will be facing higher unemployment levels in the near future. This is bound to decrease the need for labourers from third countries.

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How should the migration issue be tackled from an institutional perspective? The issue of immigration represents a common, communitarian challenge, not only a challenge for particular countries. This means that the answers to this challenge must be found together, at the European level, through close cooperation between the member states and the EU institutions. Management of immigration should be organised at the European level, by the EU institutions and the member states working together. This applies to border control, the repatriation of those not granted asylum or a residence permit, and also to cooperation with third countries on migration issues.

The competence of accepting or rejecting migrants and asylum seekers should remain at the national level, as this touches upon the issues of culture and identity as well as the needs of the national labour markets. Asylum procedure should be externalised as much as possible. This means that third countries (especially in Africa, but also in the Middle East and beyond) should be incentivised both to adopt functioning asylum legislation and to build robust asylum systems.

Even more importantly, and as a much bigger challenge, the EU should tirelessly work to stabilise countries in conflict, as well as work with third-country administrations to improve their governance structures and strengthen the rule of law. Therefore, the EU should adopt a comprehensive strategy towards Africa. This strategy should cover humanitarian, development, economic and security aspects. We should begin to understand that without comprehensive and multilevel partnerships with African countries and with the African Union, the goal of minimising the incentives for migrants and refugees to come to the EU will be difficult to realise.

On the internal front, the member states should be financially incentivised to accept refugees, but they should not be compelled to do so. The article by Greece's Alternate Minister for Immigration and Asylum Giorgos Koumoutsakos gives more insight into this issue. Yet, it is also important for Europe not to ignore those in real need. The article by Lena Düpont, MEP makes the point that the EU must distinguish between economic migrants and refugees in need of humanitarian protection, and prioritise dedicating its resources to those genuinely in need of safeguarding. Also, the EU (the member states and the EU institutions) should motivate and incentivise local and regional administrations, as well as non-governmental organisations, to prepare the infrastructure, but also public opinion, to accept refugees and migrants into local communities. The process of the integration of refugees and migrants must be organised from the bottom up, supported by national-level legislation. Countries such as Denmark offer examples to follow. More on this subject can be found in the article by Olgierd Geblewicz, President of the EPP Group in the European Committee of the Regions, and also in the one by Claudia Cajvan. Finally, the article by Tommaso Virgili examines the question of migration from the perspective of the migrants' long-term integration into European societies.

The current affairs section also includes articles on other topics. These include the EU's approach to the Western Balkans region, autonomous vehicles and hybrid threats. I hope that all the expertise provided here can help us to concentrate on the challenges ahead, once COVID-19 is contained.

Author biography



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Migration: A European Question in Need of Urgent Answers

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Giorgos Koumoutsakos

Abstract

Migration is a major issue, not only for Europe but for the whole world, and it will remain so for years to come. It is a phenomenon caused by a number of factors and one that is beyond the capacities of a single state to tackle. Rather it requires solidarity and joint efforts to handle it. This article focuses on the migration/refugee issue in Europe, particularly from the perspective of Greece. It provides an overview of the efforts of Greece and the EU to address the challenge of irregular migration and the flow of refugees in the Eastern Mediterranean.

Keywords

Greece, Migration, Refugees, Mediterranean, Solidarity, Turkey

Introduction

Migration is an international phenomenon that affects all aspects of everyday life across the world in terms of economics, society, and national and global security. In recent years a rise in migration has been observed that can be attributed to various causes, including conflicts, persecution and climate change, as well as a lack of security and opportunity in the countries of origin.

As the International Organization for Migration (IOM) reports, migration ‘will remain a top priority for the foreseeable future’ (IOM 2018, 1). In the past two years especially, ‘there have been major migration and displacement events . . . that have caused great hardship and trauma as well as loss of life’ (IOM 2020, 2).

However, in the case of arrivals to the EU, migration occurs mainly for economic and geopolitical reasons. The migrants and refugees that arrive on the coasts of the

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Mediterranean come from authoritarian regimes, such as those in a number of African states, and conflict zones, such as Syria or Afghanistan, although a rising number of economic migrants are also arriving, mainly in the Eastern Mediterranean, from countries such as Pakistan and India.

This article focuses on irregular migration and the flow of refugees in the Eastern Mediterranean. This region—where Greece is located—acts as the border between Europe and the Middle East and Asia, as well as part of Africa. There are several reasons for the dramatic rise in the number of refugees and migrants arriving. The war in Syria, in conjunction with the role of Turkey and its particular geopolitical agenda, triggered and has perpetuated the migration flows and was responsible for the escalation in the number of arrivals that we experienced in 2015. The article provides an overview of the efforts of Greece and the EU to deal with the flow of people in the Eastern Mediterranean. It argues that irregular migration in the region is a challenge of such magnitude that no one European country is capable of handling it alone. It therefore requires a constant and effective expression of European solidarity.

The situation in the Eastern Mediterranean

According to data collected by Frontex, the European Border and Coast Guard Agency, there has been a significant decrease in arrivals via the routes of the Central and Western Mediterranean, with numbers currently at their lowest since 2013 (Frontex 2020). However, in terms of arrivals via the Eastern Mediterranean route, an increase of 46% has been recorded (Ekathimerini 2020).

Since July 2019, we have witnessed a sharp increase in migration flows from Turkey to the Greek islands, which can be seen from the numbers of arrivals. According to the Greek authorities, in 2019 arrivals to the islands increased by 65% compared to 2018. A particularly dramatic surge has been recorded since July. At that time there was a clear statement/threat from Turkey regarding the migration challenge that Europe could be faced with. On 21 July, Turkish Minister of the Interior Suleyman Soylu stated that, ‘If Turkey does not bear this issue [of irregular migrants] with determination, no government in Europe will be able to withstand this wave for more than six months’ (Yilmaz 2019).

The constant threats and narrative by Turkish officials and President Recep Tayyip Erdogan that they would allow the Syrian refugees hosted in the country to cross freely into the EU constituted a ‘pull factor’ in the sense that it mobilised refugees to move to Turkey’s western borders to wait for the gates to open and for the smugglers’ networks to smuggle people across the borders to Europe.

The situation described above illustrates the critical situation that the Eastern Mediterranean, and Greece in particular, is faced with. It needs to be understood by our European partners that the Greek borders are European borders as well and that a possible further increase in arrivals will threaten Europe as a whole.

The need for European solidarity

From the above it is clear that the Eastern Mediterranean is currently the area most affected by migration and in need of effective solidarity and assistance.

It should be noted that Greece was confronted with the refugee crisis of 2015 not long after the fiscal crisis of 2009. However, it is clear that the refugee/migration issue is primarily a European and not merely a Greek issue. Hence European solidarity and responsibility are key factors in the proper handling of the situation.

Solidarity is much more than a word or an idea. It is a core EU value and also has substantial political and legal aspects. Solidarity is enshrined in both the Treaty on European Union and the Treaty on the Functioning of the European Union. Moreover, solidarity goes beyond mere economic support. Therefore, it is sad that a number of members of the European family are refusing to participate in the distribution of asylum applicants and thus to assist the front-line member states. This refusal is having the effect of leaving the countries on the front line exposed to the intensity of arrivals and the consequent burden that the flows cause.

It needs to be understood by our partners that only a fair distribution of refugees and migrants among the member states can bring real change to the current situation.

Greek efforts

Since assuming office, Prime Minister Kyriakos Mitsotakis has tried to sensitise Greece's European partners, as well as his international counterparts, to the intense migration challenge which Greece is facing. In this regard, he has held a series of meetings with his European counterparts, including French President Emmanuel Macron, German Chancellor Angela Merkel and Dutch Prime Minister Mark Rutte, as well as President Erdogan. He has also put the migration issue on the agenda of European Council meetings.

My main responsibilities as Greece's Alternate Minister for Immigration and Asylum include the presentation and promotion of Greek concerns, priorities and goals in the international arena with regards to the migration/refugee issue. To achieve this, I am in constant contact with all the international stakeholders involved, with the aim of securing alliances and establishing stronger cooperation with our European and international partners. To that end I have conducted a series of meetings.

With Greece committed to the principles of constructive dialogue, I have personally held meetings with my Turkish counterpart, Mr Soylyu, to intensify cooperation between the Greek and Turkish authorities and to secure the proper implementation of the EU–Turkey statement of 2016. After all, we need to remember that the EU–Turkey statement is the only existing tool for successful cooperation with Turkey on the migration issue. However, it should be noted that the Turkish authorities, the Coast Guard and the

Gendarmerie in particular, are reluctant, to say the least, to respond to Greek calls when boats are apprehended leaving the Turkish coast, thus burdening the Greek authorities with daily arrivals of almost 500 refugees and migrants. We urge Turkey to implement the EU–Turkey statement in full, which is not currently the case, and to uproot the smuggler networks that operate within its borders.

Regardless of the situation with Turkey, European assistance remains compulsory. The Greek–Turkish migration issue only represents the bilateral part of the EU–Turkey statement. The EU must ensure further funding for Turkey (Gatopoulos 2019) so that the refugees that are now on Turkish soil can be accommodated and settled there.

Greece has taken a number of measures to deal with the migration issue. The actions taken by the Greek government can be said to cover both the internal and the European/international level. The following measures have been announced and implemented internally:

- The relocation of migrants to the mainland in order to decongest the camps on the islands in the Eastern Aegean Sea.
- The transfer of unaccompanied minors to the mainland in order to speed up the reunification of families.
- Further strengthening of the border patrols through closer cooperation with Frontex and NATO.
- The implementation, since 1 January 2020, of new asylum legislation. This change speeds up the examination of asylum requests and the return of rejected migrants. It should be mentioned that the current government inherited a backlog of over 75,000 unprocessed applications and that in the period 2015–19 only approximately 2,000 returns took place. This was mainly due to the false ideological view of the previous left-wing government of the Coalition of the Radical Left (Synaspismós Rizospastikís Aristerás, SYRIZA), which perceived the migration issue as a purely humanitarian one, without focusing on the serious dimension of security.
- The provision of support for local communities. The islanders, as well as people in parts of the mainland, are experiencing ‘migration fatigue’. After five years of constant flows, they are still trying to accommodate and help the arriving migrants, but understandably they are tired.
- The implementation of initiatives to assist unaccompanied minors by providing shelter and appropriate living conditions.
- The construction of five new, strictly controlled reception and identification centres on islands in the Eastern Aegean Sea.

On the European level, there are a number of positive factors that indicate that a more focused and adequate approach is being taken to the migration issue. First and foremost, it is of significance that the European Commission, under President Ursula von der

Leyen and Vice-President for Promoting our European Way of Life Margaritis Schinas, has placed the migration/refugee issue at the top of its agenda. German Minister of the Interior Horst Seehofer has also set the issue high on the agenda of the forthcoming German EU Council Presidency in the second half of 2020.

Greece has been and will remain intensely involved in the negotiation of the new Common European Asylum System. So far, we have submitted three policy papers:

- We launched a trilateral initiative with Cyprus and Bulgaria to put the Eastern Mediterranean migration front at the centre of European attention. A joint text was submitted to the EU Justice and Home Affairs Council in October 2019.
- We submitted an initiative to the EU Justice and Home Affairs Council in December to establish a Common European Return Mechanism based on using leverage and incentives for countries of origin, an enhanced role for Frontex and, of course, an expression of solidarity from our fellow member states.
- At the last informal EU Justice and Home Affairs Council in Zagreb we submitted a proposal to address the issue of smugglers' networks. In Turkey in particular, as mentioned above, there is a vast network of smugglers operating within the borders, transporting people across the Aegean to Europe. The key element in tackling the migration/refugee issue and especially illegal migration is to uproot these networks.

With regard to the proposal of the European Commission to replace the existing Dublin III regulation, which provides a mechanism for determining which EU country should examine an application for international protection that has been lodged in one of the member states by a third-country national or a stateless person, we consider that it is indispensable that any new legal text takes into account the actual capacity of a member state to handle asylum applications. As mentioned earlier, Greece already has a backlog of over 75,000 unprocessed applications, inherited from the previous government, on top of which hundreds more are being added on a daily basis. According to Vice-President Schinas, the European Commission is expected to submit its proposals in spring this year (Ekathimerini 2019b).

Public diplomacy is another important aspect of dealing efficiently with the migration/refugee issue. It is necessary to design and implement campaigns that will both inform the public about the issue and convince third countries of the necessity of cooperating with the EU on this matter. In this context, it is necessary to point out that there should be incentives offered to third countries, on the basis of 'more assistance where there's more cooperation, and less assistance where there's less cooperation'.

Conclusion

It is sad and unacceptable that there are a number of EU member states that have come into the negotiations with fixed positions and that are disinclined to show willing and

effective solidarity. Front-line member states, such as Greece, cannot change their geographic position and therefore will take the responsibility that they have to take. However, it is unjust and goes against the principle of solidarity enshrined in the EU treaties that only a few front-line states should have to carry a burden beyond their capacity and power for the whole Union.

In light of all of the above, the need to address the migration/refugee issue is imperative. Greece is playing its part by dealing with the burden of the Eastern Mediterranean front on a daily basis and by participating actively in all negotiations that will form the European Commission's proposed New Pact on Migration and Asylum. However, none of the possible proposals and plans will succeed unless all European partners and stakeholders assume their share of responsibility for the common burden.

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Author biography



Giorgos Koumoutsakos is Greece's Alternate Minister for Immigration and Asylum. He previously served as Shadow Foreign Minister from November 2016 to July 2019. During the previous legislative term, he was a member of the Standing Committee for National Defence and Foreign Affairs of the Hellenic Parliament.



EU Search and Rescue Activities in the Mediterranean

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Lena Düpont

Abstract

This article focuses on the EU's search and rescue activities in the Mediterranean, the location of some of the world's deadliest migration routes. It argues that saving lives at sea is not an act of grace, nor of simple solidarity with those at risk. Rather, it is first and foremost a legal obligation under international law. Understanding this fact is essential when engaging in the underlying and frequently misleading debate on our humanitarian obligation to render assistance to people in distress at sea. The article also makes the point that the EU must clearly distinguish between economic migrants and refugees in need of humanitarian protection, and prioritise dedicating its resources to those genuinely in need of safeguarding. Legal pathways and humanitarian corridors can only be set up for refugees.

Keywords

Search and rescue, Mediterranean, Human trafficking, Migration, Refugees, Europol

Introduction

This article argues that the EU needs to prevent people from risking their lives crossing the Mediterranean and end the viability of the business model of human smugglers and traffickers. Saving lives at sea is not an act of grace, nor of simple solidarity with those at risk. It is first and foremost a legal obligation under international law. Understanding this fact is essential when engaging in the underlying and frequently misleading debate on our humanitarian obligation to render assistance to people in distress at sea. The route from Libya to Europe is still the migration route with the highest death toll in the world (UN News 2019). Our primary aim needs to be to deter people from risking the dangerous and deadly crossing of the Mediterranean. This is the basis of our determined commitment to fighting organised crime and human traffickers; however, protecting the most

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vulnerable is no less of an obligation for the EU. Migrant smugglers make huge financial gains by exploiting people and putting their lives at risk (*The Guardian* 2015). This cynical multi-billion-euro business must end. Therefore, we must push for a holistic approach that ensures proper coordination of sea rescues and a migration policy that is fair on those in need of protection, firm on those who are not eligible and strong against human traffickers.

The problem of fatalities at sea is not born at sea; it arises on land. Increased information sharing, coordinated operational actions and engagement with third countries will all support efforts to ensure that smugglers have no space in which to act. Europol, the EU agency for law-enforcement cooperation, plays a fundamental role in fighting migrant smuggling. Europol's European Migrant Smuggling Centre, supported by the work of Eurojust, the EU agency for judicial cooperation between member state agencies, is already a key asset, but its capabilities can be enhanced. Its main task is supporting police and border authorities to coordinate highly complex cross-border, anti-smuggling operations. In this regard, strengthening Europol's mandate is imperative. In addition, close cooperation and engagement with third countries is paramount to prevent migrant smuggling. One step in this respect is to share information and carry out awareness-raising campaigns of the risks of smuggling and irregular migration. This is crucial to prevent prospective migrants and asylum seekers, including people in more vulnerable situations such as children, from embarking on hazardous journeys to the EU. As part of a coherent 'Africa Strategy' we must support countries of origin and transit in the fight against people smugglers and help to build capacity, both in terms of effective asylum legislation, law enforcement and border management, and in the fields of education, health and social policy.

Non-governmental organisations conducting search and rescue operations

The European People's Party has been very clear that all non-governmental organisation rescue vessels can be part of the search and rescue (SAR) solution in the Mediterranean. At the same time, we call on all vessels to follow the instructions given in compliance with international and EU law by the competent Maritime Rescue Coordination Centre, and to cooperate with the member state authorities and the European Border and Coast Guard Agency (Frontex) in order to ensure the safety of migrants. However, for Frontex to share intelligence about operational activities with every boat in the Mediterranean would endanger more lives by facilitating, instead of dismantling, the business models of smugglers. Providing assistance that respects international conventions and applicable rules is not and should not be criminalised. This does not imply that any criminal act committed during an SAR operation should not be prosecuted. We cannot allow a legal vacuum to exist at sea.

Protecting the most vulnerable

The EU must clearly distinguish between economic migrants and refugees in need of humanitarian protection and prioritise dedicating its resources to those genuinely in need

of safeguarding. Legal pathways and humanitarian corridors can only be set up for refugees. Irregular economic migration to the EU must be significantly reduced for the sake of those in need of humanitarian protection as defined by the Geneva Convention. For those in pursuit of a better life, we need well-managed rules on legal migration which respond to the evolving labour market's needs.

SAR in the broader context of asylum and migration

Migration has been and will continue to be one of the defining challenges for Europe. It is therefore imperative that the EU finds a common European response to this challenge that balances solidarity and responsibility. Faced with the largest flows of displaced people since the Second World War, it is vital that we act collectively, determinedly and urgently. An effective reform of the Common European Asylum System (CEAS) is overdue. Strong borders, fair procedures and a sustainable system able to anticipate future migration crises need to be part of it. Effectively implementing the CEAS and safeguarding the Schengen area go hand in hand with the effective protection of the EU's external borders, alongside an efficient return policy for those third-country nationals without legal grounds to stay in the EU.

Despite the continuous efforts of member states, the European Commission and Frontex, the return rate is far from satisfactory. Increasing the number of returns requires additional efforts from both member states and third countries. Member states' return systems need to work in a coordinated manner. The full implementation of the Schengen Information System for Return is also key, enhancing border procedures and fighting secondary movements. The member states' competent return authorities should make full use of Frontex's new mandate on returns, taking into account its extension in both the internal and the external dimensions, including pre- and post-return activities. For the external dimension of its return mandate, Frontex should make use of all available tools and capacities to create leverage for cooperation with third countries in the field of returns. This needs to be part of a coherent new Africa Strategy. Cooperation should be mutually beneficial and based on the 'more for more' principle, whereby additional efforts by countries of origin and transit are rewarded with increased cooperation and additional support. Therefore, all relevant EU policies, instruments and tools, including trade agreements, as well as development aid, legal migration and visa policies should be linked with the cooperation of third countries in the fields of migration, return and readmission to assist with preventing irregular migration and returning irregular migrants to their countries of origin.

One of the overarching objectives of EU policies must be to address the root causes of migration. The focus should therefore be on assisting with the development of stable institutions to promote sustainable societal development in countries of origin and transit. This will require not only increasing development funding but also taking steps to create a new framework that enables a substantial increase in private investment from both Africans and Europeans. There should be a particular focus on education, health, infrastructure, innovation, good governance and women's empowerment. It is essential

to work with partner countries on resilience and stability, and on creating jobs and opportunities, both for migrants and refugees and for the host communities.

The EU needs to build on the experience of the EU Trust Fund for Africa and continue the work done so far on the African continent. It should replenish the Trust Fund for 2020 with contributions from member states and the Commission whilst identifying the precise needs it can fulfil.

The effectiveness of returns can only be improved if we increase coordination and work towards a European approach. The EU should ensure that in the future model, the majority of asylum seekers' applications are made outside the Union, or at the Union's external borders, prior to a decision on admission. The reformed CEAS should ensure that member states accept their fair share of responsibility, respecting the principle of solidarity, the latter being at the core of any EU approach to migration. A reformed CEAS should enable member states to form part of an EU framework where incoming asylum seekers are fairly distributed among them, thereby alleviating the pressure on states of first entry. Member states that are reluctant to participate in this framework must make significant, tangible contributions through other forms of meaningful solidarity. An EU framework for relocation between member states should ensure that all applicants in clear need of international protection are in a position to fully and swiftly enjoy their protection rights in the member state of relocation, while preventing applicants who are likely to receive a negative decision on their application from being relocated to another member state.

The EU should resume the discussion about regional disembarkation platforms on both sides of the Mediterranean where asylum seekers could be received safely and their claims assessed in an efficient, dignified and humane way. Such platforms could be operated by the European Asylum Support Office and Frontex without prejudice to the proper functioning of the reformed Dublin system. Every safe country in the Mediterranean, both EU states and third countries, has a role to play in SAR operations. Disembarkation must take place in accordance with international law, both inside and outside EU territory. Member states should be able to provide an examination on admissibility or an examination on the merits of an application, which would make it possible for such applications to be decided upon at the external border or at regional disembarkation platforms in certain well-defined circumstances. The accelerated examination procedure and the border procedure are necessary tools to deal efficiently with the examination of applications that are clearly fraudulent, manifestly unfounded or inadmissible. These should therefore be mandatory components of the future European Asylum Policy, which should also prioritise applications that take place at the external borders or outside Europe. We need to revisit regional arrangements for determining places of disembarkation to relieve front-line states of sole responsibility for disembarkations.

The 2016 EU–Turkey deal had significantly reduced the migration pressure on Europe. By establishing similar agreements with transit countries and countries of origin, illegal migration can be prevented while a large number of migrants can benefit from financial support in the countries of origin or transit. The EU facility for refugees in

Turkey has given almost 1.7 million Syrians support for basic daily needs, and more than 500,000 refugee children have been supported to attend school. Strengthening and further harmonising the CEAS rules should also ensure that treatment is equal across the EU in relative terms and reduce undue pull factors to come to the EU.

Resettlement is a safe and legal alternative to irregular and dangerous journeys for people in need of protection, and, by supporting it, it offers the EU a chance to demonstrate European solidarity with the non-EU countries hosting large numbers of people fleeing war or persecution. The member states' continued commitment to resettlement as a safe and legal pathway into the EU confirms that this remains one of the core instruments enabling people in need of international protection to arrive in the EU in an orderly, managed, safe and dignified manner. At the same time, greater responsibility for protection should not only be taken by the EU as a whole, but also by the international community, as it is currently shared in an uneven manner at the global level. Further development in this regard should be fostered and based on the UN Refugee Forum, where the principle of international responsibility sharing should be turned into concrete action. The smart management of migration requires not only a policy to address irregular flows while ensuring protection for those in need, but also a proactive policy of sustainable, transparent and accessible legal pathways. Europe is an ageing continent with a declining working-age population. The EU should explore ways of attracting innovative entrepreneurs who can boost economic growth and help create jobs. Legal migration has to become part of the overall discussion with countries of origin and transit on how to cooperate in the management of migration flows. The EU should foster cooperation between small and medium-sized enterprises in member states and third countries and push for a system of investment rather than solely aid.

It is well known that safe and legal migration pathways are the best ways to avoid loss of life.

Conclusion

The flow of refugees and irregular migrants across the Mediterranean is a major challenge for the EU. The EU must focus more on the root causes of these flows. It is essential to work with countries of origin on stability and, furthermore, to improve the economic opportunities of their inhabitants, thus giving people less incentive to migrate to Europe and potentially risk their lives in the process. This should be achieved firstly through enhanced investment and economic cooperation with African countries, and secondly through the provision of development aid. Cooperation on migration that engages partners in Africa to tackle the challenge should be one of the pillars of a coherent new Africa Strategy. The EU's institutional resilience, which facilitates its ability to admit and handle newcomers, should be also strengthened, as should the EU's capacity to return those who do not acquire refugee status.

Although irregular migration to the EU should be stopped, there is also a need to undertake initiatives that seek to stop the loss of life in the Mediterranean when people

from North Africa try to reach Europe. The member states, the EU and non-governmental organisations operating in the Mediterranean should cooperate more effectively to help those trying to reach Europe. However, these efforts should be better coordinated. Otherwise, we risk fuelling the exploitative business model of human smugglers and traffickers, who profit from the plight of those who seek to reach Europe. Efforts should be undertaken to create disembarkation platforms on the shores of the receiving states. The whole procedure of potential admission, resettlement or return could then be handled at these locations. Safe and legal pathways to reach the EU should be created, and those in need should be helped.

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Western Pomeranian Experiences with Migration and Emigration: The Need for Local Solutions

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Abstract

The article describes the socio-demographic situation of Western Pomerania following Poland's accession to the EU in 2004. Western Pomerania faced a number of challenges: a brain drain, a rapidly ageing society and a shortage of workers. The region's demographic situation was particularly serious compared to Poland's other regions. However, Western Pomerania is now profiting from an inflow of migrants, especially from Ukraine, which is boosting the region's economy. The article describes the measures undertaken on the local and regional level to promote the inflow of economic migrants and to integrate them into the local society. The measures described are helping to form a broader regional strategy to tackle the challenges of people leaving the region, the ageing population and a departing workforce. The article argues that if the proper support for newcomers is provided, migration could become a positive factor for the local economy.

Keywords

Poland, Western Pomerania, Migration, Emigration, Integration

Introduction

The Western Pomeranian region of Poland is home to more than 1.7 million people. It is one of the least populated areas of the country, ranking 11 out of 16 in terms of the populations of the Polish regions (Poland, Central Statistical Office 2018). Over the last few years, the population of Western Pomerania has declined. According to demographic forecasts prepared by the Polish Central Statistical Office, by 2030 the voivodeship's¹

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population is expected to have fallen by 80,000 people (Western Pomeranian Voivodeship 2019). Furthermore, by 2030, the percentage of people aged 65 and over in Western Pomerania will be higher than the average nationwide. Western Pomerania is also facing the problem of an outflow of the population caused by economic emigration, which, in the context of decreasing unemployment, is leading to a shortage of workers.

Due to the growing standard of living in Poland, and especially in the region, and the enduring attractiveness of the European social and economic model, for several years we have observed a steady increase in economic migrants to Europe, and to Poland especially, among which Ukrainians constitute the largest group (Gorny et al. 2018).

The story of the Western Pomeranian region is a very European one. This is not only because of its history—through the centuries the wider region has formed part of Poland, Sweden, Denmark and Prussia—but also because of the present-day challenges it faces. The issues of depopulation, brain drain and a simultaneously rising number of migrants are at the top of the agendas of many EU regions. The response to these common challenges, however, cannot take the form of a one-size-fits-all approach. This article argues that regional authorities need to find the right policy tools and utilise the necessary resources to fit the local circumstances. The case of Western Pomerania certainly cannot offer a broadly applicable solution for the whole of Europe. However, it can serve as a good example of the attitude that policymakers should adopt in order to tackle depopulation and a growing hunger for workers while keeping the local population at ease with their new fellow citizens.

The rest of this article is divided into three sections. The first section discusses Western Pomerania's experiences with migration and emigration since Poland joined the EU in 2004, and provides some insights into the strategies that Europe's regions can adopt to deal with the social and economic implications of migration. The second focuses on a new project, the Western Pomeranian Migrant Support System, which was established in 2018. This project is intended to respond to economic policy by attracting foreign workers with the relevant qualifications to meet the needs of the labour market, which is suffering as a result of unfavourable demographic trends. The third and final section summarises the main arguments and presents the view of the European People's Party (EPP) Group in the European Committee of the Regions, with the aim of enabling productive discussions on migration at the subnational level.

Western Pomeranian experiences

The influx of Ukrainian citizens has had a positive impact on the economy of the Western Pomeranian voivodeship. Ukrainians come to the region to fill the staffing gaps in various enterprises, both in industry and in the service sector. The choice of Poland as the destination for economic migrants is dictated by its relatively high wages, as well as its geographical, linguistic and cultural proximity to Ukraine. Most of the Ukrainians who have immigrated to Western Pomerania are between 26 and 40 years old.

Ukrainian citizens belong to the group of foreigners for whom there is a simplified employment procedure (Poland, Official Journal 2015). This procedure allows newcomers to start legal work for a period of six months based on a declaration made by their intended employer. The procedure involves submitting a written statement to the relevant labour office of the employer's intention to employ a foreigner. This is accompanied by a letter justifying the need to contract a foreigner (usually the inability to satisfy the company's personnel needs on the local labour market) and attesting that the work will be performed according to the conditions indicated in the declaration. In 2018 the legislator introduced an additional option—the seasonal work permit. This allows foreigners to be employed for a maximum period of nine months per year.

The Polish labour market has changed dramatically in recent years. At the end of 2004—the year of Poland's accession to the EU—the registered unemployment rate in Poland was 19%, while in Western Pomerania it was 27.5% (Voivodeship Labour Office in Szczecin 2019). Thanks to actions carried out on many levels, including both local and national, and by those receiving EU funding, the situation has improved. According to a study prepared by the Voivodeship Labour Office in Szczecin, in December 2019 the registered unemployment rate in Poland had fallen to 5.2%, and in the voivodeship of Western Pomerania to 6.7% (Poland, Central Statistical Office 2018; Poland, Ministry of Family, Labour and Social Policy 2018). There were 41,800 people registered as unemployed in the region.

Decreasing unemployment also reduces the pool of people who are actively looking for work in the jobs market, which makes it more difficult for employers to recruit new staff to meet their employment needs. By analysing the data collected in the Occupations Barometer survey, which has been conducted since 2015 in all voivodeships for the Ministry of Family, Labour and Social Policy, one can see a clear trend of an increasing deficit and decreasing surplus in the surveyed occupations. In the Occupations Barometer 2020 survey for the Western Pomeranian region, there were 39 occupations in which there was a deficit and only 2 which had a surplus (Personnel Service 2019).

The shortage of employees is alleviated by the increasing influx of foreigners who start working in industries where there is a scarcity of workers. The number of foreigners who have a valid long-term residence permit in Poland has increased by 400,000 since 2010 (Poland, Social Insurance Institute, Department of Statistics and Actuarial Forecasts 2019). According to data provided by the Polish Social Insurance Institute, this increase can also be observed in the growing number of applications by foreigners for social insurance (Poland, Social Insurance Institute, Department of Statistics and Actuarial Forecasts 2019). Businesses within Western Pomerania applied for social insurance for 29,597 people whose nationality was not Polish. Of these people, 23,317 indicated that Western Pomerania was their place of residence (data as of 31 December 2019). The demand for non-Polish employees can also be observed in the statistics of the county labour offices of the Western Pomeranian region, which in 2018 registered 59,142 declarations of employment of a foreigner. According to the data for the first half of 2019, there had already been 35,937 such declarations.

Among the main problems foreigners encounter is the fulfilment of the formal procedures required to legalise their stay and take up legal employment in Western Pomerania. As a result of their lack of knowledge of public institutions' scope of activity, some migrants have concerns about contacting them. This means that they are unable to utilise their services. Poor Polish language capabilities are also an obstacle to accessing help (Helsinki Foundation for Human Rights 2012).

Another issue for foreigners is a lack of knowledge of legal regulations in the fields of, among others, labour law, social assistance, housing, social security, education and health care. This makes it more difficult for them to access the services provided by public institutions. Some Ukrainian workers have been exposed to unequal treatment in the workplace—foreign workers often receive lower remuneration for the same work than Poles (the phenomenon of 'wage dumping'). Moreover, employers are more likely not to comply with laws on working conditions.

A majority of immigrants accept jobs that are incompatible with or beneath their qualifications, which is often due to insufficient language skills and problems with the recognition of qualifications or education from their country of origin. Foreigners often work in basic jobs and their competence varies.

The influx of foreigners has created several difficulties and challenges that the Polish administration will have to face. Lacking sufficient staffing, institutions are unprepared to handle the increasing numbers of foreigners. The lack of a comprehensive and coherent legal regulation concerning the employment of foreigners in Poland additionally hinders procedures. Furthermore, there is a lack of foreign-language skills among officials, and public administration employees have insufficient knowledge of interculturalism, with what knowledge they do have often being based on stereotypes.

Another problem is the inadequate adaptation of public spaces (for public offices, health clinics etc.); a lack of information in foreign languages; and a lack of publicly available, transparent and constantly updated information on the services provided by public institutions in foreign languages. This includes both basic information as well as more detailed information on the possibility of assistance and help with formal procedures. Currently, there are not enough information points, websites dedicated to foreign workers or telephone hotlines in the Western Pomeranian region from which immigrants can receive all the information and help they need without having to speak Polish.

In Western Pomerania there is a lack of integrated projects focused on immigrants and little coherent policy in the areas of professional activation, education, health and social assistance. The flow of information between institutions that do implement activities for immigrants is insufficient.

Taking into consideration the above, it is important to note that Western Pomerania does dispel some of the commonly accepted beliefs about migration in Europe while providing some useful insights into the economic implications for Europe's regions.

First, while it is believed that economic migrants choose primarily, and even exclusively, countries and regions with the most generous social assistance and wage conditions, the case here seems to disprove that. Factors such as cultural, geographic and linguistic proximity, as well as family and friendship ties, play a major or at least equally important role in migrants' choice of a new home.

Second, seasonal work and legal stay arrangements are strong enabling factors which facilitate national and regional institutions to meet labour demands, but which in themselves are not enough for the smooth integration of migrants. Such measures do not automatically calm social anxiety and cannot ensure that European procedures and values are respected. Additional efforts to achieve these goals are in high demand. It is through these aspects that the (highly debated) concept of a 'European way of life' is showcased. Ensuring clear and transparent procedures, equal treatment, fair working conditions, proper social protection, access to information, and access to language classes and education, and making sure that misinformation in local news is countered are some of the true attributes of the 'European way of life'. To it also belongs the willingness of newcomers to contribute to economic and cultural life, to learn the language, and to play by the written and unwritten rules of the community.

Last but not least, the investments which regions make to facilitate procedures and integration, including all of the above points, have clear economic benefits. Faster administrative procedures and better integration lead to quicker wins for the local economy.

The Western Pomeranian Migrant Support System

The regional government of the Western Pomeranian region is responding to the needs of the regional labour market through the implementation of its statutory tasks. As the analysis above shows, the economic and demographic situation in the province requires that an increasing number of employees be drawn from outside the country. It has become necessary to take systemic actions to effectively and uniformly manage migration processes.

Therefore, the Voivodeship Labour Office in Szczecin, acting on behalf of the regional government, has started to create institutional procedures for the integration of foreigners and to build a network of cooperative organisations that arrange activities for them in Western Pomerania. During several meetings and consultations with representatives of the administration, the scientific community and institutions which are currently implementing projects for foreigners, a coherent concept and framework for the project, titled the 'Western Pomeranian Migrant Support System', was discussed and created.

This project is intended to respond to the requirements of the economy by attracting foreign workers with the relevant qualifications to meet the needs of the labour market, which is suffering from unfavourable demographic trends. The aim of the project is to improve integration in the labour market and the professional mobility of migrants (and

their families) residing in Western Pomerania by building and improving a multidimensional system of support for migrants in various areas of social life. This will be implemented primarily through the operation of Local Integration Points for Foreigners in the region, whose creation will be delegated to local governments. There will also be support for administrative employees, intended to raise the level of knowledge and skills in the fields of, among others, interculturalism, security and anti-discrimination. The next important task will be to conduct a social campaign that aims to shape attitudes of openness and tolerance.

All planned activities in this project will be supported by an advisory and opinion-forming body. As part of the project, multilevel cooperation will be established with various entities, including public institutions, which will ensure the reliable implementation of the solutions developed throughout the project. The project is scheduled to cover the period June 2020–June 2023.

It is planned to establish six Local Integration Points for Foreigners, which will provide support in the fields of, *inter alia*, career counselling, legal assistance, psychological assistance and translation services. Furthermore, the project also involves the purchase of a platform for learning Polish as an additional language, as well as reimbursement for the costs of language study, including exams in Polish and courses offering qualifications for foreigners. The next step planned will be the creation of a Welcome Guide web application for immigrants in four languages.

It is also planned to develop an integration policy for migrants in Western Pomerania. The project will include a social campaign that covers immigration, integration, multiculturalism and anti-discrimination. An important part of the project will be the organisation of training courses and workshops for employers in the legal stay field and those who employ foreigners, as well as administration employees. These programmes will cover intercultural competences, ensuring security, and countering discrimination and violence motivated by prejudice against immigrants. Increasing the language competences of the administrative staff is another important step. Postgraduate studies for teachers are planned, including methodologies for teaching Polish as a foreign language.

The project aims to help immigrants and their families, including people of Polish origin, people returning to the country after economic migration, repatriates, and those living abroad who intend to start work or business activity in Poland. The support will also cover employers who employ, or plan to employ, immigrants and their employees; public servants; teachers, including university teaching staff; foreign students; Ph.D. students; scientists; and non-governmental organisations.

Conclusion

In view of the current migration, civilisation and globalisation processes, as well as cultural changes, the social resources of Western Pomerania and many other European

regions require special attention and strengthening. Every person and every family who wants to live in Europe's regions and cities and who wishes to create added value in economic, social and cultural dimensions should be seen as a valuable asset to that region. In Western Pomerania we are building a dynamic and open community, which should be the foundation of stable regional development in all aspects.

By applying some of the measures outlined above, the EU's regions can lead by example in the very contested and challenging field of migration.

The EPP Group in the Committee of the Regions considers that the challenges of migration should be addressed at the EU, national, regional and local levels. For the successful integration of migrants, and to ensure economic viability in the context of migration flows, regional and local authorities need to have a real say in both the design and implementation of policies. For that to happen they need to be vested with the necessary decision-making powers and resources to develop projects which correspond to local conditions and demands in the local labour market. Successful policies at the local level should recognise migrants' rights and human dignity, as well as guarantee reciprocal respect for the rules and culture of the local community. This model, based on tolerance, liberal democratic values and subsidiarity in decision-making, is a central component of the European way of life and should be the guiding principle for our common approach to migration.

Note

1. A 'voivodeship' is Poland's highest subnational administrative subdivision, corresponding roughly to a province in many other countries.

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Surveillance Aircraft and the Borders of Schengen

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Vít Novotný

Abstract

There is a widespread perception that the development of surveillance technologies in border management is antagonistic to civil liberties. This article attempts to contribute to a better understanding of the need for new technological means to survey the EU's external border. Contrary to the critics, it contends that there is no liberty without security. It argues that the so-called militarisation of the EU's borders is a precondition for countering the dangers which threaten our liberties. These dangers include organised cross-border crime, illegal migration and incursions by hostile powers. The article also demonstrates that the use of border surveillance aircraft contributes to saving lives at the EU's external border and that the use of modern technologies generates record trails which make it easier to track potential human rights abuses committed by border guards. To manage migration, facilitate legitimate commerce, monitor for illegal waste dumping and guarantee the undisturbed functioning of our institutions, improved border management with the help of modern technologies is a necessity.

Keywords

Surveillance aircraft, Border management, Schengen, New technologies, Migration, Organised crime

Introduction

State borders exist to allow government control over the territory of the state. The borders of a nation-state make possible the privileged treatment of those who find themselves on the territory of the state, in contrast to those who find themselves outside that territory (see Hansen 2016, 253). In Europe, the external borders of the Schengen Area serve the same purpose, allowing the member states of the Area to control, through

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mutual cooperation, access to its territory. The removal of internal border controls within the Area allows passport-free movement for anyone, whatever their nationality or legal status.

Passport-free movement inside the Schengen Area has necessitated the establishment of an Integrated Border Management (IBM) system at the Area's external borders. The purpose of this system is, among others, to ensure checks and surveillance as part of border control, to conduct risk analyses, to gather intelligence and to detect cross-border crime (EuropeAid Cooperation Office and the International Centre for Migration Policy Development 2015, 7). The flow of legitimate commerce is another essential aspect of IBM.

External border control in the Schengen Area consists of border checks and border surveillance. While border checks are regulated by the Schengen Borders Code, border surveillance is predominantly governed by the EUROSUR Regulation (European Parliament and Council 2013). The Regulation establishes a joint European information system for border surveillance (Nowak 2019).

However, there is another dimension to border management. The EU has about 7,400 kilometres of external land borders and 57,800 kilometres of external maritime borders and coastline (European Commission 2018, 6). Technology plays an increasingly important role in guarding this long external border, discouraging people from circumventing the checks at crossing points and apprehending those who attempt to cross the land or maritime borders away from legal border crossings. The types of technology deployed include piloted and unmanned aircraft (the focus of this article), radars, surveillance cameras and biometric fingerprinting systems (see Transnational Institute 2019).

Drones (unmanned aerial vehicles, or remotely piloted aircraft systems) and piloted aircraft are relatively new phenomena in the surveillance of the EU's external borders. These surveillance aircraft have, however, been used for some time by the EU's military operations under the Common Security and Defence Policy. For example, the EU Naval Force ATALANTA, created in 2008, has used maritime patrol and reconnaissance aircraft to counter piracy off the coast of Somalia, monitor fishing and create a more secure maritime environment (EU Navfor n. d.).

Non-military use of surveillance aircraft is more recent. As late as 2013, an *EUobserver* article stated that the Mediterranean Sea remained outside the surveillance scope of the EU member states and Frontex, the Warsaw-based European Border and Coast Guard Agency. The same article quoted the head of research and development at Frontex as saying: 'We do not know at present what is going on in the Mediterranean Sea. We do not know, nor do the member states' (Nielsen 2013).

Nevertheless, aircraft surveillance technology is becoming highly sophisticated and widely used. The utility of drones and piloted aircraft in civilian border surveillance is now widely recognised.

This article argues that surveillance aircraft are a welcome addition to the management of the external EU borders and that, in fact, surveillance technology contributes to saving lives at these borders. The present section has introduced the main concepts in surveillance of the external borders. The subsequent section describes the context for European investment in border surveillance and provides examples of usage. This is followed by outlining some criticisms of border surveillance technology. This author's field visit to a private border surveillance contractor is depicted in the ensuing section. Concluding remarks and responses to criticism constitute the final section. The article draws on official reports from the European Commission and EU agencies, academic articles, think-tank and newspaper pieces, as well as the author's field visit in December 2019. For reasons of confidentiality, neither the identity of the provider nor the area of operation is disclosed here.

Institutional infrastructure for border surveillance aircraft and examples of usage

Recognising the need to survey the long external borders of the Schengen Area and to address the insufficient capacity of the national coastguard agencies, governments and EU institutions have been increasing EU and national funding for the deployment of these surveillance technologies. In fact, Frontex's mandate includes research and innovation with regard to surveillance technologies for IBM.

At the EU's southern maritime border, drones gather and supply intelligence for EU and national agencies based in Europe, as well as for some North African coastguards that the EU finances. This intelligence concerns illegal border crossings; search and rescue operations; the smuggling of weapons, drugs, oil and other contraband; marine pollution; and the surveillance of fishing activities. The deployment of drones makes maritime, land and inland-water border surveillance more effective and less demanding on staff.

Drones are used to patrol the land borders between the Baltic states and Russia. In 2014, an Estonian border guard was abducted by Russian forces on the land border between the two countries (*BBC* 2014). In response to this incident, but also in response to migrant and contraband smuggling and hostile drone flights from Russia, the Estonian government ordered nine domestically produced surveillance drones, financed by the EU's Internal Security Fund as well as domestic resources (see Cavegn 2018). According to one Estonian official, 'using drones is a good way to prevent and react to incidents on the border. . . . They are a quicker and more convenient way to gain an overview of situations in places that weren't easily accessible' (Cavegn 2018). Belgium has begun deploying surveillance drones both to monitor irregular maritime arrivals and departures and to find children lost on the beach and support search and rescue operations (see Galindo 2019).

According to *The Guardian* (Howden et al. 2019), the EU has rolled out an investment programme worth some €112 million for surveillance drones. This programme,

run by Frontex and the Lisbon-based European Maritime Safety Agency (EMSA), has been implemented since Operation Sophia, an EU anti-smuggling operation, was stripped of its naval element in March 2019. This author's field research confirmed that the withdrawal of the naval element of Sophia has created a new space for aerial border surveillance and reconnaissance operations run by Frontex. (The Operation's website showed that in February 2020 five piloted surveillance aircraft—from Spain, the Netherlands, Italy (two) and Poland were deployed, along with one Italian drone. EU Navfor Med. n. d.).

Border surveillance aircraft have been procured by national governments as well as EU-level agencies. EU inter-agency cooperation has been established for the provision of drones. According to the European Commission, 'the European Maritime Safety Agency (EMSA), the European Fisheries Control Agency (EFCA) [based in Vigo, Spain] and [Frontex] have established common maritime information and surveillance services', including drones (*Statewatch News* 2019). EMSA has taken the lead in this process. During 2018 and 2019, EMSA provided drones of different types and with differing operational goals 'for an average of three months each to Portugal, Spain, Denmark, Greece, Croatia, Italy and Iceland'. Operations are remotely coordinated from the Frontex Situational Centre in Warsaw (EMSA 2018; *Statewatch News* 2019).

In Portugal, EMSA provides drone services direct to Frontex to survey the national coast. The pilot operator directs the drone from a control station in Portugal, supervised by the Portuguese air force (EMSA 2018; *Statewatch News* 2019).

Non-governmental organisations are using surveillance aircraft, too. The charity Open Arms is developing a drone to aid migrant search and rescue operations in the Mediterranean Sea. The drone includes software that can detect if a ship in distress is drifting. It traces the trajectory of the vessel and sends an alert to the rescue ship (Martinez 2019). The charity Sea-Watch uses Moonbird, a piloted surveillance aircraft, for the same purpose. Moonbird even monitors whether commercial vessels and European coastguards are ignoring appeals for help and tracks interceptions by the Libyan coastguard (Hayden 2020). Outside Europe, the UN uses drones to identify Rohingya refugee camps in Bangladesh that are at risk of flooding (Telford 2020).

Criticisms

The use of border surveillance technologies by governments is subject to fierce criticism from some quarters. For example, a 2017 report by the Transnational Institute criticised the 'militarisation of European borders'. It contends that 'respect for fundamental rights, individual liberties and democratic standards' should 'take precedence over politics and policies beholden to panicked security demands and the wishes of big business' (Jones 2017, 4 and 10). A related charge concerns the 'criminalisation of migration' driven by technology, allegedly promoted by the self-interested 'security-industrial complex' of private companies, governments, research institutes and EU institutions (Jones 2017; Singler 2018). Other issues raised by critics include the accountability of Frontex and

national coastguards in operating drones and other border surveillance technologies. Questions are also being raised about responsibility for saving people at sea. For example, Howden et al. (2019) have argued that the withdrawal of the naval elements of Operation Sophia amounts to a deliberate attempt by the EU to stop saving lives in the Mediterranean. All this is said to ‘kill the dream of a more open Europe’ (Transnational Institute 2019).

Private contractors

Private contractors play an important role in the development of the EUROSUR system (Nowak 2019) and, thus, in creating better IBM. A number of concerns have been raised with regard to the operation of private security contractors in the security sector in general and in the field of migration control in particular, reflecting human rights abuses, data protection, legal ambiguities and the potential for loss of government control over the activities of private security providers (Tzifakis 2012; Saner et al. 2019).

These concerns are legitimate and should not be dismissed. In this section, the findings of this author’s field visit to a private contractor are presented. This visit revealed a surprising degree of integration of the provider’s activities with the information networks of the relevant national border-guard agency and that of Frontex. If findings from this one case could be generalised, they would demonstrate that the activities of private providers of border surveillance services are subject to multiple safeguards.

During a visit to the company headquarters in December 2019, the author learned that the company had been contracted by Frontex to provide a piloted surveillance aircraft (a ‘special mission aircraft’ in Frontex jargon) to survey a section of the Mediterranean Sea. The company’s liaison officer is based at the headquarters of the relevant national coastguard and has access to information from the coastguard’s and Frontex’s surveillance planes. (A Frontex officer is also present at the national headquarters.)

An officer of the national coastguard is always present during flights of the private contractor’s piloted aircraft. Thanks to its radars and cameras, the aircraft sees all ships in the area, including migrant- and drug-trafficking boats. The information gleaned from the company’s aircraft is immediately transmitted to Frontex, the national coastguard agency and, where relevant, EMSA and EFCA. Depending on the incident or situation, this results in a rescue boat being sent out if a migrant boat is spotted, a police boat being dispatched if drug or other contraband smuggling is involved, or the relevant agency responding to a situation such as a fire or marine pollution. Thus, the company contributes to the ‘common pre-frontier intelligence picture’ as defined in the EUROSUR Regulation (European Parliament and Council 2013, art. 11).

The company’s headquarters also hosts an ‘integrated control centre’, a set of technological tools and networks that provide the company’s staff with live and highly detailed information on the situation in the area of the Mediterranean where it operates. The company’s efforts are thus fully integrated with the work of the relevant national and EU

law-enforcement and border agencies. At the same time, the integrated control centre enables the company to provide flight safety support to crew and on-board member state and Frontex observers.

Analogically to the mandate of Frontex (as well as that of Operation Sophia), saving lives is part of the contract that the private company signed with the EU's border agency. The private contractor's aircraft provides 'top cover' for lifesaving. This includes identifying a boat in distress and dropping life vests, life rafts and the water pumps needed to keep inflatable boats afloat. A paratrooper doctor can even be present during flights. Typically, entities other than the company are involved in the actual lifesaving on the sea, the treatment of the rescued passengers, and their subsequent disembarkation and registration.

According to the company's director, three thousand lives have been saved on previous mission flights thanks to its work. (In fact, the director is convinced that rescue charities which collaborate with people smugglers notify the national coastguard about a large proportion of the irregular migrant crossings.)

This researcher's visit revealed that the company's staff is rigorously trained for and tested on a wide variety of scenarios that could occur. Every mission crew member carries an EU 'Confidential' clearance. Highly detailed documentation is taken of each flight, each phone call and each action taken by the crew of the company's aircraft and the company's agents. When it comes to the rescued migrants, the national law-enforcement authority gathers detailed information on each saved passenger. This author's field visit thus confirmed a 2019 statement by Frontex that 'all drone operators, staff or private contractors are subject to EU laws that mandate the protection of human life' (Howden et al. 2019).

Conclusion

Far from 'killing the dream of a more open Europe', border surveillance aircraft and other surveillance technologies are keeping the dream of an open Europe alive. The borders of the Schengen Area and, by extension, free movement within these borders, are being threatened from a multitude of angles. Openness and tolerance in our public life are at risk due to cross-border criminal operations importing weapons, drugs and other contraband. Our environment suffers from reckless individuals polluting our seas. On the way to the EU and once on the territory of the EU, illegal migrants are victims and sometimes perpetrators of crimes. Criminals, smugglers, traffickers and hostile powers use modern technologies too, and it would be ill-advised for the EU and its national governments to lag behind.

Heading off all these threats necessitates the use of modern technologies in the guarding of the EU's external borders. The critics have no proof whatsoever that legitimate commerce or legal migration have been hampered by the use of these technologies.

Separately, the use of border surveillance aircraft contributes to saving lives in the Mediterranean and probably elsewhere on the external border. Saving lives is built into the operations contracted by Frontex and EMSA to the private surveillance providers. And although direct causality would be difficult to prove, more intensive use of air surveillance and the simultaneous withdrawal of the naval element under Operation Sophia coincided with a decrease in Mediterranean deaths from drowning from 1,971 in the first 9 months of 2018 to 1,080 in the first 9 months of 2019 (IOM 2019).

With regard to the accountability of Frontex, the European Border and Coast Guard Regulation specifies that the agency has to report to the European Parliament in areas such as border management research, risk analysis, vulnerability assessment results, additional financial or operational needs, and situations requiring urgent action at the external borders. The Frontex mandate also defines the reporting and notification obligations related to the Council. 'In particular, the agency provides the Council with risk analysis products, vulnerability assessment results, financial and operational needs, and the annual activity and single programming documents' (Frontex n. d.). With the ongoing strengthening of Frontex, there is certainly scope for stronger scrutiny by EU bodies.

As for the danger of the supply of surveillance technologies determining its own demand, this is, of course, a risk. Commercial entities would not operate without aiming to make a profit from the sale of their products. What is important is whether this self-interest also serves the public interest and whether there are sufficient safeguards in place to ensure that the public interest is served. With regard to drones and piloted aircraft procured by national coastguard agencies, Frontex and EMSA, this author's limited field research has found no evidence that the wishes of 'big business' are generating the creation of procurement bids.

Human rights abuses in EU border management certainly could and do occur. Contrary to the critics' claims, the available evidence suggests that the use of border surveillance technology—in lieu of physical border guards—multiplies the documentation of the actions of the agents involved. In addition, through the use of technology that operates from control centres with a multi-agency presence, many pairs of eyes follow every minute detail of the happenings on the border. The various individuals and agencies involved therefore check one another's steps.

In general, as demonstrated by the 2015–16 migration crisis, the EU's external border has suffered from a lack, not an excess, of surveillance. This has been due to a mixture of political and capacity reasons. Surveillance aircraft must therefore be welcomed as a useful addition to the toolbox of our border agencies, along with the renewed will of the member states and the EU institutions to increase oversight at the external Schengen borders.

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Lessons From Migrant Integration Into European Societies

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Abstract

The article examines the immigration and integration policies of France, Sweden, Germany and Denmark. It argues that there is a need for a more unified understanding of the concept of integration throughout the member states. Although European law does not regulate the issue of immigrant integration as it is a competence of the member states, there is a need for a unified understanding of integration. Denmark's integration policy is described as an example of an effective policy that ought to be emulated, in contrast to those of other countries. The article concludes that the problems France, Sweden and Germany face in integrating newcomers are partly due to a lack of consensus about what integration ought to be.

Keywords

Migration, Integration, France, Germany, Sweden, Denmark

Introduction

The EU has long been a destination for migration and will most likely remain a favoured destination for many migrants in the future. Migrants come from all over the world. Population growth in Africa, climate change, regional conflicts in the Middle East and Africa, as well as income differentials with countries in our direct neighbourhood are decisive push-factors that will continue to drive people to emigrate to the EU in the coming years.

The sharp increase in the number of asylum seekers coming to us in 2015–16 created significant administrative, border control, reception and financial challenges in several EU countries and for the EU as a whole. The Union has been struggling to cope with this

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large number of third-country nationals and there have been divisions within the EU over how best to integrate the newcomers into our European societies. In addition to this, there are third-country nationals who arrive in the EU for reasons other than asylum, such as work, study or to be reunited with family. Today, more than 22 million people born outside the EU reside in the Union, and many more millions with a migration background¹ live here (European Commission 2019). Therefore, the political framework regarding integration in EU member states deserves a special focus.

In this context, it is important to stress that the integration of third-country nationals remains a competence of the EU member states and that the role of the EU institutions in this field is rather limited. Only since the 2007 Lisbon Treaty has integration been explicitly mentioned as a policy area—the EU institutions cannot set laws in this policy field (art. 4.2b Treaty on the Functioning of the EU). Through the European Agenda for the Integration of Third-Country Nationals from 2011 (European Commission 2011) and the European Commission's Action Plan, which was put forward in June 2016 (European Commission 2016), the EU has put in place a policy framework and various guidelines to support the member states with the integration of third-country nationals.

Immigration to the EU and the integration of those who have arrived in the past remains a highly complex policy area. The term 'integration' is defined and applied differently throughout the EU member states. This implies that there is no consensus on the definition of 'integration' and it is true that there is no formal definition in international refugee law. Nevertheless, a general definition is needed for the purpose of furthering understanding in this article. The European institutions define integration as a two-way process in which both the host country and the immigrants themselves are responsible: 'This dynamic two-way process on integration means not only expecting third-country nationals to embrace EU fundamental values and learn the host language but also offering them meaningful opportunities to participate in the economy and society of the Member State where they settle' (European Commission 2016, 5). Hence immigrants have an obligation to respect the rule of law, European values, and our social model, tax system and political institutions. Many different actors, including national government, local and regional authorities, employers, civil society and education institutions, play a vital role in the integration of immigrants into their host country.

This article aims to reflect on the two-way process of integration: on the one hand, it is essential to look at the integration—and political—guidelines which have been put in place by certain EU member states in order to include newcomers effectively in our societies. France, Germany, Sweden and Denmark have experienced a significant influx of asylum seekers and refugees in recent years. An analysis of these countries' different approaches and integration mechanisms shows that the Danish model has proven more effective. On the other hand, and considering the two-way process mentioned earlier on, the article examines the willingness of and the efforts made by third-country nationals to integrate into European societies. Our societies are based on the

Judeo-Christian religious tradition, on the rule of law and on fundamental rights, such as freedom of speech, equal rights between women and men, and respect and dialogue between religious communities. The vast majority of immigrants have different cultural and religious identities. Therefore, it is essential to scrutinise who is coming to Europe and to ask ourselves whether we can guarantee the successful co-existence of different cultural and political groups.

Integration policy on the ground

Given the fact that the EU cannot pass laws in the field of integration policy and that legislation varies throughout the EU, it is worth looking at the situations in four EU member states, namely France, Germany, Sweden and Denmark. These four countries and their integration efforts will be examined in an exemplary and comparative manner.

Since the beginning of the twentieth century, France, Germany, Austria and Belgium have attracted immigrants from all over Europe and are among the main destination countries when it comes to immigration. Most EU countries do not have the same extent of experience with migrants, which is why they fall into a different category of integration model. The French model of integration does not enjoy a good reputation in the EU, as the emergence of the term ‘banlieu’ shows. This term refers to the suburbs of Paris and other French cities. However, in 2005, violent riots in French cities gave new meaning to this word. The three-week period of unrest resulted in more than 8,000 vehicles being burned by youth of African and French heritage and more than 2,500 individuals being arrested.

Since the 1960s those immigrating to France have predominantly been Muslims, and this community has grown further because of its high birth rate. In the period 2007 to 2012, the proportion of the population that is comprised of descendants of immigrants grew by about 800,000 and now exceeds the proportion made up of immigrants themselves (France, Ministry of Interior 2014). This explains the growing diversity in France. The republican understanding of values obliges the government and policy to promote tolerance and equality, which is directly linked to a categorical fight against discrimination. In the name of the republican principle of neutrality, the country has also opened up freedom of expression for the immigrants’ own cultural and religious identities. As a result, the experience of past years and the development of parallel social structures in the suburbs have called the French model of integration into question. In this context, it should be noted that a precise measurement of French integration policy is not possible as the country’s secular laws forbid the collection of data on religion and ethnicity (Legifrance 2020).

Germany continues to receive the highest number of asylum applications in the EU. The country’s efforts to integrate the estimated two million refugees and asylum seekers that have arrived in the country since 2015 have been very costly. The financial burden on the German state is high, with federal expenditures allotted to asylum seekers standing at €20.8 billion in 2018 alone (Germany, Bundestag 2018). Eighty-four per cent of

new asylum seekers in 2017 were under the age of 35, and 60% were male. Furthermore, the newcomers are very slow to integrate into the labour force since only a small percentage have occupational qualifications or academic degrees. When looking at the migrants arriving from the top eight non-EU countries, nearly 72% of the Syrian immigrants who arrived in Germany in 2015 and 2016 were still unemployed in late 2018. More broadly, across the EU, the statistics from government interior ministries in several member states reveal significant changes in the heterogeneity of refugee groups in terms of countries of origin and educational levels. This diversity poses difficulties for designing effective policies that promote integration.

Returning to the German situation, one-third of the asylum seekers that have arrived in the past few years have been under the age of 18, which means that hundreds of thousands of newcomers have had to be integrated into the German school system. In several parts of Germany, the education system is overstretched and there has been an increase in so-called segregated schools. These are schools where pupils with a migration background make up the majority. According to a study undertaken by the Institute for Quality Development in Education, 53% of secondary schools have already passed the critical 50% mark (Information und Technik, Nordrhein-Westfalen 2019). Such an education environment with overcrowded language and integration courses is often ineffective: if fewer than half of the school pupils are part of the indigenous population, this cannot facilitate the integration process. Immigrants, and especially the children of immigrants, need linguistic role models to be able to learn the host country's language. Because of their limited German-language abilities, school pupils with a migrant background remain underrepresented at university-preparatory schools and upper-secondary vocational schools (OECD 2019b).

In the liberal Swedish system, 73,000 immigrants were granted legal residence in 2010; in 2015 the number increased to over 106,000 (Swedish Migration Agency 2015). About 17% of all Swedish residents were born outside the country. Some EU member states require immigrants to formally endorse certain societal values and this is part of integration treaties or symbolic declarations of nationality. This is not the case in Sweden, and welfare-state benefits are available to all registered residents, regardless of their nationality. Migrants who reside legally in the country for a year or more have the same social rights and entitlements as the indigenous population. However, faced with the slow integration of new refugees into the labour market and the slow absorption of newcomers by the indigenous Swedish society, in autumn 2015 the country introduced measures to curb immigration.

According to statistics from 1 January 2018, Denmark has a total population of 5.8 million, 13.3% of which is made up of immigrants and their descendants (Danmarks Statistik 2019). During the past 20 years, the country has reformed its legislation and integration policy for immigrant foreigners. The government focused on three target groups: asylum seekers and refugees, municipalities and businesses. The issuing of residence permits is subject to strict conditions. The extent to which immigrants and their

children integrate into Danish society is measured and directly linked to the degree of their integration into the labour market, as well as to their ability to access state benefits. The latter was reduced with the aim of creating a stronger incentive to work. The central Danish Immigration Service places asylum seekers in a reception centre while their cases are being dealt with. Afterwards, asylum seekers have to sign a contract that obliges them to fulfil the duties and binding tasks assigned to them in connection with the daily operation of their respective accommodation. Financial contributions and state aid are linked to the fulfilment of the assigned duties (Thomassen 2019). If all conditions are met, they can take up paid work after a six-month stay. Thanks to these initiatives, refugees are more easily able to integrate into the labour market. In Denmark, the proportion of residence permits for family reunification and asylum has decreased, while the proportion of immigrants who come to work and study has increased over the years. Looking at the numbers and the increase in the Danish employment rate for refugees, this approach appears to have been successful.

Are immigrants embracing European values?

Given the legal and administrative costs linked to immigration, the presence of a large number of third-country nationals can place a burden on a country's welfare system. It is legitimate to examine migrants' behaviour in our European societies. Are the refugees and asylum seekers who have arrived in the EU in recent years willing to integrate and to embrace our European values? Three experts have tried to shed light on this sensitive and complex question.

Dutch Professor of Sociology Ruud Koopmans investigated the attitude of European Muslims and Christians towards their respective religions with the help of an empirical approach and a survey conducted in 2008 among people of Turkish origin in six Western European countries: France, Germany, the Netherlands, Austria, Sweden and Belgium. Since Koopmans's study is based on 'religious fundamentalism', it is important to define this term: 'a movement or attitude stressing strict and literal adherence to a set of basic principles' (*Merriam-Webster Dictionary* 2019). Koopman's study shows that religious fundamentalism is much more prevalent among European Muslims than among Christian natives. Taking together the foreign-born and native-born immigrant generations, almost 60% agree that Muslims should return to the roots of Islam, 75% think there is only one possible interpretation of the Koran and 65% say that religious rules are more important to them than the laws of their host country (Koopmans 2015, 11–12). Belgium, in particular, has a comparatively high level of fundamentalism in spite of relatively generous policies regarding both Muslim rights and immigrant rights more generally. In addition, socio-economic factors are significant and confirm that fundamentalist attitudes are associated with socio-economic marginalisation: those who are unemployed and have a lower job status with lower levels of education display significantly higher levels of fundamentalism. Koopmans told Danish newspaper *Berlingske*: 'Muslims are much worse at integration than other groups of migrants, and there is no doubt that in most other groups we see great progress from one generation to the next. Although it's not

completely absent in Muslims, the change is much slower' (Heeger 2019). According to the professor, the major problem lies with the interpretation of Islam by both Muslim believers themselves and Muslim countries (Koopmans 2015, 12).

Trevor Phillips, who is the son of immigrants from Guyana and a former British Labour politician and Equality and Human Rights Commission chair, carried out a survey in 2015 among a thousand British Muslims on 'What British Muslims Really Think' and published his essay *Race and Faith: The Deafening Silence*. He argues that some ethnocultural groups are incapable of integrating in Britain and that social attitudes would be very difficult to change. Politicians should not expect Muslims to integrate on their own in the way that earlier immigrants did. Technical progress has substantially reduced the costs of travel and long-distance communication—hence, according to Phillips, living in modern Europe allows diasporas to stay connected with the old country and customs. In this context, it should be noted that, despite these claims, there are several well-known individuals in Britain with a Muslim background, including Sajid Javid, Sadiq Khan and Said Kemal, who have accomplished the integration process successfully and become politicians. Several other exceptions can be named in EU member states.

Paul Collier, economist and author, argues that a shared sense of identity within a society is indispensable. This constitutes the basis of trust, which is a precondition for successful cooperation and co-existence among citizens (Collier 2013, 17–20). The economist highlights the fact that we Europeans live in countries with a functional social model. Migrants, therefore, are essentially leaving behind their poor societies that are economically dysfunctional and entering an unknown social model with its own constraints posed by the European labour markets, tax regulations and health insurance schemes. Thus it becomes clear that migrants face various obstacles on their path towards successful integration in their host country. If a migrant chooses to embrace a different culture and a new social model and learns the language of the host country he or she has chosen to move to, he or she will be absorbed by the indigenous population of that country. In this context, Collier stresses that 'the more interactions that a member of the diaspora has with the indigenous population, the more rapidly she is likely to merge into it. The important implication is that the larger the diaspora is, the slower its rate of absorption will be' (Collier 2013, 42–3).

Conclusion

Integration does not happen overnight—it is a long process which takes time, effort and financial resources. As Paul Collier (2013, 68) correctly notes: 'So, uncomfortable as it may be, there are large cultural differences that map into important aspects of social behaviour, and migrants bring their culture with them.' Educating and upskilling the immigrants entering the EU will take time. In several EU member states we have seen delayed integration due to too many newcomers needing to be integrated at once since

the number of people who are participating in this process at any given time is increasing. This is, therefore, a self-reinforcing process.

This article highlights a dilemma and its consequences that result from the lack of a unified definition for ‘integration’. The EU member states use varying definitions of this term, which is leading to a variety of laws and differing priorities in this important domain. In addition, the member states’ differing interpretations of ‘integration’ have led to different ways of measuring it throughout the EU. As a consequence, it is a very complex matter to draw a conclusion when analysing the different integration models in France, Germany, Sweden and Denmark. Nonetheless, having analysed the four different approaches, it can be said that the Danish government has put in place effective integration measures based on the aforementioned two-way process. In Denmark, we can see a high degree of social and economic integration of immigrants as Danish measures and policy are directly linked with conditions and obligations that have to be met by the newcomers. The other EU member states should follow a similar approach by not only providing support and social security to third-country nationals but also making it mandatory to attend integration programmes. It is essential that governments increase their demands on third-country nationals in terms of language proficiency, labour-market inclusion and social integration into the respective host society. In the example of France, it is important to address the lack of relevant indicators to measure integration. It should be possible to record the circumstances of immigrants so that integration mechanisms can be adapted accordingly.

The EU needs to formulate a reliable definition of ‘integration’ and this definition needs to be recognised by all EU member states. Subsequently the EU member states should translate this clear and concise definition into their respective national laws. Having implemented this, EU integration policy and its recommendations in this area could be based on lessons learned from member states’ experiences.

Educating and training immigrants is a win–win situation for both the newcomers and European society at large. The EU should seek to address its labour shortages by integrating those who have arrived in Europe during the past few years using the two-way, Danish process described above. The EU and its member states should learn from Denmark as it leads by example with its effective integration model. This country has well understood that integration works best if the principle of ‘give and take’ is put into practice.

Note

1. Second- and third-generation immigrants.

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Whose 'Identity'? Multiculturalism vs. Integration in Europe

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Abstract

This article examines the question of migration from the perspective of long-term integration. In recent decades, the latter has often yielded to multicultural policies shaped on the recognition of groups and their alleged identities and demands. Through a case study of blasphemy against Islam, this article argues that multiculturalism has three main flaws: first, it shrinks the complexity of identities in order to assign individuals to pre-made boxes, thereby essentialising communities; second, it fosters social conflicts by opposing different groups and their supposed demands; and third, it creates a discriminatory system, contrary to the principles of equality and dignity. To avoid the ruination of the European dream of openness and diversity, it is necessary to return to an individualistic view of integration based on freedom, equality and universal citizenship.

Keywords

Migration, Integration, Multiculturalism, Identity politics, Islam

Introduction

This article examines the question of migration from the perspective of long-term integration. While policy discussions tend to focus on the recent refugee crisis, the socio-political problems related to migration have much deeper and older roots and are the consequence of integration policies that have not worked as expected, creating tensions and a deficit of societal cohesion. Certainly, processing disembarkation and asylum requests and providing hospitality for an unexpected number of migrants are issues that create acute hurdles in the short term, and therefore have a considerable political impact. However, in the long term, the most important challenge is ensuring Europe's capacity to

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remain open and welcoming without breaking apart or compromising on its values of equality and individual freedoms.

In the first section I examine identity politics and multiculturalism, claiming that they have created artificial group identities which disregard individuals and their complexity. In the second section I use the example of blasphemy against Islam to show how the essentialisation of Muslims has empowered extremists, to the detriment of liberal voices and societal cohesion. Finally, I argue that this attitude is unfair not only vis-à-vis the rest of society, but also towards Muslims themselves, who are seen as unfit to play by the rules of a liberal democracy. A reversal from identity politics to universal equality, in rights and duties, is most definitely needed to avoid our societies breaking apart.

Integration, identity, multiculturalism

‘Integration’ is a polysemous term which does not enjoy a commonly agreed definition. When considered in its socio-cultural dimension, the concept of integration challenges a society to realise what it expects from newcomers—that is, those features it considers existential, so that their absence would subvert its very nature. This requires a process of deep introspection, which parallels the newcomers’ self-awareness of what defines their own being and how this could fit into the host society. Hence, integration is necessarily intertwined with the notion of ‘identity’, both of the newcomers and of the receiving society (Parekh 2008, 4).

Identity, in itself, is a multifaceted concept, constituted of multiple layers, both individual and collective: biological, social, geographical, cultural, political, religious and so on. While certain aspects may coexist easily, others may be more problematic and create inner or external tensions. For instance, whereas being a socialist gentile is quite unremarkable, being a neo-Nazi Jew clearly involves more of a conflict; whereas atheism and heterosexuality comprise an uneventful coupling, religious belonging and homosexuality may trigger tensions inside the person and within her community; whereas being a biological male identifying as such is unproblematic, this is not the case for a biological male identifying as a female; and so on. These are simple, binary examples, but reality obviously becomes more tortuous the more we add identity elements and start digging into each of them. Another element of complexity concerns the *perception* of identities: there might be a clash between how individuals perceive themselves and how society appraises them. In other words, a certain identity aspect may be cherry-picked and imposed upon a person as her dominant feature, regardless of her will or self-identification (Manea 2015, 15).

In the context of integration, both scholars and policymakers have often simplified this complexity by ‘explicitly or implicitly recognising people primarily as members of groups’ (Novotny 2015). This has come to shape the ‘politics of identity’—a socio-political idea whereby it is not enough to implement formal equality between individuals but it is also necessary to give public recognition to marginalised group identities and their demands (Parekh 2008, 31). Identity politics is therefore strongly linked to political

multiculturalism—a concept which does not denote the values of pluralism, but more dogmatically a ‘set of policies, the aim of which is to manage and institutionalize diversity by putting people into ethnic and cultural boxes, defining individual needs and rights by virtue of the boxes into which people are put, and using those boxes to shape public policy’ (Malik 2012a). In practice, this has led to the pillarisation of society, namely the formation of semi-autonomous communities, constituted upon geographical, ethnic or religious commonalities, living to a large extent according to their cultural traditions and without significant intergroup exchanges (Novotny 2015; Manea 2017).

Facing the radical disconnection between certain immigrant communities and their host society, which has occasionally produced episodes of violence and the concomitant disquietude of the native majorities, many political leaders have come to acknowledge the practical failure of multicultural policies in integrating newcomers (Murray 2017, 96). However, a thorough reflection on the deeper theoretical reasons behind this fiasco has yet to happen. Multiculturalism has not only failed as a process by allowing the existence of separate, non-communicating clusters of society; rather, it was doomed from its very foundation for the hubris of encapsulating the complexity of identities in rough-hewn boxes, pre-made according to the dominant taste of the epoch. First came race, then nationality, then religion. In this process, migrants’ identities are essentialised to fit the political needs of simple categorisations (‘brown’, ‘Pakistani’, ‘Muslim’ etc.), and even *reconstructed* according to the dominant narrative within the group, or to the clichés attached thereto (‘Muslims believe’, ‘Muslims feel’, ‘Muslims demand’ etc.) (Manea 2015, 9). From this perspective, multiculturalist policies, nurtured by short-sighted identity politics, have actually *created* the communities they claimed to recognise, with a corollary of demands that were not originally part of the minorities’ struggle for equality (Malik 2016). This has happened because multiculturalists tend to speak of groups almost metaphysically, in terms of autonomous agents ‘as real as individuals’ (Triandafyllidou 2015, 220), rather than sticking to the banal reality of a conglomeration of human beings sharing certain characteristics, traditions, views and goals—while at the same time differing, even deeply, on others.

Blasphemy as a case study of the essentialism of the ‘Muslim identity’

My claim is that identity politics and multiculturalism have posed formidable obstacles to the integration of migrants in Western European societies, and I am going to utilise the relevant example of blasphemy against Islam to illustrate my point.

A notion by no means alien to the religious cultural and legal tradition of Europe, blasphemy has gained new momentum in connection with episodes of violence and terrorism stirred by alleged defamations of Islam. The most renowned cases are the fatwa issued by Iran’s Supreme Leader Ayatollah Khomeini against British–Indian novelist Salman Rushdie’s *Satanic Verses* in 1989, the assassination of the Dutch filmmaker Theo Van Gogh in 2004, the fury against the cartoons portraying the Prophet Muhammad in the Danish newspaper *Jyllands-Posten* in 2005 and the terrorist attack which massacred

the editorial board of the French magazine *Charlie Hebdo* in 2015 for the same reason. As I write, a new case has broken out in France, where 16-year-old Mila Orriols has been forced into hiding in her own country over death and rape threats because of social-media videos where she insults Islam (Battaglia and Herzog 2020).

Certain analyses of these cases embody the essentialism of Muslims at its best (or worst). For instance, speaking of the *Jyllands-Posten* affair, Tariq Modood—a scholar championing multiculturalism—argued that ‘the cartoons are not just about an individual but about *Muslims per se*’ (Modood 2006, 4, emphasis added). Similar arguments had been already advanced in connection with the Salman Rushdie case: ‘The Muslim claim is that their identity is, and should be, formed in terms of their religious community; this connection is not contingent but essential. And because the religious community is necessary for social identity, the state and law have an obligation to protect it’ (Slaughter 1993, 185).

Space constraints prevent me from addressing the numerous flaws in this reasoning. Therefore, I will limit my rebuttal to the identity aspect: does such a thing as ‘Muslims per se’ really exist? Who are these prototype Muslims whose ‘claims’ are so unmistakably assumed? Whose is, in one word, the ‘identity’ under consideration: that of Islamist or secularist Muslims? Orthodox or Sufi? Afghan or Azerbaijani? Yusuf al-Qaradawi or Mustafa Kemal Atatürk?

While I am denying neither the existence of cultures as systems of collective heritage nor the differences between various sensitivities and traditions on this and other topics, the claim to speak on behalf of ‘Muslims’ represents an artificial operation of essentialisation which denies the complexity of identities described above. The underlying assumption is that ‘Muslims are homogenous and identify themselves first and solely as religious persons. Islamists make a similar argument’ (Manea 2016, 7). Islamists worldwide have indeed exploited this narrative as a political weapon, and many non-Muslim intellectuals and politicians have supinely embraced it. It basically consists of attributing an ontological essence to the ‘Muslims’ who are viewed as a monolithic entity, in line with what I have above called the metaphysical reification of ‘groups’. Any other characteristic of the ‘Muslim’ individual is thus erased: ‘[r]ather than being Pakistanis, Indians, Saudi Arabians, Britons, Germans, Londoners, Berliners, Europeans, cosmopolitans, gays, atheists, workers, or anything else, the foundation of their identity can only be Islam’ (Hansen 2006, 13). What is worse, Western leftists and liberals have often regarded radicalism as a manifestation of ‘authenticity’, thereby empowering Islamists as true representatives of Muslim communities in Europe, in lieu of ‘Westernised’ Muslim liberals. The ethnocentric right, on the other hand, does the same in looking at Muslims as a monolithic entity that threatens the Western civilisation (Malik 2012b). Whether coming from Islamists, from leftists or from far rightists, essentialism is a self-fulfilling prophecy, for it contributes to shaping both the perception and self-perception of Muslims around certain narratives—typically the loudest and most extreme. Another aspect not to be underestimated is that foreign countries sometimes exploit group allegiances to advance their national interests abroad (Murray 2017, 155). These dynamics

advantage Islamists while being detrimental to liberal Muslims, who have an existential interest in reasserting the individual nature of identities: ‘There is no more such thing as a typical Muslim; we have all become atypical Muslims’ (Bidar 2007, 59). Ludovic Mohamed Zahed has put the point as follows: ‘Could you imagine that anybody could talk in the name of Islam? This is something which frightens me much more than the cartoons . . . Islam does not exist per se: *we* are the Muslims’ (BBC 2012).

But there is more. Let us assume for a moment that certain Muslim groups speak for the majority of European Muslims on certain stances, thereby effectively representing a prevalent collective identity: what about the minorities, who are perhaps not so disdainful of the liberal systems that in some cases they reached for the very purpose of escaping theocratic¹ regimes? Consider heretic Muslims; ex-Muslims; lesbian, gay, bisexual and transgender Muslims; and so on: which group should represent their identity and related claims?

Let us even take this reasoning to the extremes, under the fictional hypothesis that *all* Muslims in Europe are unanimous on a certain topic—for instance, the prohibition of desecrating the Prophet: why should this affect other groups? In other words, why should a secular, liberal democratic state compromise on its core principles to accommodate the demands of a specific group? A possible answer, which could be read either as a pragmatic or a moral stance, is that ‘Europe has to choose which is more important, the right to ridicule Muslims or the integration of Muslims’ (Modood 2006, 6). This argument calls into question the legitimacy and appropriateness of the positive discrimination of certain groups for the purposes of integration; the quite evident implication seems to be that Muslims have every right not to integrate if their demands are not met, confirming that “multiculturalism” has been misinterpreted as meaning a justified refusal to integrate’ (Redgrave et al. 2019, 3). This is what Hansen calls ‘Muslim exceptionalism’—which is not acceptable as it creates an area of privilege for certain groups, whose beliefs are to be respected but also ‘to be accommodated within the norms and principles that underpin the liberal constitutional state’ (Hansen 2006, 8).

The reason for refusing group-based preference is not only ethical but also practical: a liberal democratic society is a melting pot of different beliefs, convictions, tenets and ways of life, whose only way of coexisting is mutual tolerance under a common roof of ‘colour-blind’ laws. Anything different would constitute discrimination against less vocal groups, or give rise to a spider’s web of censorial regulations to appease everyone, or result in pure anarchy. In the words of the Muslim human rights activist Raquel Evita Saraswati, commenting on cartoons of Muhammad, ‘the real insult is not to Muslims: the real insult is to pluralism and our potential to coexist’ (BBC 2012).

This is the very nature of a liberal democracy: the same values that protect one’s rights to practice one’s religion also require one to tolerate others’ views:

It is not Europe that has to choose; it is rather those who wish to restrict free speech, whether they be Muslim or non-Muslim, citizens or non-citizens, recent immigrants or long-standing

permanent residents. They have to decide whether they wish to live in a liberal democratic society. If they do, they have to accept that they will hear and see things that offend them, sometimes deeply. . . . It is part of the liberal democratic framework, not a negotiable addition to it. (Hansen 2006, 16)

In a liberal democracy everything can be an object of negotiation and discussion except the liberal democratic framework itself. This implies that no one can rightfully invoke their ideological or religious tenets to challenge the liberty of others. After all, we still allow shops in Jewish neighbourhoods to open on Saturdays, gay parades to pass by the Vatican, and butchers to ‘turn sacred cows into hamburger’ (Pipes 2013). Virtue does not always stand in the middle.

Equality, in rights and duties, is in everybody’s interest

In the previous paragraph I argued that integration cannot pass through a multi-speed process that depends on the level of tolerance and specific demands of presumed communities, as this would inflict a fatal blow on pluralism and coexistence. Now I wish to expand on this reasoning, showing that it is in the interests of minorities themselves to live in a system based on the principle of universal equality.

First, there is an evident connection between identity politics on the one hand, and populism, nationalism and white supremacy on the other. Such a link comes from the delusion of an ‘asymmetrical multiculturalism’ that encourages ‘minority groups to celebrate a politicized version of their identity’, whilst ‘white majorities are compelled to be cosmopolitan, urged to supersede their ascribed identity’ (Kaufmann 2019). This is clearly untenable: the fragmentation of society into groups of interests based on a certain identity not only cannot exclude the formation of a ‘white’ group of interest, but actually encourages it (Sunder Katwala, quoted by Redgrave et al. 2019, 17). Hence, while until a few years ago identity politics was a weapon of minorities, it is now also embraced by majorities who are anxious to defend their group interests against what they see as anti-theoretical group interests (Krastev 2018).

If only for this practical reason, I deem it in the very interest of minorities to stick firmly to the principle of universal citizenship. However, there is also an ethical argument which strongly links equality—in rights and responsibilities—with equal respect. Universal citizenship means looking into another’s eyes and recognising him or her as our equal. This moral absolute is the only possible cornerstone of social justice in the interpersonal relations across different groups and within each of them. Multiculturalism, instead, has subverted the idea of equality: ‘[e]quality now meant not possessing the same rights as everyone else, despite differences of race, ethnicity, culture or faith, but possessing different rights, because of them’ (Malik 2012a). Yet, this is a mere simulacrum of respect—the same condescension an indulgent adult would sport before a child’s tantrums—which reinforces the ‘patronizing, racist stereotype that Muslims are barbaric and inferior to Westerners, . . . or that Islam is monolithic and that repression is the Muslim norm’ (Arzt 1996, 364). In this regard, I argue that it is absolutely misleading to

speak about the radical alternatives of bending to the Islamist ethos or forgetting about the integration of Muslims. The very opposite is true, as Flemming Rose, the editor of *Jyllands-Posten*, has stressed:

Equal treatment is the democratic way to overcome traditional barriers of blood and soil for newcomers. . . . Those images in no way exceeded the bounds of taste, satire and humor to which I would subject any other Dane, whether the queen, the head of the church or the prime minister. By treating a Muslim figure the same way that I would a Christian or Jewish icon, I was sending an important message: You are not strangers, you are here to stay, and we accept you as an integrated part of our life. . . . It was an act of inclusion, not exclusion; an act of respect and recognition. (cited in Foster 2009, 28)

Here Rose raises many fundamental questions—shared also by Muslim intellectuals (Colombo 2007)—which have in common a high respect for the equality of all individuals in dignity and rights. Positive discrimination towards Muslims is not only discriminatory against other groups, but is also equally unfair vis-à-vis Muslims themselves. In fact, by using a different yardstick for Muslims, they would be confined to a sort of ‘Indian reservation’ and considered impaired, unfit for the mature game of liberal democracy. The ‘patronizing, racist stereotype that Muslims are barbaric’ would be thus perpetuated. This would be the real discrimination, insult and humiliation against them.

Conclusion

Facing unprecedented challenges of societal cohesion both within its own societies and vis-à-vis newcomers, Europe does indeed have to choose. It has to choose whether it wants to build a community of equals, in rights and duties, or whether it prefers to bend its knee to the politics of identity. In the latter case, the struggle between the strongest identitarian groups will inevitably continue to sharpen, and only the balance of power (and, increasingly, of brute force) between and within them will decide the ultimate winner. In this scenario, none of the possible outcomes is going to be pleasant for the ‘European dream’ of an open and tolerant democracy.

To avoid this, European authorities and policymakers should repeal once and for all the failed multicultural policies, and invest conspicuously in a new universalist model. Concerning newcomers, this implies making socio-cultural integration courses compulsory, with the aim of clarifying the rationale behind the laws and values protecting everyone’s freedom and equality and the fact that these are not open for negotiation under cultural pretexts. As regards the wider society, no group preference or exemption should be allowed, whether by legislators, judges, municipalities, police or other authorities. Finally, those intellectuals and activists so anxious to embrace any sort of demand, as long as it comes from a ‘minority’, would do better to recall that the smallest minority on earth is the individual, whose vibrant polychromy no group can reproduce.

Note

1. I follow Bernard Lewis in using the term in the wider sense of ‘religious domination’, rather than in the stricter one of ‘clerical government’.

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Recalibrating the EU's Approach to the Western Balkans

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Abstract

Almost two decades after the European Council summit in Thessaloniki, the promise of EU membership remains unfulfilled in the Western Balkans. Although the process of EU accession is continuing, the current pace throws the Thessaloniki promise into doubt. Despite initial success, the current approach to enlargement has reached its limits, as it seems to be slowing down the integration process rather than accelerating it. At the same time, the transformative power of the EU is too weak to positively impact on democratic and economic setbacks in the region. That is why this article considers various strategies that the EU could employ to recalibrate the accession of the Western Balkans, notwithstanding the need for sincere reforms in the aspiring member states.

Keywords

Western Balkans, Enlargement, Rule of law, Democracy, Economic convergence

Introduction

At the Thessaloniki Summit in 2003, the European Council declared that the future of the Balkans was within the EU (European Council 2003). This political commitment by the heads of state and prime ministers of the EU countries was understood as a strong incentive and a promise that the future of the region, within the EU, would be stable and prosperous. However, 17 years after the Thessaloniki Summit, the Western Balkan countries—apart from Croatia, which joined in 2013—are still a long way away from achieving full EU membership. That is why this article argues that the current EU approach to enlargement encompassing the Western Balkans is insufficient and suggests some ways to reinvigorate the EU integration process in the Western Balkans and ensure its completion.

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In the meantime, Montenegro and Serbia have become the only countries from the region engaged in EU membership negotiations. Yet, despite having already been negotiating for 9 and 6 years respectively, these two countries combined have only managed to provisionally close 5 out of 35 negotiating chapters. At this pace, it will take them several decades to reach the goal of EU membership. North Macedonia became an official candidate in 2005; however, in the 15 years since it has not been allowed to start accession talks. Albania applied for accession in 2009, yet more than a decade later it has still not started accession talks. Bosnia and Herzegovina (BiH) applied for candidacy in 2016 and has not made any progress since. Kosovo's¹ independence is not recognised by five EU member states, making the success of any future EU membership bid highly unlikely.

The initial hope was that alignment of the region with EU norms would result in a liberal form of government founded on democracy and the rule of law gradually being introduced in the six non-EU Western Balkan countries. On the contrary, however, serious backsliding on democracy and the rule of law has been observed throughout the region over the past decade (Kmezić 2020). Moreover, the Western Balkans is suffering from a development gap. Despite the increased investment in infrastructure in recent years (Bonomi and Uvalić 2019), effective economic reform has often been delayed due to the fact that the regional economies are incapable of withstanding the competitive pressures of the EU common market. Throughout much of the Western Balkans, economies have remained undeveloped; dependent on aid, loans and remittances; and prone to high levels of state intervention. With the current average growth rates, it will take these countries several decades at least to converge with the average EU gross domestic product per capita (Sanfey and Milatović 2018). In addition to the democratic and socio-economic setbacks in the region, the incomplete process of reconciliation after the violent conflicts of the 1990s threatens to undermine the fragile regional stability (Djolai and Necev 2018). Moreover, the EU's unfinished business in the Balkans, coupled with diminished economic membership incentives, has opened the door to various political, economic and security alternatives (Bieber and Tzifakis 2019).

In its latest Enlargement Strategy, titled *A Credible Enlargement Perspective for the Western Balkans*, the European Commission (2018) acknowledges the lack of progress among the current EU candidate countries. Going beyond the usual diplomatic language used in the EU progress reports, the Commission has established that 'the [Western Balkan] countries show clear elements of state capture, including links with organised crime and corruption at all levels of government and administration' (European Commission 2018). This is why the main message of this article is that further efforts are needed in order to recalibrate the EU accession process.

Taking democracy and the rule of law seriously

Over the past several years the EU has remained rather silent on the serious backsliding on democracy and freedom of the media in the Western Balkans. This has been the case even when confronted with concrete evidence, as in the wiretapping scandal in North Macedonia and the Savamala incident in Serbia—where several sites on the Belgrade

riverbank were illegally demolished to pave the way for the controversial Belgrade Waterfront project. This gives the impression that the EU is willing to provide external support to regimes that have considerable shortcomings in terms of democratic governance for the sake of a (false) promise of stability. In a regional context, this practice has led to the establishment of a new type of illiberal political system that formally commits to EU integration and internalises the reform discourse, but continues to govern through informal rules and clientelism—both of which are part of the toolbox of populist rulers with an authoritarian streak. At the same time, this practice offers stability for the EU, be it to enable the pacification of regional issues, such as bilateral relations, or to deal with external challenges, such as the flow of refugees.

To prevent further democratic decline, the EU needs to sharpen its focus on monitoring the aspiring members on their paths to stable and prosperous democracies governed by the rule of law. Without exception, it must highlight all the democratic deficiencies in the Western Balkan countries. The Union needs to pay greater attention to the whole forest and not just to the trees along the way, as is currently happening via the tick-box exercise exemplified by the Chapters 23 and 24 benchmarks that deal with the judiciary and fundamental rights, and justice, freedom and security. Instead, the issue of consolidating liberal democracy should be regularly addressed in the annual progress reports as a new negotiating chapter focusing on the core criteria set for new EU members. It is very important that the EU continues to use local expertise in this matter, for example, by commissioning regular ‘shadow’ reports on the state of democracy. Here, the Commission needs to ensure that the criticism that is articulated behind closed doors becomes more audible.

Of course the drive for democratic transition must come from the region itself. Key to sustainable change is the strengthening of professional and transparent institutions able to break the power of the patronage networks that are the main lines of connection between politics and citizens across the region. This is why the primary task of the EU must be to extend its support to reinforce state institutions that ensure respect for the rule of law.

Second, sustainable change also requires a new type of party politics. To date, most parties in the region are deeply distrusted and/or are only joined by people so that they can get a job, not to pursue a political commitment. They are essentially interest groups focused on gaining and maintaining power, only superficially following European-type ideological distinctions. Through their inertia, the political groups of the European Parliament provide support for the Balkan parties that share their views. In the future, however, the European parties should pay attention not only to the Balkan parties’ rhetoric, but also to their actions. They should use their position of influence to remind their Balkan counterparts of their commitment to respect European values, including democracy and the rule of law.

Finally, it is essential to achieve the transformation of traditional top-down power structures, in which governments are at liberty to influence the legislative and judicial

branches through clientelistic networks and/or methods of more or less open pressure, into a horizontally structured civil society based on the rule of law. In other words, a more inclusive bottom-up approach to EU rule of law promotion, in which civil society actors are empowered to play a rights-holder's role vis-à-vis public authority, is needed. This would help to push for compliance with key laws, monitor their implementation and influence norm internalisation, both before and during negotiations. The broad inclusion of civil society in the accession process could help to build a wider constituency in favour of EU accession in the Western Balkans, as well as keep negotiations on track. In concrete terms, civil society empowerment should strengthen expertise, capacities and technical organisation, and provide for regional² and international networking possibilities. Furthermore, the EU should maintain its support for the involvement of responsible civil society actors in an effort to put pressure on the government to do its job better, both before and during negotiations. Finally, EU officials and MEPs should regularly engage in direct communication with citizens, as this would allow them to name and shame those elites who do not follow through on their declaratory support for EU integration.

Financial support through the Instrument for Pre-accession Assistance (IPA) could play a key role in empowering democratic forces in the region. Based on the principle of a sector-based approach, the current IPA (IPA II) takes national development plans as templates for programming its assistance. While this solution has been successful in increasing local ownership of IPA assistance, it bears the risk of omitting support for non-government-related projects. In this regard, it is important that, regardless of the principle of 'local ownership', the European Parliament and the Commission, together with the beneficiaries, fine-tune the list of projects and institutions that should be funded under IPA III, which comes into effect in 2021. In addition, increased efforts should be made to support constructive grass-roots and local initiatives in the region.

No progress without economic progress

Benefiting from their favourable geographical location, skilled labour force and lower wage costs than in Central and Eastern Europe, in 2019 the Western Balkan countries saw strong inflows of foreign direct investment, record low levels of unemployment and steady economic growth after two decades of decline or at best stagnation. By June 2019, 150,000 additional jobs had been created in the Western Balkans compared to a year earlier (World Bank Group 2019).

However, despite these positive labour market developments, record low unemployment still translates into double-digit joblessness percentages across the region, while the gross domestic product per capita across the 6 Western Balkan states is still only half the average in the 11 EU member states of Eastern Europe, which includes Poland and Hungary, and just 29% of Germany's.

Two important regional infrastructure investment initiatives are active in the Western Balkans, namely the European Western Balkans Investment Framework and the Chinese Belt and Road Initiative. Both focus on traditional infrastructure such as energy and

transport, and both offer about €8 billion in loans (Holzner 2018). Yet, consistently weak investment in education, innovation, research and development, and culture remains common in most of the Western Balkan countries. The key problem holding back the region's sustainable and equitable economic growth remains low productivity, reflecting years of under-investment, but also weak institutions and prevalent high-level corruption and organised crime.

Investment in education, skills, innovation and applied research thus needs to be a priority for investors, coupled with efforts to build strong democratic institutions that are able to curb clientelistic practices and corruption. Without these efforts, there is a risk that the region may never become truly able to withstand the competitive pressure of the EU.

In concrete policy terms, the EU should mobilise resources for the Western Balkans that are proportional to the countries' levels of market integration. The EU is considering ways of opening the European Structural and Investment Funds even before accession, in particular the European Regional Development Fund, the European Cohesion Fund and the European Agricultural Fund for Rural Development. These should primarily target infrastructure, capacity building, energy and environmental protection. Next, the EU should expand cooperation in education and research and innovation policies with institutions and individuals from the Western Balkans through its Erasmus+ programme, or a similar project, with a focus on the developmental needs of the region. Special emphasis should be put on creating a policy framework for facilitating and financially encouraging the return of young scientists from the region who have studied abroad, as well as on engagement with the diaspora. A good example of this practice can be seen in Croatia, where the government has instituted the new International Fellowship Mobility Programme for Experienced Researchers in Croatia, which aims to reverse the brain-drain process by encouraging the return of outstanding Croatian researchers. This project was co-financed through the Marie Curie programme. Finally, the EU should consider whether IPA III funds could possibly be better used to boost investment across the region. For example, the EU should invest in tailor-made training for public officials, particularly those at local and regional levels, to ensure the effective management of pre- and post-accession assistance. Unused funds could be used to boost investment across the region and assist in education. The criteria for access to EU funds should be eased; in particular, criteria that require an annual turnover of several million euros, which hardly any non-governmental organisation or consultancy company from the region can meet, should be removed.

What to do with EU accession laggards?

The distant and uncertain prospects of eventual EU membership are increasingly affecting the EU's transformative leverage in the Western Balkans. Although a regional trend, this is most visible among the current laggards in the accession process—BiH and Kosovo. Without neglecting the uncertainty regarding the internal political contestation and the outcome of ongoing Belgrade–Pristina talks on the normalisation of relations, as long as Cyprus, Greece, Slovakia, Spain and Romania continue to de facto block Kosovo's membership prospects by denying recognition of the country, the potential for

destabilisation and regression should not be underestimated. Equally, after being unable to move the country forward for decades, the EU itself acknowledged the failure of its conditionality toolbox in BiH, launching a British–German initiative in late 2014 that aimed to unblock the stalemate by delaying the implementation of the Sejdić–Finci ruling of the European Court for Human Rights—again without much success. The issue here is how to avoid losing Kosovo and BiH from the EU accession process, especially as the remaining four seem to have greater prospects of advancing.

Two major problems visible in BiH and Kosovo, but also in the other Western Balkan countries, are the lack of legal certainty and poor economic performance. The EU should devise a new strategy for BiH and Kosovo that mutually interconnects these two problems by addressing them through incentives rather than fragile rules. In other words, it should link conditionality regarding democracy and the rule of law with the prospect of economic development through the provision of conditional financial assistance.

I suggest that the following steps should be taken in this regard. First, all the Western Balkan countries should be asked to draw up action plans for Chapters 23 and 24, which, after a screening exercise, should lead to these chapters being opened as soon as possible. This scenario would replicate the success of the EU visa liberalisation process for the Western Balkan countries, by encouraging regional competition between aspiring member countries and increasing the density of ties and linkages (Levitsky and Way 2005) between the EU and domestic elites in the Western Balkans, thus expanding the EU's transformative power with the accession laggards. At the same time, bearing in mind the economic disparity between the Western Balkans and the EU, it is necessary to increase the IPA funding. Together with the beneficiaries, the European Parliament and the Commission should fine-tune the list of priority projects that would have a huge economic multiplier effect, such as infrastructure (railways, highways and renewable energy), education, skills, and innovation and applied research programmes. Drawing on this financial assistance, however, would be strictly conditional on the countries' successful performance in meeting the accession criteria set within negotiating Chapters 23 and 24. Yet another, separate, branch of the IPA mechanism should be directed towards strengthening the expertise, capacities, technical organisation and independence of credible regulatory agencies and civil society actors.

It needs to be asserted that the incentives offered through the conditional mobilisation of resources must be generous, as they will be measured against the commitment of China's Belt and Road Initiative, or shady investments coming from the countries of the Gulf and from Turkey, all of which come without political conditions attached.

Conclusion

The transformative effect of the current EU approach in the Balkans appears to be insufficient. In a nutshell, conditionality works well if membership criteria are clear, if the same criteria are applied to all applicants, if they are strictly but fairly monitored, if the findings are transparently communicated and if there is no doubt that the reward will come once conditions are met. Currently, this is not the case.

The accession process should truly transform the Western Balkan societies by improving air quality and road safety, increasing consumer protection, and improving the system of checks and balances in government. In other words, it should change the Western Balkan countries and bring them into the EU. This process requires trust to be built on both sides—from the candidate countries and from the EU itself. From this perspective, it is difficult to understand how North Macedonia and Albania have been denied the right to open accession talks after fulfilling their part of bargain, or how Kosovo remains in the EU's waiting room with no foreseeable accession date in sight. For these countries the prospect of EU membership is disappearing in front of their eyes as it becomes more and more obvious that the main premise of EU integration does not apply to them—namely, that their accession progress no longer depends on their own efforts. Therefore, one of the bigger challenges for the six remaining non-EU Western Balkan countries in the years to come will be to keep both elites and citizens motivated to continue the reform process.

A re-energised approach to enlargement should, in addition to conditionality, rely more on soft mechanisms, such as civil society promotion and interaction, which aim to transform the traditional top-down power structures in the aspiring member states. The empowerment of democratic forces in the region is crucial to increase the accountability of the elites and the transparency of the reform processes. The EU needs to focus on monitoring aspiring members on their paths towards becoming stable and prosperous democracies governed by the rule of law, instead of trading this result for regional stability. The new approach should also address the need to improve the economies of the Western Balkans. The key to reaching these goals is to refocus the use of the IPA III mechanism and to conditionally open up EU structural funds for the Western Balkan countries.

In addition, further efforts are needed to speed up the accession process. Lessons learned from the 2004 'big bang' enlargement, but also from the Western Balkans visa liberalisation process, show that the 'stadium' approach—whereby all countries negotiate at the same time—might be beneficial. This approach encourages cooperation between the candidate countries and creates healthy competition in conducting the necessary reforms as no country wants to be left behind. Remembering cases in which other former Yugoslav countries successfully slowed down the accession processes of their neighbours by imposing bilateral membership conditions leads us to believe that the current laggards in the accession process should be given the same time frame for accession as long as they meet the accession criteria. Preventing future blockages in the accession process has to be an important component of any future strategy.

Notes

1. This designation is without prejudice to position on status, and is in line with UN Security Council Resolution 1244/99 and the International Court of Justice Opinion on the Kosovo declaration of independence.
2. For instance, a regional ombudsperson network or regional media outlets, such as the N1 TV channel, which broadcasts simultaneously in Serbia, Croatia and BiH.

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Addressing Hybrid Threats: Priorities for the EU in 2020 and Beyond

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Abstract

This article discusses hybrid threats and the steps that Europe, through various national, EU and NATO initiatives, has taken in recent years to address them. Although these threats do not constitute a new challenge for states and international actors, they became a major concern for European countries following Russia's conventional and unconventional war in Ukraine in 2014. The article argues that addressing hybrid threats is a constant, never-ending process that requires the development of societal and governmental resilience. Hybrid threats are constantly changing and evolving, which means that our response to them also needs to be constantly evolving in order to keep up. The article also provides some recommendations for European policymakers on the next steps that Europe, especially the EU, should take when addressing hybrid threats.

Keywords

Hybrid threats, Resilience, EU, NATO, Russia, Ukraine

Introduction¹

The challenge of hybrid threats has become a key aspect of security policy discourse. European Council conclusions and national strategies frequently mention hostile activities or meddling in elections by external actors. Although state and non-state actors have long exploited various hostile technologies,² it has only been since the effective implementation of hybrid tactics by Russia in Crimea and Eastern Ukraine in 2014 that Western politicians and the expert community have turned their eyes towards this phenomenon.

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The ‘little green men’ without insignia not only became a symbol of this manipulative approach, but their presence also indicated to the West where and how Ukraine was suffering from political, diplomatic, energy-related and economic pressure; deception; unprecedented informational warfare; cyberattacks; and actions by Russian special forces (the ‘Spetsnaz’), which eventually turned into conventional military action. Many analysts have emphasised that, although hybrid threats are not new, Russia has successfully tailored them to the twenty-first century context using globalisation and new state-of-the-art technologies, thereby taking advantage of the vulnerabilities of a country or region in order to destabilise the adversary and hinder the process of decision-making.

Hybrid threats encompass elements of asymmetry and unexpectedness. Another widely discussed element is the ambiguity of the conflict, as hybrid warfare intentionally blurs the distinction between peacetime and wartime. The term ‘grey zone’ refers to this ambiguity.

Despite lacking a complete understanding of this phenomenon, national governments and international organisations have started to seriously consider actions to counter malign activities by state or non-state actors. According to the EU (and, indeed, NATO), countering hybrid threats is a national responsibility. However, international cooperation, particularly through the EU and NATO, using regional and multilateral initiatives such as the Helsinki-based European Centre of Excellence for Countering Hybrid Threats (Hybrid CoE), can enable states to unite their separate, scattered national resources to solve these issues more broadly.

On the level of national responses, many EU and NATO states and neighbours have rushed to implement so-called comprehensive security concepts as a reaction to the phenomenon of hybrid threats. Many of the steps taken are self-evident and are based on the experiences of countries which already have substantial competences in the area of comprehensive security (e.g. the UK and Finland): the well-functioning coordination of various institutions at the government level; strong links between government, civil society and the private sector; a well-tuned legal base; civilian–military cooperation; and constant preparation, training, exercises and education. This ‘whole of government’ approach has become a mantra among security-policy practitioners.

The article argues that addressing hybrid threats is a constant, never-ending process that is fundamentally about the development of resilience at the societal, the national and the European level. This is because hybrid threats are constantly changing and evolving, which means that our response to them needs to constantly evolve to keep up.

Although many steps have already been taken to boost Europe’s resilience to hybrid threats since Russia’s annexation of Ukraine’s Crimea region in 2014, there is much more to do at the EU (and NATO) level. The rest of this article is divided into three main sections. The first will provide an overview of the steps that the EU and NATO have already taken to address hybrid threats since 2014. The second provides some

suggestions on the possible next steps for Europe to enhance its resilience to hybrid threats. The third and final section concludes the paper.

Big decisions and practical steps taken

With the ambiguity of the nature of hybrid threats, many national governments, as well as international organisations such as the EU, were forced to start by clearly defining this phenomenon. In the EU's 2016 Joint Communication the concept of a hybrid threat is defined as a mixture of coercive and subversive activity, using conventional and unconventional methods (i.e. diplomatic, military, economic and technological), coordinated by state or non-state actors to achieve specific objectives while remaining below the threshold of formally declared warfare (European Commission 2016b). NATO also adopted a similar definition at about the same time. Various expert and think-tank communities have established several other definitions (see Bajarūnas and Keršanskas 2019). However, in all of them, the critical emphasis is on the coordinated nature of hybrid threats.

The second important step in the direction of countering hybrid threats was to agree on strategic practical steps to be implemented by the EU and its member states. In April 2016, the European Commission and the High Representative of the EU for Foreign Affairs and Security Policy approved the Communication *Joint Framework on Countering Hybrid Threats: A European Union Response*, which has become a fundamental document in terms of structuring EU efforts in this area (European Commission 2016b). This document was later reinforced by other EU decisions. In April 2016, the Communication to establish a Security Union recognised that it is necessary to fight hybrid threats and that it is important to assure a greater consistency of internal and external action in the security area (European Commission 2016a). In July 2016, in Warsaw, the president of the European Council, the president of the Commission and the secretary general of NATO signed a joint declaration that defines seven specific areas of cooperation, including the fight against hybrid threats (Tusk et al. 2016). Moreover, in response to the Salisbury poisoning of former Russian intelligence agent Sergei Skripal and his daughter, on 22 March 2018 the European Council agreed that the EU must strengthen its resilience to chemical, biological, radiological and nuclear-related risks through closer cooperation both between the EU and its member states and with NATO (European Council 2018). In June 2018, the Joint Communication *Increasing Resilience and Bolstering Capabilities to Address Hybrid Threats* was issued (European Commission 2018c). In December 2018, the European Council agreed on an EU Action Plan for disinformation (European Commission 2018a). Moreover, the EU's new strategic agenda for 2019–24, agreed in June 2019, explicitly mentions resilience, hybrid threats and disinformation for the first time—and considers them to provide a strong mandate for the EU's future work (European Council 2019a). According to the agenda, the main priorities of the EU in the area of 'protecting citizens and freedoms' are increasing the EU's resilience to both natural and man-made disasters and protecting our societies from malicious cyber activities, hybrid threats and disinformation.

As regards the external aspect of resilience, in November 2017, the EU adopted *A Strategic Approach to Resilience in the EU's External Action*, which contains 'Ten Guiding Considerations of a Strategic Approach to Resilience' (European Commission 2017). Moreover, the Eastern Partnership Summit Declaration of 2017 (Council of the EU 2017) refers to resilience in quite a number of instances. Along with societal and economic definitions of resilience, the declaration also elaborates on resilience in the security field—for example, cooperation and EU support in security sector reform, the implementation of integrated border management, the disruption of organised crime, and tackling hybrid threats and disinformation.

Finally, in December 2019 the European Council Conclusions on complementary efforts to enhance resilience and counter hybrid threats were adopted (European Council 2019b). The Conclusions explicitly noted the need to strengthen the role of and support for the Hybrid Fusion Cell of the EU Intelligence Centre. The Conclusions also place emphasis on the importance of providing continued support to partners in terms of strengthening resilience and countering hybrid threats. This decision by the EU member states will place additional pressure on the EU institutions to contribute to the resilience of Georgia, Ukraine and Moldova. Additionally, the Conclusions also focus on EU–NATO cooperation, with the role of the Hybrid CoE and NATO Centres of Excellence being mentioned in this context. The Conclusions also outline an agreement to ask the Commission to carry out a mapping exercise on the enforcement of existing hybrid threat tools which could lead to the development of new initiatives; by creating such a map we will have a comprehensive picture of where the EU is in the fight against hybrid threats. Finally, the Conclusions emphasise the need to provide the European External Action Service's strategic communication teams (Stratcom Task Forces) with the necessary resources. The Commission is also encouraged to look for more effective tools to enhance the implementation of anti-disinformation commitments by social media platforms.

The Finnish EU Presidency of the second half of 2019 did a fabulous job of moving the work of combating hybrid threats forward within the EU and keeping this topic high on our political agenda. There is a need for Croatia in the first half of 2020 and Germany in the second half to keep the same pace and maintain momentum.

The aforementioned actions represented big decisions for the EU, hardly imaginable in 2014. Nevertheless, these big decisions have also been accompanied by a number of practical steps.

After long debates, access has been granted to the European Defence Fund for projects that aim to counter hybrid threats. A permanent European Council working party—the Enhanced Resilience and Countering Hybrid Threats group—was established in the summer of 2019. Over the last year the East Stratcom Task Force and Hybrid Fusion Cell have been established, a cyber strategy has been agreed, the above-mentioned Action Plan for disinformation (including its Rapid Alert System and enhanced strategic communications teams) has been implemented and the European Commission's September 2019 proposal on election protection has been approved. Both the Action Plan for disinformation and the

Commission's proposals on election protection demonstrate the strong shift in focus towards internal security: actions have included the establishment of the Fact-Checkers network, support for election cooperation networks, the implementation of protections against cybersecurity breaches and unlawful data manipulation, battles against disinformation campaigns, and the tightening of rules on European political party funding.

A critical step in the right direction was the decision to establish the Hybrid CoE in April 2017. Established by 9 like-minded EU and NATO states, the centre's membership had grown to include 27 participating states by the end of 2019, with more candidates due to join. From the day of its establishment the centre started to promote dialogue and consultation among participating countries at the EU–NATO strategic level; to research and analyse hybrid threats and methods of countering such threats; and to organise exercises to strengthen the participating countries' individual capabilities, as well as cooperation among the participating countries, the EU and NATO in the battle against hybrid threats. The centre promotes dialogue among governmental and non-governmental experts from a wide range of professional and academic sectors. It also cooperates with interested communities, dedicating special attention to the problems that give rise to hybrid threats, how they are best detected and ways to improve the ability of organisations to deal with hybrid threats. However, there are still many areas in which the centre should apply focus, including exercises and training, countering election interference, deterrence in a hybrid threat environment, critical infrastructure protection against hybrid threats and conceptual modelling for hybrid threats. The centre should also become a trusted partner for actors in the academic community.

Both in parallel to the EU and in many cases in concert with it, NATO is also doing a lot in this context. The best deterrent, and only way to achieve regional stability, is to deploy US and NATO troops in the Baltic states and Poland on a permanent basis. NATO's enhanced forward presence, with four battle groups (American, German, Canadian and British) deployed in Poland, Lithuania, Latvia and Estonia, is an important contribution. At the NATO summit in Warsaw in July 2016 a decision was taken on NATO's seven baseline resilience requirements.³ At the NATO summit in Brussels in July 2018 it was agreed to establish Counter Hybrid Support Teams. With regard to NATO's response to hybrid threats and disinformation, it has also made two important decisions: to establish strategic communication capabilities at NATO headquarters and to initiate the establishment of the NATO Strategic Communications Centre of Excellence (Riga). NATO Crisis Management Exercises have begun to include hybrid scenarios comprising disinformation, threats to critical infrastructure and 'grey zone' situations. Also as part of NATO's response to hybrid threats, regular hybrid-scenario-based North Atlantic Council (NAC) discussions have been initiated.

Next steps

As the above discussion shows, significant progress has already been achieved in recent years on countering hybrid threats and enhancing resilience at national and European levels. However, there is still a lot more that Europe could and should do.

In spite of the growing awareness of Russia's actions, there is still a lack of top-level political commitment in the EU and NATO to fight them in earnest. Countering hybrid threats should be one of the top priorities on the agendas of the EU and NATO. Security experts and political leaders now have an increased understanding of Russia's hybrid threat activities. However, this is not enough: we have to constantly seek more information and exchanges of experience on the issue among EU and NATO countries. Moreover, there is a constantly growing need to understand China's use of hybrid threats, among other factors in this context.

The EU and its member states should continue to define hybrid threats. The key parameters are well known (ambiguity, coordinated approach, emphasis on vulnerabilities etc.), but there is still a lot to do in the context of determining the indicators of hybrid threats, and their prioritisation, tracking, detection and attribution. Here the contribution of the Hybrid CoE, alongside other top EU think tanks, will be vital.

The EU and its members states should speed up the implementation of the 2016 Joint Framework on Countering Hybrid Threats and other relevant EU decisions. The Joint Framework encompasses 22 specific and practical steps, many of which deserve to be more rapidly implemented. In the discussion and clarification of hybrid threats, it is even more imperative to pursue concrete actions to fight these threats, both domestically and through multilateral actions. Thus a key priority should be to strengthen resilience and deterrence against hybrid threats at EU level.

With the new strategic agenda agreed and the new European Commission in place, the Commission should, without delay, form a roadmap for how to implement tasks concerning resilience, hybrid threats and disinformation. The EU should invest more in effective technical and intellectual means of monitoring hybrid threats (e.g. strengthening the EU's Hybrid Fusion Cell and Stratcom units), as well as analysing them, refuting lies and disinformation in case of informational attacks, and designing critical strategies for countering hybrid threats.

Work at the EU level on countering disinformation remains of vital importance. The European Commission has done well to encourage online platforms to take responsibility for tackling disinformation. Facebook, Google and Twitter have all made some progress under the self-regulator Code of Practice on disinformation agreed in 2018, and they continue to work in this direction. There is a need to make use of the EU's Rapid Alert System, agreed with the adoption of EU Action Plan for disinformation, even more effective.

The Finnish EU Presidency of the second half of 2019 was extremely helpful in bringing the topic of hybrid threats to the top of the EU's agenda. The presidencies of Croatia, in the first half of 2020, and Germany, in the second half, should keep up the pace and maintain momentum. We should continue to keep hybrid threats visible at the strategic level—especially through the ministerial-level scenario-based policy discussions that were implemented during the Finnish Presidency.

The protection of elections from hostile propaganda and interference from abroad should remain our top priority. Our citizens should have the right to express their democratic choices in elections freely and without manipulation or interference from abroad. In this regard the Commission's 2019 proposal on electoral protection is yet to be fully implemented.

The involvement of civil society remains crucial. Unpredictability and uncertainty make hybrid threats more difficult to identify. Therefore, national elites and the media have the important, yet difficult task of clarifying these threats so that our societies remain vigilant and resilient. Indeed, such clarification is crucial to enhancing societal resilience and engaging civic society, the media and the IT sector in our efforts to counter hybrid threats. There is a need to support information pluralism, invest in civic awareness through education and maintain an independent press that responds swiftly to any disinformation. EU resources should be made available in this context. The European Commission could also pay more attention to and help independent social resilience initiatives in member states. One such example is Lithuania's private initiative, Debunk.eu (Delfi 2020), which unites media outlets, journalists and volunteers for a single purpose: to make society more resilient to orchestrated disinformation campaigns. With this in mind, there is even a strong case for replacing the phrase 'whole of government' with 'whole of society'.

Although implementation of the response to hybrid threats should remain part of the national competences, the EU should provide assistance for interested national governments to implement a coordinated response at the national level. Coordination is very important, but it is not enough—the enemy is ingenious and has the advantage of the initiative, so the 'old toolbox' will not always help. In all areas of security, bold actions and new tools are needed. The EU should become a platform for sharing experience and information between member states.

There is an urgent need to strengthen EU efforts to support Eastern Partnership countries—especially Georgia, Moldova and Ukraine—in countering hybrid threats and bolstering resilience. Resilience, as the capacity to sustain and overcome external and internal shocks to society and to the state and its institutions, has a special value and importance for the Eastern neighbourhood as it goes hand in hand with sustainable development. As part of the post-2020 development of the Eastern Partnership initiative, it would be advisable to expand the profile of resilience as a key domain for cooperation with our Eastern Partners. A practical, project-driven way of addressing resilience should complement the employment of resilience as a strategic principle.

Another new area that should be explored is hybrid threats to economic security. Here, again, the Commission could play an important role, even if this remains a national prerogative.

Last but not least, we need more EU–NATO coordination of activities and multilateral initiatives, exchanges of sensitive intelligence, preparation of joint reports and,

especially, joint EU–NATO exercises covering hybrid-threat scenarios. There should be more and closer cooperation between the EU’s Hybrid Fusion Cell and NATO’s Hybrid Analysis Branch. In an ideal situation, an informal coordinating community of EU and NATO experts constantly exchanging information and experience could be formed. Also in the context of EU–NATO cooperation, there is an obvious need to strengthen the activities of the Hybrid CoE.

Conclusion

Since Russia’s annexation of Ukraine’s Crimea region in 2014, a great deal has already been done to strengthen the resilience of the EU and NATO with regard to hybrid threats. These efforts should be acknowledged and their pace and intensity maintained. However, due to the ever-changing nature of hybrid threats, constant vigilance is needed. We need a more strategic approach to countering hybrid threats, the implementation of national adjustments (to embrace the ‘whole of government’ and ‘whole of society’ approaches), more EU and NATO cooperation, and the greater involvement of our societies.

Notes

1. The assessments and views expressed in the article are entirely those of the author and should not be treated as the official position of the Ministry of Foreign Affairs of the Republic of Lithuania.
2. These technologies include the employment of military force; economic, financial, and energy-related measures; social pressure; the use of asymmetric tactics; the implementation of combined and coordinated overt and covert military, para-military and civilian measures; attempts to intimidate an enemy before battle; the manipulation or distortion of information; Soviet Cold War–era ‘active measures’; guerrilla warfare and many more.
3. NATO’s seven baseline resilience requirements are assured continuity of government and critical government services; resilient energy supplies; the ability to deal effectively with the uncontrolled movement of people; resilient food and water resources; the ability to deal with mass casualties; resilient civil communications systems; and resilient civil transportation systems.

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Jihadism and Far-Right Extremism: Shared Attributes With Regard to Violence Spectacularisation

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Abstract

This article argues that similarities between jihadism and far-right radicalism are increasing, particularly with regard to the *spectacularisation* of violence. Spectacularisation means representing and performing violence in the form of a show, for instance through live-streaming, with a renewed emphasis on captivating symbols and much less attention paid to the ideological foundations on which the radical project is supposed to rely. After the March 2019 shooting in Christchurch, New Zealand, the spectacularisation of racist, anti-Islamic and anti-Semitic violence increased, thus consolidating that event as a turning point in the evolution of the contemporary far right and the history of jihadism—which has far-right affinities. Lured by the performance of violence, the number of contemporary far-right sympathisers is steadily growing in a virtual environment that closely resembles that of jihadists, where patterns and mechanisms of online recruitment and grooming are proliferating.

Keywords

Jihadism, Far right, Radicalisation, Christchurch attack, Spectacularisation, Violence, Online grooming

Introduction

Historically, multiple analogies exist between far-right radicalism and jihadism. Tommaso Virgili highlights a number of features that bring together the two worldviews, such as the Machiavellian way of thinking, in which any means is legitimate in the achievement of goals, and the identification of a chosen enemy within the out-group that does not conform to the group's ideology (Virgili 2019). This article will scrutinise two

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further similarities: the transition from valuing what is revolutionary to valuing tradition, and the cult of heroism.

A distorted relationship between revolutionary stances and conservatism is systematically adopted by both jihadism and the far right, and relies on a dual attitude in relation to revolution and tradition (Brzuszkiewicz 2019). Jihadism and the far right give priority to the revolutionary component whenever they enjoy minimal consensus and represent the ideological minority. In this phase, they both support a wholesale transformation of society, with the goal of sweeping away the alleged contemporary decadence (Brzuszkiewicz 2019). During the second phase, which starts whenever their ideologies are gaining momentum, they proceed to the meticulous sanctification of tradition and rely on alignment with a glorified past, be it the rise of Islam or the Roman expansion (Brzuszkiewicz 2019). Both ideologies choose first to embrace the revolutionary transient chaos, through which movements have to go in order to reinstate the norm of tradition later.

The second major feature that jihadism and far-right radicalism share is the cult of heroism, which involves the celebration of physical and mental strength. In newspapers and magazines such as *Dabiq* or *Rumiya* on the jihadi side, and *Il Popolo d'Italia* (The People of Italy) or *La Fiamma Nazionale* (The National Flame) on the fascist side,¹ the heroic virtues of the members of the group are glorified through similar narratives centred on honour, pride and revenge. In its hierarchical worldview, the fascist state in Italy grouped each generation into a different layer of its social pyramid. From the ages of 14 to 18, Italians had to join the *Avanguardisti* (avant-gardists), part of the Italian fascist youth organisation. Interestingly, this term is the same as that later used by the radical Islamist ideologue Sayyid Quṭb. In his *Ma'ālīm fi ṭariq* (Milestones), Quṭb states the need for a 'vanguard', a select group in charge of paving the way for the spread of the new movement (Quṭb 1964).² Among radicals, the idea that a brave vanguard will bring a new era of order to the world is far from outdated and can be found in the forums of many far-right and white-supremacist groups (Brzuszkiewicz 2019).

The historical similarities between jihadism and far-right radicalism could be further elaborated. This article, however, focuses on new similarities, arguing that the contemporary far right no longer takes inspiration from 'classical' jihadism and recognised jihadist ideologues. What is gaining priority, however, is the increasing *spectacularisation* of violence, even as radicals are paying much less attention to doctrinal knowledge. Spectacularisation—the process of representing and performing violent acts as if they were a show—suggests that the far right is now drawing inspiration from international jihadism, embodied most notably in the strategies and narratives of the so-called Islamic State of Iraq and Syria.

Since the March 2019 shooting in Christchurch, New Zealand, the spectacularisation of racist, anti-Islamic and anti-Semitic violence seems to have increased, transforming the event into a turning point in the evolution of far-right radicalism. Indeed, between

2015 and 2019, far-right terrorist attacks increased by 320% in North America, Western Europe and Oceania (Institute for Economics and Peace 2019). Since Christchurch, every major far-right attack (i.e. an attack that created victims) has been posted on the Internet, whether in the form of an announcement beforehand, through live-streaming during the event or both.

From a methodological perspective, the present article carries out a qualitative analysis of four case studies involving far-right attackers. It relies both on academic literature and on op-ed sources. It should be noted that, with the exception of *The Great Replacement*—the manifesto circulated by Brenton Tarrant—the other manifestos written by the perpetrators are no longer available on the Internet. Therefore, studies that contain excerpts from those manifestos support the critical discourse analysis throughout this article.

The Christchurch attack

On 15 March 2019, Brenton Tarrant, a 28-year-old Australian citizen, opened fire on Muslim worshippers at two mosques in the city of Christchurch in New Zealand. Improvised explosive devices were also found under his car and in an alleged accomplice's car and defused. Tarrant was arrested; on 17 March, New Zealand police confirmed that the death toll had climbed to 50 (Chavez and Holcombe 2019).

In the last few years, far-right violence has taken on characteristics that closely resemble the latest dominant currents in jihadism, and the attacks on the Christchurch mosques are a case in point. In the planning and staging of attacks, the priority of long-term goals and the focus on patient, paramilitary training have been replaced by spectacularisation. Furthermore, the importance of doctrinal knowledge is being replaced by a chaotic collection of particles from a multitude of ideological sources. This is exactly the same simplification trend that can be found in the latest wave of jihadism, embodied mainly—though not exclusively—by Islamic State.

As far as spectacularisation is concerned, it is worth remembering that Tarrant had posted his intentions on 8chan, a chat forum, along with a link to a 17-minute livestream from his headcam. On the ideological side, the attacker left a 70-plus-page manifesto that points to the political motive for the attack. Titled *The Great Replacement: Towards a New Society*, it promotes a xenophobic narrative about how immigrants are racially and culturally replacing native populations in the West (Davey and Ebner 2019). The decision to produce a manifesto is far from unique. The 2011 bombing and shootings by Anders Behring Breivik in Norway, for instance, followed the publication of a 1,500-page statement containing his radical world view.

Besides his theorisation on the alleged racial replacement, Tarrant identifies himself as an 'eco-fascist' and a racist 'by definition' (*European Eye on Radicalization* 2019). None of these terms is explained, which confirms the hypothesis of the increasing ideological and doctrinal shallowness among contemporary far-right attackers.

Confirming the priority placed on spectacularisation over doctrinal knowledge, Tarrant urges his supporters: ‘Create memes, post memes, and spread memes. Memes have done more for the ethno-nationalist movement than any manifesto’.³ At the same time, in an attempt to raise the intellectual tone, he produces a mishmash of references—some of which also appeared on the gun he used—chaotically mixing grandiloquent references to historical battles between Christendom and the various Islamic empires with racist jokes and slogans derived from Hitler’s *Mein Kampf*.

His non-existent selectivity in the choice of inspirational figures further confirms the tendency to embrace a ready-to-go and sensational form of radicalisation: to the names of Anders Breivik and Alexandre Bissonnette,⁴ Tarrant added those of individuals such as Luca Traini, whose attack caused no deaths.⁵ Far from providing a solid ideological background for his actions, the only purpose of mentioning these names was for Tarrant to connect himself with a long line of like-minded fighters (Neumann 2019). More broadly, in terms of narrative and rhetoric, the increasing overlap between the far right and radical Islamists is striking. Far-right groups, for instance, have begun theorising about the need for what they call a ‘white jihad’, as was the case in the British neo-Nazi organisation National Action, which was banned by the UK government in 2016 under the Terrorism Act 2000⁶ (Allen 2019).

Poway, El Paso and Halle

Nineteen-year-old John Timothy Earnest was one of the disciples of Brenton Tarrant. On 27 April 2019—the last day of the Jewish Passover holiday—he fired shots inside a synagogue in Poway, California. One woman was killed and three people were injured, including the synagogue’s rabbi. After fleeing the scene, the gunman phoned 911 and reported the shooting. He was arrested in his car approximately three kilometres from the synagogue (Helsel 2019).

Like Tarrant, Earnest had no previous criminal record. He had also used 8chan to post an anti-Semitic and racist open letter in which he blamed Jews for the ‘meticulously planned genocide of the European race’ (Hankes et al. 2019). Conspiracy theories are a notoriously typical feature of most radical ideologies, and the contemporary far-right galaxy is no exception.

The obsession with conspiracies has always been used successfully by radicals to reinforce the ‘us versus them’ worldview and to trigger in-group feelings of anger and marginalisation (Rickenbacher 2019). Far-right conspiracy theories suggest that progressive politicians, the media and liberals are working in concert to destroy ‘native European’ culture.

In a new and chaotic collection of sources, Earnest cited Jesus, Paul the Apostle, Martin Luther, Adolf Hitler, Ludwig van Beethoven and others as the figures who inspired him to commit the shooting.⁷ Moreover, to justify his action, he quoted the Bible and condemned President Donald Trump as a pro-Zionist traitor (Davis 2019).

Earnest also claimed responsibility for the Escondido mosque fire on 24 March 2019 (Collins and Blankstein 2019). The arson attempt had been extinguished with only minor damage to the building. Earnest, however, had left graffiti in the car park that made reference to the Christchurch shooting, proving that strong imitational trends exist among far-right radicals.

On 3 August 2019, another mass shooting occurred at a Walmart store in El Paso, Texas. Patrick Crusius killed 22 people and injured 24 (Romero et al. 2019). In the framework of what is now becoming a recurrent pattern, Crusius was the most likely author of a manifesto containing white nationalist and anti-immigrant themes that was posted on 8chan shortly before the attack. Even though analysts are not certain of the manifesto's authorship, we know that it cites the Christchurch mosque shootings as Crusius's inspiration for the attack (Eligon 2019). He told investigators that he came to his views through research online (Ailworth et al. 2019). In the manifesto, Crusius expressed a desire to kill as many Hispanics as possible, claiming that they were culturally replacing native-born Americans.

A few months later, a new far-right attack hit Germany. On 9 October 2019, Stephan Balliet shot and killed two people and injured a further two near a synagogue in Halle, Saxony-Anhalt. The perpetrator committed the attack out of anti-Semitic, anti-feminist and racist beliefs. For 35 minutes he live-streamed the attack on Twitch, a live-streaming service operated by a subsidiary of Amazon (Herrera and Needleman 2019). It has also been revealed that Balliet had posted a manifesto online a week prior to the attack, in which he talked about attacking the synagogue in Halle and outlined his plan to kill 'anti-whites', including Jews (Koehler 2019). Once again, Balliet was not a known extremist and appears to have become radicalised online while living with his mother in Heldbra, a village not far from Halle. He called himself a 'weeb'—a derisive term for a non-Japanese person who is obsessed with Japanese culture—and an 'anon' (short for 'anonymous'), the term used to describe users of 4chan, 8chan (now 8kun) and other image boards⁸ that have been used by mass shooters to share manifestos. The document, written in English, called for 'discontent white men' to murder Jews, non-whites, communists and 'traitors' (Oboler et al. 2019).

Consuming violence online

In all four cases that have been analysed (Christchurch, Poway, El Paso and Halle), the attackers seem to be ascribable to the 'lone wolf' typology, that is, they were individuals who acted alone, with no formal affiliation to any organised group, and who had mostly been self-radicalised online. Things, however, are more complex than they seem.

Indeed, although it might be premature to talk about 'grooming' when analysing far-right radicalisation patterns, we can see that all the attackers described here were lured into radicalisation through various forms of online consumption of violent content and, in all probability, interactions with like-minded individuals.

Lone actors do not really become radicalised in isolation. They are typically radicalised in both online and offline radical milieux, and through diverse interaction within those milieux they develop social ties with other radicals (Schuurman et al. 2019). Socialisation occurs even through partial, peripheral and discontinuous interactions, which is why talking about lone wolves (or lone actors) can often be misleading.

A real process of grooming⁹ has been observed within the jihadi galaxy (Schuurman et al. 2019), whereas it is still unclear whether this is taking place among far-right radicals. This, however, should not lead us to underestimate the role of the diverse forms of interaction within the far-right environments, and it is not a stretch to say that grooming strategies, if they have not already been used, might be implemented in the near future.

Conclusion

Similarities exist between jihadism and far-right extremism. The transition from revolution to tradition and the cult of heroism that celebrates in-group virtues are just two examples. In the last few years, the far-right galaxy has been undertaking an evolution that closely resembles that occurring in jihadism, characterised by gradual ideological simplification and the massive spectacularisation of violence. The attacks in Christchurch, Poway, El Paso and Halle are cases in point that show how contemporary radicals perform violence.

In spite of the alleged self-radicalisation of the attackers, the article suggests that no radicalisation process occurs in complete isolation. On the contrary—and this is a further striking similarity between far-right radicals and jihadists—individuals are radicalised through online (and offline) socialisation, be it continuous and long-lasting or irregular and erratic. Indeed, as the article explains, all of the most recent far-right attacks have been perpetrated by individuals who had regularly visited online environments in which racist, anti-Semitic and Islamophobic content is increasingly easy to find. The emerging far right, like its jihadi counterpart, will soon master an ever-expanding spectrum of recruitment strategies and its chaotic ideological foundations will not imply a lower level of risk.

Monitoring the evolution of different forms of radicalism, learning from previous experiences, and being aware of in-group and intergroup imitation behaviours—namely within the far-right galaxy and between jihadism and the far right—will be crucial for assessing the threat. Furthermore, since the contemporary far right can rely on the Internet much more than the far-right movements of the past, the virtual world will be the best place to combat it. This will require European governments to improve their cooperation with tech companies and Internet providers in order to jointly monitor radical activities online and implement effective counter-narratives that keep pace with the ever-changing nature of radicalisation. Finally, given the increasingly transnational profile of extremism, it will soon become crucial for the EU to acknowledge the need for deeper coordination when it comes to designing new strategies to fight the phenomenon both online and offline.

Notes

1. *Dabiq* and *Rumiya* were magazines published by the media outlets of the Islamic State of Iraq and Syria. *Il Popolo d'Italia* and *La Fiamma Nazionale* were magazines published by the National Fascist Party organs in Italy.
2. Sayyid Quṭb (1906–66) was an Egyptian thinker convicted of plotting to assassinate President Gamal Abd El Nasser and subsequently executed. His writings contain harsh criticism of the alleged moral decadence that was spreading in Muslim countries because of Western influence, which was creating a corrupt culture obsessed with material goods and pleasures. He was a leading theorist of offensive jihad: 'Those who say that Islamic Jihad is merely for the defence of the "Homeland of Islam" diminish the greatness of the Islamic way of life' (Quṭb 1964).
3. The full text of Tarrant's *The Great Replacement* is available at https://www.ilfoglio.it/userUpload/The_Great_Replacementconvertito.pdf.
4. On 22 July 2011, Anders Breivik perpetrated the Utoya (Norway) massacre, killing 77 people. On 29 January 2017, Alexandre Bissonette killed 6 worshippers and injured 19 others at the Islamic Centre of Quebec City (Canada).
5. Luca Traini is an Italian neo-Fascist attacker who, on 3 February 2018, wounded six African migrants in a drive-by shooting in Macerata (Italy).
6. The Terrorism Act 2000 was the first in a series of such acts passed by the UK Parliament.
7. The manifesto was removed from the Internet. For an in-depth analysis of its relevance see Evans 2019.
8. Image boards are Internet forums focused on the posting of images that can be shared among members of the forum.
9. The term 'grooming' derives from the behaviour of sexual predators (Reeves and Crowther 2019). Grooming involves someone (the groomer) building a relationship of trust and emotional connection with the designated individual (the victim) in order to manipulate and abuse him or her. The notion of grooming has been introduced in terrorism and radicalisation studies to highlight that part of recruiting that involves a persistent effort made by the recruiter(s) to create a personal relationship with the victim and to influence his or her choices through the use of psychological mechanisms that are very similar to those that occur between sexual predators and their prey (Krasenberg and Wouterse 2019, 4).

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Lilliput Effect Revisited: Small States and EU Foreign Policy

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Abstract

The role of small member states in EU foreign policy is increasingly being challenged, especially in view of the reforms being proposed to make the EU more effective as an international actor. These reforms, if adopted, will require the small Central and Eastern European member states, such as Bulgaria, to rethink their old foreign-policy strategies and practices. Instead of band-wagoning and balancing conflicting interests, these small member states will have to learn to be more proactive, to build their reputations and to form alliances if they want to continue to have any influence on EU foreign policy. These issues are discussed in the light of the EU sanctions adopted against Russia in the aftermath of the Ukrainian–Russian conflict of 2014.

Keywords

Small countries, Foreign policy, Sanctions, Russia, CFSP, QMV

Introduction

Cases of obstruction of EU foreign-policy decisions by EU member states, large or small, are not uncommon in this field, where the unanimity rule applies. Last October Hungary vetoed an EU statement regarding the Turkish operation in Northern Syria, leading to the EU's reaction to the event not being expressed until five hours after it had begun (Debeuf 2019). In other cases, the need to forge unanimity has often led to the EU punching well below its weight on the international stage, making it unable to design an effective foreign policy in accordance with its global aspirations (Blockmans 2017).

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The issue of the sanctions imposed on Russia in the aftermath of the Ukrainian crisis in March 2014 provides a good case study of the limitations of EU foreign policy, where decisions are adopted on the basis of unanimity. It is no surprise, therefore, that new proposals, including the extension of Qualified Majority Voting (QMV) to EU foreign-policy decisions such as sanctions and the creation of a European Security Council (ESC), have been put forward with the aim of making EU foreign policy more effective.

This contribution argues that these proposals, if adopted, would have a profound impact on the way member states conduct their foreign policy in the EU framework. Such changes would, however, affect the small Central and Eastern European (CEE) member states, such as Bulgaria, even more than other small member states. Such proposals would require these countries to change their existing foreign-policy practices of great-power dependency and band-wagoning in order to maintain their influence on EU decisions.

To discuss these points, this contribution is divided into three parts. The first deals with the role of small EU member states in EU foreign policy from both a theoretical and practical point of view. The second section covers the issue of the EU sanctions on Russia and their impact on the small CEE member states, such as Bulgaria. Finally, the third section discusses the proposals for reforming EU foreign policy and their potential impact on the role of small CEE member states.

Small member states and EU foreign policy: theory and practice

With its successive enlargements, and especially the most recent ones welcoming the countries of Central and Eastern Europe, the EU has seen a significant increase in the number of its small member states. Out of its 27 member states, 16 have populations of less than 10 million and, of these, 9 have populations below 5 million. While size of population may be an important factor in terms of the influence member states have on EU policymaking, it is not the only one. Other factors range from the investment of resources in their ministries to the ability to engage in multilateral negotiations, as well as the experience gained from EU membership, which naturally increases over time (Thorhallsson and Wivels 2006).

When it comes to EU foreign policy, the role of small member states has often been overlooked by the predominant realist perspectives, whose proponents prefer instead to allow EU foreign policy to be subsumed under the foreign policies of its large member states, such as the UK (before Brexit), Germany and France (Nasra 2011).

That being said, the main challenge facing the study of small-state foreign policy is the absence of a commonly accepted definition of a 'small state' (Long 2016). To some extent, small states share some of the strategic behaviours of small powers, especially in terms of great-power dependency, seeking alliances and a propensity for band-wagoning. However, the concept of 'small power' is not based on size but rather on a set of behavioural attributes. In this light, the EU is considered by some to be a small power (Toje 2010).

For the purposes of this paper, we define small states as those that combine an awareness of their small status, anchored in their historical experiences of great-power dependency, with a sense of helplessness on the international stage. Such a definition could include countries such as the Baltic states and Bulgaria (Vaicekauskaitė 2017; Crombois 2019).

Without denying the valuable insights provided by realist perspectives and small-state literature, some authors have proposed relying on a governance approach to understand the role of small states in EU foreign policy. Such an approach, according to them, has the advantage of not positing materially powerful actors as the only ones able to influence EU foreign policy. Instead they highlight the four main sources of small states' influence on EU foreign policy, which are their ability to commit to EU solutions; to build network capital, that is, to increase their embeddedness in networks with other countries; to use available immaterial resources, such as expertise; and to act as knowledge brokers (Nasra 2011).

These different sources of small states' influence on EU foreign policy also make it possible to distinguish between the small member states in terms of their length of membership. While the older small member states possess a huge amount of experience, extensive networks and expertise, the newer ones tend to be lacking in most of these assets.

EU sanctions and the small CEE member states

The annexation of the Crimean peninsula and the outbreak of the conflict in Eastern Ukraine led the EU, in March 2014, to impose its first restrictive measures on Russia. Later, in August, following the shooting down of flight MH457 and further Russian incursions into Eastern Ukraine, the EU decided to adopt more comprehensive economic sanctions, excluding Russian companies from the EU capital markets and banning the export of arms and dual-use goods, as well as goods used in the ongoing energy projects in the Arctic (Giumelli 2017).

These sanctions led the Russians to retaliate, adopting countermeasures consisting of an embargo on EU exports for a number of agri-food products, from poultry to fruit and vegetables. While the EU sanctions are renewed every six months and are targeted, the Russian ones are broader and will remain in place until the EU ones are lifted. The Russian counter-sanctions also have a bigger impact on the EU economy than the EU sanctions have on the Russian economy. This difference is explained by the importance of Russia as the second largest market for EU agri-food goods (Giumelli 2017).

Based on 2013 figures, the value of EU exports affected by the Russian import ban totals \$7.3 billion or 47.3% of total agri-food exports to Russia, although its impact differs across member states. Measured in terms of the absolute value of banned goods, Lithuania and Poland are affected the most, followed by Germany, the Netherlands, Denmark, Spain, Finland, Belgium and France (Fritz et al. 2017).

If the EU sanctions were considered by some member states to be too modest with regard to the situation in Eastern Ukraine, they also reflected a rare example of collective decision-making. It would be wrong to say that the decision pitted large member states against small ones (Szép 2019). Indeed, the supporters of the EU's sanctions included states of various sizes (Germany, the UK, Sweden, Poland, the Baltic states, Denmark and Finland) and the same can be said of their opponents (Austria, Cyprus, Greece, Hungary and Italy), not to mention the remaining countries, which can be considered lukewarm supporters and bystanders (Shagina 2017). In short, the adoption of these EU sanctions reflects another example of finding the lowest common denominator between the EU member states.

Interestingly enough, economic dependency on Russia does not account for the positions of the member states. Some of those that support the sanctions, such as Poland and Lithuania, are much more economically dependent on Russia than some of those, such as Cyprus and Hungary, that are opposed to them (Fritz et al. 2017). The economic impact has also had differing effects on the countries, regardless of their position on the sanctions. The worst-affected member states include Germany, Italy, Finland and Denmark, while the least-affected ones include Greece, Sweden and Luxembourg, followed closely by Cyprus and Bulgaria (Giumelli 2017). The economic impact of the sanctions is, however, only one part of the story. The sanctions have had a greater political impact on the the small CEE member states, such as Bulgaria, especially as far as their relations with Russia are concerned (Bechev 2019).

Bulgaria is considered a lukewarm supporter of the EU sanctions, and opposition to them in the country has remained largely rhetorical. For example, the government did not include the issue on the agenda of its EU Presidency in spring 2018 (Bulgarian News Agency 2018). Bulgaria's position is not so much based on the economic cost of the sanctions for the country—it has doubled its trade with Russia since 2014—but rather on its energy dependency on Russia and the closeness of some of its political parties to the Kremlin. The issue has proved to be quite challenging as Bulgaria has had to find a balance between its acceptance of EU sanctions and its commitment to Russian-backed energy projects such as the defunct South Stream and the current Turkish Stream. In other words, Bulgaria has never fully embraced the sanctions as part of EU foreign policy, but has viewed them from a strictly national perspective. At the EU level, the country has not tried to influence or engage with the issue by using the assets outlined in the previous section, such as making a strong commitment to EU decisions, building alternative alliances, asserting its expertise on the issue or acting as a knowledge broker (Crombois 2019).

The small CEE member states and the future of EU foreign policy

Two major proposals concerning the future of EU foreign policy have been put forward that may alter the balance of power between large and small member states: the first one

deals with the extension of QMV to some EU foreign-policy decisions, while the second one concerns the creation of an ESC. Both proposals present challenges and opportunities for the small member states.

In his 2018 State of the Union address, then EU Commission President Jean-Claude Juncker proposed extending QMV to some foreign-policy decisions such as sanctions by using the *passerelle* clause provided by the Treaty of Lisbon. This clause provides the member states with the possibility, on the basis of consensus, of using QMV in certain foreign-policy areas without a change to the treaties. This suggestion has been endorsed by the European Parliament and by the new President of the European Commission, Ursula von der Leyen (von der Leyen 2019). Such a proposal, however, is still considered highly sensitive. For example, the new EU High Representative for Foreign Affairs and Security Policy, Josep Borrell, stopped short of mentioning the issue during his first Foreign Affairs Council on 9 December 2019 (Barigazzi 2019).

The extension of QMV to foreign-policy decisions would present a country like Bulgaria with both challenges and opportunities. The main challenge is linked to the future of QMV in the post-Brexit age, where the voting power of the large member states will be strengthened at the expense of the smaller ones (Kirsch 2016). However, the extension of QMV would also offer small CEE members, such as Bulgaria, new opportunities to fully engage with EU foreign policy.

As shown above in the case of EU sanctions, the unanimity rule has led Bulgaria to approach EU foreign policy mostly through the lens of its national foreign policy interests. Conversely, more QMV would lead the country to intensify its negotiating efforts and to build alliances to achieve a consensus. Indeed, analysts of the EU decision-making process have long noted that the use of QMV pushes the member states towards consensus, also referred to as acting in the shadow of the vote. In other words, the use of QMV would replace the threat of a veto with decisions made in the shadow of the vote (Shuette 2019).

Such a change would require small CEE countries such as Bulgaria to develop new skills in terms of building their reputations, reaching out to other member states and acting as possible deal brokers. Such skills may prove even more critical when it comes to influencing EU foreign policy that takes decisions on the basis of QMV.

The second proposal, made in November 2018 by German Chancellor Angela Merkel and supported by French President Emmanuel Macron, consists of creating an ESC. The novelty in Merkel's proposal is that membership of the ESC would only include some of the EU member states, selected on a rotating basis, alongside post-Brexit UK. Its main objective would be to make EU foreign policy more ambitious in its scope by including its hard-power dimensions, speeding up its decision-making and improving its implementation (Kaim and Kempin 2019).

While the think-tank community has extensively discussed the various potential formats for such an ESC (Nováky 2019), the small member states have every reason to dread such an idea as it would revive the spectre of the old French concept of the *Directoire* or Directorate, whereby EU foreign policy would, in effect, be in the hands of France, the UK and Germany (Blockmans 2017).

The two proposals may have contrasting effects on the future of EU sanctions on Russia as far as small CEE member states such as Bulgaria are concerned. In the present situation, the arithmetical logic of a vote by QMV might well lead to more ambitious sanctions against Russia due to the inability of the anti-sanctions member states to achieve a blocking minority. This would certainly be an unwelcome development for a small CEE country like Bulgaria. However, the second proposal may prove to have more far-reaching consequences. Indeed, President Macron's call for a reset of EU–Russia relations best illustrates the risks for the CEE small member states when the EU foreign-policy agenda is dictated by the large member states (Aldershoff 2019). If these proposals might be good news for Bulgaria as far as EU sanctions are concerned, they would also contribute to further marginalising the country in EU foreign policy.

Conclusion

The EU's imposition of sanctions on Russia offers a good case study of the limitations of EU foreign policy, where decisions are made on the basis of unanimity. As concerns the small CEE member states, including Bulgaria, the political impact of these sanctions is perhaps greater than the economic effect, especially in terms of these states' foreign policy towards Russia. As shown in the case of Bulgaria, the unanimity rule has led the country to stick to its traditional foreign-policy practices of band-wagoning and balancing conflicting interests instead of fully engaging in the EU decision-making process.

The reforms proposed to make EU foreign policy more effective would, if adopted, present the smaller CEE states with both challenges and opportunities. The adoption of QMV would induce them to design new strategies if they want to maintain any influence on EU foreign policy. These strategies would consist of breaking away from their old practices of great-power dependency, band-wagoning and balancing in favour of fully engaging with EU foreign policy in order to contribute to a consensus in the shadow of a vote. Failing to do so would lead to the small CEE member states such as Bulgaria being marginalised in EU foreign policy decisions.

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European Defence After Brexit: A Plus or a Minus?

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Abstract

The departure of the UK from the EU is taking place at a time when the Union is ramping up its own ambitions in the field of security and defence. The EU is pursuing the goal of strategic autonomy to make itself a more influential actor on the world stage. It has initiated a number of programmes, such as Permanent Structured Cooperation and the European Defence Fund, with the aim of spending its defence euros more productively. These European initiatives may well drive the UK further away from the EU as they embody the very integration that had driven the UK to distance itself from the Continent in the first place. Yet this article will argue that the EU still needs to engage the important military capabilities of the UK to be successful in its new ventures and that the UK will also be exposed to many of the security threats that will keep the EU busy in the future.

Keywords

UK, Brexit, Strategic autonomy, CSDP, Defence

Introduction

The departure of the UK from the EU on 31 January 2020 presents both a risk and an opportunity for the future of European defence cooperation. It is a risk because the EU is losing one of its two major military powers—one with a permanent seat on the UN Security Council, a modernised nuclear deterrent and a global power projection capability based on the recent acquisition of two aircraft carriers which will soon be equipped with F35 vertical take-off and landing stealth fighter jets. The UK has spent about a quarter of the total combined EU defence budget and is one of only six European NATO member states to reach the target of devoting 2% of its GDP to defence. It

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currently provides around 20% of the EU's list of critical capabilities, including modern maritime patrol aircraft, tanks and armoured personnel vehicles, multipurpose frigates, electronic warfare assets and an early warning satellite. This article argues that losing this UK capability (even if previously there had been no guarantee that the UK would commit parts of it to the EU's Common Security and Defence Policy (CSDP) operations) makes the EU, overnight, a much less impressive military actor and its goal of strategic autonomy less convincing in strictly military terms. Therefore, it is of pragmatic mutual interest to the EU and the UK to find ways to continue to work together on security and defence.

Yet at the same time, prior to Brexit the UK acted as a brake on the development of a more integrated and coherent EU defence. It constantly challenged the necessity of such an ambition (based on a fear of alienating the US and undermining NATO) and for many years was a reluctant participant in EU-led CSDP missions, even though these were often in areas of strategic interest to London, such as the Balkans, Georgia, the Middle East, Ukraine and Indonesia. The UK did contribute a special forces unit to Operation Artemis in the Democratic Republic of Congo; equally, when EUFOR Althea took over from the NATO SFOR operation in Bosnia in 2004 the operation's first commander was British (Major General David Leakey). However, the latter situation was due to the fact that the Bosnia operation was carried out under the NATO Berlin Plus formula, whereby the Deputy Supreme Commander Europe (a British NATO position) functioned as the overall mission coordinator. The first EU operation that London agreed to lead was the 2008 EU maritime anti-piracy operation, *Atalanta*, in the Gulf of Aden, for which it also put its national naval command in Northwood at the EU's disposal. This proved successful not only in terms of directing the EU fleet in the Gulf, but also with regard to coordinating the military deployment with the civilian actors and other international military organisations (e.g. the UN, NATO and the International Maritime Organization) that were part and parcel of the overall international effort. This said, the fact remains that the UK undoubtedly slowed down progress on the formation of a unified EU defence. It blocked the creation of an EU operational headquarters, starved the European Defence Agency of the funds necessary to launch multinational EU projects or coordinate national capability planning, and consistently preferred to work bilaterally with partners such as France (via the 2010 Lancaster House agreement), Denmark and Estonia. This is not to demonise the UK. It built its Tornado and Typhoon fighter aircraft in European consortia with Germans, Italians and Spaniards; gave its carrier contract to Thales; and went along with a Franco-German proposal to merge EADS with BAE Systems to create a European aerospace champion. It was Berlin rather than London that ultimately scuttled this particular deal.

With the UK out of the EU, the remaining 27 member states face a dual challenge in their quest for geopolitical heft and relevance. On the one hand they need to strengthen the EU's operational readiness, so that it is capable of handling crises on Europe's periphery and beyond, including combat missions, without UK capabilities. This will mean finding ways to make up the capability shortfall. On the other hand, as part of the future EU-UK relationship the member states need to conclude a security agreement with the UK that ties the country closely into EU operational and capability planning, as well as

crisis management and foreign-policy initiatives. Negotiations for this agreement are likely to be happening at the same time that the UK may well be heading in the opposite direction in economic relations by diverging from EU rules and standards. This concern lies behind the idea of French President Emmanuel Macron to set up a European Security Council which would include the UK. Whether this idea is implemented or not, the EU has an interest in making it as easy as possible—both politically and militarily—for the UK to contribute to CSDP as well as to ad hoc European operations. The EU's hope has to be that as Brexit passions fade into history, and a more rational calculus of interests and security priorities prevails in London, the traditional pattern of close intelligence, military and industrial cooperation between London and its key EU partners is quickly resumed. So how can these two challenges of EU strategic autonomy and cross-Channel strategic solidarity best be addressed by the EU's leaders and their new 'geopolitical' Commission?

The London–Brussels dimension

Remainers in the UK's post-referendum debate were always counting on the importance of defence and security to limit the damage of the UK's departure from the EU. Whatever the differences in trade and regulatory alignment, here was an area where London and Brussels were almost condemned to need each other given their geographical proximity and concordance of interests in areas such as illegal migration, counterterrorism and organised crime. Cooperation in security became a key feature of the political declaration on the future relationship, although neither Brussels nor London set out concrete proposals or levels of ambition during the withdrawal process, which came to be dominated by more immediate concerns, such as the UK's financial obligations, the rights of EU and UK citizens, and the Irish border issue. The problem now is that the forthcoming negotiations look set to be even more contentious, with the UK wanting a loose Canada-style free-trade agreement, allowing it to diverge from EU standards, while the EU insists on a regulatory level playing field. With the UK having legislated for a one-year negotiating time frame, there is a risk that security and defence will once again be pushed to the back of the queue.

Not engaging early on security and defence, or seeing this area as being held hostage to contentious trade talks, would not make sense for either side. Illegal migrants, traffickers, members of criminal gangs and radicalised extremists cross the Channel virtually every day of the week. The UK with its extensive intelligence and signals apparatus has been a major contributor to Europol, the Schengen database, the common arrest warrant, and the information and tracking system on criminal activity. It also accesses these databases to look for information on literally millions of occasions every year. So even if the UK can no longer legally be a member of these networks, the urgency of maintaining the unimpeded two-way flow of information necessitates finding a quick solution and a legal work-around, especially at a time when both the UK and the EU need to track the complex movements of the potentially thousands of people affected (or infected) by the coronavirus. The question is whether security and defence should be negotiated in the same joint body as the trade talks or dealt with through a separate channel.

Beyond this immediate priority there should be no fear in Brussels that the UK is abandoning the defence of Europe, even if it has never particularly liked European defence. In recent decades the UK has structured its participation in the maintenance of peace and stability on the Continent around four pillars: NATO, bringing the EU and NATO as close together as possible, nurturing bilateral and regional arrangements away from the Brussels institutions, and coming to terms with the CSDP and the new defence structures in the EU (e.g. the Political and Security Committee, the EU Military Committee, the EU Military Staff and the European Defence Agency) as they have evolved. Brexit only changes the last of these pillars, as these institutions are designed for members only, and offer no or only limited access to third parties. The UK will compensate for its exclusion from the EU-led areas by doubling down on the others. We have seen this already in the emphasis on NATO and the transatlantic relationship as the primary mechanisms for the defence of Europe. At a time when, according to a February 2020 Pew Research poll (Fagan and Poushter 2020), NATO is losing public support in the US, France and Germany, support in the UK has risen by five percentage points. The UK leads a NATO battalion in Estonia and is a large contributor to NATO exercises, such as Trident Juncture in Norway and Defender Europe. It seeks thereby to demonstrate that it is willing and able to reinforce NATO's flanks in a crisis and has the mobility to quickly move its military across the Channel. Conscious of the need to keep the US engaged in the alliance, the UK has been a cheerleader for spending a minimum of 2% of GDP on defence and for US initiatives to give NATO a larger role in the Middle East (Iraq) and to focus on emerging threats such as cyber-conflict, terrorism and the militarisation of space. In a nutshell, the stronger NATO remains, the more influential the UK's voice will be in Europe and the harder it will be for President Macron to convince Germany, the Netherlands, Poland or the Baltic states of the need for EU strategic autonomy. So it should be expected that the UK will argue that French initiatives, such as a proposed EU dialogue on nuclear deterrence built around France's national nuclear force, are redundant, given that the job is already being handled perfectly well by NATO.

The second pillar of UK engagement follows logically from the first. The UK will be an enthusiastic supporter of closer EU–NATO cooperation based on the two Joint Declarations that these institutions signed in 2016 and 2018. Regular consultations between the EU and NATO will give the UK a backdoor voice in EU debates, and it may use this opportunity to press for greater access and privileges for third parties, as Turkey has tried to do (unsuccessfully) for years. It may also push for a clearer division of labour between the two institutions, particularly when it comes to the alliance's core mission of collective defence. The UK's departure from the EU pushes the centre of gravity more towards NATO as henceforth only one EU member state will command a NATO battalion in Eastern Europe (Germany) and the non-EU allies will together be paying more than 80% of the alliance's total defence budget. Non-EU countries will also be dominant in NATO's military commands, with only France holding a supreme commander position. If EU–NATO cooperation leads to more coordinated missions, such as Atalanta and Ocean Shield in the Gulf of Aden or Sophia and Active Endeavour in the Mediterranean, or perhaps to future ones in Libya or elsewhere in North Africa, the UK will be able to further reduce the significance of its exclusion from the CSDP.

The third pillar concerns bilateral or regional groupings. The UK has often preferred to seek out privileged partners with whom it shares a particular strategic vision or affinity. Many years ago it formed a joint amphibious force with the Dutch. It is developing an expeditionary force with France and involving the Scandinavian countries in its pre-existing Joint Expeditionary Force. It has recently established a Joint Command to direct these forces and to organise the requisite training and exercises. The UK has actively sponsored the Northern Group¹ to take a coordinated approach to the North Atlantic and Baltic regions, for instance in anti-submarine warfare and maritime air patrolling. The UK will undoubtedly not allow Brexit to disrupt these well-established partnerships. EU countries may even be happier to pursue them as an additional insurance policy alongside NATO and the EU's own efforts to achieve strategic autonomy. France, for instance, has invited the UK to join its European Intervention Initiative given their shared global outlook, and the UK has responded by sending three Chinook helicopters to support the French Barkhane operation in the Sahel. Franco-British nuclear and drone cooperation continues apace, and no doubt Johnson and Macron will celebrate the tenth anniversary of the Lancaster House Treaty in 2020 with all due pomp and ceremony. The UK will argue that European defence is too big a task for the EU alone and that these bilateral and regional arrangements—where the UK is also willing to function as a framework nation—provide much needed ballast.

The UK's view on new EU defence initiatives

That brings us to the fourth and final issue arising from Brexit. What will be the UK's reaction to the current EU-specific defence initiatives? As mentioned previously, this will be the hardest area for post-Brexit Britain to engage in. Even if the UK wanted to participate in future CSDP operations, it would probably be put off by not being allowed into EU military planning and decision-making fora. This would make it difficult for a UK government to engage given the vociferous Brexiteer faction in the House of Commons. British hostility to EU defence initiatives has often been based on the dual beliefs that they threaten national sovereignty and are not likely to work in any case. So the UK attitude is likely to be to wait and see if initiatives such as Permanent Structured Cooperation (PESCO) and the European Defence Fund (EDF) start to produce real additional capabilities, help the EU to exploit new technologies and begin to build up its defence industry. The UK will also want to see if the ambitious budgets announced for these programmes are finally agreed in the EU's new Multiannual Financial Framework for 2021–7.

This said, the history of the UK's engagement with Brussels is to be sceptical at first and then, when it sees that something is actually working, to take a more pragmatic view on how to become involved. So, paradoxically, the best antidote to Brexit is for the EU to forge ahead in the direction that the UK has opposed, bringing it back into the fold later on. If PESCO and the EDF lead to the establishment of innovative high-tech programmes, the big UK defence contractors will soon be lobbying Whitehall to facilitate a slice of the pie. Initiatives such as the UK–Italian–Swedish air combat system and the Franco–German Future Combat Air System seem almost destined to merge before too

long, given the enormous research, development and investment costs involved. Similarly it makes no sense to keep the UK out of the EU Galileo satellite system's encrypted military network given the major role of UK industry in its development.

So here is an area where the EU could hopefully signal some flexibility as it waits for the UK to come to terms with Brexit (which will not really begin until the end of the transition period at the end of 2020). For instance, the EU could offer the UK closer involvement in the running of CSDP missions if it commits a truly significant military contribution and share of the budget (not just a symbolic officer or two in the headquarters to gain a seat at the table). The EU could decide quickly on generous third-party access to PESCO and EDF projects subject to the implementation of some ground rules on intellectual property protection and export controls, as well as financial contributions. This would be a good way of inducing Whitehall and the UK defence industry to 'think European' and not lose connectivity with their European counterparts. The UK could be regularly invited to meetings of EU foreign and defence ministers (especially when an EU Council for defence ministers is established) to share its insights on topics where it has an interest and can be helpful to EU foreign-policy goals, as in the UN Security Council or the G7 and G20. The EU Military Staff and the European External Action Service can keep the UK Foreign and Commonwealth Office and Ministry of Defence abreast of their contingency planning in order to facilitate deconfliction and encourage London to define its own options for contributing—either directly or indirectly. The more the EU engages in this way and rebuilds daily channels of communication, the more it will help the Remainers in the UK not to give up in despair but to continue to make the case for a close symbiotic relationship.

Conclusion

President Macron is probably being alarmist when he claims that absent a surge in EU defence cooperation the EU member states will imperil their security given US disengagement and the more dangerous regional environment. The EU, in contrast to many other regions of the world, is fortunate in having so many non-EU states willing to defend it—with troops as well as treaties. Brexit only reinforces this situation by making the core of Europe dependent on a number of non-EU flank countries (the US, Canada, the UK, Norway and Turkey). This outer rim has remained remarkably resilient over the decades.

Yet Macron's initiative for closer EU defence cooperation or even an EU Defence Union could be useful in two ways. First, it could produce capabilities that help NATO to plug its own shortfalls and help to make the alliance's collective defence less of a burden and a risk for the US and the other outer rim countries that are on the front line of forward defence. For instance, this could be achieved by using the EU Battle Groups as part of NATO's rotating battalions in the Baltic states. Such a collective EU effort could, in turn, convince the US and the UK to look more favourably on EU defence cooperation as a genuinely military and not only political or industrial endeavour. The second way the EU defence initiatives can fit usefully into a broader transatlantic framework is to do the things that NATO and the European bilateral arrangements do not do particularly effectively. These

include, for instance, providing support to UN and African Union peacekeeping and conflict resolution in Africa, and building capacity in local forces engaged in counterterrorism and other operations. Another possibility would be for EU initiatives to deal with the whole spectrum of non-conventional or hybrid threats, where the private sector and other government departments are at the forefront in protecting critical infrastructure and responding to cyber-attacks or disinformation campaigns. Two articles in the EU treaties (i.e. art. 42(7) Treaty on European Union and art. 222 Treaty on the Functioning of the European Union) provide for EU solidarity in responding to these homeland security challenges, and the EU could usefully reflect on which capabilities and procedures it should package to create a coordinated and collective response to crises, whether natural disasters or terrorist attacks. A PESCO project sponsored by Lithuania for EU cyber rapid response teams is a good example in this respect. These two directions for EU defence cooperation would also help to reconcile Eastern European countries such as Poland to France's current initiatives by demonstrating that they aim to complement NATO and the core US role rather than duplicate or challenge it. Even with all the uncertainties of Trump and Brexit, the EU can still have the best of both worlds: learning how to stand on its own feet and use its various instruments while developing greater solidarity and perception of common threats, and, at the same time, continuing to rely on its parallel Atlantic community to ward off threats of great power interference or conflict that it is currently unable to address.

Note

1. The Northern Group is an informal forum for NATO members and partners bordering the Baltic or North Sea. It includes Norway, Sweden, Finland, Denmark, Iceland, Estonia, Latvia, Lithuania, Poland, the Netherlands, the UK and Germany.

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Autonomous Vehicles: The Need for a Separate European Legal Framework

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Abstract

Regulating autonomous vehicles is not only a question of finding solutions in connection with the technical aspects of the legal framework. Rather, it involves making preliminary policy-based decisions that take all stakeholders into consideration. This article makes the case that efforts must focus on how to incentivise the use of autonomous vehicles without putting the burden on the shoulders of those who will ultimately make use of them. In that respect, the existing regulation (implemented on the basis of the Product Liability Directive and the Motor Insurance Directive) is insufficient, as there is a considerable mismatch between the current framework and the challenges posed by autonomous vehicles. There is a need to act urgently on the regulatory level.

Keywords

Autonomous vehicles, Product liability, Civil liability, Motor insurance

Introduction

One of the major underestimated benefits of the EU is its slowness. This is especially the case in a world where progressive and even revolutionary views are becoming more and more attractive. The peculiarity of the EU that a policy measure can only be introduced after passing a careful process of procedural deliberations makes for a certain systemic aversion to suboptimal decisions. However, there are cases where failure to act in a timely manner results not only in a loss of competitive advantage, but also in irreparable deficiencies. One such case is establishing the future regulation of autonomous vehicles (AVs). This article suggests that the issue should be addressed by the EU, which should do this, for the most part, by providing a guarantee that nobody would be undercompensated, even at the expense of technological innovation.

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Technically speaking, AVs are vehicles that can operate independently of human input. In more detail, according to the established definition set forth by SAE International, a renowned standards developing organisation, there are five levels of driving automation. It is currently possible to test Level 3, or ‘conditional’, automation. As a result, it is already clear that this level will have a positive impact on transport and on road traffic of all kinds. This is because Level 3 is the first of the levels at which drivers can turn their attention away from driving tasks. Certain European companies, such as Audi, claim that by 2021 they will be prepared to bring in Level 4 autonomy, where drivers are not called upon to intervene. Once we reach Level 5 autonomy, an AV will be able to operate on its own everywhere and in all conditions.

The AV industry and market have been making huge leaps forward. According to a recent study, between 2003 and 2015 the number of devices containing some form of artificial intelligence–driven solution quadrupled (Dima 2019, 3). The future has arrived, but it is still doubtful whether the benefits of using AVs outweigh the disadvantages. This is because while older types of accidents will disappear, new and possibly more violent ones could emerge (Winkle 2016, 593). Such accidents could result in fatalities even if the driver’s obligations were different. What has been called ‘the first AV-caused incident’ provides an example. This accident occurred in Tempe, Arizona in 2018. The ensuing investigation concluded that the human driver ‘failed to monitor the driving environment and the operation of the automated driving system’ because she was distracted by her personal cell phone (*The Verge* 2019). The lack of public acceptance of the technology could hinder its indisputable usefulness before the technology even reaches the next stages of implementation. There is no other way to overcome people’s doubts than by establishing a clear legal framework for how AVs are actually supposed to be used. Taking this as their starting point, the following sections will provide a non-exhaustive list of the specific issues that should be tackled, particularly on the EU level, and suggest a number of solutions.

The need for the fast creation of a separate legal framework

The idea of self-driving machines is new to many people, but the question of who should be responsible for AVs’ behaviour is actually old—but it still has not been answered. The scale of the problem is hard to comprehend. There are as many opinions and ideas about regulating AVs as there are conflicting interests in the area. Thus, it is hard to imagine general, normative principles that would govern their use. When it comes to responding to the need to regulate new social challenges, the US is a fast mover. But even Washington has not yet been able to establish a uniform legal framework that covers all aspects of AVs. All the same, considerable effort has been made to find solutions. As early as June 2011, the Nevada legislature passed a law authorising the use of autonomous cars, and since 2012 nine other states have passed legislation on AVs (Ilková and Ilka 2017, 431).

The situation is different in the EU. Although the European Commission is promoting the Vision Zero safety project—which aims at there being no road fatalities on European roads by 2050 (European Commission 2018, 3)—it has simultaneously stated that ‘no

changes are necessary as regards autonomous vehicles' (Patti 2019, 128). The Commission holds that more recent developments in transport are covered sufficiently by the existing Motor Insurance Directive (MID) and Product Liability Directive (PLD), and that further regulation is therefore not needed. Moreover, not many MEPs have warned about the need to move quickly. One who has is Wim van de Camp, who was a Dutch member of the European People's Party Group in the 2014–19 European Parliament. Van De Camp had, on his own initiative, written a report on autonomous driving, in which the key phrase is 'without delay' (Van De Camp 2018). Although AVs do not have the flaws of conventional vehicles, it is hardly conceivable that the legislators who established the present laws and regulations were able to predict the advent of machines that operate independently of human beings. If we could be certain that there would be no popular backlash against the technology, a *laissez-faire* approach would be more suitable. But there is no real reason to think this. The market could fail in numerous ways. The higher rates of crime that the use of AVs could lead to represent only one example of the possible effects that cannot be ruled out (Cohen and Cavoli 2017, 23–5).

The tendency of the EU to move slowly is well illustrated by its response to the issue of strict liability. This notion was developed in US jurisprudence throughout the 1960s as a form of no-fault liability, *vis-à-vis* the manufacturer, in the event of defective products. The European Community waited until 1985 to enact its Directive 85/374/EEC on product liability. This delay was due to the fear that production costs would rise. In the end the Directive proved to have less impact on manufacturers than expected, although it granted consumers easier access to remedies (Spacone 2000, 343–4). However, today technology is developing faster than before, and over-regulation can hinder innovation more easily. Given the Brexit campaign's well-known accusations about over-regulation in Europe, it is ironic that it was England and Wales which understood that their current system had too many shortcomings and in 2018 adopted the Automated and Electric Vehicles Act. This act was added to the UK's existing framework for traffic liability and now stands as an inspiration on this topic (Patti 2019, 134–6).

Sorting out the problems

Legal issues related to AVs fall within the scope of all three main categories of law: civil, criminal and administrative. They need to be tackled in parallel but not all with the same degree of urgency. Criminal law issues fall within the scope of the exclusive competence of each member state and will thus be dealt with mostly on a national level. These include the questions of who is responsible if a crime is committed through the use of an AV (e.g. criminal liability for the death of pedestrians) and how to prevent cybercrime if the system is hacked. However, even without a common EU framework, some member states will have to adapt their laws to the new reality as most European legal systems are built on the idea of personal guilt, thus excluding any form of corporate criminal liability. This circumstance does create gaps in the criminal law regulation.

In principle, there is no persuasive reason to introduce corporate criminal liability in every member state. However, issues such as the regulation of AVs, which might appear

to be side issues, may become a reason to do so. For otherwise the benefits of AVs would be significantly reduced—if the driver had to remain alert to monitor the vehicle’s activities and neither the manufacturer nor any other entity was faced with any criminal liability at all. This is just one case of many which show that there are numerous indirect and preliminary questions that we must address before turning our attention to the issue of the comprehensive regulation of AVs.

At the same time, to avoid uncertainty about the basic conditions for operating an AV, most regulatory questions should be resolved within the EU. These questions involve issues such as certification, licensing, technical inspections and road traffic rules. Other issues include whether a special driving licence (or any driving licence at all) is needed, age requirements, whether AVs should be restricted to certain types of roads and the applicability of all road signs—and even whether drivers must be sober (Ilková and Ilka 2017, 431). It is highly probable that every member state will want to foster the use of AVs, but some states might land up limiting access to them by creating legislation that is poorly drafted or inappropriate. If administrative law were to be interpreted differently in each member state, this would create a horizontal barrier and result in cases that are similar to each other receiving unequal treatment, including an unfavourable choice of forum in the event of litigation. A common approach to the administrative regulation of AVs could also be an attractive marketing tool for the EU.

Possible conflicts with other EU laws also need to be addressed when estimating the outcome and effectiveness of new regulations. AVs collect an enormous amount of data, which is why they are referred to as ‘data octopi’ (AdaptIVe Consortium 2014, 26). The sheer magnitude of the data involved poses a major risk. Some of the data is collected by Event Data Recorders (EDRs). These devices are embedded in the vehicle’s system to collect data that could be referred to in the event of an accident. This data would constitute very important evidence in court cases. However, regardless of any technological advances, manufacturers will have to meet their obligations under the GDPR. Among other things, this means that they will only be able to process personal data if they first obtain the driver’s consent and if the proper information has been provided (AdaptIVe Consortium 2014, 29). Although data minimisation would be welcome, without data collection—and in particular, without the use of EDRs—it would be hard to trace who is liable for an accident in complex situations. If there are no clear answers to the questions of whether EDRs comply with data privacy legislation and whether it is legal to gather complex data from AVs, manufacturers will not be motivated to invest in EDRs.

Who is guilty?

When it comes to answering the question of how accessible and expensive AVs will eventually be, the issue of how liability is to be allocated is of first importance. Imagine an ordinary accident involving an AV. Immediately questions arise. Did the driver act negligently? (However, is not the greatest advantage of AVs the fact that you may act negligently or not act at all?) Was the accident caused by a software or a hardware problem—and what would be the difference? Was the system hacked by a third party (Dima 2019, 20)?

Did the road traffic contribute to the blunder made by the vehicle? A careful examination of these issues shows that the number of parties that could be considered liable—such as infrastructure operators, service providers and software developers—is simply too large (European Transport Safety Council 2016, 20). In the case that followed the Tempe accident, it was indeed ruled that the person operating the vehicle was guilty. But the report also blamed both Uber and the federal government for their acts and omissions.

The EU's only response so far seems to have been confined to the framework of the Motor Insurance Directive and PLD, so that product liability and damage liability are the two pillars of the current legal framework for AVs. However, neither is suitable in its current form. It is true that the issue of product liability has, for the most part, been settled. However, this does not provide uniform regulation of liability with regard to victims of road traffic accidents, as the liability of the driver is dealt with in various ways by the member states.

There are other issues linked to AV-related incidents. First, under the PLD the burden of proof lies with the victim. This can be challenging, to say the least (Lohmann 2016, 337). Second, the PLD upholds the 'development risk defence', according to which a producer bears no liability if the state of scientific and technical knowledge at the time the product was put into circulation was insufficient to allow the producer to discover the defect (Patti 2019, 138–9). By adhering to this doctrine, it would be fairly easy for the manufacturer to claim that the defect which caused the damage did not exist at the time the AV was put into circulation or that it did not become apparent until later on. Situations involving software failure pose an even greater problem. It is unclear to what extent software can be treated as a product in the hardware-oriented PLD (Dima 2019, 27). Even if we assume that software is a product, what does it actually mean for software to be defective? And how can this be proven by the consumer, who bears the burden of proof in court?

Turning to the Motor Insurance Directive, in its current form it only contains two relevant points: vehicles must be covered by motor insurance, and victims can lodge claims directly against the insurer. However, the insured risk is assessed differently in different member states (Evas 2018, 24). Moreover, compulsory insurance does not in itself lead to a no-fault system but only replaces the insured party with the insurer in case of tort (Patti 2019, 130). Furthermore, drivers of AVs may become the victim in an accident in which their own car is involved, a situation which falls completely out of the scope of existing regulations. The more a system becomes autonomous, the less a driver can be held responsible for any accidents (Marchant and Lindor 2012, 1326).

For AVs the right solution might be compulsory no-fault insurance, supplemented by a shift of liability to the manufacturer. A fault-based system, which relies on the care exercised by drivers, is obviously impractical for AVs, not only because these vehicles are designed to learn from mistakes, but also because it would be burdensome for the victim to prove the negligence of the driver. It was these considerations that motivated England and Wales to get rid of their fault-based (and driver-based) system in 2018.

Compulsory third-party liability insurance, strictly based on the liability regime, is a necessary step towards establishing a contributive system: every AV manufacturer would contribute to the cost of insuring all such vehicles (Ilková and Ilka 2017, 432).

For their part, insurance companies can influence the development of AVs by promoting different tariffs which reflect the accident rates of the AVs (Patti 2019, 153). Such a system would guarantee that losses are spread among users, and then calculated differently, leading to different premiums being paid by the manufacturers. In general, AVs are much safer than ordinary vehicles, but there are many things that can go wrong with automated driving. Misuse or manipulation of data, or cyber-attacks, could become frequent. Therefore, if the issue of liability is not settled conclusively, not only will litigation increase costs but it will be harder for insurers to collect their money. Thus, the only way to avoid skyrocketing insurance costs is to move from third-party insurance to a system where manufacturers are liable. Under this scheme, an injured party would be able to file a claim against the insurer every time there is an accident connected to a problem with an AV's normal functioning. Then the insurer could turn to the manufacturer for compensation.

Without definite liability rules, it is highly likely that parties will engage in case-by-case disputes over facts, such as whether or not the driver was reading a book at the time of the accident. While flexibility is an immense advantage for any legal system, leaving too much flexibility in this particular area will lead to arbitrary decisions. This is especially the case since accidents are expected to happen frequently enough to make it inefficient to deal with them individually or in accordance with an 'anthropocentric' standard based on a hypothetical human driver's point of view. Currently, most liability issues are settled out of court, and insurance companies can calculate how to tackle insured persons' claims efficiently. Accordingly, all parties—manufacturers, insurers, drivers and even pedestrians—would function within a system characterised by predictability, so that everyone would have the incentive to make use of automated driving.

If legislators avoid making the driver the focal point of the regulations, the manufacturer will almost certainly have to face an additional burden, at least until the manufacturing process becomes sufficiently safe. However, human safety should be the greatest incentive to use AVs, because if the idea is not seen as socially desirable, it will never see the light of day (Patti 2019, 137). Thus, competition between manufacturers will actually grow stronger as they will compete on the basis of the software embedded in AVs. Moreover, it is the manufacturers themselves that can influence the safety of the vehicles by means of the designs employed, and they can simultaneously transfer some of the costs back to the consumer (Lohmann 2016, 338).

Conclusion

It is clear that, as a social phenomenon, the use of AVs poses a great many problems. It is through law that the EU should urgently, and without any reference to the existing framework, provide us with answers. Even if the regulatory framework is not amended

or supplemented, it should at least be interpreted in an entirely new manner in light of the newly established relationships between the different stakeholders. This should take into consideration that the driver is no longer a driver and that doctrines such as the development risk defence cannot be applied.

Although from a procedural perspective the EU does not have time on its side, a timely reaction to the issues related to AVs could be used to help counter dissatisfaction with the Union as a ‘regulatory monster’. This will only work, of course, if the EU manages to provide sufficient and appropriate protection for all of the interests involved. The legal framework cannot, on its own, support innovation, but it can deter the use of conventional vehicles. There will always be people who, for various reasons, prefer to drive. They will need further incentives to refrain from driving, and some of these can be provided by the law.

The most important measure to be recommended is that there has to be a single entity that is responsible for compensating victims. The manufacturer can act as such an entity, provided there is compulsory insurance for operating an AV. Technological development will grind to a halt if there is a risk that victims will not be sufficiently compensated. A model of no-fault insurance which is binding upon the owner of the AV could deter the use of conventional vehicles. At the same time, under a no-fault insurance scheme, enough uncertainty about liability would remain that litigation would not be excluded for more complex cases (Dima 2019, 15).

One thing is certain: the rules should be as separate as possible from already existing concepts. Moreover, they should be such that national legislation becomes a secondary tool for the most important issues that can be regulated within the EU. Although regulation is a part of the administrative realm, which allegedly hinders progress, in the immature world of self-driving vehicles, silence on the part of regulators may in fact put the brakes on the development of the market. It could also lead to more discrepancies between market expectations and reality and in turn to more administrative issues arising in the near future than would be the case if detailed regulations were introduced. Therefore, there should be a certain number of regulations. It is always best if the law refrains from too much intervention, but an interventionist approach would be better than one that gives rise to an unclear and unpredictable situation.

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Comfortably Numb in the Midst of the Corona Crisis

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Jan Czarnocki and Theo Larue

Abstract

The coronavirus has taken the West by surprise. It has called into question basic assumptions about globalisation, how our society is organised, how safe we actually are and to what extent we control the world around us. The virus arrived when we were without the proper conceptual framework to deal with a new type of virus, and we could not have imagined how much of a social challenge it would represent. The novelty of the situation has made most of us feel strangely confused, numb and calm, and in many cases has left us not knowing what to do with ourselves. This satirical review seeks to put some distance and detachment between us and the situation and give us an outside perspective of what the corona crisis can teach us, both at the individual and social levels. Before the situation becomes the ‘new normal’, we should take the time to extract some lessons from this mess.

Keywords

COVID-19, Coronavirus, Quarantine, Confinement, Globalisation, EU

Introduction

We are living in a time of reason and progress, or so we are told. The concepts of wealth, access to basic public services, living with a full and warm belly, and (relative) safety from unpredictable violent events are all things we take for granted. So much so that we do not think about these issues on a daily basis. This widespread safety and security has made us very proud, self-assured and self-satisfied. Although there had been some difficult times in the last few years, still the common conviction among the middle class and the higher-middle class urban elites had been that we have democracy, wealth, a market economy, economic growth and progress, at least in the developed world, and that all of

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these would continue. The self-satisfaction of the population of the developed world had reached sky-high levels. Then suddenly, somewhere, someone decided to cook some bat soup, and the whole world immediately went . . . yes, you know the word. There is an old adage that a butterfly flapping its wings in a garden has the potential to cause a terrible storm on the other side of the world. Can undercooked bat soup cause unfathomable disruption 8,000 km away? Globalisation, in this instance, has truly backfired. This is a troubling experience, as Western Europeans are accustomed to safety and relative economic and political stability. The coronavirus epidemic has therefore confronted many of us with the idea that perhaps we take our safety for granted.

Where are we, actually?

If there is any certainty about anything right now, it is that the so-called developed world is looking extremely stupid in the face of the challenge that the coronavirus poses. We could have predicted that a pandemic would break out sooner or later, and that under the existing economic arrangements most of our public health services would prove to be extremely underfinanced and unprepared for such a challenge. That much was pretty obvious. What best sums up this situation and the sentiment in society is a meme that went viral a few weeks after the outbreak began in Europe. It shows a middle-aged woman who looks like she works in bio-medical research: ‘You want vaccines from me? You’re paying me 1,800 euros a month for bio-medical research and yet you pay Ronaldo and Messi millions. Go ask them for vaccines!’

Right now, as we sit separately in our own homes to write this, we feel numb and calm in a silly way. At the same time, this is one of the rare moments in our lives when we agree that we could not say exactly what we feel because the situation is so new for us and everyone around us. The most recent plague, the Spanish flu, was so deadly that it killed more people in Europe than the First World War. This coronavirus may not be as deadly, but it is extremely contagious, and therefore poses a new challenge to what we think of when we talk about public health and pandemics. The nature of the danger is different, and this difference is especially obvious in terms of its effect on our lifestyles. To most people, catching the coronavirus means a few days of coughing and a mild fever. How then, can it also deprive us of some of our most treasured forms of entertainment, such as the Euro 2020 football tournament? Have our cultural staples really been taken from us by a simple germ? And that is to say nothing of confinement! Where are millennials, among the least at risk from the outbreak, meant to go to take pictures of their avocado toast? Make it at home and divide the cost by four? Preposterous!

It was a truly delicious irony that the Belgian government’s confinement measures, aimed at slowing the propagation of the virus and resulting in a near-total ban on venturing outside one’s home, would see their implementation coincide with the first real day of spring in Brussels, with clear blue skies and the thermometer showing a hefty 17°C. The following week of confinement went by relatively smoothly, but as the sun beamed down on us through our windows, so did a truly existential question that few of us were prepared to answer: what to do with all this new-found time? And is there

anything that we can do about the crisis, on an individual level, except obey the government's ordinances?

The conceptual problem of dealing with the virus

One of the problematic issues with the outbreak is that people do not know what attitude they should take towards it. The coronavirus caught us without a proper social model that we can use to confront it. We lack a proper persona to wear to face the virus. A persona is a 'mask' that we wear depending on the social context in which we find ourselves and on what is expected from us in a given situation, but that also varies depending on what we expect from ourselves in that situation. Right now we are in the process of working out which social attitude or social mask we should put on to confront the virus. Until we decide on a suitable persona to adopt, we will continue to feel confused, sit at home and try to live as though nothing has happened. We feel calm and numb, but also cross with ourselves for being caught off-guard by a situation that no one anticipated.

The coronavirus is an impersonal force, reminding us of our own mortality. We 'civilised' people of the developed world do not like to be reminded of our mortality. We do not like to be reminded of our limitations. And so the virus has come and we have been left looking like a guy caught with his trousers down and a red face. We are surprised about our mortality, limitations and dependency on other people. Still, the whole world is numb and calm. Impersonal, unconscious fear can be felt under the surface, but the problem is that we cannot see the enemy and, therefore, it is extremely hard to take a concrete stance towards it. French President Emmanuel Macron and US President Donald Trump have both declared that we are at war. But where exactly is the enemy? 'War' is a term used to speak about human affairs, used to describe a conflict with other humans. The state in which we find ourselves right now is so unique that we seem to be short of the proper words and concepts to describe it. That is why we feel so calm, numb and stupid. We do not have a suitable persona to wear or concepts to describe what is happening.

According to philosopher of mind and language Ruth G. Millikan (1984), language is a biological tool of communication, developed through practice. We give something a name based on its effect on us and the name given to the concept denotes this particular effect on us. This denotation is the proper function of the concept. If the name does not properly denote the effect of the concept on us, meaning that the concept's name and practice do not match, this means that the concept is false and simply does not work. This is the case with our conception of 'virus' prior to the arrival of this coronavirus. That is why we have all this confusion with this new situation and within ourselves. The coronavirus scares us, but at the same time it is something so new to us that we do not have proper concepts to draw on, meaning that we do not know exactly how to react. We do not know what the appropriate level of being scared is in this situation, or even what the proper reaction is, because the circumstance is so new. Therefore, we sit numbly and calmly, waiting to see how the situation will develop, and feel cross with ourselves, as we do not know what the proper attitude towards the new situation, the newly evolved

concept of a virus, should be. This state of dumbly sitting and watching will last for a while until we work out our internal attitude towards the virus and the situation it has created—then we can work out the persona, the outward appearance, that is best suited to deal with the new situation. Once the concept has been worked out and we have adjusted to the new situation, everything will become normal once again. It will just be a ‘new normal’. It may even be a new normal for a different-looking world. But we will get used to it, whatever shape it takes. But before that happens, let us at least draw some lessons from this situation.

Conclusion

If anything positive can come out of the coronavirus outbreak, it is a clear lesson of humility in the face of how stupid, and sometimes helpless, we look when confronting it. We can see now how dependent we really are on each other. Not only on others around us and on our closest political community within the boundaries of our nation-states, but also on a proper, coordinated effort by the EU and the international community. We can also now see how interconnected we are and how the economy works at the most rudimentary level. Now it is the most basic functions, carried out by the least well-remunerated labourers, that are keeping us alive. That is what the coronavirus has made us see and appreciate. This experience is part of the new conception of the virus.

The idea that our safety, indeed our survival, might be compromised, has brought out the worst in many individuals. Greed, not fairness or decorum, has become the motivator for large swathes of society. The *Financial Times* (2020) reported that panic stockpiling at the onset of the crisis has led to there being £1 billion of unconsumed food in UK homes. There have been heart-breaking scenes of senior citizens wandering the aisles of supermarkets, seemingly dazed and confused at the absence of all the alimentary staples that they have come to expect and depend on.

At the same time, the crisis has highlighted the humanity within all of us. Supermarkets quickly wised up and created special time slots for the elderly to shop, in order to minimise their potential exposure to the virus. Medical workers have been universally acclaimed for their efforts, and every evening at 8.00 pm, without exception, people across Western Europe have come to their windows to applaud them. This experience will also shape our collective imagination when we next have to deal with a similar challenge.

Therefore, first of all, the coronavirus pandemic offers a lesson of humility. But it also offers a less obvious opportunity. For it gives us the chance to reflect and see that—perhaps as a result of this unfortunate, bat-soup virus—we should slow down a bit and hear what nature is trying to say to us: ‘Listen, humans. You thought that you were the masters of the Earth, that you could control everything. You cannot, so hold your horses and keep calm.’

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Making a More European Britain: The Political, Economic and Societal Impacts of Brexit

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Tim Oliver and Garvan Walshe

This paper sets out how Brexit is pushing the UK towards aligning more closely with the rest of Europe in its politics, society, economics and international position. This is the result of longrunning trends coupled with the political tumult created by the 2016 referendum and the effects of the negotiations that followed. The emergence of pro-Europeanism as a political force is one of the most important and obvious changes. Brexit has also confronted the British with several realities about the UK's economy, society and place in the world that show it to be more European than many will have recognised. In addition, the process of withdrawal has exposed the decentralisation and fragmentation of the formerly exceptionally unitary UK state that began in the 1990s, with tensions emerging from Scotland and Northern Ireland voting to remain while England (with the exception of London) and Wales voted to leave. However, none of this should be taken to mean that divergence from Europe will not happen or be sought, or that the British people will eventually vote to rejoin.

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Fine-Tuning Europe: How to Win the Global FinTech Race?

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Tsvetelina Kuzmanova

The term ‘financial technology’ (FinTech) refers to technology-enabled innovation in the financial sector. FinTech could result in new business models, products and services. It has been rapidly developing around the world, offering innovative products and services that are quickly gaining traction with consumers and investors. Different countries and regions around the world are finding themselves caught up in this fast-paced ecosystem, where their competitiveness depends on a variety of factors, including the interaction of different market players, access to funding and talent, and regulatory measures. This paper examines the latest developments in specific financial technologies, major financial services and product providers. It also looks at the conditions which are shaping financial centres’ competitive significance in FinTech on a global scale.

Recent trends suggest that the US and China are emerging as key hubs for unlocking the disruptive potential of financial innovation in terms of the scale of their FinTech businesses and investments compared to Europe. For the comparatively smaller and younger European FinTech companies it would be challenging to compete with them without favourable government initiatives and support. The EU has already undertaken certain measures and initiatives in order to nurture its FinTech firms, but at the moment it lacks a targeted, EU-wide approach to FinTech. The policy landscape remains rather fragmented with different national approaches to legislation and regulation. The paper examines the current EU policies, initiatives and frameworks for the purpose of providing forward-looking policy recommendations for a more competitive and innovative single European market in the financial sector.

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Tsvetelina Kuzmanova is an international cooperation expert at the non-banking financial regulator in Bulgaria, where she is involved in EU legislation initiatives and cross-border cooperation.

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Made in China: Tackling Digital Authoritarianism

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Dimitar Lilkov

Digital authoritarianism is no future prospect. It is already here. The People's Republic of China has institutionalised draconian measures for citizen surveillance and censorship, as well as gaining almost full control of online political discourse. The Chinese Social Credit System is an intricate extension of this tactic. A coordinated administrative system which feeds on data from different governmental sources and has the ability to sanction and publicly shame individuals would be a powerful tool in the hands of the Chinese Politburo. In parallel, China is pursuing an aggressive agenda of techno-nationalism which aims to move the country closer to technological self-sufficiency and to maximise the penetration of its technological giants on the global stage. The majority of these digital champions have been nurtured by generous public subsidies and successfully shielded from international competition.

This research paper analyses the unique features of the Chinese model of digital authoritarianism and its international spill-overs. China's oppressive model is no longer just applied domestically but is successfully being exported to other countries across different continents. As a new decade begins, the EU must make sure that its citizens have the necessary institutional and legal protection from abuses of modern technology such as facial-recognition software and the advanced application of AI. Europe must remain a global influence when it comes to ensuring a coherent regulatory approach to technology and stand ready to oppose the spread of digital authoritarianism.

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East Versus West IN FOCUS - Is There Such a Thing as a European Society?

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Michael Benhamou

The East-West divide in the EU has recently received much attention. While certain national leaders on both sides have tried to capitalise on it politically, data on the attitudes of the general public in the two subregions convey a more complex picture.

This paper analyses European polling data on people's attitudes regarding several key societal questions. It concludes that the opinions of Western and Eastern European populations are in fact converging on key societal issues, and that EU policies should reflect this growing consensus.

Author biography



Michael Benhamou is the founder of ARON Praxis, a consultancy specialising in data-driven analytics on European matters. He was previously a visiting fellow at the Martens Centre, focusing on the Middle East and European defence, which was a continuation of the work he had done for the French armed forces and NATO as a political adviser in field operations.

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Creating a decentralised Eurozone

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Charles Wyplosz

A decade after the crisis that came close to destroying it, the Eurozone remains fragile. Fiscal indiscipline, a key cause of the crisis, remains a relevant issue. Progress has been made to make the banking system safer, but much more is required to contain risk. Eurozone governance remains weak. This paper argues that six key steps are required to refashion the Eurozone into a robust monetary union capable of dealing with unexpected shocks in the future. These steps are:

- Subsidiarity should be rigorously applied to straighten the existing muddled governance structures
- Banking Union needs to be completed to break the doom loop between banks and governments
- Pan-European banks and fully integrated financial markets offer the best solution to absorb national disturbances. Implicit protectionism – through regulations and support for national champions – should not be accepted
- The responsibility for fiscal discipline must lie where the budget authority is exercised: at the national level
- The no-bailout clause is the best protection against fiscal indiscipline. It should be formally restored
- Some countries with large public debts remain vulnerable to market sentiment fluctuations. However, there are ways to reduce these debts without any transfer or mutual guarantees

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Rescue Operations in the Mediterranean: Towards a Reliable EU Policy

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Vít Novotný

Search and rescue (SAR) in the central Mediterranean continue painting a disturbing portrait of European disunity on disembarkations and relocations of the rescued passengers. This research paper provides a more optimistic outlook. It argues that, despite the inter-governmental conflicts, which remain unresolved, the EU states have been developing a two-segment policy which has greatly reduced the numbers of irregular maritime arrivals via the central Mediterranean route. The European policy segment has consisted of SAR operations by the individual South European member states, ad-hoc arrangements following disembarkations and a coordinated withdrawal from the Libyan SAR zone.

The EU's Afro-Asian policy segment has been based on the prevention of illegal border crossings and support for Libya and the other North African countries in running their own border control and SAR operations. The EU should be moving towards a policy that balances the traditional rights-based SAR system that primarily guarantees the rights of individuals with a functioning rules-based system that encourages adherence to international norms by all the countries around the Mediterranean. The EU needs to continue addressing the human rights abuses in the Libyan detention centres, without compromising on the imperative that the Libyan coastguard should continue bringing the rescued migrants back to their country.

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Vít Novotný is a Senior Research Officer at the Wilfried Martens Centre for European Studies. He is an expert on migration, asylum, border control and immigrant integration.

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NGO Lobbying on Trade and Investment: Accountability and Transparency at the EU Level

Matthias Bauer

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Non-governmental organisations (NGOs) are an indispensable part of civil society. However, NGO influence on policymaking is not always positive. A large number of well-connected NGOs explicitly aim to influence trade and investment policymaking. Some of the most influential NGOs that have campaigned against vital EU trade and investment policy objectives have received substantial funding from the European Commission and national governments.

This study calls on EU policymakers to ensure that NGOs financed by the EU do not fundamentally contradict the EU’s basic principles. Among other things, the study calls for a comprehensive reform of the EU’s Transparency Register and Financial Transparency System. This should include the introduction of a single, centralised system for recording and managing NGO grant funding.

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Matthias Bauer, PhD is a Senior Economist at the European Centre for International Political Economy (ECIPE) in Brussels. He undertakes public-policy-related economic research. His areas of research are international trade and investment, European economic integration (Single Market policies), digital policies, and fiscal and capital market policy.

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