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This is the first edition of the *European Policy Review*. The *European Policy Review* was founded in 2014 by the European Student Think Tank. The journal aims to publish academic papers by undergraduate and postgraduate students on topics related to European Union policy. All papers are submitted to an anonymous peer-review process by graduate and doctoral students. The journal is to be published annually.

EDITORIAL POLICIES

THE REVIEW PROCESS

In order to determine the submitted papers' suitability for publication, the journal applies the requirements of a process of peer review.

All submitted papers are read by the editorial team. Only those papers that seem most likely to meet the quality criteria and are judged to be of potential interest to our intended audience are sent for formal review, typically two reviewers. Reviewers are expected to identify flaws or weaknesses, assess the work's novelty and offer suggestions for improvement. On the basis of their evaluation, reviewers give advice to the editorial team by choosing from among several possibilities:

- Accept unconditionally
- Accept conditionally on minor changes
- Revise and resubmit
- Reject

The reviewers each return a peer review form to the editorial team. The editorial team evaluates the reviewers' comments before passing a judgement back to the authors. Next to providing feedback to the authors, the editorial team edits the papers' content and checks the papers on grammar, spelling and style. The authors of the papers modify their submission in line with the editors' comments and send a revised version back to the editor; this process is repeated until the editor is satisfied and the paper is accepted.

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The peer reviewers are selected by the editorial board on the basis of their level of expertise and their ability to perform an impartial review. Reviewers need to be Master's or PhD students with knowledge about the EU and/or the paper subject.

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CONTACT

editor.europeanpolicyreview@gmail.com

European Student Think Tank
Nieuwe Achtergracht 170 (Room 3.18)
1018 WV Amsterdam, The Netherlands
www.studentthinktank.eu

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EDITOR'S NOTE

By **MIEKE MOLTHOF**

The European Student Think Tank is proud to present the very first edition of the *European Policy Review*. The *European Policy Review* is a peer-reviewed journal that publishes academic, student-written papers on a wide range of topics related to European Union policy. In line with the objective of the European Student Think Tank to provide a platform for discussion amongst students that share an interest in the EU, this journal seeks to involve students in the central and controversial debates in European politics. This journal therefore not only seeks to bring to the fore students' perspectives on EU policy, but also aims to target a wide young academic readership.

The *European Policy Review* has an international and multi-disciplinary character. The contributors to, and makers of, this journal are students from various countries, with different backgrounds and perspectives. The journal consciously chooses to cover a broad spectrum of topics and to incorporate multiple disciplines, thereby reflecting the numerous angles from which EU policy can be studied and discussed.

A team of qualified editors and peer reviewers has examined all the submitted papers and has made a careful selection on the basis of academic quality and potential contribution to the journal. The editors and peer reviewers have provided the authors of the selected papers with extensive feedback. On the basis of those comments, the authors have been able to revise their paper and produce an improved result.

Christina Fanenbruck analyzes the significance of the Committee of the Regions (CoR) and investigates the influence of a single region inside the CoR by looking at the case of North Rhine Westphalia. Aileen Byrne and Lea Pfefferle explore data protection regulations within the EU and formulate a new template for the exchange of practices with the United States. Anthony De Bondt explains the various ways of how the European External Action Service (EEAS) is held to account by the European Parliament, and suggests that formal and informal mechanisms complement each other in providing for true accountability. Julian Scholtes analyzes the EU's response to the Syrian refugee crisis and argues that Europe's apathy is not the expression of a singular event but rather a reflection of a general apathy towards refugees, institutionalized through the Dublin Regulation. Luca Barani presents his research on the views and perceptions of experts working within European think tanks, and highlights what these experts think of the way in which the EU seeks to manage societal diversity. Anneloes Hoff writes about the lobbying strategies of domestic interest groups, and seeks to demonstrate that interest groups are becoming increasingly engaged with the Union's decision-making process because of the ever-growing legislative output the EU generates. Finally, Joren Selleslaghs analyzes the effects of the so-called 'Europeanisation' phenomenon on Switzerland, and reflects on the question of whether the approach of seeking bilateral agreements with the EU instead of becoming a full-fledged member is a beneficial strategy.

We very much appreciate the time and effort that reviewers and editors have devoted to assessing the papers we sent them. We also thank all authors who have taken the courage to submit their paper to the peer review process and deal with others' criticisms. Finally, special praise must also be

given to those who provided their expertise and energy to the formatting process.

By publishing the first edition of the *European Policy Review*, we hope to set the tone of a new tradition with many more volumes to come. As we have experienced during the process that preceded the publication of this journal, launching a journal can be challenging and takes a lot of time. Nevertheless, we have also learned from the mistakes we made and the obstacles we had to face. We therefore expect that the publishing process will be continually improved with each subsequent edition of the *European Policy Review*. We hope you will enjoy reading this journal, and we warmly welcome your comments and suggestions for future editions.

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NORTH RHINE-WESTPHALIA AND THE COMMITTEE OF THE REGIONS

Talking shop or channel of influence? The case of a single region inside the Committee of the Regions

By **CHRISTINA FANENBRUCK**

Christina Fanenbruck is a second year Master student at Freie Universität Berlin. After her Bachelor in European Studies at Maastricht University, she now studies International Relations in a joint Master Programme of three universities in Berlin, Germany. She has a special interest in lobbying and the effect of interest representation within legislative processes.

Ever since the creation of the European Union, European-wide legislation has had an effect on regional concerns. With the Maastricht Treaty, the Committee of the Regions was established in order to provide a meaningful channel for regional ambassadors. Provided with a consultative character, the Committee of the Regions was intended as an additional option for regions to take part in the policy-shaping and legislation-making process. This paper demonstrates in two parts that the Committee of the Regions arguably has been a success story; especially compared to its older sibling the European Economic and Social Committee. The first part recaps the institutional history of the Committee of the Regions, evaluates the state of the academic debate and argues why it is an influential channel for regional concerns. The second part then turns to the precise influence of one specific region; namely North Rhine-Westphalia inside the Committee of the Regions. Based on interviews that were conducted with representatives of North Rhine-Westphalia, the paper finds that the Committee has been underestimated in literature: it is indeed possible for a single region to advance meaningful influence through the Committee of the Regions.

INTRODUCTION

Ever since the creation of the European Union (EU), EU-wide legislation has touched upon many different policy spheres. This process has accelerated over the years and engendered a great amount of EU legislation that interferes with the everyday life of its citizens. Because of the development of EU law affecting regional concerns, it is interesting to investigate in how far these concerns are considered on the European level. This is what this paper aims to do with the example of the German federal state North Rhine-Westphalia (NRW) inside the Committee of the

Regions (CoR). The CoR is a consultative body that was established in the Treaty of Maastricht and aims to promote regional interests in the process of EU legislation-making.

As for the CoR, Carroll (2011) identifies that "little has been written of the CoR" and what has been written has merely "downplayed its significance" (p.341). Domorenok (2009) supports this view and states that "academia has drawn little attention to its activities" (p.144). Hence, it is highly important to do additional research into the CoR's areas of influence in order to see whether it is rightly left aside. The following analysis will show that this is not the case: the CoR is an important actor in the European framework of Multi-level Governance (MLG)[1]. This paper thus combines an evaluation of the effectiveness of the CoR and the possibility to use the CoR as a channel for regional representation by NRW. Whereas the former aspect has been assessed on length, the latter one has not yet been considered for any region. As this is something entirely new, it will add to the academic discourse.

The purpose of this paper is to study regional influences through the CoR on the EU's legislation-making process. It is relevant to assess the impact of the region NRW in order to demonstrate why the view that the CoR solely exercises a symbolic function (e.g. Christiansen, 1996) must be revised and that regional politicians do have a say on the European level. The key term region can be defined as "subnational levels of government or territory" (Loughlin, 1996, p.146). For the intention of this paper, the region of NRW as a powerful federal state of Germany is considered. This is an obvious choice because it is amongst the largest European regions and can therefore also be expected to exercise a large amount of leverage.

The overall research question of this paper is: is the region of NRW able to influence the EU legislation-making process through the CoR? However, there also is an underlying research question because of path dependency. It must first be established that the CoR is influential before it can be investigated whether NRW can use the CoR to exercise influence. Hence, the underlying research question is: is the CoR as such able to impact the EU legislation-making process? The hypothesis that was developed from existing literature and conducted interviews is that the CoR has significantly increased in importance in recent years. It exercises an advisory role and is more than a symbolical institution. Additionally, it is advocated that NRW can effectively use it as one of several available channels to achieve its goals in the European context.

Chapter I focuses on the influence of the CoR as such and answers the underlying research question. Chapter II then turns to the case of NRW. It employs a case study through interviews with relevant personnel. At the end of this chapter, the main research question is answered. The Conclusion summarizes the main arguments and offers suggestions for further research.

THE COMMITTEE OF THE REGIONS

According to the Treaty on the Functioning of the European Union (TFEU), the CoR constitutes

1 While there is no widely accepted definition of MLG available, this one gives a general idea of what is meant: "a system of continuous negotiation among nested governments at several territorial tiers – supranational, national, regional and local" (Marks, 1993 in Hooghe & Marks, 2003). For a full discussion of the concept, please refer to Hooghe & Marks (2003).

an advisory body to the legislative organs that is consulted in cases where "the treaties so provide" (Art. 306), "the EP, the Council or the Commission deem it necessary", in matters that concern cross-border cooperation, or where the CoR itself "deems it appropriate" (Art. 307). This first chapter of the paper shortly elaborates the CoR's institutional past (Historical Evolution), distinguishes the differing opinions voiced in the literature (State of the Art of the Discussion), and interprets empirical evidence as found in studies (Impact on Legislation-making).

Historical Evolution

The tale of the CoR begins with the creation of a different consultative body, namely the European Economic and Social Committee (EESC) in the Rome Treaties of 1957 (Nugent, 2010). At that time, it was deemed necessary to have an effective channel for sectional interests to express their views. The necessity of a channel for not only sectional but also regional representation soon became an issue in the context of Europeanization which had meant the loss of power especially for strong regions (Loughlin, 1996, p.151). Loughlin (1996) marks the start of regional representation with the creation of the European Regional Development Fund (ERDF): "Although the Treaty of Rome does allow for the development of a regional policy, this began only in 1975 with the establishment of the ERDF" (p.153). Through the ERDF, regional and local groups could attract funds. The available funding together with the wish to directly influence European policy processes caused many regions to start setting up offices in Brussels (Nugent, 2010). Around this time, the NRW lobby office was created as well.

In 1989, the German federal states started a series of conferences called 'Europe of the Regions'. This was then taken over by the Assembly of European Regions (AER), a "private interest group of regional and local authorities" (Loughlin, 1996, p.151). Its aim was to create a federal Europe that would "bring about a reduction in disparities among member states and regions of the Community" (p.153). During the Intergovernmental Conference (IGC) in 1990-1, Germany and Belgium pressed for "a stronger body" than the consultative Council of regional and local authorities that was created by the Commission in 1988 (Nugent, 2010, p.229). The need for an influential body modelled after the EESC became obvious because sub-national levels were largely without influence. One exception constituted the strong German federal states in which some power could be retained (Loughlin, 1996, p.154).

The CoR was officially created by the Treaty of Maastricht in 1992 and started functioning in 1994. Even though it was not the "'European Senate' that many hoped for", it still showed "the importance of regionalism in the current period of European history" (Loughlin 1996, p.154). It can be safely assumed that it mainly exercised a symbolic function at that time as there is no controversial discussion about this in the literature. The IGC of 1996 was an important event for a reform of the new body. The CoR gained a significant power as it was allowed to "bring infringements of the principle of subsidiarity to the ECJ" (p.156).[2] Loughlin concludes that "regional

2 Subsidiarity "ensures that decisions are taken as closely as possible to the citizen and that constant checks are made to verify that action at Union level is justified in light of the possibilities available at national, regional or local level" (EU Glossary, 2014)

interests become paramount" (p.162) and that "regions are key actors" (ibid.) in the new system.

State of the Art of the Discussion

This part focuses on the state of the art of the discussion that is happening in academia at the moment and has been going on ever since the creation of the body. First, the dimensions of the CoR's influence as according to Christiansen (1996) are shortly explained. Then, the main criticism as voiced by different scholars is elaborated. Lastly, the arguments of scholars speaking in favour of an influential CoR are presented. The next part then aims to determine which of the parties is correct and argues that the latter one is more accurate in its assessment than the former. The dimensions of the CoR according to Christiansen (1996) – and as elaborated on in Carroll (2011) - can be categorized into a representative, an advisory, and a symbolic function.

The representative function includes the passive element of membership and general composition of the CoR as well as the active element of its inclusion within the policy-making and implementation process. Carroll (2011) points out that the former criticism that also unelected politicians could sit in the CoR is not valid. "Members and alternates, while their terms are renewable, can serve only so long as their representative / accountability mandate does not end" (p.343).

The advisory function consists of the passive form of opinion writing and the active form that these opinions are incorporated or at least seriously considered by the Commission. This function is exercised through the various commissions of the CoR. For each new topic, a rapporteur is chosen who is responsible for writing the official opinion. The extent of mandatory consultation has been significantly extended from Amsterdam to Nice to Lisbon (Carroll, 2011, pp.344-6). However, there is always the possibility for the CoR to issue an opinion on a non-mandatory topic (TFEU Art. 307).

The third dimension, the symbolic function of the CoR, is shown in its mere existence (passive) but also through its role as the "guardian of the principle of subsidiarity" (p.346) (active). Through the symbolic meaning, it can be argued that the democratic deficit has been eased through the institutionalizing of a subnational dimension within the EU's system of MLG.

There are several well-renowned scholars that have estimated the CoR to be a non-influential body. Among them are the 'founders' of the MLG model Hooghe and Marks, EU institutional politics' expert Christiansen as well as EU integration specialist Nugent. There are several reasons for their assessment. Allen (2010) determines that the CoR's influence "has been mainly symbolic" because it is just too hard "to demonstrate that it has exerted any significant influence" (p.241). Christiansen (1996) agrees and reasons that the sole symbolic function is due to "entrenched internal divisions and functional overreach" (p.93). In his essay, he clearly emphasizes the symbolic role; although he acknowledges that "even the nationally skewed activity of the CoR is more than just a collection of member state representatives and interests, in the same way that the EU must be understood as more than merely a Community of states" (p.106). Hooghe & Marks (1996), who wrote their essay at the same time as Christiansen, have a similar view. They think that it is "too early to make predictions about the CoR's role as a channel of regional representation, but there are grounds for believing that the committee's influence will be limited" (p.76). They also conclude that "the new body remains largely symbolic" (p.75).

Jeffrey (2006), although writing ten years after the two previous scholars, still shares their judgment. He identifies that "the combination of weak, consultative powers, the lack of a clear role, and highly diverse membership establishes an unenviable set of barriers" (p.327). Another reason for this assessment is the relationship with the other institutions. The relationship to the Commission is very good - "the Commission takes the CoR seriously", but the Council of Ministers already responds to the CoR with "benign indifference" and the relationship to the European Parliament (EP) is marked with an "underlying rivalry" (p.325). Jeffrey concludes that there is a "growing tendency of regional interests to pursue their concerns through other, more effective channels of access to European decision-making" and that the CoR "has at best yet to prove itself" (p.312). Last but not least, Nugent (2010) also reasons that the CoR only exercises a weak advisory role and that it represents only one possible channel for a region to influence politics.

On the other hand, there are also a few scholars that have a different opinion. According to Loughlin (1996), there is a "gradual trend toward decentralization and regionalization" (p.162) which might be realized in a European state. What is remarkable here is that the Loughlin's statement is already from 1996, thus, stemming from the same period of time as for instance Christiansen. Carroll (2011) is more specific than Loughlin and says that the CoR "has assumed and performs meaningful advisory and representational functions" (p.341). Thus, he gives credit beyond the mere symbolical function. He argues "that serving as an advisory body, the CoR is not necessarily relegated to political and policy irrelevancy, but rather that the advisory function is significant in itself and fulfils the constitutional principle of subsidiarity" (p.341). He also criticizes other literature that "tends to downplay its [CoR's] significance" and is treated in those texts "as a mere advisory body" (p.341). Carroll identifies the CoR as a "core player" in the "multi-level model of EU governance" (p.352). More specifically, he argues that the "advisory function is not only performed 'passively' through its opinion-writing activities" but also actively because it "is demonstrated that the Commission rarely rejects CoR opinions (…) while the EP also takes CoR opinions seriously" (p.353). For the symbolic function, he states that the "symbolic function goes beyond its mere existence" (p.353). As to the question of effectiveness of the CoR, he argues that because it is taken seriously by other institutions, it is fulfilling its task of regional representation well. Carroll therefore agrees with Loughlin (1996) that "the CoR is establishing itself as an important body" (p.353). Domorenok (2009) adds to these arguments that in her opinion "the CoR has found an essential equilibrium between the interests it represents and the pressures from its inter-institutional environment" (p.143). Further, she identifies that this has provided the CoR an essential position within the "institutional architecture of the EU governance" (ibid.). Thus, she also assesses the role of the CoR rather positively.

Impact on Legislation-making

The actual influence of the CoR in the European legislation-making process is of course very difficult if not nearly impossible to measure. However, there are certain indicators that can be utilized, for instance the number of opinions submitted or the amount of words taken over into actual legislation from these proposals. As the review of the discourse in academia has shown, the discussion is very controversial. However, there are some arguments in favour of the CoR having

an influence in Brussels. As a matter of fact, some of the authors elaborated on above are simply incorrect in their assessments because they were not able to incorporate the changes that were brought about in a new treaty. This is also one of the reasons why this topic needs to be newly addressed: with the ratification of the Treaty of Lisbon, the CoR has gained more significant powers. It is permitted to bring actions to the European Court of Justice (ECJ) when it feels that the subsidiarity principle has been infringed. Jeffrey & Rowe (2012) identify that the CoR has turned into the "EU's subsidiarity watchdog" (p.372). Further, the area of mandatory consultation was enlarged to now include energy and climate change (ibid.). The clause mentioned before that the CoR is able to issue an opinion in areas of "common concern", was also an achievement of the Lisbon Treaty (ibid.). Thus, there are some recent developments that account for some of their misinterpretations.

Additionally, there was an academic study undertaken by Carroll in 2011 which analysed the Commission report from 2003 on actions taken on opinions delivered by the CoR. In this report, a time frame of three months was investigated in which in total 33 opinions were issued by the CoR. Of these 33 opinions, three were not discussed yet at the point of the study, seven were rejected and two were merely acknowledged. This leaves 21 opinions that were seriously considered, agreed on, or even acted upon. This being two thirds of the total number of opinions, it constitutes a significant amount.

This impression is even more stressed by looking at a similar review that was conducted by the Commission five years later, in 2008. Here, 41 opinions were issued also over a period of three months which first of all shows that the total number has increased. Of these 41 opinions, a quarter was (partly) taken over into actual legislation. This is even more than five years prior. Thirteen opinions were communicated to the Commission and EP, and 16 were acted upon (Carroll, 2011, p.347). From these reviews, it can be concluded that the CoR is taken seriously by the other institutions and constitutes an influential consultative body.

THE INFLUENCE OF NRW

NRW is the optimal choice for a case study on the influence through the CoR because it is amongst the largest regions in the EU and hence possesses some natural leverage. In order to find out what kind and degree of influence NRW is able to exert through the CoR, several interviews were conducted. Firstly, the composition of the CoR's members from NRW is shortly explained and the interview subjects are introduced (NRW and the CoR). Secondly, the observations made during the interviews are presented (Interviews). The last section contains a comprehensive summary of the implications of the interview results for the research question (Is NRW through the CoR influential or not?).

NRW and the CoR

The composition of the CoR is made up of 27 national delegations. The German delegation consists of 21 members, 21 alternates and six members from regional associations which add up to a

total of 48 members (CoR Website, 2013). The region of NRW is entitled to one regular member and one alternate (ibid.). In addition to these, there are two members from regional associations coming from NRW, although these could also be from a different federal state[3].

The regular member is Markus Töns from the Social Democrats. He has a mandate in the state assembly (Landtag) and assumed office as a member of the CoR in October 2012. The alternate member is Stefan Engstfeld from the Green Party. He also has a mandate in the state assembly but belongs to the smaller coalition party. He is deputy chairman of his party and assumed office at the same time as Töns (after the regional elections). They both are members in the CoR for the first time but have a strong political background in European affairs, having been members of the council on EU affairs of the state assembly. Rainer Steffens is the head of the Permanent Representation of NRW to the EU (later referred to as regional lobby office of NRW, located in Brussels). He has also worked for the Permanent Representation of Lower Saxony in Berlin, as a national expert at the European Commission in Brussels, in the German Federal Ministry for Environment, at the Permanent Representation of Germany to the EU and is now head of the lobby office of NRW. Thus, he also has a strong background in European and environmental affairs.

While Töns, Engstfeld, and Steffens were all successfully interviewed, several more candidates from NRW were requested. Unfortunately, the two NRWian members of the regional associations were not available for an interview. Neither was NRW's minister for European affairs who referred to Engstfeld and Töns instead.

Interviews

The analysis of the interviews is based on the conversations with Töns, Engstfeld, and Steffens that were conducted in spring 2013. All interviews share a common structure. Firstly, the interviewees were asked about their work and tasks in general. Secondly, their specific task of representing NRW in the CoR was addressed. Here, their personal evaluation of the added value of the CoR for NRW was enquired. Thirdly, the interviewees were questioned to illustrate other channels that are available for NRW and were asked to undertake a ranking of these channels according to their effectiveness. A rough overview of the questions can be found in the Annex. In the following, the findings of the interviews are illustrated according to the three building blocks mentioned above: Working in the CoR, Representing NRW, and Channels for NRW.

Working in the CoR

Concerning the Commission-CoR relationship, Töns elaborates that the Commission officials take part in the working group meetings and actively join the discussion. Additionally, the Commission President sometimes attends plenary sessions. Steffens also identifies a significant increase in informal cooperation with the Commission. Today, the CoR is more involved in the

3 Please keep in mind that details may have changed since the time of writing in spring 2013.

process preceding the publication of the official Commission draft. However, this supposedly is highly informal and not observable from the outside. Engstfeld notes a similar development with the EP. They have an increasingly good relationship. EP president has attended the plenary two times already since October 2012 and the EP's rapporteurs always attend and join the discussion in working group sessions of the CoR. Töns confirms this development. Both agree that the EP is a very important ally for the CoR.

Another aspect that is linked to working within the CoR, is the quality and quantity of the opinions. During his time at the permanent representation of Germany to the EU (2006-2011), Steffens read only one opinion of the CoR. Because the CoR did not enjoy any factual power, its position was not sincerely considered. As the lack of factual power remains, there is one important aspect that has altered: the quality of the opinions has significantly increased, mainly because of an enlargement of staff. Töns accredits this to Gerhard Stahl, the Secretary General of the CoR. He has triggered an increase in resources and working efficiency which has improved the work of the Secretariat. This has then in turn allowed for an increased amount of opinions issued. Additionally, the increase in the quality of the proposals has allowed the CoR to be taken more seriously, also by the Council, according to Steffens.

Furthermore, the CoR serves an important platform function. At the creation of the CoR, the most important goal was to create a cross-regional cooperation network. Steffens still names the platform function amongst the greatest opportunities to establish a network of regions for best practice sharing. A fruitful example of its success is for instance the clean air group that started as an initiative inside the CoR. The platform function still remains an important networking opportunity today, according to Engstfeld. Furthermore, all interviewees note an increased importance of the CoR since its creation. Töns specifies that it gained a good reputation especially over the last five years and has thus also become a lot more relevant to NRW. As evidence he invokes the closer cooperation with the EP and the Commission. Engstfeld confirms this view and adds that there is still the desire to do more by NRW. They want to take even more CoR matters into the state assembly and its ministries. He concludes that the "CoR is on a good way".

Another facet of the workings of the CoR is the relationship to the regional association members. The regional association members from NRW are no close allies of the two politicians during negotiations. They represent cities from the whole of Germany and are therefore more bound to their mandate than to NRW. Engstfeld specifies that the German delegation seldom votes in unison. Unexpectedly, all interviewees were very positive about a possible increase in formal powers in the next convention. Steffens reckons that the CoR may soon be an institution in the legislation-making process with the power to reject. Engstfeld formulates this a bit differently and calls for "something more than a trialogue". Töns also thinks that there will be an increase of power in the next treaty.

Lastly, in the context of the workings, the EESC needs to be considered. Steffens recognizes a deadlock position that renders the EESC not nearly as important as the CoR even though in legislation they are always mentioned in the same breath. He further states that their historical evolution has been entirely different because the CoR has accomplished a learning process and is more dynamic overall. As a reason Engstfeld names the lack of authority as there is no political representation included in the EESC; its members do not hold a political mandate. On the other hand, something that both consultative bodies have in common is the lack of acknowledgement

among the broader European public.

Representing NRW

All interviewees identify the extraordinary position of NRW with respect to the availability of administrative support and its engagement and organisation within the CoR. Next to the two politicians (Töns and Engstfeld) who work on CoR matters, there is also one employee within the state chancellery who solely works on CoR proposals and related aspects. This being already more than what other regions enjoy, there is another person within the administrative department of the state assembly whose sole work concerns the CoR. Additionally, there usually is a briefing/meeting of the two employees, the two politicians, and the minister of European affairs taking place before each plenary session. At these meetings, the common NRW position is formulated. This happens with the help of position papers drafted by the respective ministries that give expert advice on the proposals at hand.

This significant administrative and professional support which stems from the pro-European attitude of the NRW government, allows the two members to make a considerable number of amendment proposals. Due to the shortness of their office, neither has been a rapporteur yet. However, they estimate (independently from each other) that about half of the topics on the agenda are addressed with an amendment proposal either submitted by NRW directly (most of the cases) or joined by another region. Engstfeld asserts that "NRW acts while others solely react" because they lack the resources. As a future project, there is a plan to host a committee session in NRW. This could not be realized in 2013 due to budget restraints but will be reconsidered for next year. Concerning the different cleavages within the CoR (e.g. rural v. urban regions or strong legislative power v. weak legislative power), the interviewees have recognized merely two: nationality and party-membership (Töns and Engstfeld). These were actively perceived by the interviewees in plenary session.

As previously mentioned, NRW enjoys some natural leverage via its pure size. "NRW is the biggest region in the EU, both in economic output and number of inhabitants" (Töns). When attending CoR events, Töns represents 18 Million citizens where many other member states do not even have that many inhabitants. Steffens also observes that NRW's opinion is taken very seriously which slightly surprised him when taking over the position as head of the lobby office. He further identifies that due to NRW's authority it is easier for him than for instance for Saxony to be taken seriously in Brussels. What also helps is that the continuous efforts of the lobby office have created an "environment of trust" that supports NRW's position (Steffens). However, this statement may be biased due to his function as the head of the lobby office.

Channels for NRW

There are several channels that are available for NRW to achieve its position. Steffens isolates the Federal Assembly (Bundesrat) and the Federal Government as the most effective channels. However, NRW cannot always be successful for a number of reasons. That is where the other channels

can be utilized. The permanent representation is used for informal exchange of information, for instance, with debriefings after Council meetings. Furthermore, there are the Members of European Parliament (MEPs) of which NRW has 19. This is more than some member states have in total. Additionally, there are several civil servants working as national experts within the Commission or EP. Steffens explains that there is a closed network that regularly meets in the lobby office. The CoR is important only to certain degree in the legislation-making process according to Steffens. Its main purpose is the networking platform through which legislation can be influenced.

Engstfeld has a similar view on things. He identifies the state assembly and the NRW government as the prime channel to achieve goals. Next, he rates the NRWian MEPs in Brussels. As a third channel he also sees the regional civil servants (national experts) and as the fourth but still effective channel the CoR. He acknowledges that its importance should not be overestimated but when the mandate is taken seriously, the work in the CoR can indeed be very valuable. He does not regard the German Permanent Representation as important for NRW.

His colleague Töns estimates things differently. Number one for him is the Federal Assembly, immediately followed by the CoR. Networking ranks third in his opinion. The CoR is second because it is indeed inferior to an initiative brought in to the process through the Federal Assembly. However, the CoR is not far behind as it has proven to be an effective channel to achieve goals in European matters.

The three interviewees are experts in their respective fields. However, it has to be kept in mind that they may have overemphasized certain points. For instance, Steffens has attributed the greatest impact to networking. This is not surprising because the sole purpose of the lobby office and therefore of his occupation is to nurture a platform for networking. For Töns and Engstfeld, it can be observed that they have an astonishingly positive view of the CoR which may be due to their involvement in its work.

Is NRW through the CoR influential or not?

Engstfeld has emphasized that the CoR can be most influential when it acts together with other players, such as the EP or civil society through citizen's initiatives. One example of this is the Water Concession Directive which he named as a successful case. In those circumstances where the CoR is isolated in its position from other players, it is likely to be unsuccessful.

Töns also confirmed that there are several passages of CoR statements that can be located in actual legislation. Thus, the CoR has proven as an effective channel, especially considering NRW's many activities within. NRW has usually been satisfied with the final official position of the CoR; also because they have been very diligent with regards to submitting amendment proposals. They have a great administrative support system that enables them to be involved to a large degree. Additionally, there is a high degree of involvement within the ministries, the state assembly, and the NRW government which combined enables the two politicians to precisely know the NRW position and to put it forward during plenary and working group sessions.

Steffens has noted that because the German federal states pushed so hard for the creation in the late 80s, they also feel obligated to make the CoR become alive. This is another hint that this

case is not comparable to other regions. Further, he remarked that there is a multitude of differing opinions within the CoR and that it is not always possible to have the full extent of the NRW position in the final CoR opinion. However, the two politicians clarified that they concentrate their efforts in matters that are very important to NRW such as industry, water, environment, or climate. In other matters they are not as involved.

An important aspect that needs to be emphasized is that the observations of the interviewees are based on internal processes. Formally, there have been no changes in the workings of the CoR since 2009 with the Lisbon Treaty. Informally however, they have confirmed that the CoR has become more important and a useful platform for NRW. Although they all rank its importance differently, they agree that it can be used effectively and does therefore not only act as a networking platform or a mere symbolic institution. Hence, the main research question can confidentially be answered. The region of NRW is indeed able to influence the EU legislation-making process through the CoR.

CONCLUSION

The unique value of this paper lies in the combination of a review of the CoR's formal powers and the application to a single region. This has not been investigated before. A possibility for further research would be to expand this research design to other strong or supposedly weak regions and to see how they use the CoR.

Chapter I was about the influence of the CoR as such which needed to be investigated at first. Otherwise, it would have been questionable how NRW could use the CoR if it was entirely non-influential. The underlying research question was answered within that part. The hypothesis that the CoR has significantly increased in importance in recent years and is thus more than a symbolical institution, was found to be correct. Due to a changed reality since the Treaty of Lisbon, the assessment of the dominant strand of literature should be updated. The proof for this was delivered through a thorough literature review, a study by Carroll (2011), the confirmation of a politician and a referral to a CoR publication.

Chapter II then turned to the genuine focus of this paper, the case of NRW. A case study was conducted through interviews with relevant personnel. The hypothesis to the main research question was also found to be correct, namely that NRW can effectively use the CoR as one of several available channels to achieve its goals in the European context. This resulted from the interviews with two members of the CoR and the head of the lobby office in Brussels.

As has been mentioned before, the case of NRW is exclusive and cannot be applied to other regions in the EU. Therefore, it cannot automatically be assumed that any other region but NRW can make use of the CoR as an effective channel. This is because there is "no congruence, nor even convergence, in the political role of cities, municipalities, and regions in the European Union" (Hooghe & Marks, 1996, p.74). It is likely that other regions with an equally well staffed support system can achieve similar results but this cannot be derived from the content of this paper. The most likely candidates for this are the "Austrian Lander, German Lander, Belgian regions, and Spanish communidades autonomas" (ibid.). That is because they "are well funded, strongly institutionalized, entrenched within their respective states, and active in the European arena" (ibid.).

A limitation that is applicable to Chapter I is the lack of a plurality of studies. It could be criticized that Chapter I follows a vulnerable line of argumentation. However, there were not enough resources available to conduct an independent evaluation. Additionally, the emphasis of this paper lies on Chapter II. Chapter I constitutes a means to an end. A suggestion for future research is to conduct an empirical study of the extent to which the wordings of the CoR's opinion are retrievable in final legislation. In a second step, it should be investigated who the rapporteur of the opinion was and whether there were some parts that were amended during the plenary or committee session. This would allow an even more precise analysis of the successes of specific regions within the CoR. Generally, the key successes of the CoR are annually published in the brochure "Making a difference".

As mentioned at the very beginning, EU legislation today reaches into very many different spheres of regional concern. This paper has shown that the complex EU decision-making apparatus indeed leaves room for regions to voice their opinion. Therefore, it is a pity that so few people among the European public know of its existence, leave alone its powers or working styles. This paper has attempted to shed some light on the meaning of the CoR for an individual region. With a possible increase in formal powers in the next treaty, the CoR will hopefully gain more attention to be even more influential as a watchdog for subsidiarity.

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APPENDIX

Please find below an overview of the structure and the questions that were posed during the interviews. According to each interviewee's background and course of the interview, the questions were slightly adapted. Recordings of the interviews are available. All interviews were conducted in German.

Structure
- Work of a representative in the CoR
- Working within the CoR
- Role of the CoR for NRW
- Ranking of Channels

Questions
Your work for NRW within the CoR
- You have been a representative inside the CoR since September 2012. What have been your experiences working in the CoR?
- Have you personally (co-)written any opinions that can be retrieved in actual legislation? Have you been a rapporteur yet, are you going to be one in future?
- What was your personal key success within the CoR for NRW?
- What was the most important opinion that the CoR ever issued (for NRW)?

Working within the CoR
- Are there any coalitions within the CoR that are always helpful or often have the same opinion as NRW? For instance, other strong federal regions?
- How is NRW entrenched within the CoR? What are the most important cleavages (rural v urban / rich v poor / powerful v not powerful)?
- Any other remarks about workings within CoR?

Role of CoR for NRW
- Is the region of NRW able to influence the EU legislation-making process?
- How? Through the CoR? Through what channels besides the CoR? Informal channels?
- Example? When was NRW most successful to influence (through the CoR or through other channels?)
- Inside the CoR, what are the policy areas that are most important to NRW that are pursued through the CoR?
- Some scholars say that the CoR has an increased role in the EU decision-making process. Would you agree that this enhanced role has also meant that the CoR has become more important to NRW?
- How important do you deem the CoR to be within the institutional framework / MLG of the EU? In general and for NRW?

The CoR and other channels
- Rank the importance of these channels for NRW on a scale of 1-10 (10 being most important): federal government, lobby office, permanent representation in Brussels, MEPs, German civil servants
- Under which circumstances and to what extent are these different channels used?

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CREATING A TEMPLATE FOR THE FUTURE

A potential data protection regime between the EU and the US

By **AILEEN BYRNE** and **LEA PFEFFERLE**

Aileen Byrne is an intern in the NATO Defense College's Middle East Faculty in Rome. She holds a master's in European Politics from Sciences Po Strasbourg and a BA in International Studies from DePaul University in Chicago.

Lea Pfefferle works for a pharmaceutical company as a Global Policy Manager in Brussels. She holds an MSc in International Political Economy from the LSE and a BA in European Studies from Maastricht University.

The diplomatic and social consequences of the recent revelations around a clandestine anti-terrorism mass electronic surveillance data mining program launched in 2007 by the National Security Agency (NSA) - called PRISM - serve as a reminder for the necessity of a comprehensive agreement on data sharing and data protection between the United States and the European Union. As the world's two largest economies, the US and the EU have the potential to set the precedent for this issue of global significance. Both the US and EU have recognized such an agreement to be in their interest, however negotiations have yet to lead to anything other than reactionary agreements to specific issues as they arise. This paper will explore various attempts at such agreements and their shortfalls, including Safe Harbor, the Passenger Name Record agreements, and the Terrorist Finance Tracking Program. In addition, it will outline existing data protection mechanisms within US and EU legislation, and how and why American and European philosophies on data protection differ fundamentally. Finally, the paper will propose a framework to foster the dialogue necessary for the implementation of an all-encompassing data protection agreement. In doing so, we address the role that civil society and business could potentially play in a transatlantic data protection scheme. The current political momentum in the light of the recent scandals could give a push to such an agreement and increase the willingness of both players to engage in such a well needed exercise. An overarching framework between the two big players could then be seen as a template for the rest of the world to eventually follow in order to protect citizens' data the best way possible.

INTRODUCTION

A Pew Research Center study reveals that participation in online social networks has more than

doubled since 2008, increasing from 33 % to 69 % (Smith, 2013). The data footprints that people constantly leave through Whatsapp messages, Facebook posts, Amazon orders and online banking are generating trails of personal data left for anyone to discover, use and possibly abuse. Nonetheless, privacy and data protection still carry immense personal value for individuals, with many considering them to be both constitutional and human rights. Equally important to governments and companies, the new European Commission Proposal for the General Data Protection Regulation states, "[b]uilding trust in the online environment is key to economic development" (European Commission, 2012, p. 1). With more than two billion current users, the internet is one of the key pillars for a growing economy, constantly generating wealth and growth. On a daily basis alone, an estimated $8 trillion is exchanged through e-commerce and vast amounts of credit and debit card transactions (Pélissié du Rausas et al., 2011). These unlimited possibilities have created a global network where virtually anyone can be traced at any time.

Taking into account this immediate necessity to protect data and privacy along with the deep, historic partnership between the US and EU, this paper will serve as a proposal for a transatlantic data protection agreement in the sense of laying out the necessary conditions for negotiating such an agreement. The key is to ensure that this protection is effectively enforced between the two biggest trading bloc partners in the world. First, the paper will define data privacy and those legal frameworks that exist around it. Second, it will provide a short overview of past attempts at data privacy agreements between the EU and US. Finally, the paper will suggest what a data protection agreement between the two parties could look like, and clarify specific limitations to such an agreement.

WHAT IS DATA PROTECTION?

It is important to take a closer look at the meaning of the term 'personal data'. According to Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and the free movement of such, it can be described as "any information relating to an identified or identifiable natural person" (European Union, 1995, Article 2a). This data subject or identifiable person is further set out to be "one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more specific to his physical, physiological, mental, economic, cultural or social identity" (Druschel, Backes & Tirtea, 2011). While this clearly implies that a person's name would be sufficient enough to identify him/her, the definition still retains an uncomfortable ambiguity. For example, how does one consider information that establishes the subject as part of a bigger group such as a club or family? Does one categorize this information on an individual or group basis (ibid.)?

Despite the ambiguity, it is evident data protection is concerned with the interest of the data subject, and is intended to prevent the abuse of the subject's data. Interestingly enough, while the term "data protection" is commonly used in Europe, the US conceptualizes it more frequently as "data privacy" (Bygrave, 2010, p. 166). The US system, contrary to the EU's more regulatory approach, often tackles privacy issues through the Supreme Court. The Court has based many of its decisions in favor of privacy rights on the Fourth and the First Amendment, as in Sorell v. IMS Health Inc (US Supreme Court, 2011). Even though personal data protection is understood as

a constitutional right in the US (see US Supreme Court, Griswold v. Connecticut, 1965) the EU has classified the US as not meeting European data protection standards (De Hert & Bellanova, 2008). The EU itself is currently updating its data protection regulation and has enshrined the data protection principle in its Article 8 of the Charter of Fundamental Rights of the European Union. With regard to the overseeing and acting authorities, both the EU and the US have set up agencies or commissions to deal with data protection, and have designated bodies to deal with the protection of data. However, it should be noted that the EU does not have competences in the field of national security and the possible breach of data protection in line with national protection by government agencies. Lacking such a crucial equivalent, this poses a major difficulty in coordinating data protection measures between the US and EU.

Different cultures, different standpoints?

While the United States and European Union have different positions regarding the usage of personal data, close cooperation in this field is of interest to both parties. This is evident by the repeated mentioning of the need to promote data protection in their annual joint statements following the EU-US Summit (Council of the European Union, 2014; European Commission, 2011). The statements have however not gone into specifics how they will design such an agreement. Negotiations for a fully-fledged, detailed data protection agreement have supposedly been underway for the past several years, but it is difficult to measure the progress of these negotiations that have so far been largely removed from the public eye. The 2012 joint statement by the US Department of Justice and the European Commission names data security, transparency, accountability and the maintenance of integrity and accountability as significant principles that have been included in the negotiations without going into further detail (US Department of Justice, 2012). The problem with past EU-US data protection negotiations and agreements is that they have been largely reactionary, focusing on issues as they arise, rather than initiating the type of substantial dialogue that fosters long-term cooperation.

One example is the Safe Harbor Framework (Export.gov, 2013). It was initiated to allow qualifying US companies directly affected by the adoption of the European Commission's 1995 Directive on Data Protection to continue freely transferring data. The goal was to prevent business interruptions. The Passenger Name Records and Terrorist Finance Tracking Program (TFTP) were implemented in reaction to US offensive anti-terrorism post-9/11 policies (European Union, 2012; Connorton, 2007). Both remained controversial in the EU and especially the European Parliament, which perceived the two agreements to merely be channels for US data protection evasion. However, these agreements are components of a much larger dialogue on data protection, and the recent PRISM revelations are once again a reminder of the need to create a comprehensive transatlantic data protection agreement. In order to be successful, this must take into account previous mistakes, and aim to cover as broad a spectrum as possible, focusing on common EU and US principles in the field of data protection or privacy.

ESTABLISHING A FRAMEWORK FOR COOPERATION

To prevent impaired diplomatic relations as a result of the NSA leaks, it is crucial for the US and EU to immediately begin discussions on a comprehensive data protection agreement based on trust and cooperation. Such an agreement will take time, and should be implemented gradually. What can be gathered from previous attempts on data privacy cooperation initiatives is that there is a lack of institutionalization, (democratic) oversight, inclusive participation, and constant flow of communication that need to be addressed. Therefore, the paper proposes the framework under which this dialogue should take place, based on existing legislation and government bodies in the US and EU.

This paper calls for the establishment of two permanent transatlantic bodies that will ensure regular dialogue on data privacy, while simultaneously serving as a "checks and balances" mechanism in the implementation of data protection legislation. While these bodies will not enforce anything per se, the idea is to establish a voluntary cooperation measure, the existence of which will reassure both parties and their respective populations that data protection in the US and EU is a transparent process.

Setting up different bodies

The first transatlantic data protection body will handle those issues that are of an interest to national security. Similar to the framework of the recent EU/US dialogue on intelligence practices, participants should be bodies or institutions that deal with security issues and/or have a say in agenda setting. Identifiably, the EU participants should therefore include representatives from the European Council, the EU Presidency, the External Action Service, as well as from the member states' intelligence services and diplomatic services. The US equivalents should be representatives from the Department of Justice, the Office of the Director of National Intelligence and the US Department of State. Any requests requiring companies to transfer personal data either to the US or an EU member state would have to be approved by this body, whenever the data concerns both American and European citizens and there are identified national security implications. The second transatlantic data protection body will exist between the US Congress (Senate Commerce Committee House of Representatives Energy & Commerce Committee), US Federal Trade Commission and European Parliament Civil Liberties, Justice and Home Affairs Committee (LIBE) and the International Trade Committee (INTA). Most of these bodies are closely involved in all trade related issues while the LIBE committee is to add insights from a citizens' rights perspective. It will specifically tackle issues of data privacy in a commercial context in the US and EU that have no implications for national security and therefore have not to be approved by the first transatlantic data protection body. A bipartisan privacy working group was already established in the US Congress in August, 2013, looking at data privacy in a US context. So far, no output has been made public but a future transatlantic data protection body could certainly draw from the first experiences of this working group, extending it to cover more extensive discussions on transatlantic issues.

Once these two bodies are established, they will agree on the frequency of their meetings, and

the level of information sharing that will take place so as to comply with both US and EU existing legislation. In order to ensure an optimal level of transparency, the two bodies will assume an additional role modeled after the European Ombudsman and FTC Complaint Assistant. They will receive complaints or questions regarding the efficacy and appropriateness in which the US and EU handle data protection in a transatlantic context. Therefore, if a complaint has an element that is "extra-national," it will be forwarded to the appropriate bureau.

Finally, the purpose of establishing these two bodies is to lead to the drafting of a comprehensive data protection or data privacy agreement, which will encompass both the commercial and security facets of data protection. This will set the precedent for international data protection legislation, potentially through the United Nations or a future international body responsible for safeguarding human rights in the cyberworld.

Limitations of the proposed framework

Having looked at the framework of a possible data protection agreement between the EU and the US it is also necessary to recognize that there are limitations. First, the sheer number of implicated players could complicate the implementation of such an agreement. The respect of parliamentary oversight must be ensured, along with the guarantee that the executing bodies will be able to fulfill their tasks. A second challenge is compelling both parties to adhere to the agreement. This will potentially be the most difficult to tackle and could be used as a political weapon, such as in the current dispute over the SWIFT agreement. Nonetheless, both players have matured democracies and judicial systems, and therefore this possibility is rather marginal. Third, the duration of such negotiations can be lengthy, with the EU currently struggling to conclude its own data protection regulation without the influence of external players. Prolonged negotiations on such an innovative topic as data and technology could lead to parts of the agreement being outdated at its eventual time of implementation. This however, should not discourage decision-makers from attempting to conclude such an important and far-sighted agreement. It can be a living agreement whereby agencies propose amendments to guarantee that it remains up-to-date. Naturally, this list of challenges is not exhaustive, yet such a list would go beyond the scope of this paper.

The importance of stakeholder engagement

Finally, the responsibilities of and opportunities for business and civil society should not be underestimated. Such an agreement cannot only be concluded between governments, but has to include representatives from both of these groups. The EU normally initiates consultation procedures before the onset of negotiations while the US allows for active participation throughout e.g., trade agreements via the Advisory Committee for Trade Policy and Negotiations (ACTPN). In this particular case, a more visible role of civil society and business should be encouraged and sustained in order to guarantee the broadest support possible and to ensure that citizens are optimally protected. While this might come at the cost of speeding up the negotiations, it will lead to greater overall acceptance, which is absolutely crucial. The current negotiations of the EU-US

trade agreement (TTIP or TAFTA) show just how crucial a constant dialogue between all stakeholders is. NGOs have been claiming that the European Commission is influenced too strongly by business and have strongly influenced the public and media discourse. The European Parliament has also been unsatisfied by the communication policies and has made clear that they need to be better informed since they have the last word when having to pass the agreement at the very end. Consequently, the dialogue between the government, business and civil society needs to be conducted in a fruitful manner without stalling the talks. Therefore, a framework for discussions should be established beforehand in order to clarify any guidelines and create a constructive environment. All groups involved can benefit from such an approach, providing better rules for citizens in the EU and the US.

CONCLUSION

Progressing on a data protection agreement between the EU and the US is essential for the future, not only for the two parties directly involved but also as a roadmap for the international community. As the revelations from this summer have shown, citizens and companies are very much concerned about what happens with their data. This paper has shown that the EU and US are interested to cooperate in the area of protecting personal data, despite the fact that their understanding of personal data and data protection is somewhat different. It has become evident that previous attempts of cooperation have lacked coherence and stakeholder inclusion and were largely reactive. To overcome this, a framework for cooperation between the EU and US on data protection has been presented that involves regulatory and legislative bodies as well as business and civil society. Such a framework will guarantee an inclusive process. A set up of two different bodies, one focused on national security, the other on commerce, has been proposed to show that data protection needs to be viewed from different angles. Future research may be useful to better understand which parts of data privacy should or even can be addressed in such cooperation, and how such an agreement can be used for standard setting. After all, now more than ever is the time to act.

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THE EEAS AND THE EUROPEAN PARLIAMENT

How formal and informal accountability mechanisms are symbiotic

By **ANTHONY DE BONDT**

Anthony De Bondt holds an MA in European Governance (University of Luxembourg) and an MA in Political Science from the Vrije Universiteit Brussel (V.U.B). He has a special interest in public administration, accountability and inter-institutional relations.

Envisaged by the Treaty of Lisbon and created by a Council Decision in 2010, the EEAS performs the tasks of a foreign affairs service at the EU level. With its unique portfolio of competences it can arguably be labeled sui generis. At the same time, the Lisbon Treaty re-affirmed that the EU is based on the principles of a representative democracy, which assumes an important role to be played by the European Parliament. In the light of these events, this paper addresses the accountability question of the newly created service and presents an examination of means the EP disposes of to hold the EEAS accountable. A deliberate distinction will be made between formal – that is: those foreseen by the Lisbon Treaty - and informal mechanisms – those that result from the EP's actions within the social-institutional environment. Applying the definition of accountability offered by Bovens, that presents it as a combination of three elements – information, debate, and judgment – I argue that formal and informal accountability mechanisms are symbiotic.

INTRODUCTION

Already in 2002 at the European Convention the EU decided to create an EU foreign office. Yet it took until 2010 for it to be established by a Council decision[1]. During this 8- year period a great deal of debate took place over the tasks and organisation of the Service. Together with the creation of the High Representative (HR)[2], the Lisbon Treaty envisaged the creation of the European

1 Council Decision 2010/427/EU (http://www.eeas.europa.eu/background/docs/eeas_decision_en.pdf)

2 The High Representative is responsible for coordinating and carrying out the EU's foreign and security policy, also known as the 'Common Foreign and Security Policy' (CFSP) and the 'Common Security and Defence Policy' (CSDP). In addition, the Lisbon Treaty also foresaw that the HR would also assume vice-presidency of the European Commission as well as presidency of the Foreign Affairs Council.

External Action Service (EEAS)[3]. The Council decision was needed to clarify its functioning and competences. Divisions among member states over the supranational character as well as a protectionist Commission and an influence-seeking European Parliament account for what Helwig et al (2013, p. 7) describe as "the result of a classic EU compromise yet with an unusual outcome". The fact that its job description includes acting as the diplomatic service, holding the Presidency, fulfilling functions of a ministry of Defence and a ministry of Development and serving as a coordinator of EU external action makes them label the EEAS as a sui generis foreign affairs service. At the same time, the Lisbon Treaty re-affirmed that the EU is based on the principles of a representative democracy, which assumes a great role for the European Parliament within the general EU institutional framework. Indeed, the EP has seen its powers increase and gradually sees itself in a better position to hold to account the executive. However, foreign affairs, and in particular the Common Foreign and Security Policy (CFSP), have always been the Achilles' heel of European parliamentary accountability. The creation of this new Service proved to offer an opportunity for the EP to have a say on these matters too. Using Bovens' definition of accountability I shall in this paper shed light on both formal and informal mechanisms the EP can rely on to hold to account the EEAS and show how these are symbiotic.

THEORETICAL FRAMEWORK

In order to clearly present the analysis on the accountability relationship between the EEAS/HR and the EP, I shall first present the main elements of this analysis. These are the concepts of a symbiotic relationship, the functions of the EEAS and the HR, (parliamentary) accountability and the distinction between formal and informal mechanisms in this matter.

Symbiotic relationship

Roughly speaking, a symbiotic relationship can be used in two senses. First, and this is the most common use, it can be seen as a living arrangement between members of different species. It comprises several settings of living together, including commensalism, parasitism and mutualism. While in the first two there exists an unequal relationship, mutualism is characterized by a mutual beneficial relationship. It furthermore happens to be so that these are obligative, either of the species needs the other to survive.

Second, the expression is used as "a relationship between people or organisations that depend on each other equally"[4]. It is in this sense that I will talk of a symbiotic relationship between formal and informal accountability mechanism the EP disposes of vis-à-vis the EEAS. One needs

3 In fulfilling his mandate, the High Representative shall be assisted by a European External Action Service. This service shall work in cooperation with the diplomatic services of the Member States and shall comprise officials from relevant departments of the General Secretariat of the Council and of the Commission as well as staff seconded from national diplomatic services of Member States. (Article 27(3) TEU)

4 http://dictionary.cambridge.org/dictionary/british/symbiosis

the other to fulfill the criteria laid down in the definition by Bovens and thus to provide true accountability.

What is accountability?

Accountability is usually talked and written about in the same breath as good governance and transparency. Yet they are not synonyms. Rather one could speak of a pyramid- approach since transparency is a means to accountability (Brito & Perrault, 2010; Djankov, La Porta, Lopez-de-Silanes, & Shleifer, 2008, p. 3) and accountability is a key element of good governance (Graham & Plumptre, 2003). Then what does accountability mean? The term is often invoked in literature as well as in political discourses, but not always clearly defined. Several authors have distinguished between different types of accountability[5], which can offer a useful lens through which accountability can be assessed. All of these types return in Bovens' notion of public accountability (Bovens, Curtin, & 't Hart, 2010). He defined it as:

> "a relationship between an actor and a forum, in which the actor has an obligation to explain and to justify his or her conduct, the forum can pose questions and pass judgment, and the actor may face consequences." (Bovens, 2007, p. 107)

This definition contains three main elements: information, debate, and judgment (Bovens et al, 2010, p. 36). To comprehend what these entail, we can a look at 2006 paper by Bovens[6]. Information refers to the obligation on behalf of the actor to inform the forum about his conduct. He will thus provide the forum with data on a certain task he was charged with (for instance handing over budgetary calculations to the parliament). It often implies justifying or explaining a certain decision (Why did the actor choose to proceed or perform in this or that way?). The subject on which information is provided can vary significantly from case to case. Debate refers to the possibility for the forum to question the provided information and to ask for clarifications regarding the legitimacy of the conduct (How were these calculations executed, what are the motives for including or excluding certain elements?). It implies that the actor answers the questions raised by the forum. Finally, after having received information and clarification, the forum should be able to pass judgment on the conduct of the actor. This act can again take on many forms: to make a public statement of dis(consent), to denounce a policy, to cut back budgets, to approve the annual budget, etcetera.

Boven's definition of accountability is widely used (Biela, 2014, p. 4) and can be applied to different kinds of accountability settings. In this paper, accountability shall be understood as parliamentary accountability, and more in particular as the way the European Parliament can hold

5 See for instance Behn (2001), Lord (1998) and Laffan (2003)

6 Bovens, Mark. 2006. Analysing and Assessing Public Accountability. A Conceptual Framework. European Governance Papers (EUROGOV) No. C-06-01, http://www.connex-network.org/eurogov/pdf/egp-connex-C-06-01.pdf

to account the EEAS/HR[7]. This process should involve all three elements of the above-presented definition. Parliamentary accountability is considered crucial especially by those recognizing the EU as a supranational entity and those that prefer a form of popular control over the executive (Bovens et al, 2010). Parliamentary accountability is not only related to input- legitimacy, but also to throughput- and output-legitimacy of a political system. Indeed, it offers a guarantee for the representation of citizens in the decision-making process (input), adds to oversight (throughput), and it has an impact on the assessment of policy (output) (Schmidt, 2013). In general in the EU, the EP, representing its constituencies based on democratic elections, should hold to account the executive power. Notwithstanding the fact that member states and the European Commission also try to control the EEAS (Furness, 2013), it is especially in the field of security and defence that some say the parliament is the central place of accountability for the decisions made by a government concerning the use of force and power (Hänggi & Born, 2005)[8]. Therefore, this paper will present and analyze the accountability mechanisms the EP disposes of in this field.

Formal vs. informal accountability mechanisms

The very existence of the duality formal versus informal control mechanisms stems from the debate around the work of Max Weber on the ideal type bureaucracy (Djaffee, 2000). While Weber (1946) depicted the bureaucracy as a purely rational, impersonal and formal organisation others underscored the importance of personal, social relations and irrational behavior (Barnard, 1938; Roethlisberger & Dickson 1939).

Building on these theories researchers distinguished between formal and informal control mechanisms. The first ones include a variety of officially sanctioned (and often written) institutional mechanisms. Informal control mechanisms on the other hand include values, norms and beliefs that guide people's actions (Sitkin, Cardinal & Bijlsma-Frankema, 2010).

While accountability is different from control, it shares with it the attribute of checking whether

7 Wouters and Raube (2012) have further distinguished between parliamentary scrutiny and parliamentary control. The first form is the least ambitious of the two, in the sense that the parliament limits itself to be informed and consulted. This form does not lead to sanctions but is however easier to carry out since no formal arrangement is needed. The latter form, according to the authors, does entail the power to sanction and makes parliaments co-decisive actors. In the field of foreign affairs the example can be given of a parliament's demand to decide over the use of force outside the territory (Peters & Wagner, 2010). This type of parliamentary accountability requires legal arrangements to be in place (Wouters & Raube, 2012). While this distinction can be useful for demarcating research topics or as an approach to compare different institutional accountability relationships, I believe that Bovens' broader definition of accountability can be uphold and can be used to assess both the formal as well as the informal mechanisms the EP can use to hold to account the EEAS. The fact that scrutiny cannot lead to direct sanctions does not undermine the EP's ability to pass judgment in whatever form possible and this could be picked up by another institution or the broader public/media, who can in turn reward or sanction.

8 However, the parliamentary ex ante involvement in military missions can have negative consequences by slowing down decision-making (Peters & Wagner, 2010).

and how a work was carried out[9]. When it comes to accountability mechanisms, Vu & Deffains (2013) give a possible definition of a distinction between formal and informal ones.[10] To them, formal accountability is the "set of institutional arrangements between the principal (or the account-holder) and the agent (or the account-giver) that are formulated, communicated, and enforced by the state in order to facilitate, control, and motivate the agent's fulfillment of his tasks up to the principal's expectations in a direct and justifiable manner" (Vu & Defrains, 2013, p. 334). These arrangements are written down in legislature and are legally binding. In informal accountability on the other hand, the state is replaced in the definition by "a non-state principal or third party which is not the state". Here, there is no legally binding element.

This paper aims to analyse the interplay between on the one hand accountability arrangements as foreseen by the Lisbon Ttreaty and on the other hand the mechanisms the EP can rely on to hold to account the EEAS/HR beyond the letter of the treaty. The latter include the Council Decision, and more in particular the negotiation process that led to it, and the Declaration on Political Accountability. I will also make use of the terms formal and informal accountability mechanisms. I consider what is foreseen in the Lisbon Treaty as formal because its provisions are legally binding. I consider the other two documents as informal- because these are both the result of the behavior of the EP as an actor within the social-institutional environment, clearly an informal feature.

FORMAL MECHANISMS

Most visibly, the Lisbon Treaty grants the EP powers in foreign affairs in two areas: the assent/consent procedure and the budgetary process (Wisniewksi, 2013). In the first, it has veto powers over international agreements with exception of those that fall exclusively under CFSP. In other words, the EP has to give its consent over all international agreements that deal with issues that are decided upon under the ordinary legislative procedure.[11] An example of such an international agreement is the SWIFT agreement[12], for which the EP refused to give its consent in February 2010. This right to veto has been recognized as a major expansion of the EP's powers in external policies (Monar, 2010). The very act of vetoing an agreement is in fact a form of passing judgment, hence constitutes the third element of Bovens' definition. According to Raube (2013), this extension of the Parliament's power in the field of EU external relations could also contribute to

9 For further reading: http://publicadministrationtheone.blogspot.com.es/2012/08/accountability-and-control-concepts-of.html

10 Helmke & Levitsky (2004) had already written that formal accountability as a governance institution can be treated as set of institutional arrangements that are established, communicated and enforced by state instutions.

11 It is the most used legislative procedure by which directives and regulations are adopted. Formerly known as the codecision procedure. The EP and the Council have the same weight in the procedure, that can entail a maximum of three readings.

12 An agreement between the EU and the US on transfers of banking data via the global database SWIFT. The rejection by the EP was based on concerns related to privacy and proportionality.

a politicization of external governance inside the EP. Political debate would benefit from it and hence the EP's own accountability vis-à-vis the electorate. Greater trust among citizens in the work of the EP can only put it in a stronger position towards the EEAS. Furthermore, with the motion of censure the EP has a powerful tool at its disposal to oblige the entire Commission and likewise the HR in her role as Vice-President of the Commission to resign (Wouters et al., 2013). Finally, the discharge procedure is another means through which the EP can scrutinize the Commission and the HR.[13] Indeed, such a move would affect the latter too (Raube, 2013). These tools are again expressions of what Bovens would call judgment.

The second area in which the EP's powers in foreign affairs are most visible concerns the budgetary process. The general budget includes the expenses for external relations (Wisniewski, 2013). The EP's power to decide on the budget is shared with the Council, but on an equal footage, giving the EP veto power (hence judgment). This form of power puts the EP in a strong position to request budgetary cuts, like it did in 2013 when it criticized the top-heavy (salary) structure of the EEAS[14]. Nevertheless, not all areas of external relations are covered by the EP's oversight. Raube (2013) highlights the distinction between TFEU[15] and TEU policies and concludes that parliamentary budgetary control is limited to the non-military aspects of the EU's foreign affairs. Indeed, with regards to CFSP, national parliaments have better means to political control and oversight of the budget than the EP (Herranz-Surralés, 2011). However, Protocol 1 of the Lisbon Treaty did allow for the creation of an inter-parliamentary conference, meeting two times a year, where Common Foreign and Security Policy (CFSP) and Common Security and Defence Policy (CSDP) can be discussed.[16] Nevertheless, there is a lot of disagreement on the desirability of such a conference. Some argue that it should only be created if it were to have sufficient powers in CFSP and CSDP so as to contribute to parliamentary accountability.[17] It remains to be seen whether such a conference will ever take place and how much power it will have.

In addition to the two areas described above, the Lisbon Treaty foresaw a role for the EP in the actual establishment of the EEAS. It demands consultation of the EP by the HR in the proposal

13 Every year the EP has to decide on granting discharge to the Commission, which equates with approving the implementation of the budget for a financial year. It does so on a recommendation of the Council. Discharge can be granted, postponed or refused. (http://ec.europa.eu/budget/explained/reports_control/discharge/disch_en.cfm)

14 http://www.telegraph.co.uk/news/worldnews/europe/eu/9940892/Baroness-Ashtons-top-heavy-EU-foreign-service-attacked.html

15 Treaty on the Functioning of the European Union and Treaty on European Union

16 "A conference of Parliamentary Committees for Union Affairs may submit any contribution it deems appropriate for the attention of the European Parliament, the Council and the Commission. That conference shall in addition promote the exchange of information and best practice between national Parliaments and the European Parliament, including their special committees. It may also organise inter-parliamentary conferences on specific topics, in particular to debate matters of common foreign and security policy, including common security and defence policy. Contributions from the conference shall not bind national Parliaments and shall not prejudge their positions" (Protocol 1, article 10)

17 Wouters & Raube (2012, p. 11)

for the Council Decision.[18] This means the Parliament only had the right to formulate its opinion on the draft without any obligation on the part of the HR or the Council to take it into account (Wisniewski, 2013).

What is described in this section highlights in particular the third element of Bovens' definition of accountability, i.e. judgment as a result of which the EEAS may face consequences. If the EP, for instance, decides to cut the EEAS' budget, this will have a direct impact on its functioning. In other cases, for example during the consultation procedure leading to the establishment of the EEAS, the EP can pass judgment but the consequences are out of its hands. The elements of information and debate are, however, not entirely absent in the formal accountability relationship between EEAS and EP, as article 36 TEU foresaw that:

> "The High Representative of the Union for Foreign Affairs and Security Policy shall regularly consult the European Parliament on the main aspects and the basic choices of the common foreign and security policy and the common security and defence policy and inform it of how those policies evolve. He shall ensure that the views of the European Parliament are duly taken into consideration. Special representatives may be involved in briefing the European Parliament. The European Parliament may ask questions of the Council or make recommendations to it and to the High Representative. Twice a year it shall hold a debate on progress in implementing the common foreign and security policy, including the common security and defence policy."

Finally, this section also shows that the Lisbon Treaty has granted the EP powers to have a say over the functioning of the EEAS with the HR at its head. However, the judgment of the EP as a forum is only indirectly linked to them as actors. For instance, using the discharge procedure the EP assesses the implementation of the entire EU budget, not just the external policies' part. Or with regards to the motion of censure, it can only dissolve the entire Commission, and not just those responsible for external policies, or better, the HR in her role as High Representative. An exception to these indirect measures is the veto right the EP has got over international agreements as well as the EU budget. This puts it in a strong position vis-à-vis the EEAS/HR that can directly affect the latter.

INFORMAL ACCOUNTABILITY MECHANISMS

Other than formal accountability mechanisms that are entrenched by treaties, informal mechanisms are in this case modifications or clarifications to these formal mechanisms. They are called informal because they are the result of the behavior of the EP as an actor within the social-institutional environment.

In this regard, two documents are of great interest: the Council Decision, and more in particular the negotiation process that led to it, and the Declaration on Political Accountability. With the references to the EEAS made in the Lisbon Treaty, most EU actors, including the EP, were prepar-

18 Article 27(3) TEU

ing themselves to have a say over the EEAS. According to Furness (2013, p. 11) "[m]ember states, the Commission and the European Parliament were all aware of the importance of jockeying for influence in the period before the EEAS was launched".

As already mentioned, the proposal for the Council Decision was put on the table by the HR, and she had to consult the EP. Even though this power was initially and in theory limited, it soon became clear that the EP was going to use its co-decision power over budget and staff regulations to its full extent (Bien, 2010; Raube, 2011), partly because of the EP's discontent concerning the non-invitation for the initial proposal meetings (Raube, 2011). Taking such a position, the EP increased its leverage power (Raube, 2011) by creating a situation in which it could co-decide over nearly all the legislation (Bien, 2010; Helwig et al., 2013). The Council Decision granted it more rights than initially foreseen in the proposal. These include for instance parliamentary access to classified documents, regulation concerning staff recruitment, the obligation on the part of the HR to provide all documents to the EP necessary for the discharge procedure, or the presentation by the HR of a report on the occupation of posts in the EEAS (Wisniewski, 2013). These can all be categorized under the 'information' element of Bovens' definition. Indeed, they deal with the possibility for the EP to get its hands on information necessary to take a position, decide on the budget, adopt international agreements, etcetera, hence to pass judgment.

More in general, and with regards to parliamentary accountability, the Decision lays down that:

> "The European Parliament will fully play its role in the external action of the Union, including its functions of political control as provided for in Article 14(1) TEU, as well as in legislative and budgetary matters as laid down in the Treaties. Furthermore, in accordance with Article 36 TEU, the High Representative will regularly consult the European Parliament on the main aspects and the basic choices of the CFSP and will ensure that the views of the European Parliament are duly taken into consideration."[19]

These are all concessions to the Parliament (Wisniewksi, 2013). Many authors agree that the EP has gotten a lot more out of the negotiation process than expected (Bien, 2010; Raube, 2012; Wisniewski, 2013).

The concessions are not only reflected in the final wordings of the Council Decision but also, and perhaps more importantly, in the (informal) Declaration on Political Accountability presented by Catherine Ashton, which clarifies the relationship between the EP and the EEAS/HR. According to Helwig (2013) the EP's initial wish was to have an EEAS integrated within the Commission and for political accountable deputies of HR Ashton. Since both demands turned out to be impossible it then pushed for a declaration, which was strongly advocated by Elmar Brok, representative of the Committee on Foreign Affairs (AFET). HR Ashton felt obliged to present such a declaration if she were to reach a political agreement with the EP before the parliamentary holiday of 2010 (Bien, 2010).

The first issue the declaration deals with is information-sharing in the field of CFSP. It foresees meetings to be held prior to the change of mandates or strategies in the area of CFSP, of which the format will be dependent on the matter at hand. Also, in the negotiation process of international

19 Preface Council Decision (2010/427/EU)

agreements, the EP will be fully informed at every stage, even if it concerns CFSP issues, which is at least a remarkable leap forward for the EP. Reflecting on Bovens' definition, these provisions undoubtedly reinforce the information element of the accountability relationship. Further, in case the HR cannot herself participate in the parliamentary debates, a 'deputy' should take her place, being either a responsible Commissioner, or a member of the Foreign Affairs Council for issues falling under CFSP. This was a matter the EP was very keen on during the negotiation process (Comelli, 2010). Wouters et al (2013) have pointed to an incident, in January 2013, whereby the EP accused Catherine Ashton of disrespecting the EP because she asked to reschedule her appearance before the plenary. It is at this point that the second part of Bovens' definition of accountability comes to the fore, the debate element. If Helwig et al (2013) write that the position of the EP and the one of HR can sometimes clash, as the example of the plenary session of 9 March 2011 on the case of Libya shows , this demonstrates the contribution of this Declaration to parliamentary accountability, since both the actor (EEAS or HR) and the forum (EP) can debate about an issue. The Parliament also received the right to hear the newly appointed Heads of Delegation before they take up their task. The EP made use of this right by inviting about one- third of the appointed heads to a session of its Committee on Foreign Affairs (AFET). Even though the EP can only hear Heads already appointed, it is expected that an unqualified or undesired candidate may cause great pressure on the HR to replace this candidate to not demolish the good relationship between the two. Also, as point 7 of the Declaration lays down, the HR has to "facilitate [their] appearance […] in relevant parliamentary committees and subcommittees in order to provide regular briefings". Again, these provisions facilitate the information-gathering process on behalf of the EP and also leave room for debate, for instance during the hearings and briefings.

The text also affirms that the budgetary procedure introduced by the Treaty of Lisbon fully applies to the CFSP budget and that the HR will promote greater transparency (and thus information) in this area.

Finally, MEPs are generally satisfied with the establishment and functioning of the EEAS, as they see in the Service an innovative institution through which the EP can increase its participation in EU external governance (Helwig et al, 2013). Equally important in this regard is the good relationship MEPs have with the EEAS in day-to-day contacts. Indeed, in AFET Committee meetings, managing directors of the EEAS very often participate in discussions and share their knowledge with MEPs - knowledge that is a sine qua non to play a role of importance in CFSP in particular and in EU external affairs in general (Helwig et al, 2013). The fact that MEPs get valuable information via this channel, which is fostered by the informal day-to-day contacts, is of importance because they will be able to rely on it when holding the EEAS and HR to account via formal mechanisms as foreseen by the Lisbon Treaty.

CONCLUDING ANALYSIS

The gradual increase of the European Parliament's powers did not cease with the entering into force of the Lisbon Treaty, quite the contrary. It now has more powers in EU external affairs than before and this is not only thanks to the wording of the Treaty. Relying on the provisions foreseen in the Lisbon Treaty, which have been called formal mechanisms in this paper, the EP has

been able to push for greater accountability powers via informal mechanisms. The wording of the Lisbon Treaty has granted the EP power to keep the EEAS and HR in check. Providing it mainly with powers to pass judgment on the EEAS/HR, for instance via the discharge procedure, the adoption of the budget and the vetoing of international agreements, the Treaty puts an emphasis on the third and last element of Bovens' understanding of accountability. This is not to say that information and debate are entirely disregarded by the Treaty. To be sure, art. 36 TEU obviously makes reference to these elements. However, while it states that there will be a bi-annual debate on CFSP and CSDP, the wordings remain rather vague regarding the information element. It can be read that the HR should consult the EP on the main aspects of CFSP and CSDP and inform it of how those policies evolve. There is no mention of the frequency or types of occasions on which the HR should brief the EP. Nor does the article state anything about what elements should be included when the HR 'informs' the EP. While it is true that necessary information for the EP may vary from case to case this leaves room for discretion on the part of the HR.

There is in fact a twofold risk. First, there is no guarantee as to the adequacy of the information received from the HR. It is questionable what the EP would and can do if it suspects the HR from withholding valuable information. Second, with regard to the bi-annual debate, this does not allow for the EP to be hands-on vis-à-vis the EEAS/HR.

In addition, I have argued that the judgment mechanisms given to the EP are often only indirectly linked with the EEAS/HR. Therefore, the formal mechanisms given to the EP by the Lisbon Treaty to hold to account the EEAS/HR do not suffice to speak of accountability as defined by Bovens. Formal mechanisms need support in order to be true means to accountability. This leads us to the core of this analysis.

Despite insufficient formal mechanisms, the EP has been able to push for greater accountability powers using informal mechanisms such as the Council Decision on the creation of the EEAS (and the negotiations that preceded it) as well as the Declaration on Political Accountability. Because of the EP's leverage power in the negotiations on the Council Decision, it has been able to push for the inclusion of rights related to information in this Decision as well as for informal agreements on the promotion of information and debate in the Declaration. This element of debate is crucial since it can allow the forum to better understand an issue and it contains an element of fairness. Judgments passed by the forum, here the EP, will have consequences (be them positive or negative) for the actor, in this case the EEAS/HR. From a moral-ethical viewpoint it only seems fair that the EEAS/HR may give its own version of the facts.

With regard to the informal obligations on the EEAS and HR due to the Declaration, it can be expected that these are in fact rather important in light of accountability. The EP may well use its formal powers to pass judgment in case the informal obligations (that are not legally binding) are not upheld. Two facts point in that direction. First of all, the EP relied on them when it was excluded from the initial draft for the Council Decision. Second, it attaches great value to these commitments and has already accused the HR of disrespect on the occasion of an agenda issue. It can thus be expected that the EP will continue to fight for increased political oversight of the EEAS/HR. Therefore, even though formal mechanisms are insufficient means to true accountability, they did provide the EP with support when it (successfully) tried to expand its oversight powers regarding the EEAS/HR.

All in all, the parliamentary accountability mechanisms in place do fulfill the criteria of Bovens'

definition. Yet if the EEAS is 'the result of a classic EU compromise yet with an unusual outcome', then pretty much the same can be said about the accountability mechanisms. For instance, debate, for most people perhaps the clearest element of accountability in the sense that there is direct interaction between the forum and actor, is mainly reflected through informal mechanisms. It is, however, only of added value to accountability thanks to the stick the EP holds in its hands via its decision powers on legislation and appointments that partly apply to the EEAS and the HR, all formal but also rather indirect mechanisms to keep the EEAS/HR in check.

In conclusion, the EP finds itself in a situation where neither the formal nor the informal mechanisms it disposes of suffice to speak of real accountability vis-à-vis the EEAS/HR. It has become clear that both formal and informal mechanisms need each other. When combined, they do fulfill the criteria as posited by Bovens. Therefore, I argue that both mechanisms are symbiotic for the EP-EEAS accountability relationship to comply with Bovens' definition.

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INSTITUTIONALIZED APATHY

The internal European response to the Syrian refugee crisis and the perpetual curse of the Dublin Regulation

By **JULIAN SCHOLTES**

Julian Scholtes is a third-year Liberal Arts student at University College Maastricht. He focuses on Political Science and Law, with a special interest in the European Union. After graduating in summer 2015, he intends to pursue a Master's degree in European Public Policy.

Europe's response to the Syrian refugee crisis has been apathetic. Refugee intake remains considerably low compared to states like Turkey and efforts to increase these numbers are almost non-existent. At the same time, Europe is rather making efforts to keep refugees out through increased border control and tightened visa requirements. Refugees that make it to Europe often face degrading treatment and arbitrary detention. The aim of this paper is not only to give an account of Europe's response to the Syrian refugee crisis, but above all to explain why Europe's response has been this apathetic. It will be argued that Europe's apathy towards the crisis is institutionalized within the Dublin Regulation, which provides increased incentives for anti-immigration policies, leads to a deterioration of refugee rights and places European states in a conflict between the principle of mutual trust among member states and compliance with their human and refugee rights obligations.

INTRODUCTION

> "The Rights of Man, after all, had been defined as "inalienable" because they were supposed to be independent of all governments; but it turned out that the moment human beings lacked their own government (...), no authority was left to protect them and no institution was willing to guarantee them",

Hannah Arendt (1951, p. 291-292) writes in The Origins of Totalitarianism. While our rights are supposed to be inalienable, we always indirectly depend on someone to protect them for us. This relationship of dependency is particularly strong when it comes to the right to asylum, as it directly depends on the benevolence of others. However, in Europe, the birthplace of the very concept of fundamental rights, this benevolence cannot always be considered a given anymore.

This can also be seen in Europe's internal response to the Syrian refugee crisis, which the first part of this paper intends to give an account of. It will investigate into domestic aspects such as

admission of asylum seekers, treatment of refugees, resettlement programs or irregular migration control. It will be asserted that Europe's response to the Syrian refugee crisis has been unsatisfactory, if not apathetic and negligent.

The second part will address the main thesis of this paper: Europe's apathy towards the Syrian refugee crisis is not a singular event, but it is the expression of a general apathy towards refugees, institutionalized within the Common European Asylum System, especially through the Dublin Regulation. There are three crucial aspects to be taken into consideration: Firstly, the Dublin Regulation incentivizes harsh anti-immigration policies. Secondly, it increasingly strains the asylum systems of the European countries at the external border of the EU, leading to a further deterioration in the treatment of refugees and refugee rights. Thirdly, Dublin leads member states towards an inevitable conflict between the mutual trust principle, inherent in the Dublin Regulation, and compliance with their human and refugee rights obligations.

EUROPE'S INITIAL RESPONSE TO THE SYRIAN REFUGEE CRISIS

Refugee intake

Given the dimension of the Syrian refugee crisis, the numbers of Syrians who have been granted protection status in the EU are strikingly small: According to Eurostat, the statistical agency of the European Union, from 2012 to the third quarter of 2013, 54.530 Syrians applied for protection in the EU. Most asylum applications were filed in Germany and Sweden, with 16.390 and 17.555 applications respectively. 36.415 applicants were granted protection at first instance. (Bitoulas, 2013a, 2013b, 2013c, 2013d). Acceptance rates beyond first instance were considerably higher: 91% of all Syrian asylum applicants were granted some sort of protection in the EU in 2012 (ECRE & ELENA, 2013). So far, Sweden is the only country in the EU that has announced to grant asylum and permanent residence indiscriminately to all Syrian applicants (Swedish Migration Board, 2013). However, Greece has filed no positive decisions at all, despite receiving up to 250 asylum applications in 2012 (ECRE & ELENA, 2013). In other European states, the acceptance rates are very low as well: According to United Nations High Commissioner for Refugees statistics, percentages of asylum claims being 'otherwise closed', i.e. closed with no substantive decision being made, were particularly high in Cyprus, Poland, Hungary, Greece, and Bulgaria[1] (ECRE & ELENA, 2013).

The number of refugees taken in under resettlement or humanitarian admission programs has been equally disappointing.[2] So far, according to the ECRE, "the number of places the European

1 83% in Cyprus, 80% in Poland, 55% in Hungary, 43% in Greece, 38% in Bulgaria.

2 Resettlement is defined by the UNHCR as "the selection and transfer of refugees from a State in which they have sought protection to a third State which has agreed to admit them – as refugees – with permanent residence status" (UNHCR, 2011). This procedure applies to situations in which refugees are subject to perilous or threatening situations, or refoulement, in the country that has granted them protection. Humanitarian admission is a similar, but expedited procedure aiming at large groups (European Resettlement Network, n.d.). Both procedures aim at the most vulnerable groups of refugees whose security cannot be guaranteed even in their country of refuge.

countries provided to Syrian refugees under resettlement and humanitarian admission programs in 2012 and the first half of 2013 has been extremely low" (ECRE & ELENA, 2013, p. 9). The German government, deciding to admit 5.000 Syrian refugees currently under protection in Lebanon, has taken the strongest initiative concerning resettlement and humanitarian admission. Austria and France, deciding to admit 500 refugees respectively, took further initiative. Some other European states have allowed for selective resettlement, with numbers ranging from 10 to 90 refugees. Most other European states do not offer any resettlement or humanitarian admission places (UNHCR, 2013c).

Given that there are around 2.5 million Syrian refugees in total, only around 1.5% of all Syrian refugees are being protected in the European Union. Meanwhile, Syria's neighbours, especially Turkey, Lebanon, Jordan, and Iraq have admitted considerably larger numbers of Syrian refugees, with almost 600.000 refugees having been granted protection in Turkey alone (UNHCR, 2014a). In this context, one can conclude that Europe's refugee intake has been relatively low. Surely, geographic proximity is a factor that must be taken into account for this comparison. Naturally more Syrian refugees get into Turkey rather than the EU. However, while Turkey pursues a widely recognized 'open door policy' towards Syrian refugees, arguably to the complete exhaustion of all its capacities (Kirişci, 2013), Europe is concentrating its efforts on keeping refugee numbers low.

Access to asylum procedures

Several measures have been taken by European countries in order to impede access to asylum procedures. 10 EU countries and Switzerland have imposed airport transit visas (ATVs) on Syrian nationals (ECRE & ELENA, 2013). ATVs are used in order to prevent asylum applications at national airports by refugees in transit to a third country. This way, "the ATV requirement excludes the opportunity to travel to visa-free destinations, transiting through a potential host country and applying for protection while in transit" (ECRE & ELENA, 2013, p. 26). Furthermore, all European embassies in Syria are closed and no European country uses protected entry procedures, which would allow Syrians to apply for asylum at embassies. Due to the tightened visa requirements and lack of facilitated asylum procedures, the European Council on Refugees and Exiles concludes that "legal channels for entering the EU are almost non-existent" (ECRE & ELENA, 2013). This way, Syrian refugees are left with almost no other option than attempting to enter the EU by illegal means.

Irregular migration & migration control

There are two main routes to the European Union that Syrian refugees can make use of: Firstly, they can enter the EU overland by crossing through Turkey into Greece and Bulgaria. Secondly, they may enter the EU taking the sea route across the Mediterranean to Cyprus, Greece, Italy, and possibly other states (Fargues & Fandrich, 2012). Statistics suggest that the land route through Turkey is the most commonly used one: According to Frontex, the European Union Agency for external border security, around 10.000 Syrians crossed the Greek-Turkish land border irregu-

larly from 2012 to the second quarter of 2013. Meanwhile, only 869 Syrians entered irregularly through the Mediterranean into the Italian regions of Apulia and Calabria during the same time frame. (FRONTEX, 2013).

As the vast majority of irregular migrants entered through Greece, Greece's response to the growing influx of Syrians has been very harsh. In order to obstruct irregular migration, Greece has decided to erect a 12.5 km-long physical barrier along the Greek-Turkish border (Nielsen, 2012). Furthermore, Greek authorities sent an additional 1.800 border guards to the Greek-Turkish border in July 2012 and placed 26 floating barriers into the Evros river that separates Greece and Turkey (Fargues & Fandrich, 2012). An additional crackdown operation by the Greek police, nicknamed Operation Xenios Zeus, has been conducted in August 2012, aiming to arrest irregular migrants in order to detain and eventually deport them (Cossé, 2013). Bulgaria also started construction of a 30 km-long fence along its border with Turkey in October 2013 (AFP, 2013), though these plans were scrapped by the Bulgarian parliament in December 2013 ("Bulgaria Rules Out Fencing Entire Border with Turkey," 2013). Moreover, Bulgaria has been reported to institute criminal proceedings against anyone illegally crossing their border (ECRE & ELENA, 2013).

Refugee pushbacks, returns and denial of entry

All European states are reported to have suspended returns of refugees to Syria. However, only few states, such as Germany, Denmark, and Poland have adopted formal moratoria on returns. Meanwhile, there are many reports on refugees being pushed back at the external borders of the EU or returned to countries with no functioning asylum system, such as Lebanon and Belarus (ECRE & ELENA, 2013, UNHCR, 2013a). According to the European Council on Refugees and Exiles, returns of Syrian asylum applicants have been reported from Cyprus, Poland, and Spain. Furthermore, the UNHCR reports that Bulgaria and Greece have both pushed back Syrian refugees at their respective borders. In doing so, these states risk violating international and European law. The principle of non-refoulement (literally 'non-pushback'), as laid down in Article 33 of the Convention Relating to the Status of Refugees (1951) forbids the outright rejection or expulsion of refugees. This principle is further affirmed in the European qualification directive.[3]

Detention practice and treatment of refugees

Many European countries have routinely adopted a practice of (arbitrary) detention. In Cyprus, refugees are being detained for up to three months in appalling conditions. Refugees are "restricted to their cells for most of the day, and are handcuffed when out of their cells" (ECRE & ELENA, 2013). KISA, a Cypriot human rights organisation, accused the detention centres of "using psy-

3 The qualification directive (2011/95/EU) defines European standards as to who qualifies for protection in the EU. Besides the tradition notion of asylum (i.e. protection from political, religious, or ethnic persecution), it also sets a standard of 'subsidiary protection' for individuals facing 'serious harm' in their home country.

chological cruelty as leverage to make the detained sign a paper that they will voluntarily return to Syria" and depriving detainees of access to asylum applications (Gregoriou, 2013). Until April 2013, Greece used to indiscriminately detain Syrians regardless of their individual situation. In detention, refugees would face conditions "far below international human rights standards, including in terms of severe overcrowding" (UN News Centre, 2013). Upon their release, they were ordered to leave the country.

In Bulgaria, where the asylum system and its facilities are exhausted to all limits, asylum seekers are being detained for a period of up to three months awaiting a spot in an open asylum centre (UNHCR, 2013b). In addition to the risk of arbitrary detention, the UNHCR has described conditions in Bulgarian reception centres as "deplorable". Asylum seekers lack access to food, medical assistance, heating, and acceptable sanitary facilities (UNHCR, 2014b, p. 9).

Summary and evaluation

Only around 50.000 of the estimated 2.5 million Syrian refugees have so far been granted protection in the European Union. Efforts to increase these numbers are almost non-existent. It must be admitted that the EU-wide acceptance rate of 91% is relatively high. However, humanitarian admission and resettlement programs are only being pursued on a very small scale. Meanwhile, most European efforts are rather aiming at keeping total refugee numbers low. Impediments towards asylum procedures, like the imposition of ATVs, are common. This leaves Syrian refugees close to no option to enter the EU legally. Countries at the external border of the EU are emphasizing migration and border control rather than protection, erecting physical barriers at their borders, increasing border controls, and even actively pushing back and returning refugees. Where Syrians manage to cross the border, they are often facing detention and inhumane or degrading treatment,

Europe's internal response to the Syrian refugee crisis has been subject to harsh criticism. In an op-ed published by the European Council on Refugees and Exiles, the Council of Europe Commissioner on Human Rights, Nils Muižnieks, criticizes the "complete indifference" with which European governments have reacted to the crisis and accuses them of being "negligent in abiding by (their) human rights obligations" (Muižnieks, 2013, p.2). In an open letter to the Cyprus presidency of the Council, Amnesty International has pointed out that the EU "can and should do much more" (Amnesty International, 2012).

The reasons for why Europe is not doing more in order to resolve the Syrian refugee crisis, however, lie deeply within Europe's general policy on asylum and migration. The development of a Common European Asylum System (CEAS) has brought with it a stronger emphasis on protection from refugees rather than protection of refugees. Stronger border control, control of irregular migration, and restricted access to asylum procedures have been the result. The core of European asylum policy, the Dublin Regulation, is flawed in a way that enforces this focus while deteriorating refugee rights.

THE DUBLIN REGULATION: THE FLAWED CORE OF THE CEAS

The Dublin Regulation, in its first form, was an international convention, signed by European states in 1990. At the time, it was one of the many developments in the field of European internal security along with the Justice and Home Affairs pillar of the Maastricht treaty. These developments can, in a way, be seen as securitization strategies that went along with the deepening of the internal market through the Single European Act. As the internal borders of the European Union vanished more and more, the themes of migration and asylum started to become increasingly linked to (and transformed into) security questions. With the loosening of Europe's internal borders, European leaders felt the need to simultaneously tighten its external borders (Huysmans, 2000). Asylum policy turned from a human rights policy into a policy of internal security, and the focus shifted from protection of refugees to protection from potential security threats. This is the context in which the Dublin Regulation must be seen.

The Dublin Regulation forms the core of the Common European Asylum System, as it determines which European state is responsible for an asylum application. In the majority of cases, where superior rules on family reunification or the prior issuing of entry documents don't apply, the state responsible for an asylum application is the state through which an asylum seeker first entered the EU. Asylum applications in other countries than the country of first entry can be considered inadmissible, and the Dublin Regulation stipulates that in such cases an asylum seeker shall be transferred back to his country of first entry (Council Regulation 604/2013/EC). Potentially, the Dublin Regulation increases efficiency also for asylum seekers through a quicker and more determinate procedure and avoids refugees 'in orbit', i.e. countries refusing their responsibility for refugees and referring them to another country (ECRE, Forum Réfugiés & Hungarian Helsinki Committee, 2013). Huysmans (2000), however, sees the Dublin system as a strategy of reducing the number of potential asylum-seekers. By preventing multiple asylum applications by one applicant within the European Union, the chances of getting accepted would be reduced, which would lower incentives for refugees to seek asylum in the EU. It can thus be argued that from the beginning the Dublin system had a security focus rather than a focus on asylum as a right. More than that, however, the Dublin system has set free a dynamic that went heavily at the expense of those seeking protection. The key to this dynamic is the 'first country of entry' rule.

Given the heavy flows of irregular migration, not only in the context of the Syrian refugee crisis, but also in the context of the Arab Spring, one can intuitively establish that this regulation constitutes a considerably larger share of responsibility for the member states at the southern external border of the EU, such as Greece, Italy, Cyprus, or Malta (ECRE, 2008; Langford, 2013). For instance, in 2011, Italy received 13.715 incoming requests for Dublin transfers, while Italy itself only sent 1.275 outgoing requests to other European states (ECRE, Forum Réfugiés - Cosi & Hunagrian Helsinki Committee, 2013). The consequences of this uneven share in responsibility between member states are grave. Firstly, it incentivizes harsh anti-immigration policies, such as increased migration control, impediments towards the access to asylum procedures, or even pushbacks and refoulement of refugees. Secondly, it leads to a deterioration of refugee rights by straining and overcrowding the respective countries' asylum systems and through an almost negligent reliance on the principle of mutual trust among EU member states.

Incentivization of anti-immigration policies

Langford (2013) raises the argument that the Dublin mechanism may actually incentivize countries to adopt anti-immigration policies, possibly to the point of violation of international and European obligations. As an example, she mentions Italy's policies in response to increased flows of irregular migration. When the incoming number of migrants on the island of Lampedusa started skyrocketing, Italy asked for assistance from other EU member states. Without any assistance offered by other European states, Italy subsequently adopted increasingly aggressive policies. The 2008 Italy-Libya friendship agreement exemplifies such an instance. In the agreement Libya agreed, inter alia, on stronger control of its border in exchange for Italian investments in the country. One year later, Italy and Libya commenced joint naval patrols aiming at the interception of refugee boats. In addition, Libya strengthened its efforts to prevent departures of refugee boats (Human Rights Watch, 2009). In the Hirsi et. al. v Italy case (App no 27765/09, Strasbourg, 2012, February 23rd) the European Court of Human Rights has found the joint interception practice to be in violation of the ECHR, most importantly the principle of non-refoulement (ECtHR, 2012). The dynamics behind this process are simple and can be linked to the way in which the Dublin Regulation assigns responsibility of states for refugees. Italy, as the first country of entry for most refugees entering from the Maghreb states, is responsible under the Dublin Regulation for the asylum application of these refugees. Other countries have no legal obligation to take in any refugees that first entered another country; in fact, they may transfer these refugees back to their first country of entry. The only way for Italy to decrease the burden imposed by the increased influx of refugees is thus to adopt policies to prevent or decrease this influx, thereby possibly neglecting its legal responsibilities.

The practices of refugee pushbacks in Greece, Bulgaria and other border states, the impeded access to asylum procedures, as well as the increased border controls at the external border of the EU can be seen in a similar light. These reactions to an increased influx of refugees were further incentivized by the Dublin mechanism and the incongruent distribution of responsibilities that comes with it. Were there a mechanism that aimed at more reasonably distributing responsibilities among EU member states, these incentives would be considerably weaker. If European states took collective and evenly distributed responsibility for asylum seekers, states at the external border would feel less vulnerable towards large influxes of refugees. Consequently, they would be less incentivized to pursue harsh anti-immigration policies (Byrne, 2003).

Of course, one might object that, due to anti-immigration sentiment among the general public or other factors, theses states might still pursue such policies. However, while this might be the case, this does not mean that other incentives from the outside, such as the Dublin system, shall be neglected. The burden that the Dublin system poses on the European border states clearly is an incentive that can be used to legitimize, or might even force states to implement anti-immigration policies. Moreover, if the Dublin Regulation poses a high share of responsibility on a country, this might be conducive towards the emergence of anti-immigration public opinion in the first place.

Straining of national asylum systems and treatment of asylum seekers

One of the most commonly raised objections towards the Dublin system is that its unequal burden sharing leads to a disproportional straining and overcrowding of the border countries' asylum systems. The former Council of Europe Commissioner for Human Rights, Thomas Hammarberg, has stated that, due to this, the states at the European external border "have been unable to provide adequate protection because the numbers of asylum seekers have exceeded their capacity" (Hammarberg, 2010, para. 3). The European Commission has found that "the Dublin System may de facto result in additional burdens on Member States that have limited reception and absorption capacities and that find themselves under particular migratory pressures because of their geographical location" (European Commission, 2007, p. 10).

The 2011 ECtHR case M.S.S. v Belgium and Greece (App. no. 30696/08, Strasbourg, 2011, January 21st) is important as for both the account the case gives of this as for the case's outcome. The applicant in the case was an Afghan refugee who filed an asylum application in Belgium. Belgium found itself not competent for his application, as his first country of entry was Greece. Consequently, Belgium transferred the applicant back to Greece under the Dublin Regulation. The applicant, however, was of the opinion that the conditions in Greece were in violation of human rights and sued both Greece for maintaining these conditions, and Belgium for transferring him back to Greece. In its decision, the court found Greece in violation of Article 3 ECHR (prohibition of torture) because of the applicant's detention and living conditions, as well as Article 13 ECHR (right to an effective remedy) because of the deficiencies in Greece's asylum procedure. More interestingly, the court also found Belgium in violation of these articles, since Belgium transferred the applicant back to Greece and thereby exposed him to these conditions (ECtHR, 2011). The result has been the effective suspension of Dublin transfers to Greece in most EU member states (ECRE, Forum Réfugiés – Cosi, & Hungarian Helsinki Committee, 2013).

The argument that Dublin deteriorates the asylum systems of EU border countries is of special importance for the Syrian refugee crisis. Most refugees enter the EU overland via its external borders rather than by airplane. This leads to an additional straining of the border states' asylum systems and the deterioration of conditions. Most importantly in Bulgaria, the increased use of detention practices, the institution of criminal proceedings against Syrian refugees, and the generally bad conditions in reception centres must be seen in this context. Therefore, it is no surprise that in January 2014, the UNHCR has urged European states to refrain from Dublin transfers to Bulgaria, referring to the conditions asylum seekers are facing there (UNHCR, 2014b).

The question of whether the Dublin Regulation caused these deteriorations of the border states' national asylum systems, as Hammarberg argues, or merely exposed more asylum seekers to them, as the Commission argues, is complicated. In both cases it is nonetheless clear that the Dublin system has led to a deterioration of refugee rights. Meanwhile, the remaining EU states could have taken some of the burden from the border states, as the Dublin Regulation contains a 'sovereignty clause' that would allow them to refrain from Dublin transfers (Art. 3(2) of the Dublin Regulation). However, as Thomas Hammarberg points out, "they have not been willing to use the possibility" (2010, para. 8). This way, the Dublin system has brought not only the border states, but also, as could be seen from the M.S.S. v Belgium and Greece case, the states at the geographical centre of the EU, onto the verge of human rights violations.

The conflict between mutual trust and human rights

The M.S.S. v Belgium and Greece case has not only uncovered the bad treatment of asylum seekers in Greece that is often at odds with Greece's human rights obligations. It has also pointed to a conflict that is central to the flaws of Dublin: the conflict between the principle of mutual trust among EU member states, and compliance with human rights obligations. Mutual trust, central to European judicial cooperation, is the assumption that EU states' legislations work according to the same minimum standards of protection of rights, and lawfulness. In the context of the Dublin Regulation specifically, it implies "the assumption that each Member State respects the rights of asylum seekers in accordance with European and international law" (Brouwer, 2013, p. 138). The automatic transfers of asylum seekers to their first country of entry are justified by the assumption that all member states respect the principle of non-refoulement, and fundamental rights. This logic however negates the fact that this is not always the case. In this sense, Dublin has the potential to contradict EU human rights obligations (Mitsilegas, 2012). States facing the decision of whether to carry out a Dublin transfer to a state with a questionable asylum infrastructure thus also have to take another decision: The decision between complying with the mutual trust principle and risking to violate human rights, or inquiring into the other state's human rights compliance and undermining mutual trust (Langford, 2013). They will either risk a case similar to M.S.S. v Belgium and Greece, or erode the principle upon which the Dublin system has been built in the first place.

The question must be raised whether mutual trust is in this case not rather mutual ignorance. The Dublin Regulation has institutionalized negligence towards refugee rights by relying on the principle of mutual trust. The mutual trust principle delivers the justification for refugees being transferred back to the countries at the external border of the EU, who were incentivized to take a harsh stance on immigration in the light of the increased responsibilities that Dublin places on them. This made refugees vulnerable to degrading treatment.

CONCLUSION: INSTITUTIONALIZED APATHY

Europe's internal response to the Syrian refugee crisis was meagre at best, apathetic and negligent at worst. Intake of Syrian refugees remains startlingly low, and there are only few efforts to increase these numbers through humanitarian admission or resettlement. Quite the contrary, efforts are made to keep refugees out, be it through tightened visa requirements, increased border controls, or outright refoulement of refugees at the external borders of the EU. Where refugees make it into the EU, they must hope to be able to apply for asylum in Germany or Sweden, who have proven by far the most generous of all European countries. In other countries, like Greece, Bulgaria, or Cyprus, they must fear the institution of criminal proceedings for crossing their border illegally or prolonged arbitrary detention in often degrading conditions.

Europe's apathy towards the crisis, however, cannot be seen as a one-off event. The core of the Common European Asylum System, the Dublin Regulation, has produced a dynamic that has been more than conducive towards it. The 'first country of entry' rule has increased responsibilities for the countries at the external border of the EU. Thereby, it has created a strong incentive

for these countries to pursue anti-immigration policies, pushing them towards the edge of major human and refugee rights violations. Increased responsibilities have furthermore strained these countries' asylum systems strongly, leading to a drastic deterioration of reception conditions, making arbitrary detention of refugees a routine, exposing refugees to conditions which, in the case of Greece, have been ruled to violate the prohibition of torture in the European Convention of Human Rights. At the same time, Dublin places all EU member states in a conflict between the mutual trust principle inherent in Dublin, and their human and refugee rights obligations. Transferring refugees to their first country of entry under the Dublin Regulation requires the assumption on behalf of the transferring state that these countries conform to their human and refugee rights obligations, while in fact this is often not the case.

European leaders are prone to present Europe as a 'union of values' that promotes the "rights of Man" that Hannah Arendt referred to in the introductory quote of this paper. Article 2 of the Treaty on the European Union (2007) states that the Union is founded on the values of "respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights". Not much is left of this rhetoric, however, when looking at Europe's response to the Syrian refugee crisis. Refugees are first and foremost seen as a security threat rather than individuals in need of protection, and consequently human rights have been neglected in favour of security.

If the European Union is to act in line with its rhetoric, one can only hope that the EU will learn from the latest judicial decisions concerning the Dublin system. It has institutionalized an apathy towards the needs and fundamental rights of asylum seekers that has been ever more revealed in its response to the Syrian refugee crisis. Europe should start revising the Dublin Regulation sooner rather than later and ensure that those who need protection in Europe are not being refused.

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MANAGEMENT OF DEEP DIVERSITY WITHIN THE EUROPEAN UNION

The views from an expert public

By **LUCA BARANI**

This article provides an overview of the perceptions of experts working within European think tanks of the relationship between the European integration process and diversity as well as their views on the future of the EU and European policy developments regarding societal forms of diversity. The article is based on a pan-European survey of think tanks, which was conducted in 2008-2009 in 14 countries and involved 118 interviews with representatives of 56 think tanks across Europe. The survey also included an analysis of experts' attitudes towards the intervention of the EU in managing diversity and their involvement in trans-European communication and European-level public debates concerning this issue. Societal diversity is apprehended mostly through its ethno-national dimension.

The main finding is that the great majority of think tanks and their personnel are committed to a liberal understanding on most issues of ethno-national and immigration-related diversity, but are wary of a centralisation of competences at the European level, especially at the detriment of the current arrangements managing diversity at the national level. Nonetheless, networks of think tanks have the potential for promoting Europeanization of national public debates on diversity and thus contribute to structuring a Europe of experts, especially through their trans-national activities focused on the issue of diversity management at the national and European levels. Think tanks suffer, however, from the same mass/elite divide characterising the European integration process, as views and perceptions on diversity expressed within these organisations do not correspond at all or just partially with respective corresponding national public opinions.

Luca Barani has a PhD in Political Science from the Free University of Brussels. He is currently a Lecturer at the Haute Ecole de Bruxelles (HEB), after completing a Post-Doc Research Project on Think Tanks and European Public Sphere(s), in the framework of the EUROSPHERE project financed by the 6th Framework programme of the European Union.

INTRODUCTION

This paper aims to map how experts working in European think tanks view the management of

diversity within the European Union (EU). The description of the public space as an arena for the battle of ideas is not new (Berthezène, 2011, p. 5). However, the idea of the public sphere as a space in which 'a plurality of competing publics' exist and encounter each other, was developed by Fraser (1990, p. 61), who differentiated between "strong and weak publics, as well as about various hybrid forms" (Ibidem, p. 76). In this sense, focusing on experts allows us to look at a specific kind of public, acting as a bridge between the 'weak publics' of civil society, which generate public opinion but not binding laws, and the 'strong publics' involved in public decision-making. In their intermediary capacity, think tanks are crucial vectors for an emerging European civil society, providing more choices to European citizens and offering policy alternatives to decision-makers (UNDP, 2003). Their attitudes towards the diversity management within the EU are analysed in order to assess how European integration is performing in this respect on the basis of the perceptions of such an expertise-based constituency (Zyro et al., 2012). The analysis was conducted by examining various publications of think tanks, including their official statements and reports of activities, complemented by views expressed in interviews in the context of a pan-European survey.

Diversity as the focus of analysis is important, since the European continent displays a wide variety of ethno-cultural and linguistic affiliations and identities. Consequently, since its 2004 enlargement, the EU has arguably entered a phase of 'deep diversity' determined by the multi-layered diversity of European societies (Fossum, 2003). The 'deep diversity' phase of European integration can be defined by three layers. Firstly, the EU is composed by an increasing number of states, each linked to a specific historical process of nation-building correlated to treatment of collective identities. These historical processes have, to a certain extent, resulted in many commonalities, but they have also generated specific national differences, in terms of official language, political system and so on. Moreover, the process of EU enlargement has also increased its intra-state degree of diversity. Secondly, in a number of European societies, sub-national political mobilisation has promoted ethno-national identities as territorially-based groups claimed recognition of their status as national minorities or ethnic communities. In all these cases, claims were put forward for the recognition and protection of distinctive cultures and identities based either on linguistic and cultural traits or on specific histories (McGarry & Keating, 2006). Thirdly, Europe has increasingly become a region of immigration. Migrants are settling and adapting to their local environment while simultaneously maintaining transnational links and activities. As a result, new ways of life and cultures are constantly being introduced into the European social landscape.

As a consequence of these developments, issues concerning indigenous minorities and immigrant communities are increasingly noticeable at the European level, even though they are much less salient than at the national level. While the inclusion and integration policies for national minorities or immigrants are well-established features of national politics of the member states, depending on the historical context of the country, the EU per se does not have competence to deal with protection of minorities, except for its enlargement policy where 'guarantee for protection of minorities' was one of the criteria for accession (McGarry, O'Leary, 2013).

The issue of Roma minority, however, is certainly relevant for the EU, as Roma are a transnational community present in many EU member states and they suffer from high levels of discrimination and racism across Europe (Carrera, 2013). The Roma position is specific in the sense that

they are often forgotten both in migration-related and ethno-linguistic debates at the national level, but they are increasingly salient at the European level discussions (Schulz-Forberg, 2010). In fact, the integration of EU citizens of Roma origin has become an issue at the European level at the initiative of the European Commission, which launched the Roma Summit and Integrated Platform on Roma Inclusion in 2008, thus providing a supranational rallying point for Roma NGOs. Moreover, although the EU had no explicit competence to deal with minorities and minority rights internally, the Roma issue was kept on the political agenda by the protracted accession of Romania and Bulgaria to the EU. More recently, however, EU action in this area is limited to declaratory politics, exemplified by the row between former French President Sarkozy and Commissioner Reding in September 2010 on how to best characterise the treatment of EU citizens of Roma origin. This is in stark opposition to the legal approach towards integration taken by the Council of Europe and its Convention on Minority Protection, which provides a permanent forum and tools to discuss regularly the integration of national minorities in signatory countries (Framework Convention for the Protection of National Minorities, ETS N°157, 1995).[1]

Finally, the EU has its own specific competence to deal with other factors of diversity in European societies, such as gender equality and immigration-related diversity. For instance, between 2000 and 2004 the EU adopted several directives on a common integration policy advocated by the 1999 European Council in Tampere. The Directives 2000/43/CE and 2000/78/CE aim at combating and preventing discrimination on the grounds of age, disability, gender, ethnicity/race, religion/belief and sexual orientation. Moreover, the Directive on Asylum Policy 2003/9/CE defined certain common criteria for dealing with refugees. Those directives were transposed into national law in all EU member states and are applicable to all residents, regardless of their nationality. This legal framework was supplemented in 2004 by the Common Basic Principles for immigrant integration as well as the Framework Decision 2008/913/JAI of the Council of the EU on the fight against racism and xenophobia. However, despite these efforts, concrete progress in the development of an EU policy towards immigrant integration and diversity has remained slow and complex. This view was largely shared by the expert views on this subject, as recorded in the pan-European survey of think tanks on which this article relies and whose methodology will be discussed in more detail in the following section.

RESEARCH DESIGN

The pan-European survey was conducted in 2008-2009 under the aegis of the EU-wide comparative project EUROSPHERE, focusing on the relationship between ethno-national diversity and the EU. The survey was conducted in order to map out how personnel working in think tanks represent and discuss different visions of European polity and diversity as well as how they par-

1 http://conventions.coe.int/Treaty/en/Treaties/Html/157.htm Additionally, the Council of Europe's recommendation for the establishment of a Roma think tank was taken up with the creation of the Policy Center for Roma and Minorities, based in Romania since 2008: http://www.policycenter.eu, accessed on 15/05/2013 and the issue was a subject of debate at the gathering of 25 European think tanks in Strasbourg that took place at the request of the Council of Europe in December 2012.

ticipate in national and European public spaces, in order to see whether there is a meaningful correlation between organisations' institutional features and their staff' views on different issues.

For this purpose, special methodological tools were developed to collect and analyze qualitative data on the European think tanks, which this article treats as an 'intermediary public' of the European public sphere, constituted by political and economic elites as well as policy experts. The survey was conducted in 14 EU member states and 2 non-EU countries (Turkey and Norway) with 3 respondents for each selected organisation (according to their job description: manager, senior researcher, prominent expert) with a total of 118 interviews from 56 organisations.

The selection of the organisations to be interviewed was largely completed by the end of February 2008. Interviews and institutional data collection was conducted in the period between February 2008 and July 2009.

Table 1. *Breakdown of Eurosphere think tanks and interviews per country*

Country	Think Tanks	Interviews	Country	Think Tanks	Interviews
Austria	2	6	Germany	3	8
Belgium	2	5	Hungary	4	11
Bulgaria	3	13	Italy	6	9
Czech Republic	3	5	Norway	5	9
Denmark	3	10	Netherlands	4	4
Estonia	3	5	Spain	3	8
Finland	4	8	Turkey	3	9
France	5	4	United Kingdom	3	8

The preparation phase of the survey consisted of two stages. During the first stage, the existing think tanks at the national level were screened with a mixed sampling approach. Each national researcher prepared four separate lists of the relevant thinks tanks active in his/her country, the major criterion for inclusion being a target audience beyond solely local government or population. From each of these four lists, the selected targeted think tanks were chosen with the view of including one member of a specific transnational network of think tanks (TEPSA) to verify the effects of transnational collaboration. The final selection of think tanks for each country was done on the basis of representing the largest possible variation of think tanks. In operational terms, the available information was collected along different dimensions: a) officially stated norms, principles, and objectives of think tanks; b) means of dissemination they use to influence; c) strategies for promoting their preferences; d) channels of influence they use; e) profile of membership; g) financial resources and priorities; h) organisational structure and hierarchy; i) other organisations they prefer to collaborate with; l) channels, forms, discourses, and levels of involvement that they make available for their members as well as other citizens; m) main topic of interest in the last 3 years. Moreover, for each type of organisation, institutional data was gathered independently by analysing institutional homepages and publications as well as charters and secondary literature

on those think tanks. When information was not available in online and printed resources, researchers contacted the organisations concerned to retrieve the missing information. Moreover, corresponding data from selected trans-European networks of think tanks was collected via interviews. The data collection work on trans-European think tanks was later extended to include the most visible European think tanks based in Brussels.

During the second stage, individual representative experts of think tanks were identified and selected on the basis of their job description as leaders of their respective organisations. The concept of leadership was declined in three ways: manager, senior researcher, and prominent expert. Manager was defined as a member of the organisation who is formally and officially appointed with a full mandate to speak and act on behalf of this organisation. Senior researcher was defined as a member of the organisation known to be leading the research on policy and thematic priorities, especially in the area of ethno-national diversity and EU politics. Prominent expert was defined as a member of the organisation who is the author of the most relevant research on the subjects related to the EUROSPHERE project. A gender balance concern was applied for the selection of respondents, whenever possible.

It is also worth noting that some of the interview questions were equivalent to items used by the Eurobarometer Standard Surveys, allowing to establish parallels and contrast elites' positions with mass attitudes and to compare views at individual and organisational levels within the European think tanks with overall trends in European societies.[2]

More than 70 researchers were deployed to interview all the selected respondents in a uniform way, while also taking account of the specificities of the audience. In fact, elite interviews require special techniques that are different from mass interviews. This applied to preparations before the interviews, ways of approaching and addressing the interviewees, and interpretation of the interviewees' answers. Elites are frequently perceived as highly demanding conversation partners who prefer to articulate their views without being put in the straitjacket of close-ended questions (Aberbach & Rockman, 2002: 674). Consequently, the questionnaire was conceived to allow for spontaneous and semi-structured replies to the main questions asked. As most of the items in the questionnaire were semi-structured questions with multiple response opportunities, this allowed the respondents to elaborate their answers under the category of "other", beyond the pre-defined categories in the interview questionnaire. In fact, in addition to assigning the answers of respondents to pre-established categories in the database, coders were instructed to include quotes and summaries of the answers, meaning that it is possible to give a few illustrative examples of what answers contain more precisely.

Finally, the available data, based on interviews and institutional information, was made accessible at www.eurosphere.uib.no, where the institutional and interview data was organised in a format that summarizes each interview by variables.

2 Most notably, Eurobarometer Standard Survey 71 on the future of Europe, conducted approximately around the time of the interviews for this project. Also compare updated trends as presented by the Eurobarometer standard survey 79, conducted on the occasion of the 2013 European Year of Citizens.

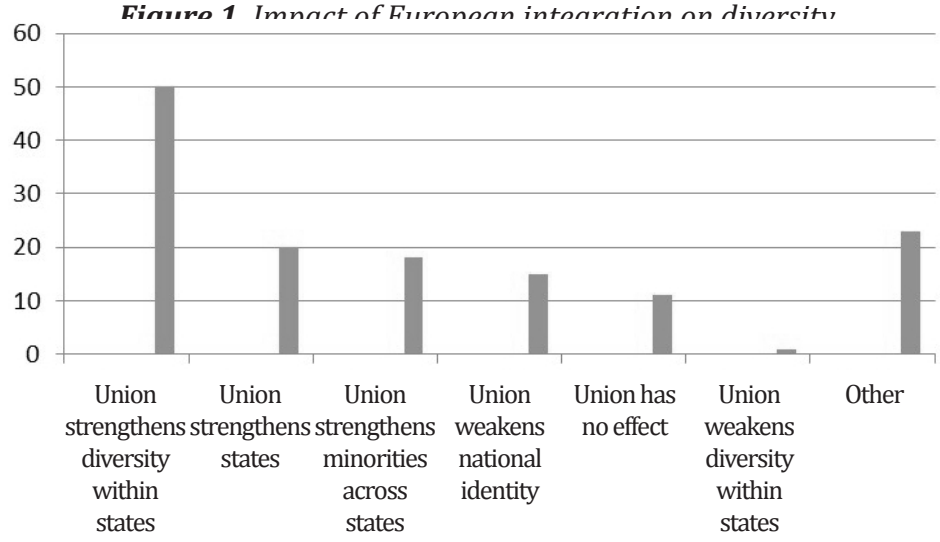
SURVEY RESULTS: MANAGEMENT OF DEEP DIVERSITY WITHIN THE EUROPEAN UNION

The rest of the article will provide an overview and analysis of the results of the survey, primarily focusing on the perceptions and attitudes of the expert community working in think tanks towards (1) the relationship between the European integration process and diversity, mostly ethno-national, (2) the future of the EU polity, (3) European policy developments regarding societal forms of diversity, and (4) the context of idea diffusion mechanisms in the European context.

Relationship between European integration and diversity

The interview started mapping interviewees' views, notions, and perceptions of ethno-national diversity, and its connection to the EU polity and policies, with a general question: "What further positive or negative developments do you expect with regards to the impact of European integration on diversity?". The most striking result was that only one respondent expressed the belief that European integration weakens diversity within member states. However, the integration process was far from being considered to be a homogenising force, contrary to a widely held belief in the media coverage and political rhetoric concerning European integration at the national level.

Figure 1 *Impact of European integration on diversity*



Accordingly, European integration is seen, within think tanks, largely as a process of diversity promotion, although there is some disagreement over which kind of diversity is exactly being promoted. A large majority of interviewees see the EU as having an effect on the promotion of diversity recognition within each member state as well as among member states. Such a widely

shared position is illustrated by the following statement: "Europe is based on diversity and the fact that this diversity is recognised at the European level facilitates its recognition at the national level". According to most respondents, European integration was having an effect on ethno-national diversity, and that this would strengthen diversity within member states. However, a few respondents thought that the process of European integration will particularly strengthen transnational minorities, citing in particular the case of Roma in Central and Eastern Europe. Although some interviewees were willing to acknowledge some emerging communicative political space at the European level, only a few said that it allowed EU citizens and foreign residents to interact in a meaningful way.

The answers are less clear-cut on the question of whether European integration strengthens or weakens national cultures. Given the complexity of this issue, recorded answers were rather diverse, accounting for a high number of answers categorized as "other" (between 30% and 35%). For instance, some respondents argued that admission of Eastern European countries to the EU posed a specific challenge for the protection of minority rights, while others were concerned about the increasing contrast between EU and non-EU citizens in terms of integration and civic duties. As one respondent noted: "In the application there are problems; not only in Belgium, it's a common problem in every member state. The rules exist but the reality is always different. At European level, what can be done is to ensure each country has implemented its Directives somehow in their national law [...] then if somebody has a complaint they have to use all the measures at their disposal at national level". The inconclusiveness of answers was also confirmed by arguments concerning the necessity for the EU intervention in ethno-national matters, gender equality and other societal forms of diversity.

The future of EU polity and diversity

Regarding the future and present direction of the European integration process, as far as it concerns ethno-national diversity, the survey demonstrated considerable divergences within and across think tanks. Two issues proved to be the most contentious: on the one hand, which fields the EU should be more concerned with and, on the other hand, whether the EU should become a more centralized political system, taking the current situation as a benchmark. Individual respondents within the same organisation often took divergent views, pointing to underlying differences. It is possible, however, to identify an alignment between an economic and minimalist interpretation of the European integration process as opposed to a social and expanding one. The inherent complexity of these issues mirrors the cross-transversal nature of national debates on the future of European integration: the more European integration is seen as a purely market-building process, the less the EU is seen in need to expand its competences in the realm of management of ethno-national and other societal diversity. This view was expressed with force by one respondent: "These topics of societal diversity are not in the direct focus of the EU, but indirectly European integration might have positive effect on them. If the EU develops economically well, it must keep 'unity in diversity'". The regulation of immigration, interpreted mainly as an economic phenomenon, was seen to be more closely linked to the foreseeable development of EU competences, as implicit in the following argument developed by another respondent: "It

doesn't seem to me that the EU show signs of willingness to manage diversity, it's more a social and cultural topic and the EU is more keen on economy".

Generally speaking, experts working in think tanks acknowledged the demographic and economic challenges faced by the countries of the EU (population ageing, labour needs, evolution of migration flows, global competitiveness) and the necessity to design a new policy mix to manage migration-related diversity. On the underlying factors, some respondents stressed that Europe already suffered from labour shortages, which were unlikely to be filled in the short term due to the demographic and socio-economic evolution of European societies. Quite homogeneously, respondents identified 'economics' to be one of the major reasons for the increasing migration-related diversity. On the question of how to manage its consequences, there was a somewhat larger willingness to accept the diversity claims of national autochthonous minorities, in comparison to immigration-related groups, and a strong opposition to any form of group-level political and constitutional rights. There was a broad consensus among the interviewees on the need for immigrants to adapt to certain features of the dominant way of life in the hosting society. At first glance, these expectations seemed to follow a traditional liberal model, with an emphasis on sharing democratic values and active pursuit of language acquisition, while religious assimilation was requested by a very limited number of interviewees. A closer look, however, reveals that there was a strong undercurrent of assimilationist thinking with more than a quarter of the interviewees requesting more specific conformities to detailed forms of 'national' character and 'civility', all features without a specific European dimension. On the whole, however, economic and societal trends were acknowledged as promoting diversity and transforming European societies into multi-cultural, multi-ethnic and multi-religious entities without an EU intervention.

Within the expert public working in think tanks, a vast majority did not see 'diversity' as a goal or a value, but rather as an inescapable fact of life to be acknowledged and managed mostly on ethno-national terms. On the contrary, less than a third of respondents considered diversity a worthy and meaningful condition to be cherished and nurtured. For a vast majority, it was just a condition of certain societies (59%) or a means that can be used to achieve some other political ends (only 10 interviewees). The pragmatic view was slightly more prevalent among those who interpreted 'diversity' nearly exclusively in ethno-national terms, but the difference was far from significant. Exactly half of the respondents interpreted diversity according to a cluster of four categories, which are semantically very close: ethnicity, religion, nationhood and migration-related groups. This means that those who chose outside those categories as a ground for diversity tended to choose other categories in the same cluster while seldom choosing other grounds outside this cluster. For answers categorized as 'other', a large number of statements were related to ascriptively perceived cultural differences.

Policy Developments

When discussing the possible tools at the disposal of the EU for managing diversity, respondents focused essentially on the option of legal instruments, ignoring other types of integration measures, such as financial incentives or diffusion of best practices and benchmarks. On the whole, respondents did not necessarily support the idea that the EU should pass compulsory legislation

concerning ethno-national minorities, such as the Roma, given the importance of social integration, or the lack of it, at the national level. In fact, the majority of respondents either believed that this was too delicate a matter to allow the European institutions to intervene or they were opposed to the EU promoting a harmonised approach to the management of diversity on ideological grounds. As it was articulated by one respondent: "it seems useful to me to have rules at the European level, but one should not go towards a generalised harmonisation. I think that each state should have room for maneuvering in the management of diversity". At the individual level of researchers, quite a coherent and structured system of beliefs and attitudes emerged, which can be summarized as commitment to a liberal understanding of most issues of ethno-national and immigration-related diversity, concern about the elitist nature of the European integration process and preference for the development of the European civil society. These findings were confirmed by the answers provided by respondents concerning questions on dual citizenship and criteria for extension of citizenship. Firstly, an overwhelming majority of valid answers were in favour of dual citizenship, with a minority open to conditional relaxation of exclusive national bonds. A strong majority of respondents was also in favour of the relaxation of the bonds of national citizenship. Secondly, exactly half of the valid answers were in favour of retaining the national level as the most appropriate level of decision-making in attributing nationality and citizenship in Europe, positioning themselves against any transfer of discretionary powers concerning European citizenship to the EU, which did not gather more than 20% of favourable views. As a consequence, while there was a widespread consensus on substantive elements of an open and relaxed citizenship policy, an EU intervention in this matter was not well supported. This analysis of elite opinion is coherent with longitudinal studies conducted on the political and legal conditions concerning EU citizenship and, in particular, its relationship to national citizenship in different member states (Dumbrava, 2014).[3]

The elite/mass divide is one of the most important dimensions of diversity in the EU, as one of the respondents put it: "one significant case of diversity in Europe is the distinction between the elite and the mass of public opinion". This finding has to be put into combination with respondents' self-assessment concerning their distance from average public opinion in their country. More than two thirds of the respondents felt that their views did not correspond at all or just partly with the general public views on diversity, a perception that was confirmed by the results of Eurobarometer Standard Surveys.[4] In view of the elitist characteristics of the current European integration process (Haller 2008, p. 3), according to respondents, top-down initiatives are counterproductive. The most common criteria mentioned to qualify the exclusionary nature of the European integration process were gender, socio-economic and educational characteristics of political and economic elites, as opposed to the background of ordinary Europeans. As a consequence, in many answers, trans-border communication and exchanges among ordinary European citizens were presented as necessary to develop an "organic" logic of the European society. Such logic, however, is severely hampered by linguistic and logistical factors, mentioned by an

3 http://eudo-citizenship.eu/ accessed on 16/09/2014.

4 A notable exception was the alignment between think tanks and public opinion in Belgium where, according to Eurobarometer surveys, the percentage of Belgians believing that the membership of Belgium in the European Union is a 'bad thing' is usually lower than 10%.

overwhelming majority of respondents as structural barriers to engagement of EU citizens in transnational interactions and debates. Internet was usually presented as a solution to such constraints, even if it excluded certain segments of the society. It was argued that such an extensive use would require infrastructural investments and training schemes to bridge the digital gap in Europe. According to respondents, age, technology and linguistic knowledge are additional factors that hinder participation of the elderly, unskilled and low-educated citizens. Such views also reflected the communication practices adopted by think tanks according to collected data: three quarters of the selected organisations used websites and electronic newsletters as their principal channel of information dissemination, whereas just more than half of them used printed materials. These findings point to the importance of including institutional and organisational variables to understand better the views expressed by the personnel working in think tanks.

Explanatory Institutional Variables

As discussed before, the picture emerging from interviews shows some significant trends concerning diversity and European integration. At the aggregate level, however, it was not possible to identify significant geographical clusters based on where these think tanks operate. There were also important differences within the same organisation. In order to explain this apparent paradox, it is necessary to look more closely at the specific organisational dynamics at work within the individual think tanks.

Firstly, interviews showed a structural difference between the views expressed by senior administrators and researchers. On the one hand, senior administrators were not always available for interviews and tended to offer more standardized answers, usually reflecting the institutional report of activities. Senior staff was also more inclined to overstate the influence of the organisation they belonged to and less willing to answer specific questions. As a consequence, they tended to answer poorly on substantive issues and used anecdotal evidence to illustrate their arguments. Most of them maintained ties with media, governments and interest groups and were usually inclined to conflate the fate of their organisation with their personal career. On the other hand, the focus of interviews with researchers was generally on their specific area of expertise and these respondents provided more grounded answers. Moreover, researchers often were affiliated to different organisations and pursued their career simultaneously in different arenas. In addition, single-thematic researchers with some years of experience had a tendency to have straddled the divide between different organisations. Consequently, it was not uncommon for individual researchers to have had career mobility amongst different think tanks. Researchers, consequently, did not always share the same goals of the institutions they were affiliated with, but rather the professional world in which they evolved, which constituted a homogenizing factor.

Secondly, the disparity of views within individual think tanks was also due to inability or unwillingness of think tanks to enforce internal coherence, as this would probably stifle original and innovative thinking (Scott, 1999). To a certain extent, this explains the variability of attitudes within the same think tank, which was recorded in the survey.

However, at the aggregate level, there was a remarkable homogeneity of views on diversity in the universe of experts in thinks tanks, explainable by more general mechanisms of horizontal

and vertical diffusion of ideas. Firstly, horizontal elite interaction at the national level fosters some uniformity. On the basis of the collected data, activities of think tanks were firmly rooted in the horizon of networking with national political elites, with possible transnational linkages to cater to the needs of expert policy networks. In fact, networking rarely took think tanks out of their immediate policy-making environment (Brussels in the EU or Paris in France) and approximately two thirds prioritized contacts with other national organisations or networks. Hence, far from reaching out to the general public, think tanks were striving for access or at least proximity with decision-makers (a good example for Brussels-based think tanks is the annual forum constituted by the Brussels Think Tank Dialogue). Hence, their work was primarily tailored and aired within closed circles and so the quality of their intellectual production is not independently assessed, as it geared towards strong publics. Furthermore, the media was also part of their audience as media visibility is part of think tanks' self-presentation as credible sources of research and facts. Most analysed websites provided summaries, quotes, and links to press coverage of their studies. The struggle for visibility was compounded by the explosion of social media and the strategies developed by think tanks and their personnel to self-promote their research in this new public space. As a consequence, think tanks devoted a lot of attention to media visibility and the organisation of public events.

It is therefore confirmed that think tanks do not represent counter-alternative voices for civil society within the EU but they rather participate in the elite/mass divide that characterizes the European integration process (Snowdon, 2013). In fact, their activities are clearly detached by the most immediate concerns of the general public and more attuned to political elites' needs, which is their single most important audience. As noted before, think tanks offer themselves as informal platforms for different policy actors to interact and have unofficial exchanges of views in order to develop a common outlook, not rarely behind closed-door or invitation-only events, as two thirds of sampled think tanks confirmed. The degree of informal cooperation between different policy actors is therefore a crucial variable to understand the success or lack of think tanks as informal network mechanism for different audiences and publics. In particular, approximately a third of sampled think tanks actively encouraged their members to participate in other organisations, confirming the porous nature of think tanks as informal platforms.

Secondly, regarding top-down mechanisms of idea diffusion, it appears that approximately a third of sampled think tanks were members of some kind of transnational network, either pan-European or more global in nature, such as the PASOS network funded by the Open Society Foundation (Stone, 2004). It was possible to identify a core of national think tanks actively involved in EU-oriented activities (such as the TGAE "Think Global – Act European" consortium of think tanks supporting the EU rotating presidency) or pan-European action (for instance the Stockholm Network of free-market think tanks). By crossing membership of different networks, it was apparent that the more active think tanks are simultaneously members of at least two or three networks, of which the most prominent ones concerning EU institutional matters are TEPSA, EPIN and TGAE, and on ideological issues related to the left-right divide are FEPS, ENOP, EIN. Even if there are differences between these networks, either on ideological grounds (federalism against sovereignty) or functional specialization (geared towards the European Parliament against providing services to rotating presidencies of the Council of Ministers), the common value of networks for think tanks was to establish information links and working relationships.

Membership within these networks was valuable as it served socialization purposes and external validation of the expertise of the concerned think tanks. Some of the think tanks under analysis by the EUROSPHERE project were also part of this selected community, which is animated by a small subset of European think tanks.[5] For instance, think tanks belonging to the trans-national network TEPSA displayed more euro-centralizing preferences than their national counterparts, which seem to indicate a transnational interaction based on an underlying commitment to the benefits of European integration.

Outside the scope of the survey, the same logic appears to be present in more structured networks such as the TGAE initiative or the Think Tank Policy Dialogue, centred on the EU institutions. Because of the episodic nature of this type of cooperation, however, networks of think tanks constitute an unfulfilled potential for promoting the Europeanization of national public debates on diversity and for contributing to structuring a 'Europe of experts', especially through their trans-national activities (Boucher & Royo, 2012). A case in point is the European Ideas Network (EIN), which regularly organises series of seminars among its member think tanks to discuss general topics such as European values and identities or European competitiveness. However, regarding attitudes on the European integration process, there is no clear alignment among institutional positions of think tanks even if there are clear patterns of convergence between think tanks' staff as a result of organisational interaction exercised through networks. As European think tanks are generally understaffed, think tanks' researchers are themselves in charge of external institutional and networking activities.

Consequently, think tanks constitute an interesting infrastructure, which could potentially contribute to the emerging European debates on diversity, with two caveats. On the one hand, they can contribute to the Europeanization of common issues only in a way that is commensurate to their participation at the national level in terms of policy formulation and public debate promotion. On the other hand, the contribution of think tanks to the debate on diversity depends strongly on the development of visibility of such an issue on their website. The survey showed that it featured regularly only in one third of the websites of the sampled think tanks, whereas it was marginal in one quarter of them and non-existent in another quarter. On the contrary, European integration is regularly mentioned in two thirds of websites and ignored only in a minority of cases (one out of eight).

CONCLUSION: ARE THINK TANKS UP TO THE CHALLENGE OF DEEP DIVERSITY?

The context in which European think tanks operate is one of cross-border interdependence between societies and development of transnational policy communities. Worldwide, we are witnessing the blurring of domestic and foreign policy, where new practices of global governance have emerged shaping multi-level policy responses (Stone 2004). While this phenomenon affects all international relations, this is even more pronounced in the European context given the political interdependence generated by the EU. There is not one single cohesive community of deci-

5 http://www.euractiv.com/pa/changing-face-european-think-tanks/article-142652, accessed on 19/09/2014

sion-makers, but different local as well as transnational actors playing in the game simultaneously and sequentially. These processes are complex because "policy ideas frequently cross national borders through the transnational actions and discourses of academics, politicians, international organisations and think tanks. The diffusion of policy ideas and concrete policy alternatives largely transcends national borders" (Beland 2009, p. 709). Consequently, we need to investigate societal actors because traditional categories of state-centric diplomacy are not sufficient and the process of Europeanization is closely linked to diffusion mechanisms of ideas and debates. In this perspective, think tanks can be vectors of ideas and arguments in the public sphere, both national and European, as they seek to shape the policy agenda (Sherrington, 2000) either directly, by providing analysis to decision-makers, or indirectly, by participating in public debates and influencing public opinion on policy issues (Stone, 2002).

As discussed before, a majority of think tanks surveyed for this analysis do articulate viewpoints on diversity (on institutional websites and in documents and interviews) and its interaction with the European integration process in both present and future. On balance, however, inter-state diversity gets more visibility than ethno-national diversity on the institutional homepages and in documents, indicating an implicit intergovernmental bias. On average, again, diversity is not a prominent issue, apart from organisations with a specific research programme on immigration or human rights, and even in this case it does not frequently connect with other issues, either at the European or national level. It is only at the level of interviews that it was possible to better understand the existing notions and perceptions of diversity that were present within and across think tanks in Europe. As it was not possible to identify significant variations in terms of geographical or organisational clusters, it appears that there is a rather homogeneous understanding of diversity and its interaction with European integration and its institutional forms. The main finding is that the great majority of think tanks and their personnel are committed to a liberal understanding on most issues of ethno-national and immigration-related diversity, but are wary of a centralisation of competences at the European level, especially at the detriment of the current arrangements managing diversity at the national level. In a nutshell, European integration is seen as promoting diversity, but the related issues of diversity management should not become the core business of the EU. Think tanks suffer, moreover, from the same mass/elite divide characterising the European integration process, as views and perceptions on diversity expressed within these organisations do not correspond at all or just partially with corresponding national public opinions. Nonetheless, networks of think tanks have the potential for promoting the Europeanization of national public debates on diversity, especially through their trans-national activities.

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EUROPEANIZING LOBBYING STRATEGIES

Access seeking and agenda setting of domestic interest groups in the EU

By **ANNELOES HOFF**

Anneloes Hoff graduated summa cum laude from University College Roosevelt in 2014, where she completed a BA (Hons) in International Law and Politics.

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This study examines the impact of Europeanization on the lobbying strategies of domestic interest groups in the European Union. While there is a tendency among national parliaments, member state governments, and EU citizens to distance themselves to a greater extent from the EU, interest groups seem to become ever more engaged with the EU decision-making process because of the ever increasing volume of legislative output the EU generates. This study focuses on the processes of access seeking and the setting of the interest group's lobbying agenda, which are both affected by Europeanization. With regard to access seeking, an increase of lobbying activity towards the EU can be expected, directly at the European level as well as through lobbying national politicians. With regard to the setting of the lobbying agenda, EU institutions, in particular the Commission, are expected to engage more actively with these interest groups, and thereby affect their lobbying priorities. These developments are explored in a case study of Milieudefensie, a Dutch environmental NGO that operates at both the national and European level. An analysis of Milieudefensie's annual reports from 2001 to 2011 and interviews with two of Milieudefensie's lobbyists at the national and European level corroborates these expectations. It indicates a systematic increase in lobbying activity towards the EU, as well as an increased influence of EU policy-making on setting the lobbying priorities of the EU, caused in particular by the funding of lobbying activities by the European Commission.

INTRODUCTION

The literature on European integration indicates a negative trend in national attitudes towards further integration. This tendency is most clearly visible in the negative attitude of member state governments towards transferring more sovereignty to Brussels (Cooper, 2006; Dashwood, 2004).

The call of national parliaments for more involvement in European decision-making has resulted in the introduction of the early warning mechanism for subsidiarity control in the Lisbon Treaty, which strengthened their role in the legislative process in the EU (Raunio, 2011). The tendency can also be found in the declining support of EU citizens for further integration, in which national identity plays a significant role (Eichenberg and Dalton, 2007; Hooghe, 2003; Hooghe and Marks, 2005). However, with regards to civil society, this negative tendency is harder to observe. Instead of trying to take power back from the European level to the national level, interest groups seem to adapt their strategies to the increasing European integration. This trend has been conceptualized in the literature on interest groups as 'Europeanization' (Beyers, 2004; Beyers and Kerremans, 2007; Klüver, 2010; Rooyen, 2009). A classic definition of Europeanization has been put forward by Ladrech (1994): "an incremental process reorienting the direction and shape of politics to the degree that EC [European Community] political and economic dynamics become part of the organisational logic of national politics and policy-making" (p. 69).

Two processes can be distinguished with regards to the development of interest group activity in the European Union in the framework of increasing European integration. The first is the process of access seeking, as European integration influences the venue choice and network strategies of interest groups in their approach to European institutions. Do they seek access to the EU in a direct way, via a transnational route, or through governmental actors at the national level? The study of domestic interest groups that also lobby the EU is most interesting in this respect because these groups are embedded in national as well as transnational interest group networks. The second process is the setting of interest groups' lobbying agendas, as European integration has an effect on the issues that are on the agenda of interest groups. This process can either be bottom-up, meaning that the constituency of the interest group primarily determines which issues will be raised at the European level, or top-down, which means that the European institutions themselves bring issues to the agenda of interest groups. A question related to this is whether funding has an influence on the process of lobbying agenda setting of interest groups. The central question of this study is: How has the activity of domestic interest groups that lobby the EU developed throughout the past decade of increasing European integration in terms of access seeking and the setting of the lobbying agenda?

With regard to access seeking, an increase of lobbying activity towards the EU can be expected. With regard to the setting of the lobbying agenda, EU institutions, in particular the Commission, are expected to engage more actively with these interest groups, and thereby affect their lobbying priorities. In this study, these developments are explored in an in-depth case study of Milieudefensie, a Dutch environmental NGO that operates at both the national and European level. An analysis of Milieudefensie's annual reports from 2001 to 2011 and interviews with two of Milieudefensie's lobbyists at the national and European level corroborates these expectations. It indicates a systematic increase in lobbying activity towards the EU, as well as an increased influence of EU policy-making on setting the lobbying priorities of the EU, caused in particular by the funding of lobbying activities by the European Commission. Before moving on to the empirical analysis, the relevant literature on the processes of access seeking and setting the lobbying agenda will be presented in a theoretical framework.

THEORETICAL FRAMEWORK

Access seeking strategies

Domestic interest groups have multiple points of access in the framework of the European Union. They strategically choose where to lobby, and which routes to take to address European institutions (Cirone, 2011). They can choose national and transnational routes to European decision-makers, which do not necessarily have to be mutually exclusive (Beyers, 2002). National routes go via public actors at the national level, such as the national parliament, ministries, and advisory organs. Transnational routes can go directly to the EU institutions, or indirectly, via umbrella organisations or other European platforms (Beyers, 2002; Rooyen, 2009). The Commission is the primary target for most interest groups, but the European Parliament is also becoming an increasingly significant target of lobbying activities (Beyers and Kerremans, 2007; Cirone, 2011). Eising (2004) states that in principle "interest organisations become politically active where political authority resides" (p. 213), but in addition several other factors determine the venue choice of interest groups.

In the study of access seeking strategies of interest groups in the EU, it is important to take both the national and the European level into account, as well as the relation between the two. The literature on this topic indicates two distinct views on the relation between access opportunities at the national level and access seeking at the European level. Some scholars argue that substantive national access is needed in the first place in order to lobby at the European level (e.g., Beyers, 2004; Beyers and Kerremans, 2012; Eising, 2008; Rooyen, 2009). Domestically well-embedded groups have better opportunities than groups that do not have a strong national network. On the other hand, the European system can also be viewed as a new venue, providing interest groups that play a peripheral role at the national level with new access opportunities (e.g., Fairbrass and Jordan, 2001; Hix and Goetz, 2000; Marks and McAdam, 1996; Richardson 2000). Mazey and Richardson (1993) note: "for those groups given a frosty welcome by national policy-makers, EC [European Commission] lobbying may prove a more successful means of influencing national legislation" (p. 16). However, they add that national contacts also remain important; groups cannot completely bypass the national political actors. In addition to these two main theories, Beyers (2002) adds two other hypotheses in order to create an exhaustive overview of the possible relationships between the access seeking strategies at the European level and access opportunities at the national level (see table 1). He calls the first theory the "positive persistence hypothesis" and states that access opportunities at the national level have a positive effect on the development of European network strategies. The "negative persistence hypothesis" assumes the opposite effect: gaining access at the national level leads to "domestic institutional persistence," meaning that interest groups stay at the national level and do not make an effort to reach the European level. This is due to their strong involvement in and dependence on domestic policy networks. Beyers defines the theory in which the European system is viewed as a new venue that gives interest groups with limited national access new access opportunities as the "compensation hypothesis" or "boomerang effect". A lack of access opportunities at the national level makes interest groups seek for access at the European level to compensate. The fourth and last hypothesis is called the "reversed positive persistence hypothesis", and completes the picture by assuming that interest

groups that do not gain access at the national level, will also not make efforts to gain access at the European level, and thus stay disconnected.

Table 1. *Hypotheses for access seeking (based on Beyers, 2002, p. 594)*

	Extensive European Network Strategies	**Limited European Network Strategies**
Domestic access	Positive persistence	Negative persistence
No domestic access	Compensation	Reversed positive persistence

In an empirical case study of access seeking by Belgian domestic political actors, Beyers (2002) found that domestic interest groups generally act within their domestic networks, alliances or coalitions. In most situations they first seek access to domestic governmental actors, through whom they try to influence decision-making at the European level, since representatives of domestic governments are involved in the negotiations, decision-making and voting in the Council of Ministers. Besides, the contact with MEPs from the same member state is very important, and the ties between domestic interest groups and MEPs are often well developed. This process of access seeking implies a cumulative pattern of lobbying strategies, in which national venues are addressed first, and in addition to these access to European venues is sought (Beyers and Kerremans, 2012). However, Beyers (2002) also observed that not all domestic actors in the network are considered equally important, and European networks are also seen as fairly significant. To get access to these institutions, domestic interest groups can become a member of a so-called Euro-level association, or try to network with the Commission and Parliament directly. Callanan (2011) gave a new dimension to the compensation hypothesis through his theory of "selective by-passing" (p. 29), which means that where interest groups cannot reach their goals at the domestic level, they seek to circumvent the national route and approach EU institutions directly or through European associations of interest groups.

A last key concept for the study of access seeking is the term "venue shopping" (Callanan, 2011; Coen, 2005; Princen and Kerremans, 2008). The term was coined by Baumgartner and Jones (1993), who stated that interest groups shift their attention to the most attractive venue, the location that offers the best opportunities to achieve their policy objectives. Two forms of venue shopping can be distinguished. The first is called horizontal venue shopping, and involves venue shopping between different venues at the European level (Beyers and Kerremans, 2012; Cirone, 2011; Mazey and Richardson, 2006). The other form is called vertical venue shopping and refers to venue shopping between different levels of government (Guiraudon, 2000; Princen and Kerremans, 2008). Beyers and Kerremans (2012) refer to the same concept as "multilevel venue shopping" (p. 264).

Setting the lobbying agenda

Factors that determine the setting of interest groups' lobbying agenda can be divided into so-called "supply-side forces" and "demand-side pressures" (Mahoney, 2004, p. 442). Supply-side forces are interest specific factors that form the incentive for groups to become active in the policy debate, such as disturbances or changes in the economic system or social order (Truman, 1951). The behavior of interest groups is also determined by the external force of the government. Demand-side pressures are activities by governmental institutions that determine the participation of certain interest groups in policy debates (Mahoney, 2004). The theory of interest representation in the European Union regards supply- and demand-side forces as complementary: institutions respond to the mobilization of interests by guiding the interest group activity toward a certain policy area over others (Baumgartner and Jones, 1993).

Supply-side forces in the determination of interest groups' lobbying agenda setting are the most fundamental factors of influence. Interest groups lobby EU institutions for topics of their particular concern and expertise. They attempt to bring these topics to the EU agenda, and try to influence decision-making related to these topics (Mahoney, 2004; Van Schendelen, 2010). The literature that specifically looks at supply-side forces in the lobbying agenda setting of interest groups in the European Union is very limited.

The literature on demand-side pressures on the other hand, is much more extensive. Interest group activity in the EU is considered to be influenced by the proactive stance of the EU institutions that actively draw lobbying activity to EU policy-making (Bouwen, 2002; Mahoney, 2004). Many studies that take the effect of European integration on the setting of the lobbying agenda into account pay specific attention to the effect of direct subsidy by the European Commission on interest groups' priorities (e.g., Bouwen, 2004; Greer, Da Fonseca and Adolph, 2008; Mahoney, 2004; Mahoney and Beckstrand, 2011). A reason for this focus on the Commission is the fact that it has historically been the primary venue for interest group lobbying, as it has the right to draft and initiate legislation (Cirone, 2011). Interest groups lobby the Commission in the early stages of policy-making and legislation drafting in order to ensure the protection or progression of their interests. Moreover, the Commission actively stimulates interest group activity in order to obtain the useful technical information these groups can provide, and to increase the democratic legitimacy of their policies (Greer, Da Fonseca and Adolph, 2008; Holzhacker, 2009). A democratic system requires balanced interest representation in order to produce representative policies, so interest groups in the EU are of great importance to European policy-makers (Mahoney, 2004).

METHODS

In order to come to an understanding of interest group strategies at the national as well as the European level, Saurugger (2005) suggests that a long-term analysis which includes a "micro-level method" (p. 297) is most effective because the analysis of an individual interest group makes it possible to observe changes and distinguish between domestic and European variables (Beyers and Kerremans, 2007; Saurugger, 2005). In line with Saurugger's suggestion, the empirical part of this study is a long-term analysis focused on the micro level, i.e. the domestic interest group

Milieudefensie. The analysis consists of a quantitative and a qualitative part. The quantitative analysis focuses on Milieudefensie's annual reports from 2001 to 2011 and has three objectives. It aims to illustrate the development of the importance of the European Union for Milieudefensie over the past eleven years, to examine the ways in which Milieudefensie addresses the EU, and to get an insight into the role of the European Union in the funding of Milieudefensie. The qualitative part explores the processes of access seeking and lobbying agenda setting of Milieudefensie through expert interviews.

Vereniging Milieudefensie ("Environmental Defense Association") is a non-governmental environmental organisation from the Netherlands. Its main aim, according to its General Policy Plan, is the achievement of "a sustainable, clean world where life is good, and the carrying capacity of the earth is respected and is beneficial to the entire world population" (Milieudefensie, 2010, p. 3).[1] It tries to reach this objective through identifying environmental problems and putting these on the public and political agenda on a national and international level, through campaigns, research, and lobby. In addition, it focuses on "structural policy changes by government and corporate life" rather than individual behavior change (Milieudefensie, 2010, p. 3). On an international level, Milieudefensie is part of the international network Friends of the Earth International (FoEI), member of the International Union for the Conservation of Nature (IUCN), and active at the European level in cooperation with the largest grassroots environmental network in Europe, Friends of the Earth Europe (FoEE).

The analysis of the annual reports is threefold. First, the general importance of the European Union for Milieudefensie was assessed by counting the number of EU-related terms that were mentioned in the report.[2] This was checked manually in order to ensure that the terms were meant in the context of Euro-level activity. To be able to make a longitudinal comparison, the results were corrected for report length. This was done by computing the absolute count into a percentage of EU mentions per page.[3] Secondly, the ways in which Milieudefensie addresses the EU was examined by looking at three indicators: the number of partnerships at the European level, the European institutions that were addressed, and the routes taken to Brussels (national or transnational). Thirdly, the role of the European Union in Milieudefensie's funding was evaluated by looking at the EU contributions to Milieudefensie as reported in the financial section of the annual reports. For the qualitative part of the analysis, semi-structured telephone interviews were conducted with lobbyists Geert Ritsema and Anne van Schaik. Both have worked for Milieudefensie as well as for Friends of the Earth Europe for over ten years.

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1 All translations (Dutch to English) were made by the author.

2 The counted terms are the following: "EU", "Europese Unie" (European Union), "Europese Commissie" (European Commission), "Europees Parlement" (European Parliament), "Europese Raad" (European Council), "Raad van Ministers" (Council of Ministers), "Europees Hof van Justitie" (European Court of Justice), "Europa" (Europe), "Brussel" (Brussels), "Europese regels" (European rules), "Europese normen" (European norms), and "Europese richtlijnen" (European directives).

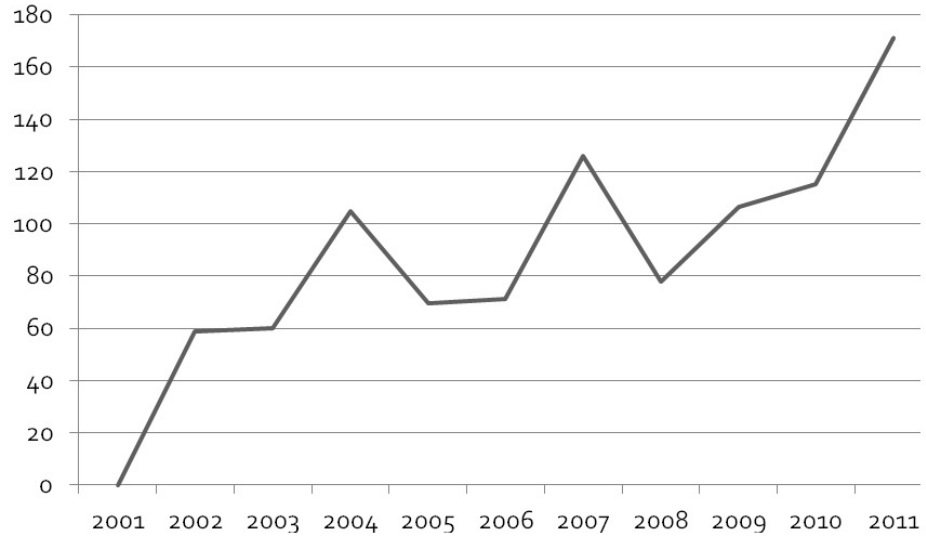
3 Computation: absolute count / number of pages report * 100

RESULTS

General developments

Overall, the quantitative analysis of Milieudefensie's annual reports shows an increase of attention for the European network over the past eleven years (see figure 1). Although the trend line is far from linear, it clearly indicates an upward trend. The graph peeks in 2004 and in 2007. A possible explanation for the increased attention in 2004 is the fact that the Netherlands held the presidency of the Council in 2004, and Milieudefensie increased the pressure on the Dutch ministers in the Council to adopt strong measures to adjust climate change (Milieudefensie, 2004, p. 9). It goes beyond the scope of this study to go into further detail about this. A way to explain the peak in 2007 is the big lobby of Dutch MEPs in that year for the adoption of stricter regulations for the use of agrotoxins, to which a lot of attention was paid in the report.

Figure 1. *Number of times the EU was mentioned in the annual report, corrected for report length (2001-2011)*



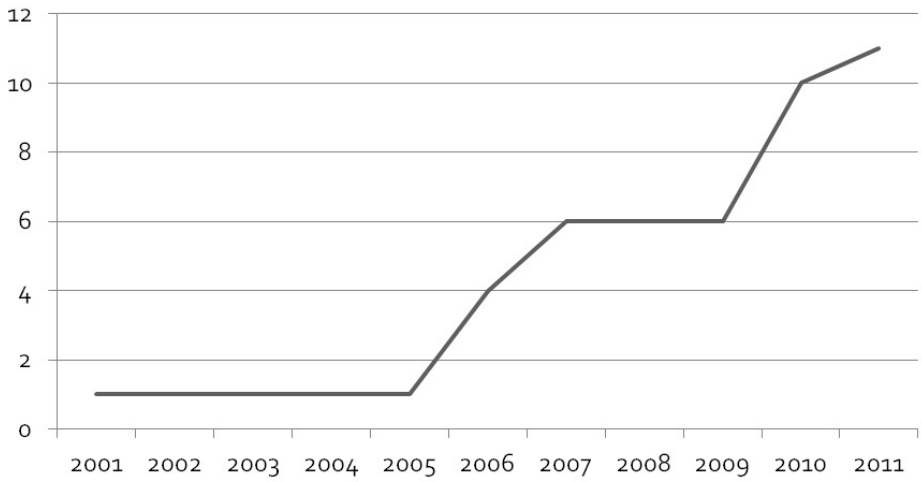
The assumption that the importance of the EU for Milieudefensie has increased is also indicated by the fact that the number of initiatives at the European level has increased over time, and by statements in the annual reports. The 2002 report states for instance: "Our international network is becoming more and more important. Environmental contamination can simply not be bothered by national borders. Moreover, international laws and treaties increasingly influence our [Dutch] environmental policies" (Milieudefensie, 2003, p. 17). The 2004 and 2005 reports contain a paragraph on the importance of the international network for the activity at the national as well as international level, in which is stated that Milieudefensie's membership of the Friends of Earth network has increased its legitimacy on a national level, and that the international cooperation leads to a bigger political influence on an international scale, which is particularly relevant in the

European Union, since more and more environmental legislation is made in Brussels (Milieudefensie, 2005, 2006). Based on these findings, it can be assumed that the importance of the European Union for Milieudefensie has increased over the past eleven years. This leads to the next question: how has the way Milieudefensie sought access to the EU developed throughout these years?

Access seeking strategies

The second analysis of the annual reports assesses the access seeking strategies of Milieudefensie by looking at the partnerships at the European level. The results of the analysis are displayed in figure 2.

Figure 2. *Number of partnerships at the European level (2001-2011)*



These results indicate a steadily increasing number of partnerships at the European level, and a primarily transnational approach to Brussels through these partnerships and Euro-level networks. The majority of Milieudefensie's activities at the European level takes place within the framework of FoEE. Moreover, the results support the idea that over time, Milieudefensie has started to address more venues. In the first years of the analysis, the lobbying activities were predominantly focused on the Commission. By 2011, the Parliament has developed into a venue of comparable significance.

The interview with Geert Ritsema provides in-depth insights into the access seeking strategies of Milieudefensie. According to him, the combination of seeking access at the national as well as the European level is key in lobbying the European Union, because EU institutions are most receptive to interest groups that are active at the member state level (Ritsema, interview, 10 December 2012). He mentions several reasons for this. In the first place, proposals need political support from the member states in order to be adopted, so the EU institutions are sensitive to the views of domestic interest groups. Secondly, the members of the Council and Parliament are generally

more interested in the views of citizens from their own member state than in the views of the European citizens in general. Especially Members of the European Parliament are very sensitive to domestic interest groups that represent their domestic constituency, since they are elected. This makes the Parliament a very accessible venue for domestic interest groups. Milieudefensie's campaigns are primarily focused on the Dutch level, by addressing national politicians and companies, but this domestic focus indirectly strengthens their position in Brussels. Ritsema summarized these ideas stating: "You can only influence Brussels' politics when you start in the member states" (interview, 10 December 2012).

The interview with Anne van Schaik provides additional insights into the access seeking strategies of domestic interest groups within the framework of FoEE. According to her, the most important activity of FoEE is the coordination of the message that domestic environmental NGOs from different member states transfer to the European institutions (Van Schaik, interview, 23 November 2012). Each individual domestic interest group is in contact with its national politicians in Brussels, such as national Members of European Parliament and the permanent representation of their member state in the Council. The theory behind this is that the effect of the environmental lobby will be stronger if domestic interest groups from different member states organise themselves in Euro-level networks and all pass on the same message to their national politicians in Brussels, than when FoEE itself would approach the European institutions. For Milieudefensie's lobbying practices at the European level, this means that it lobbies Dutch MEPs, the Permanent Representation of the Netherlands, and Dutch officials in the Commission. The message Milieudefensie transfers is often dictated by Friends of the Earth Europe, and therefore similar to the message of domestic interest groups from other member states, which increases the total influence of the environmental lobby in Brussels (Van Schaik, interview, 23 November 2012).

Besides cooperating with other environmental organisations, Milieudefensie and FoEE also try to form so-called informal 'ad hoc coalitions' with other actors in the European Union that lobby for the same goal, although their motives may be different (Ritsema, interview, 10 December 2012). An example is the lobby for the labeling of genetically engineered foods. Milieudefensie lobbies for this cause out of environmental considerations, whereas consumer organisations demand the same to protect consumers. At the European level Milieudefensie works within the framework of FoEE, which too has formed formal coalitions with other environmental organisations in Europe. This environmental lobby works together with actors such as consumer organisations and the food industry in informal ad hoc coalitions, by taking each other's demands and points of focus into account. Each coalition further strengthens the voice of civil society vis-à-vis the European Union. Again Ritsema: "The art of lobbying is formulating your demands in a way that is narrow enough to achieve your goal, and broad enough to involve others" (interview, 10 December 2012).

Setting of the lobbying agenda

Ritsema distinguished three unofficial criteria topics have to fulfill to reach the lobbying agenda of Milieudefensie, which are based on the interests of Milieudefensie's members (Ritsema, interview, 10 December 2012). First of all, a topic should have sufficient environmental relevance.

Preferably it should fit in the framework of climate change or loss of biodiversity. Secondly, the topic should be understandable for the average member of Milieudefensie and allow for a campaign in which people can actively participate. Thirdly, there should be a reasonable probability of positive change. This is generally the case for topics that are already on the political agenda, or that are of interest to companies or the media. The vision of the organisation and its multi-year policy plan further specify these three criteria for a certain period of time, and form the basis for the lobbying agenda of Milieudefensie in these years (Breunissen, 2012).

About one third of the campaigns of Milieudefensie takes place in an international setting. With regard to the international lobbying agenda of Milieudefensie, there is a fourth criterion. The topic should not just be of interest to Dutch citizens, but also be related to the lobbying agenda of other groups in the network of Friends of the Earth International. Topics that are in no way connected to campaigns of Friends of the Earth groups in other countries do not reach Milieudefensie's international lobbying agenda, because they are unlikely to succeed.

Van Schaik explained Milieudefensie's lobbying agenda setting in a specifically European context, so within the framework of Friends of the Earth Europe (Van Schaik, interview, 23 November 2012). According to her description, the political agenda of the European Union has a great influence on the agenda of FoEE. The legislative issues on the EU agenda that are of interest to the members of the interest groups in the FoEE network become points of lobbying. For these issues, the aim of the lobbying activities is to include environmental considerations in the EU legislation to the greatest extent possible. In addition to that, FoEE's agenda is determined by the public agenda. Environmental issues of general concern, such as climate change and loss of biodiversity, are even on the agenda of FoEE when they are not on the table in Brussels. Van Schaik's observations for FoEE are in line with Ritsema's description of the lobbying agenda setting of Milieudefensie in particular.

A third determinant of the lobbying agenda of FoEE Van Schaik distinguished is the interest of the Commission. She explained how the funding by the Commission is formally arranged via regulations that are officially distinct from the daily activities of the interest groups. However, in order for an interest group to receive funding, it has to hand in a proposal to the Commission (Van Schaik, interview, 23 November 2012). The Commission publishes a call for proposals, in which it defines the criteria of the types of activity it is willing to fund. As a result, interest groups have to define their campaigns according to these criteria. Van Schaik stated that FoEE would never hand in a proposal for an issue it would not be willing to address, but acknowledged that the Commission has a significant influence on the way FoEE addresses certain issues, because the organisation depends on the funding the Commission can provide. Realizing the implications of this observation, she added: "But everybody does this" (Van Schaik, interview, 23 November 2012).

However, according to Ritsema, the Commission has hardly any influence on Milieudefensie's lobbying agenda. He stated that the Commission does provide Milieudefensie with funding, but the criteria a proposal has to comply with are so broad that Milieudefensie has all necessary freedom to focus on whatever issues are of interest to its members (Ritsema, interview, 10 December 2012). Moreover, many of these criteria are in line with Milieudefensie's own unofficial criteria that were outlined before, such as the political relevance of the issue.

CONCLUSION

This study explored the processes of access seeking and lobbying agenda setting of interest groups in the European Union, and the development of these processes over the past years of increasing European integration. The influence of the European Union on national policy- and decision-making has increased greatly over the past years (Van Rooyen, 2009). The growing significance of European governance is not only visible in the governmental domain, but also for civil society. Domestic groups shift their focus more and more to the European level, and organise themselves in European networks with domestic groups that lobby for the same cause. Furthermore, they target venues at different levels in the multilevel system of governance the EU has created (Beyers, 2002; Beyers and Kerremans, 2012; Eising, 2008; Falkner, 2000; Princen and Kerremans, 2008). These developments fit well in the framework of Europeanization, as the European Union has turned out to be an increasingly relevant venue for domestic interest groups, to which they adapt their lobbying strategies more and more (Beyers, 2002, 2004; Cirone, 2011; Klüver, 2010; Van Rooyen, 2009).

Access seeking strategies

In the period of 2001 to 2011, the importance of the EU for the Dutch interest group Milieudefensie has increased gradually. The EU was targeted more frequently in campaigns and the number of partnerships at the European level grew significantly. In terms of access seeking to EU institutions, the European Parliament became an increasingly important venue. In Milieudefensie's access seeking to the EU, processes of horizontal as well as vertical venue shopping can be distinguished. Horizontally, Milieudefensie strategically targets the EU institution that is most relevant and most receptive. In practice this is often the Parliament, but the Commission and Council also receive considerable attention (Ritsema, interview, 10 December 2012; Van Schaik, interview, 23 November 2012). Besides, Milieudefensie engages in vertical or multilevel venue shopping by combining access seeking at the national level with addressing the European level. This process can be regarded as a cumulative process (Beyers and Kerremans, 2012), because Milieudefensie first addresses national politicians that are active at the European level, and after that seeks access to EU institutions in a more direct way through the Friends of the Earth Europe network. Furthermore, the analysis of Milieudefensie's access seeking strategies provides support for Beyers' (2002) positive persistence hypothesis. Because Milieudefensie is well embedded at the domestic level and has a strong national network in the Netherlands, it is also taken seriously at the European level. Besides, domestic networking comes before European access is sought (Beyers, 2002; Beyers and Kerremans, 2007, 2012; Callanan, 2011; Eising, 2008; Van Rooyen, 2009). The strength of Friends of the Earth Europe lies in the fact that it is a grassroots environmental network uniting domestic member groups. In the first place, national ministers are also involved at the European level, most notably in the Council and the Parliament. For a good representation of the member state's interests in the Council, and to a lesser extent in the Parliament, the concerns of domestic constituencies are strongly taken into account (Van Schaik, interview, 23 November 2012). Moreover, the number of partnerships and coalitions Milieudefensie and Friends of the

Earth Europe enter into has increased throughout the years of further European integration, as the cooperation of different parties is crucial to strengthen the voice of civil society in the EU.

Setting of the lobbying agenda

The setting of the lobbying agenda of interest groups in the European Union is a circular process. First of all, supply- and demand-side forces complement each other. European institutions respond to the mobilization of interests by attempting to guide the lobbying activities of interest groups towards certain policy areas, for instance through funding (Baumgartner and Jones, 1993; Mahoney, 2004). On the other hand, interest groups adjust their lobbying priorities to the political agenda of the EU, because in order to fund themselves, they have to respond to calls for proposals that are, for instance, issued by the Commission. On the one hand it can be argued that the funding of interest groups by the Commission is an example of 'ultimate democracy', because the Commission funds its 'opposition' (Mahoney and Beckstrand, 2011). On the other hand, the Commission funding can be seen as an instrument that decreases the democratic legitimacy of the Union, because in practice the Commission does not fund its opposition, but 'uses' interest groups to back up their proposals (Greer, Da Fonseca and Adolph, 2008). This dilemma is also visible in the activity of Milieudefensie and Friends of the Earth Europe.

Suggestions for further research

This study was based on the hypothesis that the negative trend in the attitude at the national level towards further European integration, which can be distinguished in national parliaments and citizen support for the EU, is reversed for interest groups. To further substantiate these findings, more research on different types of interest groups and interest groups from other member states is needed. It would be interesting to conduct a similar empirical study on partners of Milieudefensie in the network of Friends of the Earth Europe, in order to see whether the findings are similar or different for other member states. Furthermore, this study has pointed towards an interesting development, which is already a topic of scholarly debate: the relationship between the Commission and civil society through funding. Does the Commission increase its legitimacy by funding these groups and stimulating democracy, or does it use funding as a tool to get civil society to support its proposals? Finally, research into the process of access seeking from the point of view of EU institutions instead of from the interest group perspective could lead to a better understanding of the lobbying process at the European level.

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THE EFFECTS OF DIRECT EUROPEANIZATION ON SWITZERLAND

By **JOREN SELLESLAGHS**

Joren Selleslaghs is an EU Consultant at PNO Consultants in The Netherlands. He has a background in EU affairs, and is an alumnus of the College of Europe in Bruges (Belgium).

Switzerland, together with other European countries that are not (yet) member of the EU, is very much influenced by the political processes and decisions made within the European Union. To say it with Church's words: "Like it or hate it, relations with the European Union are an unavoidable issue for all European countries. Whether members or not, this is one of the key elements in their political agenda". Due to the country's extremely export-oriented economy, its rising unemployment, and the recession it faced in the nineties, Switzerland believed that it had no choice but to deepen the relations with the EU in order to get access to its successful internal market. Harmonization of national legislation with the acquis communautaire and the signing of numerous bilateral agreements followed and in the second decade of the twenty first century it is correct to state that in some aspects Switzerland has become even more 'EUropean' than some of the member states. This article provides an overview of the most important academic research findings on the positive effects of the process of the Swiss alignment with the EU by means of signing more and more bilateral agreements; the effects of the so-called 'direct Europeanization' on Switzerland.

INTRODUCTION

Even though it is surrounded by its member states and shares its core beliefs and political and economic conditions, Switzerland decided not to join the European Union in order to preserve its 'sovereignty'.

Switzerland, however, together with other European countries that are not (yet) member of the EU, is very much influenced by the political processes and decisions made within the European Union.[1] To say it with Church's words: "Like it or hate it, relations with the European Union are an unavoidable issue for all European countries. Whether members or not, this is one of the key elements in their political agenda" (1996, p. 17).

Due to the country's extremely export-oriented economy, its rising unemployment, and the re-

1 Numerous articles and books were written on the issue of Swiss alignment with the EU; see for example Church (2000), Ehs (2007) and Papadopoulos (2008).

cession it faced in the nineties, Switzerland believed that it had no choice but to deepen the relations with the EU in order to get access to its successful internal market (Church 1996). Harmonization of national legislation with the acquis communautaire and the signing of numerous bilateral agreements followed and in the second decade of the twenty first century it is correct to state that in some aspects Switzerland has become even more 'EUropean' than some of the member states (Mach et al., 2003).[2]

This article will provide an overview of the most important academic research findings on the positive effects of the process of the Swiss alignment with the EU by means of the signing of more and more bilateral agreements; the effects of the so-called 'direct Europeanization' on Switzerland. First, we clarify what 'Europeanization' exactly means, and how it can be applied to the Swiss case. More specifically, the literature mentions two different types of Europeanization: 'direct' and 'indirect', which both will be discussed. In the second chapter a chronology of the different phases in the Swiss-EU relations and signing of agreements will be drawn. The third chapter will then analyze the (positive) effects of it on Switzerland. This will be done in line with the theory of Börzel (1999) which states that there are three main categories in which the effects of the EU on (non) member states can be analyzed; polity, policy and politics. However, due to a limited word count, we will only analyze the direct effects of the EU on Swiss policy and politics. Even though that the positive effects are analyzed here , we will also briefly mention some of the negative effects of direct Europeanization on Switzerland in the conclusion.[3] Finally, we will also reflect on whether or not the approach of seeking bilateral agreements with the EU instead of becoming a full-fledged member is the best strategy to benefit the fullest from an ever-closer European Union in the case of Switzerland.

EUROPEANIZATION AND SWITZERLAND

Before examining the (positive) effects of direct Europeanization of Switzerland, let us first look at what exactly is meant with 'Europeanization', 'direct' Europeanization and how 'Europeanized' Switzerland actually is.

The concept of Europeanization

Europeanization is more than just bearing the consequences of the EU's influence. It is a process closely connected to globalization and deeply impacts the way contemporary European states are organised and function. Radaelli (2001) has formulated the concept as follows: "processes of construction, diffusion and institutionalization of formal and informal rules, procedures, policy

2 Switzerland signed for example the Schengen/Dublin agreements whereas some member states of the EU such as the UK and Ireland didn't.

3 It is the author's belief that by focusing on the positive effects of direct Europeanisation, this article is of an added value for the research community as other scholars tend to focus more on the negative than the positive effects. By doing so, the debate will be brought back in balance.

paradigms, styles, 'ways of doing things' and shared beliefs and norms which are first defined and consolidated in the making of EU decisions and then incorporated in the logic of domestic discourse, identities, political structures and public policies" (p. 30).

Recent studies show that Europeanization is not limited only to member states of the European Union, and this article will demonstrate that it applies to Switzerland too. Therefore, we need a broader definition of 'Europeanization' and the definition provided by Ladrech (1994) reflects this; "Europeanization is an incremental process re-orienting the direction and shape of politics to the degree that EC political and economic dynamics become part of the organisational logic of national politics and policy-making" (p. 69).

With this definition, the two dimensions of Europeanization become visible; a so-called 'vertical' and a 'horizontal' one (Goetz, 2002, p. 4-5). The vertical perspective emphasizes the hierarchical relationship between the EU and its member states and "the coercive logic of adaptional pressure and national adjustment or resistance". Nevertheless it does also refer to 'softer' forms of integration; mechanisms of adaptation that are less demanding than the integration of EU rules into domestic law. The horizontal dimension refers to "bilateral and multi-lateral interaction amongst the EU member states that reshapes national institutions and policies".[4] The softer forms of the vertical dimension of Europeanization are particularly relevant for non-EU member states. Switzerland for example has adapted a number of its norms to EU directives through the so-called 'autonomer Nachvollzug' policy (Sciarini et al. 2004).

The Swiss 'Europeanization'

Regarding the Swiss case, many authors agree that 'Europeanization' mainly takes two forms: indirect and direct (see for example Roy Gava and Frédéric Varone).[5] Indirect Europeanization takes place when a non-EU state adapts to existing rules. This can be compared with the 'soft vertical' dimension of Europeanization as stated before. In Switzerland, since 1988 all changes to federal law are automatically checked for their compatibility with EC/EU law (checked for its 'Eurocompatibility'). The adaption of national legislation to the EU's acquis communautaire must be interpreted as a form of indirect Europeanization too. Finally, regarding the major reforms that occurred in economic regulatory policies in the 1990s with respect to cartels, the liberalization of the telecommunications sector is also a good example of indirect Europeanization on Switzerland (for more details see Mach et al. 2003).

Direct Europeanization of Switzerland can be understood in line with the 'horizontal' dimension of Europeanization; it refers to the consequences of the negotiations and signing of different bilateral agreements between the EU and Switzerland. As Zvara (2009, p. 7) states: "It was mostly carried out during the process of negotiations over the EEA treaty and then after its rejection in 1992, during negotiations over bilateral treaties in the nineties and two thousands". Thus, direct Europeanization would be the proper adoption of EU decisions in a given area (Dolowitz and

4 For more on this issue, see Gava, R., Sciarini, P., & Varone, F. (2014).

5 For Europeanization theories in the context of Switzerland see articles from a variety of journals or research institutes written by Haverland, Church, Fischer et al, Sciarini et al, Ehs and Jochun and Mark

Marsh, 1996).

Now that we know what the direct Europeanization of Switzerland may be like, we will give a chronological overview of the different bilateral relations and agreements between Switzerland and the European Union. In this way, we will have a clear view of what the exact sources of direct Europeanization for Switzerland really are, before analyzing their effects.

Chronology of the direct Europeanization of Switzerland

Being situated at the heart of Europe, Switzerland obviously saw itself confronted with the European integration process and its consequences since the late 1950s (Mak-Jochum, 2003). Just after World War II, it participated together with the founding members of the European Union in the European Recovery Programme (1947) and in the Organisation for European Economic Co-operation (1948). Hence, we can say that the Swiss nation was already closely linked to European –economic- integration from the very beginning.

Despite its favorable position towards economic integration, Switzerland decided to subscribe to strict political neutrality and sovereignty (Tanner, 1990). In the second half of the 20th century, as Church (2004, p. 269) states, one could clearly observe a "wider Swiss creed of disengagement from the international political involvement". As the European Coal and Steal Community (1952) and particularly the European Economic Community (1958) were interpreted as instruments of political integration and therefore incompatible with the Swiss concept of neutrality, Switzerland decided not to join these European attempts for "an ever closer union among the peoples of Europe".[6] Instead it chose together with six other countries[7] to found the European Free Trade Association (EFTA) which would not, in contrast to a customs union, create threats to the preservation of three cornerstones of the Swiss nation: neutrality, direct democracy and federalism (Ehs, 2008, p. 29).

Despite its political disengagement, Bern continued to seek to widen its economic relations with the EU with the main goal of expanding its export market in order to sustain economic growth and prosperity at home. This was confirmed by the Swiss Federation of Commerce and Industry stating that "Switzerland's foreign trade is very heavily dependent on the European markets" (Junod 1971, p. 31) thereby stimulating the Swiss government to adopt several bilateral free-trade agreements on industrial goods. These agreements between Switzerland and the EC, concluded in the early 1970s, allowed for closer and more preferential trading conditions and were largely accepted by Swiss voters (72.5 per cent of "Yes" in the popular vote for ratification on 3 December 1972) (Mak-Jochum, 2003). In 1972, Switzerland finally signed a comprehensive Free Trade Agreement with the EU and this, once again, to serve economic goals only, as the first article of the FTA shows:

- "Promote through the expansion of reciprocal trade the harmonious development of economic relations between the European Economic Community and the Swiss Confeder-

6 As stated in the first perambulatory clause of the EEC treaty, 1958.

7 In 1960, Switzerland signed the EFTA agreement together with Austria, Denmark, Norway, Portugal, Sweden and the UK.

ation and thus to foster in the Community and in Switzerland the advance of economic activity, the improvement of living and employment conditions, and increased productivity and financial stability,
- Provide fair conditions of competition for trade between the contracting parties,
- Contribute in this way, by the removal of barriers to trade, to the harmonious development and expansion of world trade".

Hence, up until 1992, Swiss-EU relations and Swiss direct Europeanization took place in the framework of this FTA, which was amended by several other sector specific agreements. [8]However, due to rising unemployment and an economic recession as well as the sentiment that European integration had become more 'Swiss-style' with the then newly introduced subsidiarity principle (Ehs, 2008), the government decided to accede to the European Economic Area in the winter of 1991.[9] The EC's proposal for a closer and more structured partnership between EFTA and EC countries through the creation of a European Economic Area seemed to offer important economic gains while it would not compromise Switzerland's ability to be politically neutral nor its choice not to join the EU. This despite the fact that "deception in Switzerland was high, when it turned out that firstly the EEA negotiations were not just sectorial talks but concerned the whole acquis communautaire and that secondly, the EC was not willing to grant co-decision powers to EFTA states" as Mak-Jochum (2003, p. 8) pointed out. What happened next was a serious shift in its integration policy: in June 1992 Switzerland submitted its formal application for accession to the EU. As direct democracy prescribes in Switzerland, this governmental move was put into a popular vote on 6 December 1992, and as it turned out 50,3% of the voters and 16 out of 23 cantons said no to joining the EEA (Steinberg, 1996).[10] As a consequence, the EU-application was then put on hold, and – at least formally - hasn't changed ever since.

In order to overcome the uncomfortable situation after the down-vote and since the Swiss elites were fully aware of the economic danger of 'euro-isolation', they decided to approach the EU in a "bilateral way". It proposed to have different sectorial bilateral negotiations with the EU so as to govern their economic relations and to have access to the huge and successful EU single market. Brussels agreed but also chose to negotiate on other areas, which were more convenient for it, including issues related to internal security, asylum, environment and culture. During the negotiations for the so-called Bilateral I agreements, which started in December 1994 and lasted for four years, especially the issues of free movement of people and transportation were heavily disputed (US Department of States, 2011). By the time the first bilateral agreements entered into force, the EU and Switzerland agreed on further bilateral negotiations concerning ten more issues; the so-

8 For more on how Switzerland became Europeanised thanks to economic agreements such as the FTA, see Ehs, 2007.

9 Also the large dependency on the European markets (almost 63 % of export and 82 % of import came and went from the EU) forced Switzerland to join the other EFTA members in joining the EEA (Baldwin, 1992).

10 Dupont and Sciarini (2001) argue that the Action for an Independent and Neutral Switzerland (ASIN) brought up an emotionalised debate introducing arguments about sovereignty and neutrality, the decline of direct democracy as well as federalism and immigration what finally made the Swiss vote against an accession to the EU.

called Bilateral II agreements. On the one hand, these are leftovers from the first round of negotiations such as processed agricultural goods. But on the other hand the EU managed to negotiate agreements related to more sensitive issues as the fight against fraud and taxation of savings while Switzerland was able to convince the EU to cooperate on issues related to the Schengen and Dublin systems (Tovias, 2006). At present, these types of bilateral negotiations still continue. In March 2008, the Federal Council adopted a negotiating mandate on free trade in the agricultural and food sector as well as on health care for which negotiations still haven't concluded. Additionally, four other areas (emission trading, Galileo, cooperation with EDA and peacekeeping operations) were also put on the agenda recently (Ehs, 2008).

Now that we know that the sources of direct Europeanization of Switzerland are mainly to be found in these (rather recently adopted) bilateral agreements, it is time to analyze its positive effects on Switzerland. We will first give a broad overview of cross-sectorial consequences that happened over time with the signing of more bilateral agreements with the EU. After that we will have a closer look at the different consequences of the Bilateral I and II agreements on contemporary Swiss politics. Finally we will end with an analysis of the effects of direct Europeanization on the political system of Switzerland and the way decisions are taken.

POSITIVE EFFECTS OF DIRECT EUROPEANIZATION

In general we can say that direct Europeanization of Switzerland had three major effects. First of all, the signing of bilateral agreements attributed positively to the competition capacity of the Swiss economy and its businesses. As we will see later on, many different sectorial agreements have been signed and by now Swiss and EU businesses and companies are closely interlinked to the benefit of both. Secondly, starting with the Free Trade Agreement signed in 1972, the various agreements permit equal, reciprocal market acces in many areas which have proven to be effective in practice (EconomieSuisse, 2010). The possibility for Swiss workers to move freely to other EU nations (and vica versa) is an important direct and positive effect of the opening of both markets towards each other. Finally, as Switzerland walked down the path of signing bilateral agreements with the EU rather than to accede to it formally, it kept its promise to remain sovereign and politically neutral. As different popular votes indicate , the majority of the Swiss people appreciates this methodology of interacting with the EU.

To analyze more in depth the positive direct Europeanization of Switzerland, we make use of the theory of Börzel (1999) which states that there are three main categories in which the direct Europeanization of (non) member states can be analyzed; polity, policy and politics. However, due to lack of space, we will only analyze the effects of direct Europeanization on Swiss policy and politics.

On policy issues

As mentioned several times before, direct Europeanization of Switzerland has especially (had) a positive impact in the economic policy fields. It lays at the basis of several economic reforms that

originated from the signing of the Free Trade Agreement with the EU in 1972 and were also put on the table several times during the Bilateral I and Bilateral II agreement negotiations. Basically, it made Switzerland deregulate and liberalize its economy and through a 'revitalization program' launched by the government in 1993, it made an end to the selective protectionist measures, monopolistic situation and state ownership of its major utilities such as the post, telecommunications, railways and electricity (Mach et al, 2003).

But the direct Europeanization did not limit itself only to economic policies as we will see during our analysis of the effects of the Bilateral I and Bilateral II agreements. We chose to analyze these two sets of agreements since they present the lion share of direct Europeanization of Switzerland. Hence, the effects on policy issues presented here do not cover all of them, but they do certainly reflect the most important ones.

The Bilateral I agreements became effective in 2002 and consist of seven different treaties. The first regards the free movement of persons, an issue that was heavily debated upon. Once agreed and ratified, the treaty caused major changes in the every day life of the Swiss (and EU) citizens since it grants them the right to reside freely in the EU (or in Switzerland) and guarantees unlimited access to the labour market for employers and employees.[11] As EconomieSuisse (2010, p. 16) mentioned, this agreement "enhances the functional capacity and flexibility of the labour markets and makes it possible for companies to recruit personnel from elsewhere when they are unable to find suitable people locally". Thanks to the free movement of persons, Switzerland's GDP has been lastingly raised by at least one percent (between four and five billion Swiss francs). The agreement has also led to a pronounced shift in immigration policy towards well-qualified EU citizens.

The second treaty (as part of the Bilateral I agreement) signed between the EU and Switzerland provides for a complete liberalization of transport rights between airports of the EU and Switzerland whereas the third agreement on goods and passenger transport by rail and road provides mutual opening of the road and rail transport markets (Vorarlberg, 2011). Whereas the second treaty has the effect that connections, flight plans and pricing no longer have to be approved by the authorities (EconomieSuisse, 2010), the third treaty tries to coordinate Swiss and European transport for policy and supports efforts aimed at shifting transalpine goods transport from road to rail (Marletto et al, 2009).

Trade in agricultural products has been simplified and reinforced thanks to the fourth treaty which was designed to "extend mutual market access by providing mutual tariff concessions in favor of products which are of particular interest to one of the parties to the treaty (quantitative improvement: opening up of tariff quotas, reduction or abolition of customs duties) and by creating qualitative trade improvements in the form of the reduction or elimination of technical trade barriers for agricultural products" (Vorarlberg, 2011). As a consequence, the value of Switzerland's cheese exports to EU member states rose between 2006 and 2008 by an average of 9 percent per annum and Swiss consumers now have easier access to EU products (Eurostat, 2009).

The fifth treaty prescribes mutual recognition of conformity evaluations on (industrial) prod-

11 However, Switzerland was granted transitional arrangements which are set out in Article 10 of the treaty and provide that the priority of nationals for access to the labour market could be retained for a period of two years after coming into effect of the treaty and quotas for residency and for access to the labour market could be retained for five years after coming into effect of the treaty (Vorarlberg, 2011).

ucts and aims to reduce technical barriers to trade between the EU and Switzerland. Since this treaty was signed conformity certificates can be issued by Swiss institutions, and in many cases a single certification procedure is sufficient, which means that time-consuming and complex dual inspections are no longer necessary. In this way, certification costs are limited and companies also benefit from the more rapid introduction of their products onto the market.

Another issue that is dealt with is the mutual extension of the liberalization of public sector procurement. In this way, the sixth treaty "assures both parties better access to the public procurement markets since companies can become involved in procurement processes in municipalities as well as in the areas of rail transport, telecommunications, water supply and energy supply. This means that Swiss companies have equal access to a market with a value of around 1,500 billion euros" (EconomieSuisse, 2011). Finally, the seventh treaty of the Bilateral I agreements of 2002 fosters a collaboration on scientific and technological issues and allows all Swiss research agencies, universities, companies and individuals to participate in all specific programs and in the activities within the 5th research framework program of the EU which has been very much appreciated as well.[12]

The Bilateral II agreements were signed in 2004 and consist of nine different treaties, which in general strengthen political cooperation between the EU and Switzerland and try to improve the economic relations further. The first so-called 'Schengen/Dublin agreement' aims at strengthening the cooperation between the EU and Switzerland in the areas of policing, justice, visas and asylum seeking. They also secure access to the Schengen Information System (SIS) and facilitate travel. They furthermore also provide efforts to prevent asylum fraud. Thanks to the signing of this treaty, travel across borders progresses smoothly and tourism and business travel benefit greatly from the Schengen agreement since visitors from non-Schengen countries now only need one visa for the entire Schengen area.

The second agreement regards the fight against fraud and contributed in 2010 not less than 358M EUR, of which 268M EUR (75%) went to EU states and 89M EUR (25%) to Switzerland and the third agreement that deals with processed agricultural products (such as chocolate, biscuits, pasta, noodles etc.) tries to liberalize its trade. Thanks to this agreement, bilateral trade has risen by an average of 16 percent per annum since 2005 since the agriculture sector profits from an increased demand, while consumers benefit from lower food prices (EconomieSuisse, 2011). The fourth, fifth, sixth and seventh treaties of the Bilateral II package were of relatively less importance and have a rather limited impact on the everyday life of Swiss citizens. They deal with the following issues; media (regulating the participation of Swiss film-makers in the EU and providing more opportunities for Swiss films in Europe), environment (regulating Switzerland's participation in the European Environment Agency), statistics (adjusting Switzerland's standards of statistical data collection to those of Eurostat, the statistics office of the European Union, and providing access to a Europe-wide basis of comparable data on economic, political and social questions) and finally also on pensions (abolishing double taxation on the pensions of former EU officials living in Switzerland). Finally, the eighth treaty established better cooperation on education, vocational training and youth and did have a significant positive effect; it regulated Switzerland's participation in the EU's education programs and improved the availability and

12 For more information see Messer – Wolter (2005)

mobility in education and vocational training. In this sense, in the year of 2009 for example, a considerable number of 5900 students participated in EU exchange programs (this in both ways CH→EU / EU→CH) (EconomieSuisse, 2011).

On politics and the decision-making process

Apart from the positive effects of the different bilateral agreements between Switzerland and the EU on different policies and sectors, it is important to mention that it has also had a non-negligible impact on the Swiss decision-making process and politics. This subchapter will mention two main features of the effects of direct Europeanization on the Swiss decision-making process; actors' empowerment and the role of (in)formal consultations.[13]

As Risse et al. (2001, p. 11) have put very clearly, "we expect that domestic actors use Europeanization as an opportunity to further their goal". This has been truly the case in Switzerland as recent studies have shown. If we look at the case of the bilateral agreements on the free movement of persons between Switzerland and the EU, the business-oriented sectors witnessed great benefits from the liberalization of Swiss immigration policy (for a full analysis, see Sciarini, 2004). We can thus say that "Europeanization is exploited by domestic politicians and interest groups to further their goals and thereby accounts for a changed empowerment of actors and a redistribution of power" (Green-Cowles 2000, p. 11). Finally, and as in every other European country – EU member or not – the process of European integration in Switzerland led (and still leads) to political mobilization in movements such as Europa-Union, the New European Movement and even AUNS (Sciarini et al., 2002).

Next to that, the role of (in)formal consultations has increased while the EU and Switzerland became closer and closer. As we know, Switzerland is a country with numerous institutional veto points. Direct democratic instruments in particular grant considerable veto power to actors resisting change (Fischer, 2002). The final ratification of most of the European treaties negotiated by the federal government also has to be approved by the Swiss people through a popular vote. In many cases, European (and other international) treaties negotiated by the federal government could not get approved through this popular vote (or were recalled through a referendum). In order to prevent such a possible failure, the elites thus try to compromise already during the initial, pre-parliamentary phase of the legislative process (Neidhart 1970). In this sense, a number of formal consultation mechanisms, such as commissions of 'experts' and consultation procedures are available to favour the inclusion of relevant social, economic and cultural groups (Sciarini et al., 2004, p. 356). In addition, informal consultation procedures are also used more frequently (Kriesi, 1980). Thus, direct Europeanization leads to more (in)formal consultation than would take place in a domestic decision-making process in order to overcome a possible down vote during a popular vote or after a call for referendum on the issue.

13 For more on this issue see Neihart (1970), Kriesi (1980) or Papadopoulos (2008).

CONCLUSION

Given its geographical location, Switzerland is deeply enmeshed in EU policies and, due to the country's extremely export-oriented economy, it is quite easily convinced to adapt to EU norms for the better. Practically, the Swiss cannot say 'No' to the EU since it reserves the right to trigger the 'guillotine clause', thus putting an end to the whole Bilateral I agreement, a horror vision for Swiss economy (Ehs, 2008).

It is thus very likely that the EU's demands on Switzerland to adapt more and more to its legislation will become more frequent as the European Union expands and integrates further. This makes Church (2004, p. 223) conclude that it is feasible to believe that Switzerland "could get sucked in by Europeanization".

The argument of having access to a market as huge and powerful as the EU's, has nevertheless had its price; the bilateral agreements not only cover additional economic interests but also extend cooperation to the fields of internal security, asylum and other sensitive issues for Switzerland. This highlights just how far direct Europeanization has already progressed in Switzerland. Also the Swiss decision-making process is (considerably) influenced by the EU. One could wonder then why the Swiss are still so staunchly opposed to further integration or even membership. Especially considering the fact that in many different aspects, Switzerland is a very EU-like state and in some aspects even more 'European' than actual member states such as the United Kingdom or Ireland who, unlike Switzerland, have not agreed upon the Schengen acquis.

Several studies have furthermore shown that Switzerland would benefit most likely

- mainly economically - from EU membership, as costs on agricultural subsidies would drop as Switzerland would receive EU funding for its agricultural sector, but also as the cost of border-protection would drop, and so forth.[14]

However, obstacles and fear for a loss of sovereignty, neutrality, and direct democracy still remain and dominate the debate on possible accession. Hence, the well-trodden path of bilateral agreements seems a good alternative to formally joining the EU, making it unlikely that Switzerland would opt for EU accession in the short to medium term.

14 See for example Church (2007) and Sciarini (2004).

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