

What Comes After the Last Chance Commission?

Policy Priorities for 2019-2024



Edited by Steven Blockmans

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LAST CHANCE SALOON?

When the current European Commission began its mandate on 1 November 2014 under President Jean-Claude Juncker, it did so in highly inauspicious political circumstances. The EU was still suffering one of the most severe financial and economic crises since World War II; unemployment had hit unprecedentedly high levels; intergovernmental emergency measures burdened the Union's democratic quality; and the trust in European institutions of a politics-fatigued electorate had hit an all-time low.

President-elect Juncker published 'political guidelines' to mark 'a new start for Europe'.¹ This 'agenda for jobs, growth, fairness and democratic change' served to limit legislative action to ten policy fields (see Box 1) and restructure the internal set-up of the College to enable the so-called 'last-chance Commission' to turn the corner.² The revised structure was supposed to channel the Commission's attention towards 'big-ticket' items – easing off on regulation of eco-friendly light bulbs and water-saving shower heads.

But political circumstances deteriorated and blew the Commission off course. There was an unexpectedly high influx of people seeking refuge on the European continent; severe instability in Europe's direct neighbourhood; terrorist attacks on home soil; and a rise of populist forces across Europe. The 'poly-crisis' revealed deep divisions and incompatible preferences for problem-solving strategies among member states, which undermined the unity of the EU and triggered a far-reaching debate on the future direction of the bloc.

¹ J.-C. Juncker, "A New Start for Europe: My Agenda for Jobs, Growth, Fairness and Democratic Change. Political Guidelines for the next European Commission", Brussels, 15 July 2014, available at https://ec.europa.eu/commission/publications/president-junckers-political-guidelines_en.

² J.C. Juncker, "Time for Action", Statement in the European Parliament plenary session ahead of the vote on the College, Strasbourg, 22 October 2014. Juncker later adapted this negative reference. See, "L'heure n'est pas à la division: Discours du Président Jean-Claude Juncker à l'occasion de l'ouverture solennelle de l'année académique 2016-2017 du Collège d'Europe à Bruges", 8 November 2016: "Dans un moment autobiographiquement faible j'ai dit que ma Commission, si vous me permettez d'employer ce pronom possessif d'une façon un peu excessive, était la Commission de la dernière chance. En fait, c'est la Commission de la polycrise, parce que des crises il y en a partout."

Box 1. 10 Commission priorities for 2015-19

1. Jobs, growth and investment: Stimulating investment and creating jobs
2. Digital single market: Bringing down barriers to unlock online opportunities
3. Energy union and climate: Making energy more secure, affordable and sustainable
4. Internal market: A deeper and fairer internal market
5. A deeper and fairer economic and monetary union: Combining stability with fairness and democratic accountability
6. A balanced and progressive trade policy to harness globalisation: Open trade – without sacrificing Europe’s standards
7. Justice and fundamental rights: Enhancing cooperation between different EU justice systems and preserving the rule of law
8. Migration: Towards a European agenda on migration
9. A stronger global actor: Strengthening the global role of Europe
10. Democratic change: Making the EU more transparent and democratically accountable

Source: European Commission, 15 July 2014.

The big picture

To determine what is strategically important, it helps to take the longer view. After all, the evolution of the EU and the actions of subsequent Commissions take place against a rapidly changing global geopolitical and socio-economic background. The inter-institutional ‘European Strategy and Policy Analysis System’ project has identified five global trends that would impact on the future of Europe: a richer and older human race; a more vulnerable process of globalisation, with an uncertain leadership; a transformative industrial and technological revolution; a growing nexus of climate change, energy and competition for resources; and changing power, interdependence and fragile multilateralism (ESPAS, 2015).

Security concerns led the European Council to invite the High Representative to draw up ‘A Global Strategy for the EU’s Foreign and Security Policy’ (EUGS). Starting from the observation that “we live in times of existential crisis, within and beyond the European Union”, the EUGS defined a defensive strategy to “promote peace and guarantee the security of its citizens and

territory” in a more complex, connected and contested world.³ Member states continue to pay lip service. However, the real question is how this can be achieved at a time when the economic weight of the EU continues to decline and its ‘soft power’ is diminished by Brexit and rendered irrelevant by the dominance of geopolitical issues.

On the socio-economic front, the above-mentioned mega-trends led to the projection that the world tends towards a more multi-polar system, driven by rapid economic growth of emerging and developing economies (notably China), with the centre of gravity shifting away from the established developed economies of the US and the EU.⁴ Even if, at present, the global system is under attack by an erratic US President, the longer term survival of the open and multilateral global trading system will depend on different views of the relative roles of the government and markets in what are expected to be the two largest economies by 2035 (India and China). On this front there has been little convergence.

As for intra-EU dynamics, our research shows that, over the last two decades, inequalities have risen in some member states while falling in others, and that there has been considerable east-west convergence in the EU, but not north-south within the eurozone.⁵ However, problems in the future might not be along these known fault lines, but between countries able to benefit from new technologies because of strong domestic governance (most importantly high-quality education) and those where knowledge accumulation and generation is weak.

Underlying the ‘middling’ growth performance of the European economy is the fact that the ongoing technological revolution is happening elsewhere. European industry has been able to use new technologies to enhance productivity, but the leaders in most technology fields, including artificial intelligence and cyber security are found elsewhere.

³ “Shared Vision, Common Action: A Stronger Europe. A Global Strategy for the European Union’s Foreign and Security Policy”, presented to the European Council on 28 June 2016, at 7.

⁴ These trends have accentuated since. See Gros, 2018: “A further implication of this shrinking relative weight of the European economy is that for most member states the internal market might become less important than the global market, thus strengthening centrifugal forces (‘no Brexit without China’).”

⁵ Ibid.

Reflection period

Following the seismic shock of the June 2016 Brexit referendum to the EU system, the European Council introduced an emergency plan: the Bratislava process, giving policy priority to the fields of migration, security and economy. Shortly after the celebrations to mark 60 years since the signing of the Treaty of Rome, the European Commission made its own contribution to this debate with the March 2017 “White Paper on the Future of Europe: Reflections and scenarios for the EU27 by 2025”, outlining five possible governance modes:⁶

1. to maintain the status quo;
2. to reduce European cooperation to the single market;
3. to integrate in a differentiated manner;
4. to intensify European action in fewer policy fields; and
5. to integrate more across all policy fields.

Despite criticism that the Commission did not draw any definitive conclusions but merely outlined the respective consequences, risks and opportunities of all the scenarios it presented, the White Paper went beyond short-term policy priority settings and was in fact a strategic move: the Commission refrained from presenting a blueprint (as it did in the Five President’s report, for instance), but instead chose to ignite a public debate and put the onus of decision onto the member states.

The Commission followed through with the production of a series of so-called reflection papers, addressing five different topics, each under the leadership of two Vice-Presidents and/or Commissioners: the social dimension of Europe (Dombrovskis/Thyssen); harnessing globalisation (Timmermans/Katainen); deepening of Economic and Monetary Union (Dombrovskis/Moscovici); the future of European defence (Katainen/Mogherini); and the future of EU finances (Oettinger/Crețu). These papers each presented the status quo and challenges ahead for the respective policy fields. In a way, the chosen topics served as an update of the political priorities that were set three years earlier. After initially pursuing “a reasonable and balanced free trade agreement with the US”, the Commission had no choice but to recalibrate its focus on ‘harnessing globalisation’ and to take the internal as well as the external dimension into account. Whereas EMU continued to be high on the Commission’s agenda as a political priority, the social pillar and defence cooperation constituted emerging policy fields. Cooperation in the social sphere still meets with some resistance, whilst defence integration has evolved in the last two years in a way that only few expected at the beginning

⁶ COM(2017)2025 of 1 March 2017.

of the Commission's mandate (Solana, 2015). Lastly, the focus on the EU's finances was a natural one, given the budgetary situation after Brexit and the pending negotiations over the next Multiannual Financial Framework.

Marking the end of the Commission's own reflection period, President Juncker in his 2017 State of the Union speech added a sixth scenario to the list, one built on the respect and promotion of freedom, equality and the rule of law, the "three fundamentals, three unshakeable principles" which "must remain the foundations on which we build a more united, stronger and more democratic Union".⁷

The election of French President Emmanuel Macron and the continuation of the grand coalition under German Chancellor Merkel gave the EU some breathing space from the onslaught of nativist parties. But hopes among euro-enthusiasts of a new momentum to reconstruct the Union waned as the Franco-German engine sputtered and the right-wing populist wave spread and translated into the power of government in Austria and Italy. But even if the latter has deepened divisions between member states that either want to see a more intergovernmental or those that seek a more supranational EU, it has not led to the breakup of the Union.

The leaders of the EU27 share a belief in the value added of cooperation within the Union. They remain united in their handling of the Brexit-file and in their determination to debate the future of Europe at the informal European Council summit in Sibiu on 9th May 2019. The outcomes of this debate will then feed into the European Parliament elections of 23-26 May and culminate in the June European Council, which is expected to decide on the next European Commission President and his or her strategic agenda for the next legislature.

This report

Ahead of the 2019 institutional reconfiguration of the EU, it is a suitable moment for CEPS to take stock of the evolution of the European integration process and determine which priorities ought to define the policy agenda of the next generation of EU incumbents. Whilst acknowledging that the entire EU collective is concerned - member states and institutions alike - this report is addressed to the one actor that has a more direct role in fleshing out the strategic agenda for Europe: the European Commission. The report will assess how the 'political Commission' has fared and whether we might see the return of it in the second half of this year. After that, the deliverables of the Juncker Commission and the challenges and opportunities of the next Commission will be discussed in what CEPS considers to be the ten most important policy areas for the near

⁷ http://europa.eu/rapid/press-release_SPEECH-17-3165_en.htm.

future. As a sign of the times, security will be dealt with first. In closing, key policy priorities will be listed for the next European Commission.

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INSTITUTIONAL REBALANCING: THE 'POLITICAL' COMMISSION

What is 'political'?

By labelling his Commission as 'political' President Juncker has created much confusion, inside and outside the institution. Absent a prevailing definition of what constitutes a 'political' entity, some features can be determined, such as that it is ruled by political bargaining and value-based reasoning; aims to influence the substance of policy outcomes (Winzen, 2011, 39); targets responsiveness or social justice (Gormley, 1986, 619); is based on open political debate (Radaelli, 1999a, 37); has the tendency to focus on ends rather than means; and is subject to the public (Bozeman and Pandey, 2003, 5).

One of the most widely used definitions is the ideal-type approach by Claudio Radaelli, who defined 'Politics' in terms of reasoning from values, whereas 'technocracy' describes behaviour based upon expertise (Radaelli, 1999a). 'Technical' decision-making is said not to be influenced by personal interest or political consideration (Schudson, 2006, 492); to lie outside the scrutiny of voters and influence of pressure groups (Borrás, Koutalakis and Wendler, 2007, 586); to exclude the consensus of the citizens (Radaelli, 1999a, 42); to rationalise the policy process along predictable lines (Radaelli, 1999a, 47) and to be concerned with efficiency and productivity, in a rigid process guided by rules.

The concepts of the 'political' and a 'democracy' are by no means the same. However, they are heavily intertwined and mutually dependent on each other. In fact, there is broad academic agreement that the concept of expertise contrasts with the concept of democracy (Borrás, Koutalakis and Wendler, 2007; Fischer, 1990; Radaelli, 1999a). The underlying logic of the concept of democracy is legitimate consensus and participation, whilst technocracy is based on the notion of expertise as the basis of power and authority (Radaelli, 1999b, 758). Hence, both concepts have legitimising powers, but follow different logics. "While democracy is based on legitimate consensus, free elections and participation, technocracy recognises expertise as the sole basis of authority and power." (Radaelli, 1999b, 758). Therefore, technocratic decision-making is "a

deep-seated challenge to democracy and its political form of decision-making" (Fischer, 1990, 23–24) as decision-makers are non-elected actors, who cannot be held accountable by the public.

The Commission:

Evolution from a technocratic to a political institution?

The Commission constitutes in many regards an administrative and executive body *sui generis*, due to its hybrid nature as a "politicised bureaucracy" (Christiansen, 1997, 77). The Commission is and always has been a hybrid creature, as it is functionally divided into political and administrative levels and was designed as a body with both an administrative and a political mission. Its mission is contradictory in a sense, seeing that its main activity and core responsibility, i.e. proposing and drafting EU legislation, is a highly political task (Christiansen, 1997, 76) and that, at the same time, it represents a "rigid, rule-bound and hierarchical environment" (Wille, 2012, 386) – as the guardian of the treaties.

Despite its dual nature, the European Commission was initially created according to a technocratic ideal. Under its first President, Jean Monnet, the

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Commission (then the High Authority of the European Coal and Steel Community) was designed and ruled by a technocratic elite, following the so-called 'Monnet method'. For a long time, European policies were shaped within the circles of (internal and external) experts, highly skilled and dedicated people operating inside a small, non-hierarchical structure (Radaelli, 1999b, 759). Next to expertise, qualities such as reliability, efficiency and coherence were aspects on which the

EU's decision-making was based, as opposed to democratic participation (Tsakatika, 2005, 198). In Monnet's conception, a political Commission was seen as flawed because prone to actors who could undermine the legitimacy of the organisation by being "short-sighted and self-seeking" (Wille, 2012, 386). Therefore, the "EU founding fathers sought to insulate the Commission from politics" (Wille, 2010, 1112). The Commission was designed as an independent body, composed of people representing all the various political majorities in the member states. It was intentionally kept outside the daily electoral fray, which offered the opportunity to formulate long-term ideas in defending the common good. It was intended to be an institution which was not politicised in the traditional sense of the term and therefore could be trusted to enforce the respect of the law.

This tradition prevailed for a long time and was not perceived as a problem. There was no need for more transparency in those days as the European Community delivered satisfying policy results, which led to a disinterested agreement and ‘permissive consensus’ among the general European public about what was happening at the EU level (Carrubba, 2001, 141). The Union was perceived as quite successful for efficiently carrying out projects such as the creation and completion of the single market and the establishment of the single currency, and thereby established output legitimacy (Scharpf, 2002). This “problem-solving” form of legitimacy (Tsakatika, 2005, 203) for a long time compensated the inherent lack of input legitimacy (Wille, 2010, p. 1112).

The Danish ‘no’ to the ratification of the Treaty of Maastricht marked a watershed moment in European integration history. For the first time, citizens’ scepticism and distrust was directed against an “unaccountable technocratic elite in the Commission” (Wille, 2012, 387), giving rise to the notion of a democratic deficit. There were a number of reasons, but two in particular. First, since Maastricht integration went well beyond single market integration and the EU was no longer predominantly involved in market regulation, but also in foreign affairs, justice, immigration and other policy fields, the demand for more democratic modes of accountability became more strident (Wille, 2010, 1112). Second, the collapse of the Santer Commission in 1999 damaged the standing of the institution and forced it into a “self-conscious period of soul-searching about what its future role in the institutional balance should be” (Cram, 2002, 310).

The post-Maastricht era is characterised by increasingly louder demands for elected politicians in charge, instead of technocrats and more legitimacy through input (Wille, 2010, 4). European citizens have become increasingly opposed to rules shaped by technocrats and demanded democratically legitimate decision-making processes and an accountable Commission (Wille, 2012, 387).

The EU responded in two ways. Firstly, the legislative competences of the European Parliament (EP), as a basis for democratic legitimacy, were gradually strengthened, resulting in significant influence over the policymaking process as the Parliament developed from a consultative assembly into a genuine co-legislature with the Council (Neuhold, 2002, 1-2). As such the EU’s institutional balance was henceforth determined by a triangular relationship.

Secondly, the ties between the Commission and the EP were tightened to ensure stronger democratic control over the executive and to provide it with legitimacy: when entering office, the Parliament approves the College of Commissioners (Article 17(7) TEU); during the term the EP has the capacity to hold the Commission to account by parliamentary questions (oral, written and ‘question time’) (Article 230 TFEU); furthermore, Commissioners are obliged to

report regularly to the EP and appear before committees. Ultimately, the Parliament even has the power to issue a no confidence vote against the Commission and thereby force it to step down collectively (Article 17 TEU and Article 234 TFEU).

Consequently, the EP triggered a politicisation trend of the Commission by becoming its stronger counterpart and a “far more vociferous and demanding interlocutor” (Wille, 2012, 387). Hence, a process of politicisation was triggered in the post-Maastricht era, which made the Commission successively more ‘political’ by tying it closer to the EP with a view to giving it greater democratic legitimacy. The politicisation of the Commission can hence be seen as evolution triggered long before ‘team Juncker’ took office.

That raises the question, what is new under President Juncker? And what did he mean when he labelled his Commission as “highly political”?

Juncker’s ‘political’ Commission

Juncker sought to distance himself from his immediate predecessor José Manuel Barroso, who was generally perceived as a technocrat who did not move far from business as usual (Peterson, 2017, 1), and as being very deferential to national leaders and therefore politically weak (Dinan, 2016, 103). Despite closer bonds to the European Parliament, the output-focused Monnet conception of legitimacy was still very much present and the Commission stood accused of prioritising efficiency over democracy (Tsakatika, 2005, 214). As a non-elected institution, it remained perceived as being largely obscure and non-transparent, though at the same time playing a crucial role in the policymaking of the Union.

Juncker’s proposition that ‘his’ Commission was a “highly political” one can be seen as an attempt to counter the negative perceptions of a distant and unaccountable institution.

Juncker’s proposition that ‘his’ Commission was a “highly political” one (Juncker, 2014, 16) can be seen as an attempt to counter the negative perceptions of a distant and unaccountable institution. By opposing the technocratic concept of policymaking, Juncker aimed to give the Commission more democratic legitimacy. It can be seen as yet another answer to the post-Maastricht perception of both the technocratic character of the Commission and equalisation of the notions of ‘political’ and ‘democratic’. The ‘political’ Commission continues to borrow legitimacy from the European Parliament.

Apart from this legitimacy aspect, there are two crucial organisational elements that feed into the Commission’s own narrative about it being more political: first, the prioritisation of policies and second the application of a top-down approach. These elements are implemented and realised through the

Commissions' new way of working that focused on ten priority policy fields in a restructured College.

Policy prioritisation

The Commission understands 'political' as exercising political responsibility. This means refraining from blindly accepting and implementing the instructions of other institutions, but instead embedding all actions in the bigger political context. A political Commission does not act in a political vacuum: it is sensitive to political developments and coordinates its actions accordingly. The much-quoted slogan of 'being big on big things, small on small things' captures this mind-set. By deciding on what is 'big' and what is 'small', the Commission defines 'political' as the prioritisation of policy fields in which action is most needed.

To anchor this mind-set, Juncker set out ten political guidelines, a political agenda that aims to limit all Commission actions to predefined policy fields. By concentrating on the most pressing issues, the Commission highlighted its own agenda-setting role and a new-found resolve to be less hyper-active.

Top-down approach

A second element of the Commission's own understanding of 'political' is a top-down approach. The rationale behind this is to give decision-making authority to politicians, not officials. Important decisions, as well as impetus for the Commission's legal proposals, shall come from democratically elected office holders.

Juncker substantially revised the structure of the College of Commissioners in a more team-orientated way, grouping related portfolios and upgrading the hitherto honorary role of the Vice-Presidents, entitling them to coordinate and steer the work of Commissioners in so-called project teams. The project teams operate as pre-coordination bodies, where several Commissioners come together to discuss dossiers from different policy angles.

The project team approach and the 'gatekeeper' role of the Vice-Presidents were supposed to streamline all European Commission actions; to foster

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teamwork among Commissioners and their cabinets. In this way, the Commission attempts to give political impetus to its actions and considers the political appropriateness of any particular action. The new way of working facilitates involvement at the political level from the very early stages of the policymaking process, in contrast to the traditionally strong agenda-setting role of the Directorates-General (Hartlapp, Metz and Rauh, 2013). The Commission defines the administrative level as subordinate to the political. Hence, a 'political' Commission under Juncker stands for policy prioritisation as well as for a top-down rather than bottom-up approach, entailing greater political control over administrative actions (Russack, 2017).

Institutional rebalancing

Not only the Commission's inner organisation should be in focus in this context; its relationship with the other institutions is also crucial. Particularly interesting are its relations with the EP and the European Council.

Relations with the European Parliament

As the principal executive body of the EU, the Commission is politically dependent on and accountable to the EP. Building on a long evolution of closer ties to the European Parliament, the lead candidate procedure that was followed to designate Jean-Claude Juncker as President moved the Commission ever closer to the EP. The Treaty provides that the EP not only approves the whole College after extensive hearings of each individual Commissioner; it also elects the President of the Commission (Article 17(7) TEU). Derived from that treaty provision, the so-called 'Spitzenkandidaten' procedure (whereby the EP's political groups nominate lead candidates for the Commission presidency) introduced an electoral logic similar to what is customary in many European democracies, in which elections lead to a parliament and the majority in the parliament determines the nature of the executive. Throughout this process, the EP lends the Commission President democratic legitimacy, in addition to the indirect line running through the appointment procedure of the European Council.

At the beginning of his mandate, Juncker spoke about the "special partnership" with the EP and expressed his intention to fill this with "new life" (Juncker, 2014, 12). Also in his annual State of the Union (perceived by MEPs as being generally more enthusiastic than Barroso's speeches), Juncker was "gushing his praise for the Parliament and especially for its President" (Dinan, 2016, 103). The Spitzenkandidaten process is said to make the Commission more compliant with the European Parliament and more sensitive to its interests (Dinan, 2016, 111), especially under the previous EP President. It does not lead

automatically to a political Commission, but it is a crucial element of it and generated closer institutional bonds.

Relations with the European Council

The 'political' notion also has an effect on relations between the Commission and the European Council. In recent years, one can observe the rise of the European Council. In formal legal terms, the European Council was 'institutionalised' by the Treaty of Lisbon and endowed with a full-time President who is not allowed to hold any other office. Despite being located outside the formal legislative decision-making triangle, the European Council gained political stature in the past decade as heads of state or government tried to manage the multiple crises confronting the Union (starting with the sovereign debt crisis; a flare-up of armed conflicts in the outer periphery; the migration crisis; Brexit and the perennial future of Europe debate).

As a corollary, the Commission – the EU's traditional agenda-setter and initiator – has generally been perceived to have lost power. This has led to a school of thought: new intergovernmentalism, which finds that the EU has generally followed a much more intergovernmental than supranational logic towards deeper integration and advocates that the rise of the European Council is an answer to the paradox that member states are willing to deepen EU interaction, so as to expand policy scope, but not to transfer sovereignty to supranational institutions (Bickerton, Hodson and Puetter, 2015).

Arguably, the Commission is threatened in its key responsibility of agenda-setting, where the European Council now appears as a competitor. Yet, one needs to make a distinction between formal and informal agenda-setting. Formal agenda-setting, through the ordinary legislative procedure, prescribes a clear division of labour between the Commission as initiator, and the EP and Council as co-legislators. The European Council provides the Union with "impetus", "general political directions" and "priorities", but is legally excluded from performing any legislative functions (Article 15(1) TEU). That clearly distinguishes its role from that of the Commission, which retains the formal monopoly over initiating law (Bocquillon and Dobbels, 2014, 20).

Informally, however, the European Council frames the issues that will be legislated on. This is exemplified in the European Council conclusions, which contain quite precise mandates and instructions for policy actions for the other institutions. As such, the European Council delineates – or even curbs – the Commission's discretionary powers, reducing its right of initiative into an executive, i.e. technical power. It has led some scholars to describe the Commission as some kind of secretariat of the European Council; a neutral agent with specialised knowledge and expertise (Bocquillon and Dobbels, 2014, 25); an

'administrative executive' as opposed to the European Council as a 'political executive' (Dinan, 2017).

As the European Council emerged as another powerful player on the crowded institutional scene of the EU, the Commission found itself locked into some kind of "competitive cooperation" (Bocquillon and Dobbels, 2014). Two reactions of the current Commission are noticeable. First, Juncker appeared skilful in influencing the debate *within* the European Council, of which he is a member (Article 15(2) TEU). He seems better equipped than his predecessor, as Barroso is said to have gauged "what the political traffic will bear" whereas Juncker aimed to be "more connected to the political process". In that, Juncker's experience "far outstripped that of Barroso" (Peterson, 2016, 16). The fact that both the European Council's strategic agenda⁸ and the Juncker Commission's political guidelines (both authored in 2014) focus on very similar policy priorities, feeds into that argument.

Second, Juncker used the notion of the 'political' Commission to be bolder and more forward leaning. *Vis-à-vis* the European Council, the *political* Commission appears as a stronger (informal) co-agenda setter, compared to a more technocratic Commission. In Juncker's own words: "The European Council proposes the President of the Commission. That does not mean he is its secretariat. The Commission is not a technical committee made up of civil servants who implement the instructions of another institution" (Juncker, 2014, 16). Hence, while strategically preparing the ground of his initiatives behind closed doors within the European Council, Juncker at the same time sought to give the Commission the image of a strong and independent institutional player.

In many respects, the Juncker Commission has been perceived as being more ambitious than its predecessor (Peterson, 2017, 15), as shown, for instance, in the case of the proposed quotas on migrant relocation, the idea of the need to

In many respects, the Juncker Commission has been perceived as being more ambitious than its predecessor.

create a joint EU army or the proposal to introduce QMV in the area of taxation. Juncker was also ambitious in proposing the creation of a common 'European Minister for Economy and Finance', in charge of promoting and supporting structural reforms in member states, and coordinating all EU financial instruments that can be deployed if a member state is in a recession or hit by a crisis.

However, all these proposals were met with hostility from part of the European Parliament, as well as from many national politicians, in the latter case because they were concerned by the tendency to replace democratic processes with

⁸ https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/143477.pdf

technocratic structures such as the Troika (during the Greek crisis) and fiscal boards.

Inter-institutional collaboration is crucial. A 'political' Commission should therefore also be measured by how successfully it guides proposals through the whole decision-making procedure and negotiates with the other law-making institutions.

Better law-making

According to monitoring work done by the European Parliament,⁹ by 1 December 2018, the Commission had submitted almost all of its announced proposals (94%, i.e. 519 of 551 proposals), but only about 50% had been adopted. The other half is either 'proceeding normally' (36%), 'close to adoption' (5%); or 'proceeding slowly or blocked' (9%). Even if most of those yet to be adopted files are categorised as 'proceeding normally', it seems unlikely that a majority of those 200 proposals can be adopted by April 2019, when the EP plenary meets for the last time in its current composition.

Unfortunately, there is no means of direct comparison to previous Commissions, as this is the first time the EP has run such a systematic screening of the Commission's achievements. Nevertheless, it indicates a considerable gap between what the Juncker Commission wanted to do and what it was able to agree on with the co-legislators. As the sole holder of the right of initiative, a 'political' Commission cannot be too bold and progressive in its proposals – it must anticipate what will fly with the other institutions and be able to organise majorities. That raises the (so far unanswered) question: to what extent does the preparation of *realistic* proposals fall under its *political responsibility* (a crucial element of a 'political' Commission, as the institution itself understands it)?

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Comparing 2014 ambitions with results and realities in 2019, one could say that the Commission outputs were according to its White Paper's (COM(2017)2025) relatively unambitious scenario No. 4 ("doing less more efficiently"), developed by First Vice-President Frans Timmermans under the 'Better Regulation' agenda.

The attempt by the European Commission to strengthen evidence-based policymaking throughout the ordinary legislative procedure, outlined in the proposed Interinstitutional Agreement on Better Law-making presented in May 2015, was coldly received by the other EU institutions, and the final version of

⁹ <http://www.europarl.europa.eu/legislative-train>

the Interinstitutional Agreement (dated May 2016) did not lead to major innovations in the coordination of policymaking among the three major institutions.¹⁰

In his 2017 State of the Union address, Juncker announced the creation of a Subsidiarity and Proportionality Task Force with the mandate of taking a critical look at all policy areas to make sure that the institutions are only acting where the EU adds value. However, the Task Force remained bereft of participation by the European Parliament, which did not appoint any of its Members to contribute to the process, as was originally foreseen. Published in the midst of summer of 2018, the final report of the Task Force did not identify any area in which competences ought to be re-attributed *in toto* to the national level, but it did open the door to possible re-modulations of the mix of competences between the EU and the national, regional, and local levels, and a greater involvement of the latter in the overall policy design, implementation and evaluation phases of EU policy.

Recent events have marked a growing discontent towards attempts to achieve stronger coordination in migration policy, with the Visegrád group firmly blocking reform of the Dublin IV Regulation, a group of southern European countries taking paradoxically similar stances; and even Italy (illegally and unsuccessfully) threatening to withdraw or reduce its contribution to the EU budget if other member states did not agree to receive what Rome considered to be a fair quota of migrants.

This ongoing turf war did not only lead to a stalemate. It also led to new trends in EU policymaking. Some of these actions bring regulatory and policy competences 'up' the multi-level governance structure of the Union (i.e. towards EU institutions); others aim at pushing them 'down' (i.e. towards member states and national authorities); and most of them go 'sideways' in all kinds of directions, through the adoption of new forms of collaborative policymaking, de-ossified processes, and more stringent forms of regulation (Renda, 2019).

Will the next Commission be 'political'?

The concept of a 'political' Commission is not new but a gradual development since the post-Maastricht era. The Juncker Commission, however, went one step further in trying to shape a more distinct agenda of its own and in having a stronger focus on political leadership internally. Certainly, one can argue that the Commission has always had its own agenda. Indeed, Juncker did not

¹⁰ Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making, OJ L 123, 12.5.2016, p. 1-14.

reinvent the wheel. He did, however, put strong emphasis on the institutional independence of the Commission and he added substance to the 'political' mind-set through the implementation of internal organisational principles.

Throughout President Juncker's mandate, the concept of the 'political' Commission has also received critical feedback. Observers levelled the accusation that being 'political' leads to disorder through a lack of application of the rules. Also, there are claims that the Commission moved too close to party politics. Indeed, the strong institutional bonds between the European Parliament and the European Commission entail a certain 'politicisation' of the process, which means that the appointment of the Commission President does become a partisan matter (note the conceptual difference from being 'political'). Making this position an instrument of party politics might be dangerous, as it might erode the independence of the role as guardian of the treaties in which the Commission is supposed to serve the general interest. Favourable treatment of individual member states has in the past fuelled this argument, for instance regarding the assessment of national budgets under the Stability and Growth Pact, which was treated less mechanically and more flexibly by this 'political' Commission.

Whether one wishes the next Commission to continue to go down the path of being 'political' depends on one's understanding of the concept of European democracy. There are two diametrically opposed visions of EU democracy that are inevitably linked to the concept of a 'political' Commission. First, a federal idea that leads to a politicised establishment of parliamentary government. Here, the European Parliament has a democratic mandate from citizens to decide on a politicised European government. Second, an intergovernmental vision, where national governments retain the power to decide on the top post for the largely technocratic executive (Hobolt, 2014, 1533). The inter-institutional dynamics of the European Union and the power struggle between the Commission and the European Council fuels the tension between these two different visions of democracy for the EU. The Spitzenkandidaten system epitomises this tension.

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We find proponents of both visions of EU democracy. Yet, as a matter of fact, these are times of growing importance of intergovernmental decision-making and the (European) Council as a central decision-maker. Arguably, this is not fertile ground for the concept of a 'political' Commission and the federal vision of EU democracy that it carries.

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A NEW START FOR EU JHA POLICIES?

The Juncker Commission has been the ‘Commission of crisis’. The set of political guidelines outlined for the European Parliament in July 2014 have been subject to various (inter)national events framed as ‘crises’ that have sent political waves over the legitimacy and fundamentals of European integration on Justice and Home Affairs (JHA) policies. These have included the ‘European Refugee Humanitarian crisis’ emerging in 2015, the derogation of the internal border-free Schengen area by a few member states, terrorist acts across several European cities and the rise of the radical right and ‘Euroscepticism’ in some EU governments, with some backsliding in their rule of law systems.

This chapter asks whether the Commission has delivered the ‘new start’ promised by Juncker for EU JHA policies. It does so in light of the performance of the Commission’s intra-institutional setting and the most relevant policy and legislative developments on JHA or the Area of Freedom, Security and Justice (AFSJ).¹¹

The Commission’s new structure: one hat too many?

For the first time this Commission included a First Vice-President responsible for Better Regulation, Inter-Institutional Relations, Rule of Law and the EU Charter of Fundamental Rights, Frans Timmermans. He was entrusted with two main roles: first, as a ‘watchdog’ upholding the EU Charter of Fundamental Rights and the rule of law principles envisaged in the Treaties and monitoring Better Regulation guidelines, across all the Commission’s activities; and second, coordinating the work of the three JHA-related Commissioners: the Commissioner for Justice, Consumers and Gender Equality (Věra Jourová), Directorate General for Justice and Consumers (DG JUST); the Commissioner for Migration, Home Affairs and Citizenship Dimitris Avramopoulos, Directorate General Migration and Home Affairs (DG Home); and the Commissioner for the Security Union, Julian King, also at DG Home.

¹¹ This chapter is based on the detailed examination provided in S. Carrera (2018), *An Appraisal of the Commission of Crisis: Has the Juncker Commission Delivered a New Start for JHA Policies?*, Brussels: CEPS.

The structuring of this Commission's work on JHA into two DGs dealing with separately issues of 'Justice' and 'Home Affairs' has continued to prove a welcome division of responsibilities in comparison to its predecessor. However, the exact division of responsibilities and portfolios among all relevant Commissioners has not been always clear or remained consistent.

Since the emergence of the 'European refugee humanitarian crisis' in 2015, the highest political instances inside the Commission took over most of the themes under the responsibility of each of the Commissioners for 'Home Affairs and Migration'. This has meant the implementation of a 'top-down approach' in decision-shaping and making. The Commission President's cabinet, and chiefly, First Vice-President Timmermans and the Vice-President of the Commission and High Representative of the Union for Foreign Affairs and Security Policy (HRVP), Federica Mogherini (European External Action Service, EEAS) have been in the driving seat in the Commission's responses to the various 'crises'.

In practice this has meant that there has been not one, but many 'Home Affairs' Commissioners. The blurring of intra-institutional responsibilities and Commissioners/Vice-Presidents portfolios has generally played in favour of a home affairs and security approach prevailing among all relevant Commissioners and Vice-Presidents in areas such as migration, asylum and judicial cooperation in criminal matters. This has not always allowed for the prioritisation and development of other equally crucial policy approaches in sectors such as foreign affairs, development cooperation, humanitarian aid, trade, justice, employment and social affairs.

The 'Commission of crisis' has put too much focus on border controls and prevention of entry, returns and readmission in cooperation with third countries on migration, countering migrant smuggling, building third country capacity for interception at sea and safeguarding internal security in its overall policy agenda. This has not always allowed the First Vice-President to fulfil his watchdog mandate rigorously in the setting and implementation of Commission policy priorities in view of their compatibility with and impact on the rule of law and fundamental rights, nor in respect of their added value, proportionality and necessity in view of EU Better Regulation guidelines.

Legal and policy developments: promises made, promises kept?

There are three main 'policymaking logics' at stake that summarise and describe the overall performance of the European Commission from mid-2014 to the end of 2018 in relation to the AFSJ: Europeanisation; intergovernmentalism, nationalism and rule of law backsliding; and informalisation and exceptionalism.

Europeanisation

'Crises' have served as catalysts for the adoption of previously controversial and already existing, as well as some new, EU policy, legislative and institutional ideas by the Juncker Commission. They have provided the ground for the re-design or creation of new Community bodies and EU agencies responsible for

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coordinating and supporting EU member states and with increasing operational tasks in JHA-related fields.

The proposed and adopted reform of the Frontex Agency into a European Border and Coast Guard (EBCG), or the creation – through enhanced cooperation – of a European Public Prosecutor's Office (EPPO), a new mandate and a counter-terrorism

centre at Europol, and an expanded role for the eu-LISA agency, constitute some cases in point. A key outstanding issue for these community bodies and agencies is that of accountability and judicial control, and effective access to justice and independent complaint mechanisms when their activities impact on the fundamental rights of individuals.

The Commission has also actively contributed to the initiation and setting up of new EU harmonised legal standards. A key and most visible achievement of this Commission was the formal adoption and entry into force of the new EU data protection framework including the General Data Protection Regulation (GDPR), which is now a world-wide benchmark on privacy protection (see the chapter "Digital Economy, Industry and Innovation").

In other areas, the Commission has presented some security or law enforcement-related initiatives in the fight against crime and terrorism whose EU value added, necessity, proportionality and fundamental rights compliance – according to the EU Better Regulation Guidelines – have not been sufficiently proven and independently assessed. These have included policy initiatives such as the 'interoperability' of EU databases, and the related new role attributed to the European Agency for the Operational Management of large-scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA), as well as the presentation of European Production and Preservation Orders (EPO) and a proposal aimed at preventing the dissemination of terrorist content online.

The area of asylum has been negatively affected by a home affairs and 'securitarian' rationale. Some Commission proposals have aimed at reframing some already existing EU asylum instruments falling under the Common

European Asylum System (CEAS) as migration and border management instruments. This has been the case for example with the idea to oblige all member states to use 'safe third country' notions that would require them to expel legitimate asylum seekers to countries outside the EU where actual safety is not always guaranteed.

This security rationale has also materialised in an increasing focus on conditionality in exchange of resettlement, or the increasing penalisation of asylum seekers who move to a second member state different from the one of first irregular entry (so-called 'secondary movements'), irrespective of the possibility of having legitimate reasons to do so such as degrading or inhuman reception conditions.

Informalisation

The refugee humanitarian crisis in EU countries such as Greece and Italy showed the limits and inherent flaws characterising the current distribution model envisaged in the 1990 EU Dublin system for assessing asylum applications, and on-the-ground weaknesses in reception conditions and judicial/administrative asylum structural capacities.

As an 'immediate policy response' in 2015, based on the European Agenda on Migration, the Commission proposed an emergency temporary relocation mechanism establishing a distribution key model for relocating some asylum-seekers

(only those belonging to one of the eligible nationalities, mainly Syrians and Iraqis) from Italy and Greece to other EU member states, which has been the object of legal challenges before the Luxembourg Court and subject to serious implementation obstacles by some member states.

An emergency temporary relocation mechanism has been the object of legal challenges and subject to serious implementation obstacles.

This came alongside a 'hotspot' approach to assist authorities in Italy and Greece with the support of EU agencies like Frontex, the European Asylum Support Office (EASO), the EU Police Cooperation Agency (Europol) and the EU Judicial Cooperation Agency (Eurojust) in the registration of asylum seekers, the identification and fingerprinting of potential beneficiaries for the temporary relocation scheme and countering migrant smuggling. The 'hotspot model' has been subject to criticism because the hotspots were developed and implemented entirely outside any EU legal framework, including EASO's involvement in admissibility of asylum applications in Greece. They have raised concerns about their compatibility with fundamental rights challenges, specifically in relation to the forced fingerprinting of individuals, quasi-detention practices and degrading reception conditions, expedited admissibility interviews and their focus on 'security' instead of access to international protection.

Another example of informalisation was the so-called ‘EU-Turkey Statement’ adopted in March 2016. Despite being politically portrayed as an ‘EU-product’, the Luxembourg Court confirmed that the Statement’s authorship belonged to the Heads of Government and State of EU member states, not to any EU actor whatsoever. When negotiating the deal with Turkish Government, EU member states made the strategic choice to avoid the EU Treaties and European law all together in an area of shared and exclusive EU competence. This meant that they side-lined the EU democratic rule of law guarantees envisaged in the Treaties, i.e. the role of the European Commission, democratic scrutiny by the European Parliament and judicial control by the Luxembourg Court, as well as domestic checks and balances. Here in addition, the fundamental rights impacts and violations during the implementation of the EU-Turkey Statement have been amply documented, yet any legal responsibilities for these remain to be determined.

The Commission has also made ‘strategic use’ of EU policy instruments not constituting formal legal acts or international agreements envisaged in the EU Treaties, and falling outside the EU budget (‘emergency funding’). This is

The Commission has also made ‘strategic use’ of EU policy instruments not constituting formal legal acts or international agreements envisaged in the EU Treaties, and falling outside the EU budget.

the case of ‘readmission arrangements’, which do not correspond with EU Readmission Agreements, and aim at cooperating with African governments (e.g. Niger, Nigeria, Senegal, Mali and Ethiopia) and some in the Middle East (Afghanistan) in the readmission of irregular third country nationals and their own nationals. Their

implementation has been tied to the use of extra-budget and emergency-led EU funding instruments, chiefly the so-called ‘EU Trust Funds’ (EUTF).

The use of EUTF has also been involved in the implementation of EU anti-human smuggling policies in Libya, including some activities of the EUNAVFOR-MED Operation (Operation Sophia). Despite its lack of success in dismantling the ‘business model’ of smugglers in the central Mediterranean, Operation Sophia’s mandate has been extended on several occasions, to pursue activities such as those included in the scope of an EUTF project with Italy aimed at “strengthening the operational capacities of Libyan coast guards”. The risk here is in indirectly financing trainings and ‘capacity building’ resulting in asylum seekers being increasingly prevented from leaving Libya and violating the *non-refoulement* principle in a country that remains in conflict.

Intergovernmentalism and nationalism

The politics of crisis have also come with very high costs for the Juncker Commission. In the name of the refugee crisis and its exceptionality, several

member state governments and Ministries of Interior have started to act outside, or in direct contravention to, EU Treaty and existing legal frameworks and their commitments in the scope of key Union policies. They have also attempted to regain lost territory and ‘reverse Europeanisation’ in some of these JHA domains.

This has been the case of the Schengen Area. Since 2016, and giving the refugee crisis as justification, Austria, Germany, Denmark, Sweden and Norway introduced internal border controls and have since then unlawfully prolonged them beyond the foreseen deadline. Nationalism has also prevailed in relation to EU asylum policy and the Commission’s proposed reform of the EU Dublin Regulation, which is currently stalled inside the Council. This has meant that other asylum-related proposals such as the transformation of the European Asylum Support Office (EASO) into an EU Asylum Agency are equally stalled. However, not enough attention has been paid to more rigorous enforcement of the implementation of already existing CEAS standards by all these same member states.

In the name of the refugee crisis and its exceptionality, several member state governments and Ministries of Interior have started to act outside, or in direct contravention to their commitments. This has been the case of the Schengen Area.

The area of legal immigration has also showed persistent nationalistic dynamics preventing further Europeanisation. Despite Juncker’s priority to promote a new European policy on legal migration and revise the EU Blue Card scheme for attracting highly qualified third country workers, the Commission proposal to achieve that goal is currently frozen as it has met resistance from some EU member states inside the Council regarding the abolition of parallel national schemes for highly skilled foreign workers.

A few member states, such Malta, Cyprus, Bulgaria and Austria, have also continued to unilaterally implementing investor citizenship and golden visa programmes which offer facilitated pathways for acquiring their nationality or legal entry/residency in their country to super rich foreign investors. Investor citizenship schemes sell actually European citizenship and free movement rights inside the Schengen area.

Moreover, some golden visa regimes unlawfully sell permanent residency in the EU. A key challenge inherent to these schemes is that they sell citizenship, permanent residence and free movement in a manner which does not always comply with legal certainty (chiefly the effective residency requirement) as well as transparency and public accountability principles. They also raise profound risks of clientelism, money-laundering and tax evasion.

This Commission has also faced a situation where some EU governments have actively engaged in the dismantling of domestic rule of law checks and balances and constitutional (separation of powers) guarantees. For the first time,

For the first time, the Commission has made use of the EU Rule of Law Framework and the Article 7 TEU procedure against Poland.

the Commission has made use of the EU Rule of Law Framework and the Article 7 TEU procedure against Poland. However, use of both tools has revealed fundamental procedural barriers: they are highly politicised and dependent on member state governments, they do not ensure equal

treatment among all EU member states, with little potential for effectively preventing a risk or a threat to the rule of law from becoming systematic and thereby undermining the basis for mutual trust in the EU's AFSJ.

Priorities for the next Commission

The appointment of a new First Vice-President for rule of law, fundamental rights and better regulation was a welcome intra-institutional innovation in the Juncker Commission. The office has served to 'show case' rule of law challenges arising in several member states. However, a 'Commission of crisis', has translated into a blurring of roles and portfolios with too much emphasis on 'migration' and 'justice' through a *security, home affairs or policing approach*.

The next Commission intra-institutional structure should therefore give priority to the following: the role of Vice-President should not be that of 'First Vice-President', as it has exposed this role and made it vulnerable to high-level politics, making it very difficult to maintain the course of action originally envisaged in the mandate. Conversely, having three different Commissioners responsible for 'Justice', 'Home Affairs, Migration and Citizenship' and 'Security Union' under the supervision of a Vice-President on Rule of Law, EU Charter of Fundamental Rights and Better Regulation has been a welcome development and should be maintained in the next Commission.

However, the portfolios of each of the three Commissioners could be fine-tuned and clarified as follows: first, one Commissioner for Justice, Fundamental Rights and Citizenship, who would be responsible for criminal justice cooperation, European Citizenship and fundamental rights portfolios (Chapter 4 TFEU, Arts. 82-86; Part II TFEU, Arts. 18-25); second, another Commissioner on Schengen, Migration and Asylum (Chapter 2 TFEU, Arts. 77-89); and third, a Commissioner for Security, who would be responsible for the fight against terrorism and criminality, in particular 'police cooperation', i.e. prevention, detection and investigation of crimes (Chapter 5 TFEU, Arts. 87- 89). This division of responsibilities would avoid a mixing of Schengen, migration and

asylum with crime and terrorism policies. Each of these Commissioners would ideally have their own DG; otherwise, at a minimum, the current division between DG JUST and DG HOME should be continued.

In terms of specific thematic areas, the next Commission should focus on the following priorities:

Rule of Law

A first priority should be the setting up of a new EU Periodic Review or Mechanism on Democracy, Rule of Law and Fundamental Rights (DRF) covering all EU member states. The EU Periodic Review would be based on a regular and independent examination of all relevant existing international and European sources of evidence on compliance with EU Treaty values (Carrera and Bard, 2018). This should go hand-in-hand with establishing a new 'EU Rule of Law Commission or Group' composed of high-level experts and experienced practitioners that would have the competence to impartially assess the qualitative findings by thematic area, substantiating the existence of a systemic risk, threats or 'generalised deficiency' of the rule of law, and their wider implications for EU-specific policies and financial instruments in the Union legal system (Bárd et al., 2016).

A first priority should be the setting up of a new EU Periodic Review or Mechanism on Democracy, Rule of Law and Fundamental Rights covering all EU member states.

The DRF would be part of a wider 'EU Rule of Law Toolbox' bringing the new mechanism together with all currently existing legal, policy and funding instruments monitoring and assessing member states' compliance with Art. 2 TEU principles and the EU Charter of Fundamental Rights. The proposed Regulation on the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the member states should be adopted, so as to ensure effective rule of law conditionality in EU funding. Special care should be paid here to ensure independent quality assessment of generalised rule of law deficiency - linked to EU Rule of Law Commission or Group, and direct EU funding to civil society organisations.

The next Commission should additionally implement 'rule of law infringement procedures', presenting both an accelerated/fast track and freezing component, which would bundle cases against a member state presenting similar root rule of law causes. The evidence emerging from the DRF mechanism would be central in substantiating the existence of 'systematic' rule of law causes, which could be also directly brought by the DRF Commission or Group before the Luxembourg Court, so as not to leave all the discretion in European Commission's hands.

A Migration and Asylum Union

A second priority should be adopting and implementing a 'Migration and Asylum Union' based on more intra-EU institutional solidarity and supervision (Carrera and Lannoo, 2018). All EU member states should fully comply with their current legal obligations under the Schengen regime and immediately suspend unlawful internal border controls.

The envisaged proposal for a new mandate of EASO and its transformation into a fully operational EU Asylum Agency should also become a key priority. The new Agency should be entrusted with coordinating and applying a new model for distributing responsibility for processing asylum

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applications and supervising member states in carrying out that responsibility. The allocation model would follow the distribution key proposed by the European Parliament, in close cooperation with the UNHCR and civil society organisations and under a clear EU legal framework. This should go hand-in-hand with a more robust

legal and judicial accountability framework ensuring effective remedies for asylum applicants having received negative asylum decisions by the new EASO+ Agency.

The new proposal for revising the Frontex (European Border and Coast Guard) mandate presents further potential for institutional solidarity and the development of a 'professional culture of border and coast guards' across the EU. However, it also comes with important gaps and risks. The EBCG should develop its Search and Rescue (SAR) operational functions and ensure a Mediterranean-wide SAR operation (Carrera, Blockmans, Cassarino, Gros and Guild, 2017).

This would mean that each person disembarking from a Frontex EBCG SAR operation would be taken directly into the scope of application and mandate of the new EU Asylum Agency and a new distribution key model. The new Frontex should also go hand-in-hand with establishing an independent complaints mechanism and an EU border monitor so as to further strengthen fundamental rights protection in all its activities and responsibilities. The monitor, which could be part of the European Ombudsman's office, would be responsible for evaluating and handling cases of alleged mistreatment and fundamental rights violation in the context of border control and surveillance operations.

The EU asylum *acquis* already provides a robust transnational legal framework of Union standards implying clear obligations for all participating

EU member states. The next Commission should invest renewed efforts – which should go hand-to-hand with increase EU financial support – in enforcing timely and correct implementation of these common standards by all EU member states and relevant national authorities. Asylum should be disentangled from security predicaments and migration management agendas.

Moreover, the next Commission should make sure to complement the new mandate of the EU Asylum Agency with a new systematic monitoring or evaluation mechanism in the area of asylum in light of Article 70 TFEU. Particular attention should be given to developing common EU legal standards on mutual recognition of positive asylum decisions taken by another member state and “establishing a single asylum decision process so as to guarantee equal treatment of asylum seekers throughout the EU”.

The next Commission should give priority to developing *a fair EU agenda facilitating legal channels for migration*, and implementing the UN Global Compact on Migration. Such an agenda should be firmly rooted in existing international, regional and EU human rights and labour standards and the principles laid down in EU Treaties. The adoption of an EU immigration code – incorporating all existing sectorial EU directives, and providing a uniform level of rights to third-country workers – would be a welcome step forward.

The Commission should set up a permanent scrutiny mechanism, composed of independent experts, of EU member states investor citizenship, discretionary naturalisation based on national interest and golden visa programmes. A key focus of such a mechanism would be to ensure legal certainty, transparency and legal and financial transparency and accountability of existing and future regimes. Infringement proceedings should be launched against those unlawfully selling EU citizenship and long-term residency status. It should additionally revise the current EU visa waiver regime to include a common EU approach on humanitarian visas that would not be dependent on third-country cooperation on readmission. Furthermore, the current EU legal framework on migrant smuggling should be fully ‘Lisbonised’ and amended so as to ensure full compliance with international human rights standards and decriminalise the provision of humanitarian assistance to asylum seekers and irregular immigrants by civil society, volunteers and citizens.

The EU should construct and progressively develop a principled and trust-based policy approach to countering terrorism.

A principled and trust-based Security Union

Third, the EU should construct and progressively develop a *principled and trust-based* policy approach to countering terrorism. This policy approach should start with an evaluation (fitness check) and regular reappraisal of the effectiveness,

efficiency and fundamental rights compliance of current and near future EU policies and their priorities, particularly those related to information exchange.

The fundamental rights impact of the ‘interoperability’ proposals – including privacy, non-discrimination and effective remedies and the feasibility in ensuring data quality – should be independently re-examined and thoroughly addressed (Carrera, Guild and Mitsilegas, 2017). The European Production and Preservation Order (EPO) proposals should be substantially revised and improved so as to: first, duly ensure that electronic data will always meet the standards of ‘evidence’ in criminal justice procedures; and second, ensure independent judicial scrutiny and effective remedies both in the issuing and executing EU member states.

The EU should set up an EU-wide requests and complaints mechanism, independent from the eu-LISA agency, allowing for data subjects to request access, correct and delete data, as well as lodge complaints against data misuses in the scope of current and future EU databases. Specific attention should be given to strengthening the provision of information to data subjects and guaranteeing effective access to these complaints by affected EU citizens as well as third-country nationals and asylum seekers.

A European agenda on criminal justice and fundamental rights

Fourth, the next Commission should develop a European Agenda on Justice and give priority to effective implementation and evaluation of mutual recognition

The next Commission should develop a European Agenda on Justice and give priority to effective implementation and evaluation of mutual recognition in criminal matters instruments.

in criminal matters instruments, under Art. 70 TFEU, such as the European Arrest Warrant. It could focus on ensuring the effective domestic transposition and use of the European Investigation Order (EIO) across all relevant member states. It is recommended to let this EU mutual recognition tool grow first before the EPO is adopted. This priority

should go hand-in-hand with greater financial investment and resources for ensuring domestic transposition and use of EIOs in light of the needs of national judges, prosecutors and defence lawyers.

This should also be accompanied by a more robust EU framework on suspects’ rights in criminal proceedings, starting by filling up current gaps (e.g. pre-trial detentions or witness protections) and then carrying out a ‘Fitness Check’ on the entire EU *acquis* on suspects’ rights in EU criminal justice cooperation. Any expansion of EPPO competences should be coupled with effective and supranational judicial scrutiny by the CJEU. The next Commission should make every effort to ensure that the EPPO moves from ‘enhanced cooperation’ to a fully EU body with all relevant EU member states participating

in its mandate and activities. Special attention should be also given to bring the EPPO under full judicial control by the Luxembourg Court and developing EU-wide standards for whistle-blower protection with a direct complaint mechanism before the EPPO.

The EU's contribution to cross-border operational cooperation in the area of cross-border crime fighting hints at some positive transformative effects. Experiences like those of the Joint Investigation Teams (JITs) of judicial authorities under the joint coordination of EU agencies Europol and Eurojust, call for careful examination and scrutiny, as they have the potential to play a key role in developing mutual trust and cooperation among law enforcement authorities of EU member states. JITs should facilitate criminal justice investigations rather than focusing on 'intelligence' gathering.

A full implementation of the EU Charter of Fundamental Rights and the Union's accession to the European Convention of Human Rights (ECHR) – following the call envisaged in Art.6.2 TEU – should be at the very top of the new Commission's priorities. EU fundamental rights standards should be preserved, promoted and rigorously monitored in the adoption and implementation of every legal and policy instrument developing cooperation with third countries. Frameworks of cooperation on data transfers with non-EU countries should provide an equivalent level of protection and be fully compliant with Luxembourg Court benchmarks, otherwise they should be suspended.

EU AFSJ cooperation: legitimization, credibility and trust

The next European Commission should focus on making rigorous use of the legal acts and templates of European cooperation envisaged in the Lisbon Treaty. The increasing recourse to extra-Treaty and extra-budget instruments during the Juncker Commission has not well served its role as 'guardian of the Treaties'. It has also posed profound challenges to good administration, democratic accountability and judicial control of the policy developments in areas of huge importance for the Union's legitimization. EU policy responses need to move from a home affairs-centric focus towards a 'multi-sector policy approach' to guarantee a balanced setting of priorities across all relevant policy sectors.

The new upcoming period of inter-institutional renewal should shift out of 'crisis mode' and return the 'normal' course of action in European integration to the basis of the mandate and ordinary procedures provided in the EU Treaties.

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The next Commission should dedicate all its efforts to implementing its role as guardian of the Treaties effectively and designing a *principled and trust-based justice, freedom and security agenda* in its forthcoming policy guidebook. It is by unequivocally placing EU founding principles first – rule of law, fundamental rights and democracy – and systematically enforcing and delivering them in daily practice, that the legitimation, credibility and social trust in European integration may be guaranteed and maintained in the current and longer-term.

Key priorities for the next Commission

- Set up a new EU Periodic Review on Democracy, Rule of Law, Fundamental Rights covering all member states, complemented by a new ‘EU Rule of Law Commission’
- Adopt and implement a ‘Migration Union’ based on more intra-EU solidarity and supervision, including fully fledged operational EU Asylum Agency, European Border and Coast Guard
- Construct and develop a principled and trust-based policy approach to counter terrorism

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NEIGHBOURHOOD, SECURITY AND DEFENCE POLICIES

The blurred lines between internal and external policies

If “all politics is local”,¹² then EU foreign policy too should start at home. But given the hybrid nature of the EU and its small stature in an increasingly mercurial world, its foreign policy has mainly been defined by external events. In recent years these include the multifaceted wars in the Middle East and North Africa (MENA), Russia’s war in Ukraine, the rise of China and the retreat of the United States from multilateralism, to name but a few.

Unlike the US, the EU is directly exposed to a poor and unstable outer periphery. Internal and external security are communicating vessels. How the EU deals with its own neighbourhood defines not just the Union, but also the perception that Europe’s international partners have of its role on the global stage.

Yet the Union’s timid response to the dramatic events of the so-called Arab Spring of 2011, the war in Syria, the implosion of Libya and the influx of refugees that these crises propelled into Jordan, Lebanon, Turkey, across the Mediterranean into the Balkans and ultimately the EU have not just illustrated the limits of the European Neighbourhood Policy (ENP), they have also exposed the disjointed nature of EU external action writ large. This is particularly the case in the area of security, but also trade, aid, and representation in international (financial) institutions, among others.

The general public has shown profound concern over the handling of the refugee and migrant crisis by EU institutions and member state governments alike. A spate of terrorist attacks in France, Belgium, Germany, the UK and Spain between 2015 and 2017 has heightened fears among citizens. Some of these attacks were carried out by so-called foreign fighters, i.e. nationals of EU member states who travelled to Syria and Iraq to get battle-hardened at the service of terror groups like ISIS. Anti-immigrant parties and movements have

¹² T. O’Neill & G. Hymel (1994), *All Politics Is Local: And Other Rules of the Game*. Holbrook, Ma: Bob Adams Inc.

capitalised on citizens' fears to make a connection between uncontrolled immigration and terror attacks in order to advance their nationalist and anti-EU agenda.

If Eurosceptic and pro-EU parties agree on one thing, it is that the way to address citizens' concerns is primarily by developing an agenda that restores a keener sense of internal and external security: *l'Europe qui protège*. This not only

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requires a proper management of the EU's external borders to allow for the internal border-free area to function properly and improved cooperation between services in fighting terrorism (see the chapter "A New Start for EU JHA Policies?"), but also a genuine defence integration.

It is against this background that the Juncker Commission set as one of its ten policy priorities the goal that the EU should become 'A Stronger Global Actor'. The subsequent work programme stressed, inter alia, the need to join up all instruments available to the Union and the Commission's intention to contribute to the process of strategic reflection that the European Council had called for.

The inside looking out: policy coherence and strategic revision

Cognisant of the double bind in which EU foreign policymaking usually finds itself, i.e. between the absence of unity among member states and the lack of coherence in inter-institutional action, the Commission put emphasis on strengthening the EU's early warning mechanisms and crisis response tools. Arguably, these are areas at the outer edges of its competencies, but Juncker instructed High Representative Federica Mogherini to use her second hat as Vice-President of the Commission to the fullest to bridge the divides between the treaties (TEU for CFSP, TFEU for all other policy areas), instruments, budgets and across *la rue de la Loi*.

Discontinued under President Barroso, Juncker asked Mogherini to reactivate the Commissioners' Group on External Action (CGEA). This decision represented one of the most important institutional initiatives in EU foreign policymaking since the merger of the position of the High Representative for CFSP (HR) with that of Vice-President of the Commission (VP) and the creation of the European External Action Service (EEAS). The CGEA has both injected much-needed political pragmatism into the way the Commission contributes to EU external action and has greatly facilitated inter-service cooperation within the Commission and with the EEAS. In the absence of a clearly stated vision of

her own role as HRVP, an analysis of Mogherini's joint statements, joint initiatives and visits with fellow Commissioners provides evidence that the contours of her position's political space have been determined by a pragmatic approach aimed at strengthening the cohesiveness of this multi-hatted role (Blockmans & Russack, 2015).

The same approach to more coherence in EU foreign policymaking was reflected in the Commission's Work Programme for 2016, which – borrowing from the High Representative's assessment of the EU's strategic environment – stated:

“In an increasingly connected, contested and complex world marked by dynamic changes, the coherence of the EU's external action and our ability to use all available instruments in a joined up manner to achieve our objectives and complement our internal policies are ever more important”.¹³

The overall tone of the 2016 EU Global Strategy (EUGS) is equally defensive in nature and puts the Union's own security and that of its citizens front and centre. Building on notions developed in the 2015 review of the ENP, the Global Strategy prioritises ‘principled pragmatism’ in an ‘integrated approach’ to external action: i.e. a slightly more realist approach to collective foreign policy than that of a ‘normative power’; a Union that no longer wants to overstretch itself by transforming the neighbourhood according to its own image but insists on the ‘resilience’ of governments and societies of neighbouring states, i.e. their ability to absorb endogenous or exogenous shocks and bounce back to the status quo ante. In this sense, not only acute problems arising from conflicts, terrorism and radicalisation are labelled as the root causes of insecurity and threats, but also poverty, corruption and poor governance, which demand a long-term approach.

The overall tone of the 2016 EU Global Strategy is defensive in nature and puts the Union's own security and that of its citizens front and centre.

Yet, as far as the Juncker Commission's approach to the EU's neighbours in the Western Balkans is concerned, the President shot himself in the foot by downgrading the enlargement portfolio to a region that has often been said to have produced more history than it can consume.

¹³ Commission Work Programme 2016, “No time for business as usual”, COM(2015) 610 final, 27 October 2015.

EU enlargement: the failure of strategic ambiguity

Among his ten priorities Juncker declared that “the EU needs to take a break from enlargement so that we can consolidate what has been achieved among the 28 (...); no further enlargement will take place over the next five years”.

Playing to the gallery at home, the Commission President stated an obvious fact that is also recognised by the leaders in the region: none of countries would be ready to join the EU before 2019. But this did little to assuage the negative signal that Juncker’s highly political statement sent to the region. And this at a time when the reform process was already veering off track in a number of the countries concerned; including in what Juncker, in a surprise reversal of his earlier stance, in his 2017 State of the Union called the ‘frontrunners’ in the process: Montenegro and Serbia, which had started accession negotiations in June 2012 and January 2014 respectively.

The downgrading of the enlargement portfolio was reflected in other ways too: the new Commissioner appointed for this area was given the responsibilities for European Neighbourhood Policy and Enlargement Negotiations (NEAR), as had been the case with his predecessor, but which was contrary to the practice in place from the previous enlargement exercises, where the Commissioner’s portfolio was purely on enlargement policy. A portfolio covering so many countries meant less Commission leadership and reduced EU visibility in the Western Balkans just when it was most needed (Fouéré, 2019). Conversely, the merger of files was welcomed in ENP countries, which received more attention from a designated Commissioner than from an over-stretched High Representative and even boosted hopes of Eastern Partnership states about their potential membership perspective.

Whilst the European Council did pay attention to the Western Balkans, it did so purely in the context of security, counter terrorism and the need to stem the migration flows coming from Turkey across the Aegean Sea, and via Greece (see the chapter “A New Start for EU JHA Policies?”). Instead of maintaining focus on the fundamental reforms placed at the heart of the EU accession process back in 2011, the attention changed to one of securing EU borders and stability at all costs in the Western Balkan region. Having “strong and stable governments” was foremost in the minds of the EU leaders at that time, with elected government officials from some EU member states openly supporting the ruling parties even when ministers and officials from those same parties were already under investigation for abuse of power and corruption, as was the case in Macedonia (Fouéré, 2017). Violations of the rule of law and deterioration in democratic standards were either ignored or brushed under the carpet. The exception to the rule was Albania, where the EU worked hand-in-glove with the

US Embassy to push for the most sweeping of judicial reform processes in wider Europe.

Caught off guard by the President's volte-face in September 2017, DG NEAR tried to regain momentum of the process with a new Enlargement Strategy in February 2018, when it was clear for all to see how Russia, Turkey and some of the Gulf States had filled a vacuum left in a region where the EU held all the trump cards. Even if accession hopefuls like Bosnia-Herzegovina and Kosovo were allowed to progress on the formal pre-accession track, the former having been endowed with candidate country status, the latter with a Stabilisation and Association Agreement, the key to unlocking these countries' status issues lies not with the Commission or the EEAS but with Russia, the US and a handful of member states. These factors hamper the HRVP's mediation process to normalise relations between Pristina and Belgrade, and will complicate any future attempt at revising the Dayton Agreement and the Constitution of BiH embedded therein.

Moving beyond the de facto regression resulting from a 'you pretend to reform while we pretend to offer membership' stance, the next Commission will have to reinvigorate its efforts to make good on the promise of Thessaloniki in 2003, repeated at 2018 EU-Western Balkan Summit in Sofia, i.e. to integrate the countries of southeast Europe into the EU. The Commission would be helped if the European Council of June 2019 bites the bullet and decides to open accession talks with Albania and Macedonia – provided that conditions set out a year earlier will have been fulfilled. For Macedonia, this required a resolution to the decades-old name dispute with Greece, which was irreversibly achieved on 25 January when the Greek Parliament ratified the Prespa Agreement renaming the country 'North Macedonia'. Skopje and Tirana would do well to present other tangible results, including a track-record of implementation of rule of law reforms, to convince member states like France and the Netherlands that they are worthy of starting accession negotiations. For their part, member states should not miss the opportunity to reward the historic display of EU-inspired compromise in a European region prone to strategic competition.

The next Commission will have to reinvigorate its efforts to make good on the promise to integrate the countries of southeast Europe into the EU.

One southeastern European country with which the EU needs to come clean is Turkey. By constitutionalising an executive presidential system that erases the separation of powers and frees President Erdoğan's hands to deepen repression, Turkey will be in breach of the 'political' criteria for EU membership for years, if not decades, to come. Rather than merely suspending accession negotiations in an attempt to keep up appearances – bureaucratic language that

will be lost on Erdoğan as much as it will be on liberal Turks and European citizens – the EU should stand behind its core values and reset its relationship with Turkey on a more credible and strategic footing, while pressing the regime on respect for human rights and working with civil society to keep the flame of

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what the Juncker Commission used to call ‘deep democracy’ alive (Blockmans and Yilmaz, 2017).

Not only will the next Commission President have to provide firmer strategic direction to what was hitherto called “the most successful of EU foreign policies”, his or

her administration will also have to ensure a strict and fair application of the pre-accession criteria. Be that as it may, the EU will most likely contract before it will expand. The next Commission will therefore have to deal with (Br)exit and entry issues. Yet, creating one DG for ‘Membership’ issues, as word on the Brussels grapevine has it, would give the wrong impression that more exits are expected, and that the EU is less interested in the strategically important Eastern neighbourhood (a signal that would be welcomed in Moscow) and the MENA region.

Towards a new neighbourhood concept

Drawing a clear line in the sand that membership is not on offer for countries belonging to the Eastern Partnership (EaP), the Juncker Commission nevertheless recognised the need “to step up close cooperation, association and partnership to further strengthen our economic and political ties”. Georgia, Moldova and Ukraine, in particular, have much in common with the pre-accession states of the Western Balkans: geographic proximity to the EU, domestic political priority to become members of the EU, and similar struggles to improve their political and economic governance in line with EU standards and values (Emerson et al. 2018). The EU’s main differentiation between the two groups is over the ‘membership perspective’, which has been offered to the Balkans but not to the East European neighbours. Beyond this formal political stance, however, the EU has de facto been extending virtually the same comprehensive array of economic and political instruments to both groups by signing (Stabilisation and) Association Agreements ((S)AAs), including Deep and Comprehensive FTAs with the three EaP states. Yet, when comparing the material substance of the SAAs and AAs (Blockmans, 2017) and the record of both groups in terms of the quality of their political and economic governance (Emerson and Noutcheva, 2018), one finds that the two groups are comparable at both levels. Most striking is that on most of the indicators the EaP frontrunner, Georgia, even ranks slightly ahead of the Balkan frontrunners. The actual

policies of the EU towards the Balkans and DCFTA states have been evolving more than the outmoded rhetorical doctrines and now converge in content, but so far ‘under the radar’ of high politics. This convergence leads into a case for reconsidering the EU’s present political doctrines over its neighbourhood policies.

The next Commission has the opportunity to give more strategic content and profile to neighbourhood relations. One idea would be to de-territorialise the obsolete ENP and consolidate the many existing instruments into an extended, more standardised system with some access to the EU institutions (Blockmans, 2017; Emerson, 2019). A new neighbourhood concept could connect with the current renewal of interest in the longstanding debate about differentiated European integration. This debate could focus either on developing a more restricted top-tier group, or on a wider outer-level group, or both. Today the focus is mostly on the top-tier questions, which are proving to be extremely difficult to implement, including in the sectors already subject to selective membership (in particular the euro and Schengen). The question of an outer tier is growing in pertinence, not only for EaP countries, but also for Turkey, Brexit Britain, the EEA states and Switzerland. There will be predictable resistance to a common institutionalisation, as various neighbouring states give priority to their bilateral relationships with the EU and try to cut their own special deals. When it comes down to practical instruments of cooperation, however, these naturally become highly standardised. And the EU institutions are wary about making special deals with one state that will be used as a precedent in negotiations with others. So, for reasons of both administrative and legal simplicity, and also of political negotiation, there is a case for rationalisation and some kind of soft institutionalisation, with degrees of flexibility. The clinching argument is the current strategic context, with the EU and wider space of European values being under serious threat from within and outside. The EU thus needs to get its act together more decisively in its neighbourhood (Emerson, 2019).

The next Commission has the opportunity to give more strategic content and profile to neighbourhood relations.

This finding not only applies to states on the European continent, but also ENP countries in the MENA region (Moran, 2018; Van der Loo, 2016). Parts of the region are going through an extended period of war and upheaval marked by state failure, sectarian strife, transnational terrorism, great power interventions, the proliferation and use of weapons of mass destruction (including chemical), massive loss of life and large-scale physical destruction. These developments are not just a threat to the entire region, but also to the rest of the world and to Europe in particular. The EU is strategically absent from

much of the MENA region. It is further proof of the obsolescence of the ENP. The EU's naval force 'Operation Sophia' off the coast of Libya and actions vis-à-vis Egypt (i.e. co-opting authoritarian regimes in preventing people from making the perilous journey across the Mediterranean in search of a better life) exemplify the 'pragmatic' rather than 'principled' approach in protecting the Union's own interests in relations with the neighbours, and their neighbours. Shedding almost every pretence at conducting *Moralpolitik*, the EU effectively tries to engage in *Realpolitik*, with the ENP being nothing more than CFSP in disguise.

Pushed by the prospect of Brexit and stress-tested by a US President intent on putting America first and retreating from multilateral arrangements, this raises the question whether the hybrid Union of member states and EU institutions has what it takes to defend its 'strategic autonomy' in a volatile neighbourhood. Above and beyond the member states, the EU has so far really only mobilised one offensive asset: money, which it can use as leverage to create the conditions for post-war reconstruction, or squeeze off with targeted sanctions. In the diplomatic arena it was able to take some credit for mediating the Iran nuclear deal (JCPOA) but the US has since robbed the EU of that success.

If Europe wants a voice in addressing instability and the political problems that blight its neighbourhood, it urgently needs to grant itself the means to be a strategic player.

History has shown that rogue leaders only understand a language of diplomacy backed by force.¹⁴ If Europe wants a voice in addressing instability and the political problems that blight its neighbourhood, it urgently needs to grant itself the means to be a strategic player.

Defence integration

Lack of political will and mutual trust among EU member states has long been an obstacle to cooperation in security and defence. In the years of austerity that followed the financial crisis, defence budgets all over Europe were slashed in an uncoordinated manner, hollowing out most member states' armies. Facing a fraught security climate in the Middle East and North Africa, the heads of state or government meeting at the December 2013 European Council decided to buck the trend. For the first time since the entry into force of the Lisbon Treaty in 2009, they held a thematic debate on defence in which they declared that "defence matters". Tapping into the political momentum generated by Russia's assault on Ukraine, the rise of hybrid warfare and cyber-attacks, terror attacks on European

¹⁴ See R. Holbrooke (1998), *To End a War*, New York: Random House, at 146.

soil, security concerns over the refugee and migrant crisis, the prospect of Brexit, and the unpredictability of US foreign policy under President Donald Trump, the EU has made greater strides in defence integration in the last two years than in the 60 years before that.

A permanent EU military headquarters has been created and located within the European External Action Service in Brussels. The 22 member states that are also NATO allies pledged to increase defence spending to 2% of their GDP and to earmark 20% of that sum for investment in defence capabilities. 76 concrete action points were agreed to improve the coordination and cooperation between the EU and NATO, both at the level of headquarters and in the field. A semester-like Coordinated Annual Review on Defence (CARD) mechanism will monitor the implementation of commitments on defence spending and capability development of all EU member states. The ‘big bazooka’, proverbially speaking, is the creation of a European Defence Fund (EDF), with a proposed EUR 13bn for the next budget of the EU (2020-27) to stimulate the development of military capabilities and the deployment thereof.

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Crowning this flurry of administrative activity, the European Council in December 2017 formally launched an “ambitious and inclusive” Permanent Structured Cooperation (PESCO) for the development and deployment of defence capabilities.¹⁵ Those with (vested) interests ratcheted up the language in an attempt to claim ownership of the “historic” landmark in the European integration process (dixit HRVP Mogherini). President Juncker marked the occasion by saying: “In June I said it was time to wake up the Sleeping Beauty of the Lisbon Treaty: permanent structured cooperation. Six months later, it is happening”.¹⁶

¹⁵ Denmark (which has an opt-out from CSDP), Malta (which invoked a constitutional commitment to neutrality and non-alignment but kept the door open for future participation depending on the course of implementation) and the UK (which is leaving the EU) chose to stand aside. In an effort to maintain cooperation across the Channel and between those states sharing a strategic culture and a willingness to put skin in the game, France and the defence ministers of eight other member states signed a letter of intent to establish a European Intervention Initiative (EI2).

¹⁶ European Commission, Press Release IP/17/5205, 11 Dec. 2017, which keenly points out that “President Juncker has been calling for a stronger Europe on security and defence since his election campaign ... in April 2014” and that “this same ambition was set out in his three-point plan for foreign policy, which was incorporated in the Political Guidelines – the Juncker Commission’s political contract with the European Parliament and the European Council”.

Leaving lofty rhetoric aside (see also Macron and Merkel’s confusing calls for the creation of a European army), the new political momentum and the definition of higher criteria should be welcomed for what they are: functional collaborative steps towards a ‘European Defence Union’, akin to the energy and digital unions. In light of the generally ad hoc nature of EU foreign policy, the Union’s efficiency as an international actor in security and defence matters is gradually being increased in function of the objective to contribute to the maintenance of international peace and security (Blockmans, 2018).

In 2019 – *année de transition institutionnelle* – EU defence integration is expected to reach an inflection point: the above-mentioned instruments and 34 concrete PESCO projects will need to be implemented, monitored and complied with. It is here that the challenge lies for the next Commission and the European Defence Agency. Can they keep the momentum going by applying the functional mode of integration, *à la méthode Monnet*? With the necessary funds, there is arguably plenty of gas in the tank to develop defence industrial policy, tackle procurement issues and harmonise technical and operational standards.

Key priorities for the next Commission

- Develop a new neighbourhood concept
- Prioritise pre-accession preparation of the Western Balkan countries and re-set relations with Turkey on a strategic footing
- Implement functional collaborative steps towards a ‘European Defence Union’

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THE EU'S TRADE AND INVESTMENT POLICY

Under the Juncker Commission, the EU's trade and investment policy was mainly guided by the 'Trade for All' strategy, adopted by the European Commission in October 2015. Based on three key principles: effectiveness, transparency and values – this strategy aims to ensure that the EU's trade policy benefits as many people as possible. However, the EU's trade and investment policy was also influenced by external threats to the global trading system and internal disagreements about numerous trade and investment instruments and policies during this period. The most important developments in the EU's trade and investment policy over the last five years mainly relate to the EU's FTA agenda, investment protection, EU-US trade relations, WTO reform and the modernisation of the EU's trade defence instruments.

The EU's FTA agenda

A key objective of the Trade for All strategy was to continue with the conclusion of a new generation of 'deep and comprehensive' FTAs with major trade partners, a policy that was already set in motion by the Commission's 2006 Global Europe Strategy. The EU has concluded several FTAs with key trade partners since 2013, among them notably Canada (2016) and Japan (2018). The EU-Canada Comprehensive Trade Agreement (CETA) sets standards for the new generation of EU trade agreements with

A key objective was to continue with the conclusion of a generation of 'deep and comprehensive' FTAs with major trade partners.

third countries regarding tariff reduction and breaking down non-tariff barriers for optimal market access. The EU-Japan Economic Partnership Agreement (JEPA) established the biggest trade zone ever negotiated in a period of increasing protectionism and contestation of the multilateral trading order. Since 2013 the EU also signed important FTAs with Eastern Partnership countries (Emerson et al., 2018) and Singapore (2018). Moreover, negotiations were finalised with Mexico and Vietnam and trade talks with Australia, New Zealand, Chile and Tunisia are making good progress.

Not all EU FTA negotiations launched in this period were concluded successfully, however. Negotiations with the US on the Transatlantic Trade and Investment Partnership (TTIP) were suspended as soon as the Trump administration was inaugurated in January 2017 (Hamilton & Pelkmans, eds., 2015).¹⁷ Also, negotiations with several Asian countries are progressing (very) slowly, including with Indonesia, the Philippines and Myanmar, for economic and/or political reasons. The EU also put its negotiations with Thailand on hold in 2014 after the military takeover. FTA negotiations with India (launched in 2007) were brought to a *de facto* standstill in the summer of 2013 due to a mismatch in levels of ambition, but at the 2017 EU-India Summit both parties declared their intention to re-engage actively towards a timely relaunch of negotiations for a comprehensive and mutually beneficial India-EU Broad Based Trade and Investment Agreement (BTIA).

The FTA negotiations with MERCOSUR saw considerable progress on a wide range of issues in 2017, but the parties failed to conclude a political agreement at the end of 2017. And during the subsequent negotiation rounds in 2018, still no agreement was reached on the remaining sensitive issues.

Due to the political situation in Turkey, the Council still needs to agree to launch negotiations on the modernisation of the EU-Turkey Customs Union (Gros et al., 2018) and negotiations on the EU-Morocco DCFTA are being complicated by several rulings of the Court of Justice of the European Union (CJEU) on the application of the existing EU-Morocco agreement to the Western Sahara (Van der Loo 2018).

The main stumbling blocks to the Comprehensive Agreement on Investment with China, one of EU's top priorities according to its strategy Trade for All, are fair and equitable treatment and national treatment and its related provisions and exceptions (Pelkmans et al., 2018). This aspect has weighed heavily on EU-China trade relations in recent years. Businesses are pleading for a level playing field and reciprocal treatment between the two global trade powers.

Contestation of the EU's FTAs and the new architecture of EU trade and investment agreements

Negotiations on the new generation of EU FTAs, in particular those on CETA and TTIP, triggered a heated debate in 2013/2014 about the benefits and consequences of these far-reaching trade agreements. Several (national parliaments of) member states, Members of the European Parliament and civil society groups contested the new generation of EU FTAs, fearing, inter alia, that these agreements would degrade environmental and consumer protection,

¹⁷ The EU-US trade relations are further discussed below.

public services and labour standards and lessen the government's right to regulate. Moreover, several concerns were raised with regard to transparency and the proposed Investor and State Dispute Settlement (ISDS) mechanism in TTIP and CETA. The European Commission tried to accommodate these concerns in the Trade for All Strategy by making trade negotiations more transparent (e.g. by inviting the Council to disclose all FTA negotiating directives and by publishing the textual proposals of FTA chapters during the negotiations), and by reforming the ISDS into a new 'Investment Court System' (see below).

Several (national parliaments of) member states, Members of the European Parliament and civil society groups contested the new generation of EU FTAs.

After the Walloon region temporarily blocked the EU's signature of CETA in 2016, a broader discussion was launched on whether, in addition to the EU, all member states need be involved in the conclusion and ratification of trade agreements (as so-called 'mixed agreements') or whether these FTAs should only be concluded by the EU (as so-called 'EU-only agreements'), thus avoiding the risk that one member state can block the conclusion of an EU FTA for the entire EU (Van der Loo, 2016). This discussion took place in parallel with the landmark Opinion 2/15 of the CJEU in which Court broadly interpreted the EU's post-Lisbon trade competences and concluded that the entire EU-Singapore FTA falls within the exclusive competences of the EU, with the notable exceptions of portfolio investment and ISDS (Van der Loo, 2017). In order to avoid the burdensome and unpredictable ratification procedure by 28 member states (and their national parliaments), and in the light of Opinion 2/15, in September 2017 the Commission proposed to 'split' future trade and investment agreements in 'EU-only' FTAs covering exclusive EU competence (which only need to be ratified by the EU) on the one hand, and separate mixed investment agreements (which also require ratification by all 28 member states) on the other.

The Council largely agreed with this proposal in May 2018 but stressed that it would decide on a case-by-case basis on the splitting of FTAs (Council, 2018). In the meantime, the Union signed its first 'split' FTA and investment protection agreement with Singapore and agreed to a similar approach for the signature of the EU-Vietnam FTA.

The EU's new investment (protection) policy

As a consequence of the contestation of the ISDS mechanism initially envisaged in TTIP, in 2014 the Commission launched a public consultation on the EU's approach to investment protection and investment dispute settlement. This

consultation led to a proposal for a new and transparent system in 2015 to resolve disputes between investors and states – the Investment Court System (ICS), now included in CETA and in the EU’s FTAs with Vietnam, Singapore and Mexico (but not Japan). These bilateral ICSs, composed of a Tribunal of first instance and an Appeal Tribunal, aim to address the main concerns about the traditional ISDS mechanism by, inter alia, limiting the grounds on which an investor can challenge a state through more precise investment protection standards; ensuring governments’ right to regulate and to pursue legitimate public policy objectives; and by including specific rules on transparency and the qualification of the judges.

Parallel to the establishment of the ICS in its bilateral FTAs, in 2017 the Commission proposed to establish a Multilateral Investment Court (MIC). This MIC would be a permanent independent international court empowered to hear disputes over investment between investors and states that would have accepted its jurisdiction over their bilateral investment treaties. Moreover, the MIC should also replace the bilateral ICS in the EU’s recent FTAs. In March 2018, the Council adopted negotiating directives authorising the Commission to open negotiations for a Convention establishing such an MIC. Initial talks on the possible creation of an MIC started in late 2017 under the auspices of the United Nations Commission on International Trade Law (UNCITRAL).

In order to persuade the Walloon government to sign CETA in November 2016, the Belgium Federal Government requested an Opinion of the CJEU on the compatibility of the EU’s ICS in CETA with EU law (for example in relation to the impact of the autonomy of the EU legal order). Opinion 1/17 (*pending*), which is expected to be delivered in 2019, will determine the future of both the bilateral ICS and the proposed MIC.

Also in the area of investment, in September 2017 the Commission proposed a framework for screening foreign direct investments by member states on grounds of national security or public order. The INTA Committee endorsed the political agreement reached between the Commission, the Council and the European Parliament on 20 November 2018 and a plenary session of the European Parliament and the Council will vote on the agreement in early 2019. The FDI screening framework emphasises cooperation between the Commission and the member states, enables the Commission to issue non-binding opinions on investment concerning several member states or when an investment could affect a “Union interest” (e.g. H2020 or Galileo). Member states will retain the competence to review and potentially block foreign direct investment on security and public

The Commission proposed a framework for screening foreign direct investments by member states on grounds of national security or public order.

order grounds (Blockmans and Hu, 2019). In the same way, they will not be required to adopt or maintain a screening mechanism. However, existing and new mechanisms will have to meet certain EU-wide characteristics, such as the respect of the non-discrimination principle, the protection of confidential information, the right to judicial redress against national authorities' decisions or clearly defined applicable procedural rules.

EU-US trade relations

EU-US trade relations deteriorated following the unilateral protective trade measures imposed by the Trump administration. On top of suspending the TTIP negotiations, on 1 June 2018 the US imposed additional duties of 25% and 10% respectively on imports of steel and aluminium from the EU, officially for 'national security' reasons. That same day, the EU retaliated by adopting rebalancing measures that target a list of US products worth €2.8 billion, including steel and aluminium products, agricultural goods and various other products. Moreover, the EU launched legal proceedings against the US in the WTO and a safeguard action to protect the EU market from disruptions caused by the diversion of steel from the US market.

Following President Juncker's visit to Washington in July 2018 the Trump administration held back on imposing 20% extra tariffs on EU automobiles and auto parts imports (Lannoo, 2018). The EU and the US informally agreed "to work together toward zero tariffs, zero non-tariff barriers, and zero subsidies on non-auto industrial goods" and created an Executive Working Group to try to find common ground. Talks in the Executive Working Group led the Commission to adopt two proposals in January 2019 for negotiating directives for trade talks with the US: on conformity assessment, and one on the elimination of tariffs for industrial goods. The objective of the latter is to eliminate all duties for industrial goods, on a reciprocal basis, with the objective of achieving a substantial elimination of tariffs upon entry into force and a phasing out of such tariffs in a short timeframe. It is clear that these negotiations will not be a walk in the park. The Commission's proposal excludes agricultural products, although this is a key demand from the US. Moreover, the proposal also specifies that the Commission suspend the negotiations if the US does not respect the commitments made during the meeting in Washington in July 2018 or if it adopts new trade restriction against the EU. The latter is a reference to the upcoming report of the US Commerce Department (February 2019) on whether imported vehicles and auto-parts pose a national security threat, potentially leading to the adoption of tariffs on EU cars.

However, there is a clear and deep discrepancy between EU and US negotiating positions for new trade talks. Apart from including agricultural

goods in its negotiation scope, the USTR has asked to negotiate a full array of sectoral issues with the EU, including services, IPR, SOEs, subsidies, government procurement and dispute settlement. Moreover, the USTR envisages that the possible future EU-US trade agreement to include provisions that “provide a mechanism to ensure transparency and take appropriate action if the EU negotiates an FTA with a non-market country”. It goes without saying that the “non-market country” referred to here is China. Apparently, amidst the US-China trade war, the US expects the EU to be its ally in containing China and preventing it from circumventing the punitive measures adopted by the Trump administration.

WTO reform

Against a background of increasing trade conflicts between major WTO members such as the US, the EU and China, and US unilateralism and protective trade policies under Trump, the WTO is facing its worst-ever crisis on two fronts. Whereas the current crisis is triggered by the US blocking Appellate Body appointments and the prospective breakdown of the dispute settlement mechanism at the end of 2019, a more comprehensive reform and modernisation of the WTO is called for as certain disciplines enshrined in the multilateral trading system, such as those related to subsidies and state-owned enterprises, have not been able to adapt sufficiently to the rapidly changing global economy. In September 2018 the European Commission proposed ideas to modernise the WTO to prevent paralysis of this crucial international body and pushed its reform agenda in the autumn of 2018 with key trade partners in different fora, such as the EU-China Working group on WTO reform, the trilateral ministerial Working group with Japan and the US and the G20. While several countries have already aligned with the Union in this reform process, for example in November 2018 when the Union submitted a concrete proposal for the reform of the WTO Appellate Body together with a group of important WTO members such as Korea, India, Canada and Switzerland, other countries such as the US are less convinced by the EU’s reform proposals.

Modernisation of the EU’s trade defence and public procurement instruments

To combat trade-distortive measures when necessary for EU industry and in the Union’s interest, in December 2017 the European Parliament and Council agreed on the Commission’s proposal to modernise the EU’s trade defence instruments. Among the most significant changes to the EU’s anti-dumping and anti-subsidy legislation are: faster and more efficient investigations; the possibility to impose higher duties based on economic reality; improved injury calculation; the

inclusion of social and environmental considerations; and increased transparency and predictability.

In the same vein, and to insist on reciprocity, the Commission adopted its revised proposal for an International Procurement Instrument (IPI) in 2016. The IPI allows the Commission to initiate public investigations in cases of alleged discrimination of EU companies in procurement markets. Should such an investigation find discriminatory restrictions vis-à-vis EU goods, services and/or suppliers, the Commission can invite the country concerned to consult on the opening of its procurement market. As a last resort, the Commission could, after consultation with EU member states, introduce price adjustment measures (i.e. a 'price penalty'), giving EU and non-targeted countries' bids a competitive advantage on EU public procurement. However, member states remain deeply divided over this proposal. The INTA Committee of the European Parliament also needs to vote on a draft report.

Priorities for the next Commission

The main challenge for the next European Commission will be to preserve and improve the multilateral trading system. At the same time, the European Commission will need to stand firm and pursue its trade agenda through bilateral and regional FTAs.

With regard to the multilateral trading system, the European Commission needs to align more actively and strategically with like-minded countries such as Canada, Japan and Korea when pursuing its WTO reform agenda. However, a precondition for the preservation and modernisation of the multilateral global trading system will first be the normalisation of the triangular trade relationship between the EU, the US and China. As for the EU-US relationship, the conclusion of limited agreements such as those envisaged on conformity assessment and the elimination of tariffs for industrial goods can be used to normalise the transatlantic trade relationship, but such an approach should not be pursued to the detriment of the EU's value-driven trade policy. Moreover, the Commission will need to engage actively with the European Parliament, which is somewhat critical of these agreements. Moreover, as foreseen in the Commission's proposal, the EU should suspend these negotiations if the US imposes new trade restrictions.

The EU must first try to conclude the Comprehensive Investment Agreement and the Agreement on Cooperation on and Protection of

A precondition for the preservation and modernisation of the multilateral global trading system will be the normalisation of the triangular trade relationship between the EU, the US and China.

Geographical Indications with China as soon as possible (Hu, 2018) to maximise the EU's trade potential. Overall, it is imperative for the EU to recognise China as a partner, albeit a fierce competitor at the same time. The EU must engage China not only in bilateral relations to solve their trade frictions but also in multilateral fora (Hu and Pelkmans, 2017). After all, efforts to reform the multilateral trading system may become redundant if global major trade powers such as China are not involved.

With regard to the EU's bilateral trade agenda, the Commission needs to continue with its approach to 'split' exclusive (EU-only) FTAs from 'mixed' Investment Protection Agreements. This approach provides a fair balance between the effectiveness and legitimacy of the EU's FTA policy, provided that the European Parliament and national parliaments are fully engaged at their respective levels of oversight, together with civil society. Moreover, the Commission needs to maintain its transparency agenda, as foreseen in the Trade For All Strategy.

Whereas several FTA negotiations are expected to conclude smoothly during the next Commission mandate, such as with Australia and New Zealand, several other FTA negotiations will remain challenging, including with several ASEAN countries and MERCOSUR.

The most important trade negotiations for the next Commission will be those with the UK on the new economic partnership (Gros and Hu, 2018). The Political Declaration setting out the framework for the future EU-UK relationship gives an indication of what the economic partnership between the EU and the UK should – or could – look like. This includes an ambitious free trade area that ensures no tariffs, fees, charges or quantitative restrictions and an ambitious, comprehensive and balanced arrangement on services and investment that go beyond the WTO standards and build on recent FTAs concluded by the EU. Crucially, just how 'frictionless trade' can be guaranteed while leaving the single market remains unclear.

The most important trade negotiations for the next Commission will be those with the UK on the new economic partnership.

Key priorities for the next Commission

- Normalise the triangular trade relationship with the US and China by, inter alia, concluding envisaged bilateral agreements
- Work for the preservation and modernisation of the global trading system (incl. the WTO and the creation of a Multilateral Investment Court under UNCITRAL)
- Continue to 'split' exclusive (EU-only) FTAs from 'mixed' Investment Protection Agreements

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ECONOMIC GOVERNANCE AND ECONOMIC POLICY

During Juncker's tenure, the role of the European Commission in the field of economic governance has been overshadowed by political initiatives coming mostly from the member states and the European Council. The latter, in turn, acted under the influence of the lingering effects of the euro area crisis, which had peaked in 2012 – under the previous Commission.

The so-called 'Juncker plan' constitutes the main example of an initiative of the Commission. The European Fund for Strategic Investment (EFSI) is widely regarded as a success, in the sense that hundreds of billions of investment were financed under its various mechanisms. However, evidence of additionality, i.e. that the total amount of this investment would not have taken place anyway, is more difficult to prove.

Most of the other legislative proposals presented by the Juncker Commission in the field of economic governance were drawn from the Four Presidents' and Five Presidents' reports of 2012 and 2015, respectively. The European Council recently reached an agreement on what is considered the 'final' pack on EMU governance. The hard content of this pack is modest, but it

There is limited evidence that changes led to a material improvement in economic governance of the EU. It is also difficult to discern a substantial impact of the Commission on economic policy.

is in line with a package of proposals the Commission had published earlier. The most relevant novelties are that the European Stabilisation Mechanism (ESM) will be empowered to provide a backstop to the Single Resolution Fund (SRF) and that a 'Euro Area' budget line inside the EU budget may be created.

Overall it appears that the Commission has played more of a supporting than initiating role in the changes to the economic governance structure achieved during the tenure of Juncker.

The Commission could still be seen to have delivered on most of the promises contained in the reports. But there is limited evidence that changes, like the creation of a European Fiscal Board or reforming the European Semester, led to a material improvement in economic governance of the EU.

It is also difficult to discern a substantial impact of the Commission on economic policy overall. Member states have often succeeded in ignoring fiscal rules and Commission recommendations on economic policy. They managed to pursue their own priorities, driven either by the domestic political conditions or the political interest and credo of the running party. The most patent examples have been the 'black zero' in the case of Germany and the expansionary fiscal policy in France and Italy. Policymakers at the national level have little incentive (and no political mandate) to take the impact of their policy actions on the rest of the EU into account. The recommendations of the European Fiscal Board, which was supposed to establish guidelines for a common fiscal stance, have also been mostly ignored.

The Commission has been rather flexible in applying the rules of the Stability and Growth Pact and the Fiscal Compact. In this field the Commission has considerable influence due to the reverse majority mechanism introduced with the 2012 reforms. Moreover, only the Commission (not the Council) has the necessary technical staff to be able to judge fiscal plans rapidly and consistently. However, there is little sign that the Commission has used these powers. It bent the Stability and Growth Pact repeatedly in the case of Italy and, in the case of Spain and Portugal in 2016, it effectively condoned a clear breach of the rules, bowing in this instance to German pressure. This episode constitutes an illustration the 'political Commission' at work.

The Commission has been rather flexible in applying the rules of the Stability and Growth Pact and the Fiscal Compact.

However, the Italian budget for 2019 has given the Commission another chance to assert its role in economic policymaking. In this case, the Commission has been careful not to appear political, emphasising instead its role as guardian of the Treaty (and of financial stability). The tough stance of the Commission, combined with strong market pressure, forced the government in power in Italy to change course, at least for time being. This episode might in the end constitute the most important legacy of the Juncker Commission in the field of economic governance.

Continuing the process of reform of economic governance

After the reform process started under the second Barroso Commission in response to the sovereign debt crisis, both the Four Presidents' and Five Presidents' reports set out roadmaps for achieving progress towards economic, fiscal and financial unions and improving democratic accountability up to 2025. An implicit assumption of both roadmaps was that calmer times would be more suitable for the needed institutional changes. However, this assumption clashed

with the migration crisis, starting in 2015, which triggered new priorities and changes in politics in several member states.

During the years of the economic and financial crisis, the intergovernmental approach became dominant in decision-making in the area of economic policy. This was driven by the urgency of the moment and a better

The Commission's dual role as initiator of legislative proposals and guardian of the treaties has been diminished in the area of economic governance, either by choice, or by a de facto more pro-active Council, voicing stronger national views.

capacity of such methods to deliver rapid solutions and involving the commitment of large financial resources. When crisis pressures abated, however, the community method was unable to regain its role. While the reform process started in 2011 appeared to make the Commission the big winner of the change, in practice this has not been the case. The Commission's dual role as initiator of legislative proposals and guardian of the treaties has been diminished in the area of

economic governance, either by choice, or by a *de facto* more pro-active Council, voicing stronger national views. It is difficult to imagine how the future could be different from the recent past.

The Juncker Commission's priorities in the area of economic governance and EMU deepening were identified shortly after the Five Presidents' report. This resulted in a strong continuity with the previous cycle. As stated by the Commission with regards to its aim of completing EMU, the main goal was to make sure that *"EU countries' economic policies are coordinated to ensure EU countries can withstand future crises through economic and social reforms and responsible fiscal policies, encourage investment and enhance competitiveness, deliver more job opportunities and better living standards"*.¹⁸ Within this broad goal, a number of objectives were identified for the different unions. These were complemented by the launch of the Juncker plan to relaunch investment in infrastructure in the EU, by promoting private and public participation.

There is no doubt that a number of objectives have been met for each of the unions.

The Economic Union: The European Semester was streamlined to improve ownership of the process and policies, but also to include a social pillar (additional indicators) (see the chapter "Labour Market and Social Policy"). The Five Presidents' report also contained a reference to the creation of a stabilisation function for the euro area. At first, this idea did not go much beyond academic

¹⁸ See V. Dombrovskis, P. Moscovici and M. Thyssen, "A deeper and fairer economic and monetary union: Combining stability with fairness and democratic accountability", 19 October 2015.

debate and random statements made by President Macron. But in the most recent debate, the proposal of a budget line for the euro area within the EU budget gained some steam. The macroeconomic impact of this proposal is likely to be very limited, because the size of the overall EU budget is very small, close to 1% of GDP, and it will be kept as such. Yet, treating this euro area (sub-)budget could be regarded as an important political signal that a door has been opened to a more substantial euro area fiscal capacity. If this were to come to pass, the role of the Commission would be enhanced. The Commission would presumably play a leading role in managing these funds. However, as long as the spending pattern for the EU is fixed under the Multiannual Financial Framework (MFF), i.e. planned in advance for seven years, it is difficult to see what flexibility such a euro area budget could have. In addition, there remains considerable ambiguity about the purpose and the use of these euro area resources. Stabilisation and convergence are both on the table. Similarly, no clarity exists on whether part of the capacity could take the form of a common unemployment insurance or investment fund.

The Fiscal Union: In the reform of the SGP, the main objective was to ensure that fiscal rules are enforced. Member states have become familiar with the process of budgetary planning and surveillance (in a ‘learning by doing’ process), but enforcement of the rules did not improve. The defiant attitude of the Italian government in the autumn of 2018 did not help the credibility of the new framework. Similarly, measures agreed by the French government to respond to internal pressure are likely to put the country in breach of SGP rules. In practice, regarding the fiscal union the main achievement was the creation of an independent European Fiscal Board to advise the Commission on an appropriate fiscal stance for the euro area and on how well EU countries are implementing EU fiscal rules.

The Financial Union: To ensure strong and stable banks and capital markets able to finance the real economy, the two main pillars of the financial union are the Banking Union and the Capital Markets Union (CMU). In the Banking Union, most progress was achieved before 2015. The backstop for the Single Resolution Fund (SRF) now appears to be agreed, while the European Deposit Insurance Scheme (EDIS) proposal is trapped in a very polarised debate about risk reduction versus risk sharing. CMU has been one of flagship initiatives of the Juncker Commission. Unlike Banking Union, CMU does not require the set-up of new institutions but rather harmonisation of regulatory frameworks and removal of barriers in capital markets, which should incentivise market behaviour. In Europe, financial markets remain very much bank-centric and progress towards a truly European capital market has been very limited

The ‘Juncker Plan’: The European Fund for Strategic Investment (EFSI), was presented as the EU’s response to the economic and financial crisis, going

beyond, and, to some extent, against the rules of the Stability and Growth Pact, too often identified by many with austerity policies. Consistent with this perspective, the EFSI was designed as a stimulus package. Based on providing equity and debt supported mainly by the EU budget and partially by the European Investment Bank Group, its primary goal was to tackle the lack of confidence of investors by financing investment projects that had stalled during the crisis. Such a goal was to be achieved by generating an investment value of €315 billion by 2018. The EFSI was recently extended with the objective of reaching €500bn in 2020. A further commitment has been made to double the fund by 2022. Overall, the EFSI has managed to attract investment and to leverage amounts above the target. To this it should be added that, since the crisis, the EU and the member states have both considerably increased the operations of their own national promotional banks to offset the fall in private investment. Operations have most likely spurred investment or accelerated it without a significant risk of crowding out. However, returning to an economic environment of 'business as usual' may imply that this no longer holds. The expansion of the EFSI and the increase in operations raise important questions about the purpose and actions of public banks (both EU and national) in terms of countercyclical interventions (like a stimulus package) or measures to enhance investment in more difficult and riskier areas of the EU (like a long-term growth instrument).

Taxation: Somewhat surprisingly, and completely outside the initial list of priorities, EU tax policy may become part of the legacy of the Juncker Commission and potentially a battleground for the next Commission. Taxation

Somewhat surprisingly, and completely outside the initial list of priorities, EU tax policy may become part of the legacy of the Juncker Commission and potentially a battleground for the next Commission.

policy is one of the few areas where the EU has always had little influence, and a competence that has remained entirely at the level of member states. Since the start of the single market, even tax harmonisation has only advanced very slowly. Initial plans for more tax harmonisation in the context of the 1992 programme only resulted in two directives to abolish double taxation for corporations. Over time, the area has been

characterised by soft attempts rather than hard actions to improve harmonisation. The 2016 anti-tax avoidance directive (ATAD) pursued the line of promoting cooperation, rather than outright harmonisation. But the issue of taxation recently gained considerable public attention in the context of the tax avoidance scandals that affected multinational corporations operating within the EU, as well as individuals. The Commission has no power in this realm and in practice it can only use its state aid instruments in the most blatant tax avoidance cases. To counter this incapacity for reaction, the Commission has

prepared a proposal (European Commission, 2019) on EU taxation policy with a number of general priorities, which can be presented as reflecting public opinion concerns: tackle tax fraud, evasion and avoidance; favour tax measures that support policy goals, such as environmental taxation; improve cooperation in taxation areas that are already harmonised, such as VAT, to allow for more effective policies. In practice, the proposal has become the catalyst for a broader debate on changing the method of decision-making from unanimity to qualified majority voting to ensure faster progress on controversial issues, like this one. It is very unlikely that member states will agree unanimously to move to QMV. A majority of member states said right away they do not support the plans and some criticised the Commission for its poor timing in launching the proposal, as it risks feeding straight into the Eurosceptic narrative of nativist parties preparing for the EP elections.

More centralisation or decentralisation?

The process of reform of economic governance has been characterised by two contradictory forces: one moving towards a more centralised system, another one towards a more decentralised system. To a certain extent this has mostly been the result of the urgency of dealing with the flows of the original EMU system without a coherent and politically viable plan. The idea of different unions is probably the only way to guarantee progress across the different areas, but the different approaches very much reflect this tension between more centralisation or decentralisation.

The push for moving towards a more centralised model was often inspired by the example of the US federal system and driven by the idea that the US succeeded in managing the global financial crisis better than the EU did with its own crisis. The banking union and a common budget, among others, are typical elements of federations.

By contrast, the push for a more decentralised system and proposals that would return powers to member states resulted from two different but mutually reinforcing drivers. On the one hand, in member states' politics, nationalistic elements have gained increased support and tend to be translated into a rejection of more EU integration and more power at the central level. On the other hand, the recognition of the limited legitimacy of the EU when it comes to constraining national policy decisions leads to the conclusion that full ownership of the decision-making process is necessary for member states to follow through on their commitments. And ownership requires certain functions to be at the level of the member states. As example of this is the creation of independent fiscal institutions. Each of these bodies is meant to monitor the implementation of fiscal rules in its own country, a task rather similar to the one of the Commission

but performed at national level. It is likely that both forces will remain in place, but contradictions may emerge soon.

Challenges ahead: domestic politics and divisions among member states

Regardless of the political coalition that will prevail after the European elections, further progress in economic governance will be very limited. Proposals that require either the set-up of new institutions (like a European Deposit Insurance Scheme) or Treaty change (like incorporating the ESM under the EU law) will be very unlikely or even impossible. The European Parliament recently blocked the incorporation of the fiscal compact under EU law. Similarly, the incorporation of the ESM Treaty into EU law is likely to face great opposition by member states.

Regardless of the political coalition that will prevail after the European elections, further progress in economic governance will be very limited.

(like a European Deposit Insurance Scheme) or Treaty change (like incorporating the ESM under the EU law) will be very unlikely or even impossible. The European Parliament recently blocked the incorporation of the fiscal compact under EU law. Similarly, the incorporation of the ESM Treaty into EU law

In member states, political priorities seem to have moved away from economic and governance issues and there seems to be limited political capital to push for controversial options.

In addition to this, Italy's economic and political situation will represent a major obstacle to any advances, both because of Italy's direct opposition to certain measures, and other member states' opposition to potentially costly developments backed by Italy. Further, recent changes in French domestic politics may dramatically reduce the French push towards a reformist approach.

There are a few areas where the debate will continue and some of the current proposals will see the light. A fiscal capacity for the euro area, possibly in the form of a European unemployment re-insurance against large shocks, could be agreed upon (see the chapter "Labour Market and Social Policy"). As proposed by the Commission, resources may come from the EU budget and be re-allocated to this function(s).

Italy's economic and political situation will represent a major obstacle to any advances.

The likelihood of this would depend on whether the support from Germany continues and if trade unions, which have been against it, change their stance. As argued earlier, a very small scheme with potentially different objectives implies that, in practice, the relevance of the outcome will also be very small.

Capital Markets Union will continue to be one of the flagship initiatives (see the chapter "Finance for Sustainable Growth"). However, in this domain the real advances depend largely on market participants and member states'

commitments, beyond words, to open their domestic markets. The Commission will continue to promote it, but will not control the process.

Depending on how the Italian – and potentially the French – case will play out, the Pandora’s box of reforming fiscal rules may be reopened. If France and Italy become the proof that rules do not work when a national government does not want to comply with them and, that in such cases, the EU has no power to change the outcome, we may be forced to recognise that the current rules are of little use.

Lastly, the newly proposed InvestEU, successor to the Juncker plan, streamlines the policy and aims to improve coherence and to avoid duplication with other centrally managed EU financial instruments. However, the next period will most likely see the emergence of tensions due to a number of contradictions in the targets of InvestEU. Moreover, the continued expansion of InvestEU, with the backdrop (hopefully) of a growing economy, is likely to operate against the additionality principle. This will emerge as result of crowding out of private investment but also in relation to the normal operations of the EIB Group overall, which should decrease given the loss of capital of the UK after Brexit. Ultimately, the question is about the point of equilibrium between private risk taking and the desirability of intervention by promotional banks.

All in all, the roadmap for EMU governance reform outlined in the Five Presidents’ report is likely to remain the main reference for the future.

However, looking ahead, the main challenge for the Commission in the area of economic policy may not be related to implementing the recommendations of the Five Presidents’ report. The key issue for the Commission will be operating in a context of rising divisions among member states. Divisions are likely to be political and economic in nature, and reinforce each other.

Differences in economic performance between member states have increased since the crisis. Most countries with high levels of debt have experienced further increases in debt, and hence in their vulnerability. By contrast, countries with sounder fiscal positions managed to face the crisis better and also to grow more strongly than the others. The split between these two sets of countries tends to coincide with a north-south geographical division. However, the picture of the division may be more nuanced. The struggle to prevent high debt from rising further is often linked to poor governance as well as with a low growth performance.

In relation to the latter, in the last two decades, the process of economic integration has been associated more with the agglomeration of productive activity and geographical concentration of income than with a generalised process of convergence between EU regions. Contrary to the promise of the EU project, a number of areas/regions across the EU, often lagging behind and

expected to catch up faster, have been unable to keep pace with the rest of the union. In several countries, internal transfers compensate for such differences, but where this is not the case, the risk of ‘peripheralisation’ is very high. While such differences are most often the result of market dynamics and the specific features of countries and regions, they are likely to reinforce nationalistic discourse and challenge the effectiveness and legitimacy of measures aimed at further deepening. This will have an impact on the functioning of the European Union and the Commission should not be caught unprepared.

Key priorities for the next Commission

- Return to a ‘non-political’ Commission in the area of economic policy: the exercise of discretion in the application of the Treaty on fiscal rules has been detrimental to the credibility of the Commission and weakened its position vis-à-vis the Council
- Refocus effort: not enough attention is being devoted to identifying the roots of emerging divides between member states
- Deliver the missing elements of economic governance reform: completion of the banking union and creation of a euro area budget

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FINANCE FOR SUSTAINABLE GROWTH

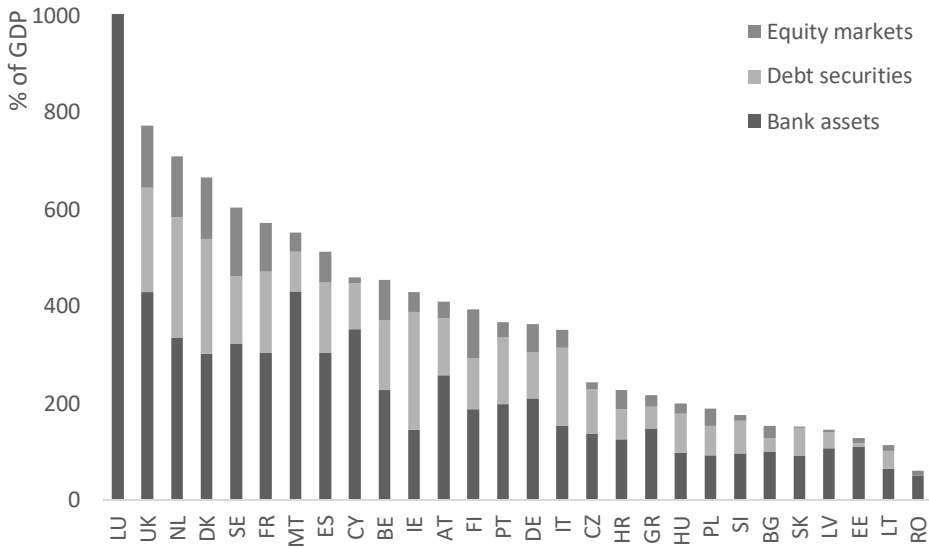
The financial system, acting as intermediary between savers and borrowers, investors and entrepreneurs, sellers and consumers, plays a pivotal role in the functioning of the EU economy. The development of financial markets and institutions can therefore be a significant factor in inclusive and sustainable economic growth. However, this not only requires a partial shift in policies, but also in the way these rules are determined to take into consideration the increasing complexity and ever more rapid changes in financial sectors and society.

In general, policies to develop the EU financial system further should focus more on access and efficiency than on deepening (increasing its size). According to the latest research, increasing the size of developed financial systems adds little to economic growth, but can make the system more fragile as was demonstrated by the 2007-09 global financial and 2010-12 Eurozone economic crises. Looking at the size of the financial systems in the EU, the member states in the west and north have significantly larger financial systems than those in the east and some in the south. The latter would therefore be better served by a deepening of their financial system than the former, which are better served by measures focusing on efficiency and access. Ongoing digital transformation and climate change actions might work as a catalyst in this respect, while Brexit constitutes a serious obstacle to financial development.

Policies to develop the EU financial system further should focus more on access and efficiency than on deepening.

In the aftermath of the financial and economic crises, many measures were introduced to make the EU financial system safer and more resilient. During the Juncker Commission the focus on the one hand was on completing these measures such as the Banking Union, and on the other to contribute to economic growth and job creation for instance by the launch of the Capital Markets Union (CMU). In this way, the finance agenda contributed to three out of the ten priorities of the Juncker Commission: a new boost for jobs, growth and investment (Priority 1); a deeper and fairer internal market with a strengthened industrial base (Priority 4); and a deeper and fairer economic and monetary union (Priority 5).

Figure 1. Size of the financial sector as share of GDP (end-2017)



Note: No comparable information on debt securities issued was available for Romania.
 Source: AMECO (2018), BIS (2018), ECB (2018) and ECMI Statistical Package (2018).

The following sections will discuss both the main initiatives that the European Commission has taken in the area of finance during the Juncker Commission as well as recommendations for the new Commission.

Completing the Banking Union

The Banking Union was initiated in 2012 in response to the economic crisis in order to break the sovereign bank nexus. During the financial and economic crises governments and central banks injected roughly €2,500 billion into Eurozone banks to avoid destabilisation of the financial system (De Groen, 2018). Part of the funds were to cover the losses on government exposures. In turn, the funds required for the banking system in Cyprus, Greece, Ireland, Spain and Portugal, and their economic and fiscal situation, pushed Eurozone countries to lend almost €300 billion to these countries.

The Banking Union is supposed to avoid Eurozone banks requiring government funds. To achieve this, the supervision and resolution of systemically important banks has been moved to the Eurozone level – with the ECB responsible for supervision and the SRB for resolution of these banks. The Commission intends to complete this with a deposit insurance. In recent years; the Commission has come up with several proposals to establish a Eurozone Deposit Insurance Scheme (EDIS), but despite efforts to reduce the risks in the

banking sector, there seems insufficient political support from member states for the proposed forms of EDIS. The potential mutualisation of losses appears to be the main reason why member states oppose EDIS. Given the importance for the functioning of the Eurozone financial crisis management framework, alternatives such as a re-insurance scheme should be considered going forward (Gros, 2015).

In addition, bank failures since the establishment of the resolution mechanism and several analytical reports have exposed some shortcomings of the resolution mechanism. In particular, the resolution mechanism was circumvented several times. Instead of the resolution mechanism, precautionary recapitalisation and insolvency regimes were used, which allowed governments to inject funds in failing banks (De Groen, 2017). Moreover, although discussions in the Council have made progress, there is still no final agreement on a backstop for the resolution fund or on liquidity for resolution, which limits the Single Resolution Board's capacity for orderly resolving banks.

Finally, a completed Banking Union should indeed avoid governments being required to bail-out their banks. However, the reverse relation – governments causing losses for banks – has not been addressed effectively. The exemption from the large exposure requirement for banks holding government bonds and zero risk weight for government bonds should be reconsidered to reduce the home bias in bond holdings as well as the potential destabilisation of banks due to failing governments (De Groen, 2015).

Creating a true Capital Markets Union

The development of deep and liquid capital markets should provide SMEs in particular and other businesses an alternative to the currently dominant bank financing as well as facilitate private risk-sharing (Valiante, 2016). The need for the development of EU capital markets increased during the Juncker Commission with the announcement of the UK's departure, as it currently hosts the largest EU capital market. The UK has a particularly important role in the derivatives market, which led the Commission to launch a proposal covering derivatives clearing in third countries.

In total the CMU action plan included 13 legislative proposals, excluding the three legislative proposals related to sustainable finance. Although all the proposals initially foreseen have been published by the Commission, only the three proposals related to venture capital, securitisation and the prospectus directive have been adopted. The other proposals covering new products and services (pensions, covered bonds, crowdfunding, and collective investment funds), prudential rules (OTC derivatives traders, investment firms, SME accessing growth markets, second chance measures, cross-border claims and

taxation) as well as market supervision and resolution (European supervisory authorities, central counterparties) are still being discussed by the Parliament and Council.

Overall, CMU did not have a meaningful impact on the growth of market financing in Europe. Bank financing remains by far the preferred source of external finance, even at a higher cost. More therefore needs to be done to tackle the bias towards debt financing, in regulation, perceptions, tax systems and the policy debate. Debt financing is not suited to start-ups and high-growth companies – only equity financing can provide what is needed. The European capital markets programme should therefore be fundamentally revised after an extensive assessment of the options.

The European capital markets programme should be fundamentally revised after an extensive assessment of the options.

Promoting sustainable finance

Europe aims to be at the forefront of international efforts to deliver on the UN 2030 Agenda and Sustainable Development Goals and the Paris Climate Agreement (see the chapter “2030 Agenda: Time to Walk the Talk”). In the context of the CMU, the Commission has committed to unlocking the full potential of public and private investment to support the transition towards a low-carbon, circular and resource-efficient economy. The three packages launched so far include: i) a taxonomy for environmental sustainability of investment instruments; ii) rules on disclosure of sustainability risks; and, iii) minimum standards for low-carbon benchmarks.

But more will need to be done to mainstream sustainable investments. It is often argued that current market prices do not accurately reflect environmental and social externalities because of the failure to put in place adequate market mechanisms, regulations, taxation or other policies. The integration of Environmental, Social and Governance (ESG) factors would improve the inclusion of these externalities. For this, a workable, flexible and dynamic taxonomy should be developed for integration in investment and advisory processes.

The use of financial legislation to provide incentives or disincentives for investments deemed sustainable or not should be exercised with caution. For example, lowering the risk weights for the calibration of bank capital requirements or the capital charges for insurance companies’ solvency position based on a newly developed EU taxonomy on sustainable activities must have a sound prudential basis. This is essential in order to avoid misallocation of resources.

Large companies tend to report more comprehensive ESG metrics and therefore dominate the portfolio of sustainable investment portfolios. However, when it comes to access to sustainable assets/products, a priority should be to ensure that other important economic actors such as SMEs and innovative, growth companies are also well represented in the portfolios. Moreover, the investment products should be available to both high net worth individuals, institutional investors and retail investors (Amariei, 2018).

Ongoing digital transformation

Fundamental change is ongoing on the tech side, which provides both opportunities and threats to the financial system. The precise implications of technical developments are difficult to predict, but they are affecting all aspects of the market, from retail to wholesale, the entire value chain, products and processes. In essence, digitalisation will give financial service providers the opportunity to reduce costs and improve intermediation, thereby promoting more accessible and efficient financial markets (CEPS, UCC and LIST, 2016).

In turn, technical developments are also creating some challenges. Financial services are heavily regulated, which limits the possibility for newcomers to enter the market. This raises the fundamental question whether the level playing field should be based on the activities or the level of risks involved. A more proportional approach ('same risks-same rules' level playing field) could spur innovation and new entrants. However, to avoid malpractice and potential destabilisation the new or changing providers, products and services should be closely monitored.

Moreover, digital transformation brings specific challenges. Providers can, for example, be based in faraway jurisdictions, subject to different rules, but without the user realising and the supervisor controlling. The dependence on IT also raises fundamental issues for the cybersecurity of networks (Lannoo, 2018).

Integrational considerations

A large share of EU financial legislation has its origin in international bodies. The EU and several individual member states participating in the Financial Stability Board have committed to implementing the main international standards and codes as well as participating in peer reviews. In the aftermath of the global financial crisis, many international initiatives focused on making systemic banks in general and globally systemically important banks in particular more resilient. Almost all of the standards and codes agreed in the aftermath of the financial crisis have been adopted and are currently or have been implemented in the EU.

The finalised Basel III reforms agreed at the end of 2018 remain the main standards that still need to be transposed in the EU. Basel standards are mainly designed for internationally active banks, but are traditionally applied to all banks in the EU. Taking into consideration the different role that these banks play in the financial system and the distinction that has already been made between the supervision of significant and less significant banks in the Eurozone, it should be assessed whether a simplified regime for less significant banks would not be more appropriate, allowing these mostly retail banks to focus on lending to the real economy.

The reforms in the aftermath of the financial crisis have contributed to the harmonisation of financial services legislation and coordination between supervisors across the EU. The supervision of credit rating agencies and trade repositories has even been concentrated within the European Securities Markets Authority (ESMA). Within the Eurozone the supervision of significant banks and the resolution of significant and cross-border banks are also now concentrated within the Single Supervisory Mechanism and Single Resolution Mechanism respectively. However, cross-border activities remain limited. This is partially explained by the large differences between member states in consumer protection rules, anti-money laundering implementation, non-financial legislation (accounting, insolvency, taxation, etc.) and different market practices.

Institutional considerations

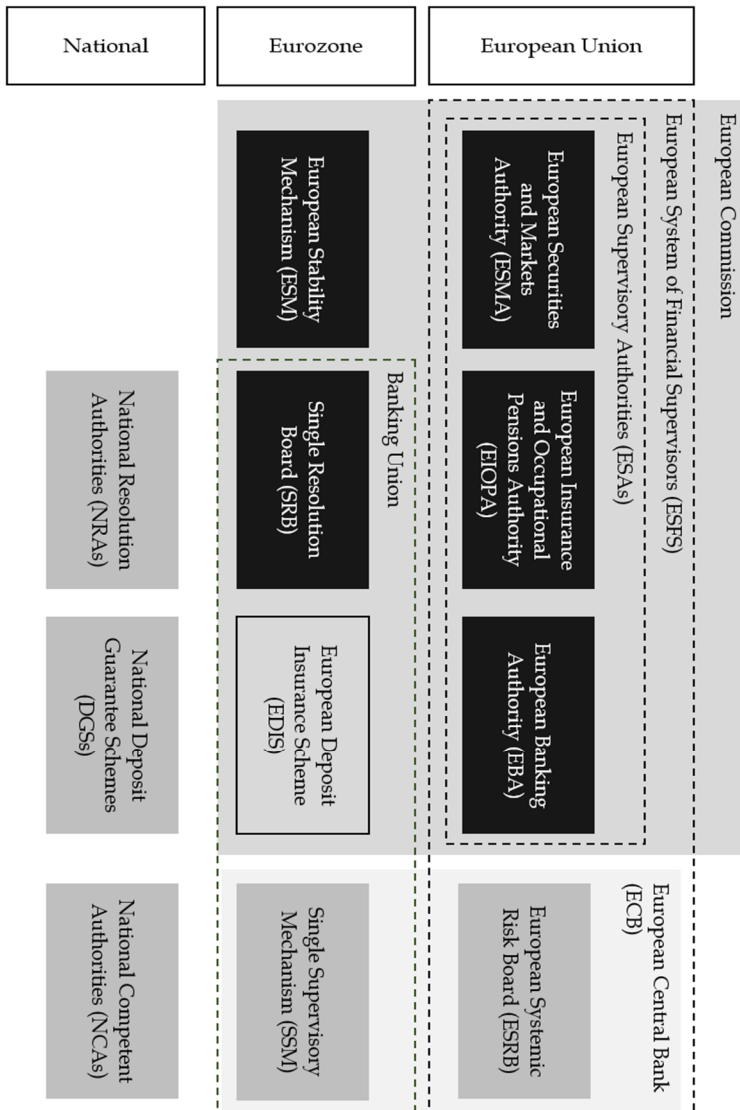
The change in policymaking procedure due to the new Commission structure with cross-cutting Vice-Presidents has had limited impact on financial services legislation. Jonathan Hill was Commissioner responsible for financial stability, financial services and CMU from November 2014 until he stepped down in June 2016, after the UK decided to leave the EU. Hill's responsibilities were taken over by Vice-President Valdis Dombrovskis, which has not led to any notable adjustments to the financial services agenda.

The institutional framework for financial services has, however, changed drastically in the aftermath of the financial crisis. At EU level, the European Supervisory Authorities were established. They are primarily responsible for promoting supervisory convergence and coordination as well as the preparation of technical standards and guidelines. In addition, the European Systemic Risk Board is responsible for the coordination of macro-prudential policies.

Although the ESAs have independent chairpersons most of the decision-making power is with the board of supervisors, in which national supervisors have nearly all the votes. This significant role for national supervisors in decision-making increases red tape. Empowering the chairperson could

contribute to making the authorities more effective as well as potentially giving them a more prominent role in the legislative process (Lamandini, 2018).

Figure 2. EU financial institutional framework



Source: Authors' elaborations.

Financial legislation is becoming increasingly complex and prescriptive. Policymakers and Members of the European Parliament are regularly indicating that they are no longer able to assess the appropriateness of the legislation.

Moreover, the legislative cycle easily takes a couple of years, whereas the sector is changing at an ever faster pace. This requires a legislative procedure that allows for swifter changes and more coordination between policy areas. Legislation at a higher level (more principle-based and coherent across policy areas) complemented by technical standards that can be changed more easily should allow for faster policy responses and leverage the technical expertise that is available within the ESAs in preparing the standards.

Key priorities for the next Commission

- Complete the Banking Union
- Create a true Capital Markets Union
- Empower European supervisory authorities

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THE SINGLE MARKET: WORKHORSE FOR EU PROSPERITY

The Juncker Commission structured its agenda into ten priorities with simple, presumably attractive titles. Whether this approach has been good for developing and modernising the single market is less than clear. What it boiled down to was a fragmented presentation of the single market into a few ‘unions’ and other ‘packages’ in an attempt to obtain an easier ‘sell’ to the press and citizens. This way, it was hoped, the crucial aspects of the single market that require a higher profile and top-level political attention would be able to forge ahead. The all too convenient assumption behind this strategy was that the more ‘classical’ single market was largely completed and, in any event, less urgently in need of the attention of high-level EU decision-makers. Yet, the economic case to go for an ambitious single market strategy is strong – with estimated gains of up to 10% of EU GDP or more – and also crucial dynamically, in light of opportunities with new technologies and digitalisation.

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A commendable innovation of the then new Commission is that teams of Commissioners are active on specific strategies. No silos anymore. For the single market, permeating policy work in many DGs, this is a most welcome development.

The multi-labels single market

The present European Commission attempted to reframe and politically ‘unbundle’ the single market. The motive behind this attempt is entirely understandable. ‘The’ single market is so incredibly comprehensive and multi-faceted, with so many highly specialised horizontal and sectoral refinements, that it is plainly impossible to handle ‘it’ in a practical way. It takes a series of Commission DGs and a range of EP committees in order to comprehend what is

going on. The best demonstration of the enormity of addressing ‘the’ single market was the 2010 Monti report that brought together a very broad spectrum of issues, often with a degree of technicality, but which had, unfortunately, not anywhere near the impact it fully deserved. And which the EU deserved. ‘The’ single market either risks being dealt with by slogans and ‘*obligatoire*’ promises by the European Council, both of little help, or, one ends up with an impossible Monti-plus type agenda unlikely to generate appeal and progress. The Juncker approach is one response to this perverse reality: the hard core of European integration is a hard sell, and yet everybody is in some general sense in favour.

It seemed easier to invent appealing labels for areas where specific needs could be identified, all with some degree of urgency. First, the term ‘union’ was utilised for three such areas: the banking union, the capital markets union and the energy union. The banking union is nothing more or less than the single market for banking services. The crucial difference with most other areas consists in the nature and extent of ‘positive integration’ needed for the single market for banking services to function properly: common agencies and other bodies with supranational powers and large funds for bank resolution and financial stability. The urgency arose from the profound financial crisis in the EU. A number of hastily tightened directives or additional ones had already been drafted or even enacted before the term ‘banking union’ appeared. The single market for financial services had witnessed three regimes over time,¹⁹ but had never addressed two taboos: on the one hand, effective bank supervision at EU level (with the ‘fiscal capacity’ at EU level to decide on and execute bank resolution promptly) and, on the other hand, the links between the (macro)prudential banking regime and financial stability in the euro area. Labelling the set of challenges to the single market for financial services as the ‘banking union’ enabled the more EMU-related aspects of the banking regime (for short, financial stability) to be linked directly with the more traditional internal-market-related aspects (for short, risk regulation underpinning the trust in banks). The banking union is now functioning, a remarkable achievement given the old taboos, although it awaits further deepening for the sake of its resilience (see the chapters “Economic Governance and Economic Policy” and “Finance for Sustainable Growth”).

The capital markets union is in a different class. In conventional single market terms, capital markets in the EU do not present a lot of lingering barriers to free capital movement. Rather, the capital markets union has another distinct motive, namely, to increase significantly the reliance of private firms (and especially SMEs) on equity capital and away from an overdependence on bank-

¹⁹ In the early 1980s, in the EC-1992 period (with the 1989 second banking directive as the pivot) and in the period 1999-2005.

financed capital. This motive is macro-economic and relates to the proper functioning of EMU. When comparing US and EU reliance on private versus public risk-sharing (Nikolov, 2017), the US private sector relies far more on private capital than the eurozone, and thereby improves its resilience during crises, including a swifter return to the trend growth path. It also helps healthy SMEs to have access to finance when banks are struggling to survive. In single market terms, the capital markets union constitutes a structural reform of European capital markets and the underlying regulatory framework at member state and EU levels. But the limited readiness of member states to reform domestic laws – without a treaty obligation – has proven to be a serious hindrance so far (see the chapter “Finance for Sustainable Growth”).

The energy union is both a relabelling of the single market for energy and a coupling of energy markets with a more ambitious EU climate strategy. Therefore, it does address classical single market barriers and less conventional ones like the huge investment requirements in e.g. interconnectors, allowing more effective coupling of national energy markets, but its complications derive in particular from the combination with climate strategies. One prominent sign is the composition of a monthly gas and electricity bill for households or industry. Precisely when, slowly but steadily, the European wholesale energy markets are beginning to look like a single market with converging prices (e.g. in hubs), a range of national taxes (network charges, VAT, Renewables [RES] charges) cause large disparities in the effective market prices for users and consumers. Another very problematic distortion consisted in the derogation of national RES subsidies from the regular EU state aid regime, with the consequence that enormous amounts of RES subsidies (some €65 billion in 2016) generated costly direct distortions,²⁰ as well as indirect distortions such as sponsoring the build-up of a competitive wind industry in a few EU countries. Given the ever more ambitious EU climate strategy, the energy union will also have to govern the transformation to a new EU energy system (see the chapter “Redefining the Energy Union”).

Second, the single market perspective of the Juncker Commission favoured the pursuit of *sectoral ‘packages’*. The most impressive of these is the ‘digital single market’ (DSM), a much better label than the 2010 Digital Agenda, with a much more structured approach and (rightly) a greater sense of urgency. The DSM has classical single market barriers to be removed or overcome and considerable progress has been made. One particularly difficult barrier is the flaw in EU law (ever since the Rome treaty) affirming copyright to be national, not EU-wide, not even in a parallel regime. The reference to the Berne

²⁰ With huge losses on e.g. state-of-the-art gas turbines or their mothballing despite being brand new.

Convention, based on national copyright, is of course at best a weak excuse. The Union has EU trademarks and a near-EU-wide Uniform Patent; there is no good reason to hold on solely to national copyright. Business models in e.g. audiovisual services, streaming, etc. are virtually all based on exploiting the national borders inside the EU²¹ and hence fiercely resisting the single digital market. The DSM would greatly benefit (and e.g. start-ups within it) if this flaw could be repaired; during the Juncker Commission, the much discussed geo-blocking directive shows how artificial and piecemeal the DSM risks being if it is not (see the chapter “Digital Economy, Industry and Innovation”).

Another important package is found in ‘mobility’ – in fact the various modes of transport. For road and related issues, three successive mobility packages were introduced, updating EU regulatory provisions but also funding options (especially for infrastructure) and the preparation of automated mobility (e.g. standards, etc.) as well as storage (in the light of electric driving on a large scale). In addition, there was a long-term ‘track’ for rail with successive initiatives already more than one decade ago²² and the nine promising European freight rail corridors, both north-south and east-west, which have been operating for a few years. The 4th railway package²³ was enacted in two steps in 2016, a significant success in the initially so inward-looking and rigid rail sector. The Connected Europe Facility has enabled a significant increase in infrastructure funding for rail, the ‘last mile’ links with industrial centres and with ports. In maritime transport, progress (if not a breakthrough) was accomplished in the EU ports policy, in terms of social dialogue, users’ influence and – especially – the 2017 regulation.²⁴

Yet another ‘package’ proposed was concerned with the ‘circular economy’, inevitably linked with the single market too and discussed elsewhere in this volume (see the chapters “Redefining the Energy Union” and “2030 Agenda: Time to Walk the Talk”).

²¹ Companies maximising profits by means of 3rd degree (i.e. geographical) price discrimination, going against all that a single market stands for.

²² Culminating in the 4th rail package, enacted finally in 2016.

²³ With a technical pillar and a market pillar.

²⁴ Regulation 2017/352 establishing a framework for the provision of port services and common rules on the financial transparency of ports. Readers might remember that a decade ago a draft directive on port services induced fierce protests from a small but militant group of port workers from certain harbours. When the European Parliament debated the directive in Strasbourg, violent protests led to widespread destruction of street lights, road signs and numerous windows as well as aggression against MEPs and the police. The EP then suspended the debate on the draft directive.

The classical single market as Cinderella?

The classical single market seemed to have been lost during the first years of the Juncker Commission. The ‘classical’ single market can be defined as the combination of the free movements, the right of establishment (negative integration) and the appropriate and proportionate regulation and/or common policies and common institutions (positive integration) yielding the proper functioning of the single market. The proper functioning generates static and dynamic economic benefits supporting (additional) EU economic prosperity. This generic definition applies to all single market activity, also the policy domains with new, attractive labels. Nevertheless, outside these domains with specific needs and urgency, the classical single market was at first only mentioned in passing when the ten priorities were announced. As a result, it proved cumbersome to acquire genuine political attention for what were and to some extent still are crucial aspects of the single market, in particular by member states in Council and at home. The most prominent attempt to repair this error consisted in the 2015 Single Market Strategy,²⁵ which looked a lot like typical single market ‘strategies’ of previous Commissions (with e.g. Barnier and Bolkestein, respectively, in the lead). By addressing the problems of the ‘collaborative economy’, a mini-package on SMEs and start-ups, a renewed attempt to re-invigorate the single services market, trying to tackle the barriers in retail, fixing geo-blocking, modernising the standards system (a few years after the last modernisation), further improvements in public procurement, some further work on IPR (whilst still waiting for the Unitary Patent and its Court to finally come into force), pursuing a ‘culture of compliance and smart enforcement’ and reforming the mutual recognition directive, it has been hard to avoid or pre-empt the drawbacks of the splintered approach.

It has been hard to avoid or pre-empt the drawbacks of the Commission’s splintered approach.

The need for effective and intrusive implementation and enforcement strategies in several areas is beyond any doubt, however such ‘strategies’ unfortunately have little political appeal although lip-service is paid to them. The worst case was the emphasis on the single market for services, shared in words by the Council and the EP on many occasions. Upon closer scrutiny of the services strategy, with implementation of the huge services directive as critical, one can summarise the development as follows: enormous efforts by the

²⁵ See COM (2015)550 of 28 October 2015, Upgrading the single market: more opportunities for people and business; and a host of related documents.

Commission in several ways,²⁶ some selective encouragement by the EP (which has of course only an indirect and distant role to play in implementation) and a hesitant if not recalcitrant Council or a majority of it.

Besides services, the EU improved the system of market surveillance in goods, completed the formidable task of implementing REACH (even with respect to SMEs) after 11 years and adopted the General Data Protection Regulation.

A competitive single market for consumers and all of business

It should never be forgotten that the quality of the single market is largely determined by how competitive it is. The overriding motive to enjoy a 'common market' is that it can generate economic gains beyond those of trading in a WTO-type group of countries. But these economic gains presume a competitive market. And 60 years of EU competition policy has yielded overwhelming evidence of the serious and permanent need for a powerful mechanism ensuring

Despite discussions about what has priority, it is striking time and again that much of EU competition policy remains the same and for good reasons.

competitive markets in the EU for consumers and for all businesses, big or small. Despite discussions about what has priority, it is striking time and again that much of EU competition policy remains the same and for good reasons. This has been true of cases over the last five years: cartels of truck companies and in the derivatives trade; pre-emptive action (removing rail track) to disable a competitor in freight rail in Latvia;

highly selective tax advantages for just a few firms or only one (in secret rulings) in Ireland, Luxembourg and the Netherlands; excessive pricing (a judgment often seen by competition lawyers as hard to 'prove') in post-patent medicines;

²⁶ After the 2011 report on the mutual evaluation of the Services directive, the Commission followed up on the 'unfinished business' of implementation (e.g. on legal form, cross-border insurance, etc.), persuaded member states to engage in a Mutual Evaluation of 2 years (!) on the professional qualifications regulation, which yielded rather little, and insisted on the proper application of proportionality (a legal requirement in the Professional Qualifications directive) for all national regulated professions (for all EU countries, some 5,500 applications), the disappointment about which was underpinned by a most revealing Commission publication setting out the problematic tests by the member states, culminating eventually in the 2018 Proportionality directive - yet, even this careful bottom-up approach and the balanced directive continued to be resisted by a minority of member states. The Court of Auditors insisted in a 2016 report on the implementation of the Services directive that the Commission be more determined in enforcement via infringement procedures. However, this firmness is not a priori sensible: it would probably have caused a lot of friction rather than more single market.

rebates given by a dominant firm that are so advantageous that even Intel cannot break into the market; a search engine of a highly dominant internet platform player that systematically manoeuvres the comparison shopping products of competitors to (say) page 4 and thereby advantages its own. *Plus ça change...* Here we have a policy where innovation and change should not be overrated – much of what is in place needs to be executed well and that is meritorious for a competitive single market.

Nevertheless, EU competition policy is facing profound challenges. Some internet firms have undergone such phenomenal change in only a few years that ‘winner takes all’ properties are suspected. With such dominance in place, one can expect to see anti-competitive behaviour emerge that ought to be corrected or even nipped in the bud. The theory is that such innovative firms will stay on their toes because of potential competition, perhaps via disruptive innovation by new entrants. It is a possibility, but not universally the case; moreover, if that is the remedy, new entrants and young firms scaling up must be protected actively against takeovers, notably by the dominant company, in order to protect what competition is all about: the competition process itself. And consumers who should, rightly, count on EU and national competition policy to ensure that markets work for them. And possibly smaller firms if and only if that is essential for the competitive process to work well, for instance by means of sustained innovation or the development of other business models. The ‘big’ competition cases of the last few years, such as Google, Intel and Qualcomm, together with some new EU regulation (e.g. on geo-blocking, data protection, etc.) might not be sufficient to ensure that digital platforms and internet companies do not drift ever further towards dominance. The consumer benefits of effective platforms are clear and well-recognised, yet so are the drawbacks. The question is whether the EU has the right, yet proportionate answer to such developments.

Another issue arose during the Juncker Commission: that of ‘fairness’. It is likely that Juncker has pushed fairness and equal treatment at the level of citizens and consumers in a reaction to the observations of many citizens (and some populist political parties) to the perceived privileges of rescued banks, with the subsequent budget cuts and lower public investments hitting the ordinary citizen, and the tax avoidance of some multinationals. As the following section emphasises, even the single market is now presented as (more) ‘fair’. The term ‘fair’ has also popped up in much of what this Commission has pursued, whether in labour and social policies, consumer protection policies but also in EU competition policy. Commissioner Vestager has used the term repeatedly, claiming that ‘fairness’ was always in the DNA of competition policy. She rightly claims that competition policy should ultimately be good for consumers. But should it pursue that aim directly – implying greater interventionism via regulation, for instance – or by means of protecting the competitive process,

counting on properly functioning markets to take care of the consumer? And in protecting the consumer via competition policy, how much priority is still given to 'efficiency', whether static or dynamic? Such an approach to competition policy also quickly slips into 'fairness' between businesses, say with unequal bargaining power, such as is the case with unfair business practices or the 2018 platform-to-business proposal, instances where competition policy cannot easily be invoked. There is also the risk of economic dependence for (say) SMEs in need of large counterparties for effective entry to be feasible. It is suggested that the new Commission undertake a major investigation of whether the imbalance of bargaining power is becoming a structural issue in the single (digitalised) market. The new market dynamics might well call for a refinement of relevant market definitions, the identification of dominance, the finding of abuse and a set of reasonable remedies. This ought to be accompanied by an extension of the enforcement powers of DG COMP towards such practices.

A 'fair' single market

A properly functioning single market may well accentuate adjustment pressures, that is, adjustment of workers, firms and regions. Ideally, a 'fair' single market should convincingly address the temporary costs of adjustment at both levels of government whilst providing new perspectives for temporary losers. One should neither underplay nor overplay the recognition of 'losers'. Not underplay it, because adjustment might coincide with a downturn of the economy, making it very difficult to find alternative employment without relocation (which is often unattractive because of social and cultural ties). Job losses from a deeper single market sharpening competition and from a single market more open to the world can be concentrated in specific 'low potential' regions (World Bank 2018), rendering adjustment more difficult still as promising sectors might be lacking in that region and workers might be trapped as houses can only be sold with a capital loss. Not overplay it either, because adjustment occurs in any market economy for a host of reasons, and the single market is only one of them. Moreover, adjustment is intrinsically harder in EU countries that are lagging behind in the upskilling and upgrading of their labour force. This is because the comparative advantages of the EU in a globalised world economy tend to reward skilled workers more, as they are structurally in demand, than their low-skilled counterparts. Countries like Italy, Portugal and some others still have relatively large shares of low-skilled workers and the best policy is to focus on this weakness with gusto. Besides these fundamentals, a fairer single market is also about abuse of mobile workers, be they migrants inside the EU or posted workers due to sloppy enforcement and weaknesses in some directives. Such abuse has undermined or at least weakened the legitimacy of the single market for many workers.

The Juncker Commission has attempted to give greater priority to social aspects, hence to a fairer single market. In so doing, it has combined symbolic approaches (the reforms of the Social Fund and the Global Adjustment Fund, as well as the European Pillar of Social Rights, largely a matter for member states) and enforceable improvements of EU regulation for mobile workers²⁷ (see the chapter “Labour Market and Social Policy”).

Challenges for the new European Commission

The single market enjoys high approval rates amongst European citizens and this might well remain a stable rating now that some social defects in labour and services regulation and supervision have been addressed. Brexit has demonstrated more effectively than in any other imaginable way how crucial the single market is for European integration. Nonetheless, deep suspicions linger and mellow only slowly. As Stefano Micossi noted a few years ago, “Globalisation, technological change and the financial crises have impoverished the working classes and seemingly drained all appetite for further market opening” (Micossi, 2016, 34). However, it is precisely the single market that can be a source or at least an important condition of sustained economic growth in Europe. An interesting estimate by the EP Costs-of-Non-Europe project is that the economic potential of ‘deepening’ the single market – i.e. overcoming market integration ‘deficits’ – amounts to roughly 9% of EU GDP.²⁸ The EU’s more ambitious investment agenda, complementary to the single market, should be of some help as well.

The best option for the new Commission is to give justified and unwavering priority to the single market in all its dimensions. That is, to a deeper and ‘fair’ single market, with no automatic primacy for the economic dimension above the social dimension. In both dimensions, the single market is far more of a matter for member states than they have admitted so far. The old dictum that the Commission proposes and the EU legislator (including the Council) disposes does not at all properly reflect the requirements for effective

²⁷ In particular, the enforcement directive for posted workers (2014) and a revision of the posted workers directive (2018) based on the ‘same wages for the same work in the same site’, a breakthrough helped by renewed economic convergence between East and West in the Union, two CJEU cases and several national court cases on post-box companies prohibiting the very low wages for workers from Central Europe in Germany, Belgium and the Netherlands, and ordering compensation for the workers).

²⁸ Mapping the Costs-of-Non-Europe, 4th edition, December 2017. Taking only the single market aspects, one finds €1,280bn, which amounts to 9% of EU GDP for 2016. See [www.europarl.europa.eu/RegData/etudes/STUD/2017/603239/EPRS_STU\(2017\)603239_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2017/603239/EPRS_STU(2017)603239_EN.pdf)

progress on the single market. The inconvenient truth is that – for single market purposes – member states have first to significantly improve domestic ‘governance’,²⁹ and promote and credibly enforce the single market at home

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(Pelkmans, 2016). Member states need to accept fully that the indispensable deepening of the single services market cannot possibly be achieved by purely EU-level measures, without significant regulatory and other reforms at home. The social aspects of a ‘fair’ single market can, more-often-than-not, be best addressed at national level because that is where social and labour powers are found.

The reform of the single services market is a priority. The European economy is a service economy and the EU’s future economic growth cannot be raised by focusing solely on goods, even if there are lingering issues in that area. Indeed, goods exported by EU countries easily incorporate some 30% of in-house services and procured services, in particular in European value-chains. This shows that today’s competitiveness of European enterprises hinges on a competitive single services market as well as on least-restrictive³⁰ services regulation at home, minimising the negative cost spill-overs in forward linkages. The new Commission might seek a genuine ‘single-market compact’ with member states in order to engage in a credible pursuit of a deeper EU services market.

Another critical priority is the DSM, in combination with policies on new and emerging technologies. The rationale consists of the urgent need to remove lingering barriers to upscaling and belated consolidation of eComms and audiovisual businesses, and the opportunity to exploit a range of new technologies that require a truly single market of continental size. This should be considered in light of the potency of the Uniform Patent (following the German constitutional court ruling, in the hope that this ultimate of endless obstacles to the common patent will be eliminated) with all its advantages,³¹ as a major incentive to innovate in the large EU market. This combination is not a return to old-fashioned industrial policy but precisely an effective way to exploit the continental size of the market in a dynamic fashion. Ideally, member states also ought to try to tackle the regulatory heterogeneity at business regulation

²⁹ In Micossi, op. cit., p. 31, who depicts the ‘quality of institutions’ with four indicators: government effectiveness, control of corruption, rule of law and regulatory quality.

³⁰ Least-restrictive, justified by market failures but proportionate (no more restrictive than necessary).

³¹ Such as the slashed costs of the patent, the (almost) EU-wide automaticity of the patent and the EU-wide enforcement, all three important benefits.

level because this is another friction for SMEs and start-ups that considerably hinders their development and causes some to relocate to the US (Spotify is a salient example).

The test for member states will be whether they are capable of and effective in assuming visible responsibility for the single market, indeed, 'ownership' for delivery. In such a setting, an activist Commission can rightly be ambitious.

Key priorities for the next Commission

- Develop a deeper and 'fair' single market in an even-handed and comprehensive manner
- Support member states in improving domestic governance, promotion and enforcement of the single market
- Reform the single services market

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DIGITAL ECONOMY, INDUSTRY AND INNOVATION

The future of Europe is deeply connected to the future of European industrial innovation and the latter is fundamentally dependent on digitisation. The Digital Single Market (DSM) and the need for growth, jobs and investment featured prominently among the ten priorities set by President Juncker at the beginning of his mandate. Today, synergies and interrelations between these areas have led to an emerging need for a common strategy on industrial transformation and digitisation, in which the DSM becomes a key cornerstone of future EU industrial policy, thanks to initiatives such as Industry 4.0; and a precondition for better innovation performance, also due to growing awareness that it is not innovation but rather its diffusion that hampers Europe's economic performance. Ensuring sustainable industrial leadership in the EU also means, and requires, progressing on various Sustainable Development Goals, most

There is a need to significantly strengthen policy coherence and orchestrate multi-level efforts, against a trend of 'pre-emptive legislation'.

notably SDG 8 (decent work and economic growth), SDG 9 (industry, innovation and infrastructure) and indirectly all others. What emerges is the need to significantly strengthen policy coherence and orchestrate multi-level efforts, against a trend of 'pre-emptive legislation', in which the Commission typically takes action mainly to avoid national

governments adopting widely diverging policies (e.g. in digital taxation; artificial intelligence; platform regulation, industrial internet, etc.).

The state of things: industrial policy and innovation

A strong industrial base is perceived as fundamental for Europe's economic recovery and competitiveness, and also for sustainable development. Industry in Europe, whose value added makes up 17.3% of European GDP (2015), attracts 80% of private research and innovation, employs 23.6% of workers and, for each additional job in manufacturing, creates 0.5-2 jobs in other sectors. Industry also accounts for over 80% of Europe's exports, generating a €365 billion surplus in the trade of manufactured products. Moreover, the EU is a major producer of

new knowledge in Key Enabling Technologies (KETs): products based on industrial biotechnology or advanced materials have higher technology content than competing North American or East Asian products. This policy area will be heavily affected in the years to come by emerging trends in global economic governance, including the emerging new wave of protectionism in the US and China. The future of European industry lies *inter alia* in the relaunch and coordination of industrial policy at the EU and national levels; in the timely and effective digitisation of European industry sectors; the transition towards clean energy; a more effective mix of policies and financial instruments under the post-2020 Multi-Annual Financial Framework; the ability to promote disruptive technologies and business models without being captured by the interests of incumbents. In a nutshell, several policies are relevant for the future of European Industry, and here we will only select a subset, which appear to be at once very relevant, and not covered by other chapters in this report.

Europe's innovation and entrepreneurship ecosystem is dominated by SMEs, which represent the overwhelming majority (99%) of companies, and the real engine of innovation. At the same time, Europe's vibrant start-ups too often find difficulties both at the launch stage, when the so-called 'valley of death' affects their potential for effectively deploying their business model; and later, in the 'scale-up' phase, when they encounter difficulties in accessing the capital and market opportunities they need in order to thrive in the EU single market and at the global level. Many small companies in the EU struggle to internationalise their business even with an open and fair trade framework in place. Only 25% of EU-based SMEs export at all, and an even smaller portion export beyond the EU. And in key sectors, there is at once a shortage of skills and non-bank capital, which deprives European firms of some of the most dynamic and emerging forms of access to capital, including crowdfunding and more traditional forms of equity financing, such as venture capital. Finally, in some cases the regulatory framework is insufficiently innovation friendly, especially for SMEs. As a result, in many European countries productivity growth is stagnating. A growing divide is observed in many sectors between leading frontier firms, who are able to internationalise and catch up with emerging technologies, and laggard (or 'zombie') firms, which survive in the market but are unable to trigger desired productivity increases. This growing divide also hides a growing inability of Europe to enable a 'Darwinian' selection of the most efficient firms in the market, which ultimately harms economic performance.

In the coming years, several policies may invert this trend if properly implemented. First, the creation of the European Innovation Council (see below) has the potential to help top companies scale up in the single market and beyond, thanks for an innovative, excellence-based system for the selection of

most promising business plans. Second, the blending of financial instruments and the launch of a more mission-oriented innovation policy promises to create a better environment for smaller companies to contribute to emerging streams of industrial policy at the EU level. Third, the Capital Markets Union promises to complement Europe's strong tradition of bank financing, helping to: unlock more investment from the EU and the rest of the world; connect financing more effectively to investment projects across the EU; make the financial system more stable; deepen financial integration and increase competition through enhanced cross-border risk-sharing, deeper and more liquid markets and diversified sources of funding. But when it comes to the Capital Market Union, implementation is the keyword: adequate market monitoring and enhanced policy coordination will be required in order to ensure that the promised objectives are ultimately met (see the chapter "Finance for Sustainable Growth").

Moreover, SMEs will increasingly suffer from the emerging skills gap at the EU level, especially in key sectors such as cloud computing, artificial intelligence and machine learning. The grand coalition for jobs and skills will need to be reinforced in order to promote the overhaul of existing curricula in member states, giving more space to communication, leadership, team-working and empathy skills, together with the often-mentioned Science, Technology, Engineering and Mathematics (STEM) and coding skills. The unavailability of sufficient talent is increasingly becoming an obstacle to EU competitiveness and also sustainable development.

A number of additional policy initiatives can further contribute to improving the environment for doing business in Europe: a more effective blending of financial instruments and better implementation of the SME window in the EFSI (2.0) can open new market opportunities for high quality small enterprises in Europe; and the reduction of administrative burdens (including in access to EU structural and cohesion funds) can improve SME participation. In the better regulation field, the improvement of tools such as the 'think small first' SME test, innovation deals and the innovation principle will be key to improving the business prospects of many European SMEs.

Finally, sector-specific industrial policy will be essential in a time of rising protectionism and global economic and political turbulence. Reducing the cost of energy for European companies is imperative to safeguard competitiveness.³²

The need to stimulate innovation, especially in services, is at the centre of smart specialisation policies and, more generally, of the multi-level efforts to promote innovation in the EU. Key issues in this respect are the evolving EU approach to standardisation; the transition towards a mission-oriented

³² CEPS has been leading a series of topical projects for the European Commission on Energy Prices and Costs, for a number of industrial sectors (e.g. glass, ceramics, steel, aluminium).

approach to innovation, which may lead to shifting Research and Innovation funding closer to the commercialisation phase (Mazzucato, 2018); and the smart use of regulation as a market creator and shaper (European Commission, 2015). All these are important trends, which echo existing data on the US and even more on China, which is increasingly investing in late-stage development phases of innovation, bringing it gradually closer to market in several sectors.

Most importantly, the Commission has presented its proposal for the Horizon Europe programme, which will replace the current Horizon 2020 programme in the 2021-2027 financial framework. Horizon Europe will introduce the following main new features: (i) a European Innovation Council, which establishes a one-stop shop to bring the most promising high-potential and breakthrough technologies from lab to market application, and help the most innovative start-ups and companies scale up their ideas; (ii) new EU-wide research and innovation missions focusing on societal challenges and industrial competitiveness; and (iii) enhanced support for member states lagging behind in their efforts to make the most of their national research and innovation potential, also through blending of innovation funds with structural and cohesion funds.

Industrial policy is, of course, also linked to specific sectoral initiatives. One example is space policy, which is increasingly perceived as strategic due to the possible spill-overs into many other sectors such as defence and manufacturing. The European space economy, including manufacturing and services, employs over 230,000 professionals. Its value was estimated at around €50 billion in 2014. This represented one fifth of the value of the global space sector. The EU can now rely fully on the EU's three flagship space programmes: Copernicus – the most advanced Earth observation system in the world; Galileo – Europe's own global navigation satellite system, providing highly accurate global positioning data; and EGNOS – making 'safety of life' navigation services available to aviation, maritime and land-based users over most of Europe. With world-class space systems already in place and producing results, the EU will be focusing over the next years on how best to use the space data gathered. Space data can guide rescue teams in locations hit by natural disasters, improve land use in agriculture, and make transport and energy infrastructure safer. On 1 December 2017, the Competitiveness Council discussed the way forward for the EU's space programmes: ministers expressed the need for a stronger link between space and the digital economy. The EU is investing over €12 billion in space activities for the period 2014-2020, with a high estimated return on investment (€3-4 for every euro allocated). Post-2020 the EU will be looking at the next generation of space programmes: this will have to be done in constant public-private cooperation to ensure the maximum leverage effect for the public funds available.

The Digital Single Market as a cornerstone of future European industrial policy

The completion of a vibrant Digital Single Market was one of the ten priorities laid out by the Juncker Commission when taking office in 2014. The digital economy, more generally, is inevitably key to Europe's economic performance, future social and environmental sustainability, and overall global competitiveness. However, at the same time digital policies have become increasingly complex, due to the ongoing crisis of trust in the current internet model, in which large platforms play a prominent role; and also in view of emerging, disruptive technologies such as artificial intelligence and blockchain. An overview of emerging challenges is best provided by a 'layered' approach, which follows the architecture of the internet (so-called OSI layered architecture):

- The *infrastructure layer* features key emerging challenges such as the need to secure a good balance between investment in very high speed broadband infrastructure and the entry of new players thanks to network sharing obligations. At the same time, a key challenge in infrastructure is promoting co-investment and risk-sharing to bring high speed broadband to underserved, unprofitable areas; and to use wireless and satellite technologies where appropriate. This layer also prominently features the need for a smarter and more coordinated spectrum policy, both for 4G communications and also for the upcoming 5G, which requires both low frequency and millimetric spectrum. Current spectrum policy still appears too fragmented, and the proposals made by the Commission within the new e-Communications Code appear insufficiently ambitious (Renda, 2017). Similarly, current targets for 2025 (Very High Capacity networks) appear to be obsolete already, in light of the breath-taking evolution of broadband technologies around the world.
- The *logical layer* is very important for the digital economy, in particular for what concerns network neutrality. There, the implementation of net neutrality rules – a notable achievement of this Commission – is currently ongoing, after the Telecoms Single Market Regulation entered into force on 29 November 2015 and application on 30 April 2016.³³ The Regulation created an individual right for end users to access or distribute internet content and services of their choice. The Regulation also established, for the

³³ Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union (Text with EEA relevance).

first time in the EU, the principle of non-discriminatory traffic management, which means that internet traffic has to be treated equally. The (first) reports covering the period from 30 April 2016 – 30 April 2017 have been published, showing limited enforcement activity, focused on specific issues such as zero rating. The effectiveness of the regulation in tackling network neutrality will have to be monitored carefully in the coming months.

- Above the logical layer are *online platforms*. These have been increasingly subject to regulatory attention and obligations during the Juncker Commission, following a trend that also encompasses DG COMP's enhanced activism in competition investigations related to the digital economy. The Commission's Communication on Online Platforms, published on 25 May 2016 identified a number of areas where further attention was considered to be needed. It aims to achieve a level playing field for comparable digital services;³⁴ to ensure that online platforms behave responsibly to protect core values; to foster trust, transparency and ensuring fairness; and to keep markets open and non-discriminatory to foster a data-driven economy. In the mid-term review of the DSM Strategy, the Commission made a commitment to two main actions:³⁵ (i) to prepare actions to address the issues of unfair contractual clauses and trading practices identified in *platform-to-business (P2B) relationships*, including by exploring dispute resolution, fair practices criteria and transparency, then adopted in 2018 and accompanied by the creation of a dedicated observatory;³⁶ and (ii) to ensure better coordination of platform dialogues within the Digital Single Market focusing on the mechanisms and technical solutions for *removal of illegal content*, with a view to enhancing their effectiveness in full respect of fundamental rights. On 1 March 2018, the Commission then issued a Recommendation on measures to effectively tackle illegal content online,³⁷ which builds on an earlier Communication on "tackling illegal content online, towards enhanced responsibility of online platforms", adopted on 28 September 2017, and translates the political commitment of the Communication into a (non-binding) legal form.³⁸

³⁴ COM(2016) 288 final.

³⁵ The Commission's "Europe's Digital Progress report 2017" and the accompanying Communication are available at <https://ec.europa.eu/digital-single-market/en/content/mid-term-review-digital-single-market-dsm-good-moment-take-stock>.

³⁶ For more information, see <https://ec.europa.eu/digital-single-market/en/expert-group-eu-observatory-online-platform-economy>.

³⁷ Commission Recommendation of 1.3.2018 on measures to effectively tackle illegal content online (C(2018) 1177 final).

³⁸ COM(2017) 555 final.

Ongoing discussions are related to the issue of *disinformation* (or commonly referred to as ‘fake news’), another area in which the responsibility of platforms is emerging. An *ad hoc* communication was adopted by the European Commission on 26 April 2018.³⁹ The recent *Cambridge Analytica* scandal has further increased the urgency of online platform regulation, an area in which the EU is well positioned compared to other parts of the world: but so far, a rather cautious soft law approach has emerged.

- At the *application layer*, several policy initiatives have been adopted, ranging from the need to policies in the artificial intelligence domain, but also for the Internet of Things, blockchain architectures and applications; policies for the collaborative economy; and many more. Following an influential report by the European Parliament,⁴⁰ a Commission Communication on “Artificial intelligence for Europe”⁴¹ paved the way for a constructive debate on the ethical, legal and policy challenges of AI, ranging from algorithmic transparency and accountability to auditing, liability and non-discrimination obligations. The Commission also adopted a coordinated plan on AI that announced an increase in investment in this emerging, general purpose technology for up to €20 billion per year, adding EU and national efforts together. Regarding a seemingly disruptive and high-potential development, i.e. Distributed Ledger Technologies, a new Hub and Observatory have been launched by the European Commission, alongside several initiatives in DG GROW, DG CONNECT and DG FISMA. The European Parliament (STOA) has also been active in this field. The key challenges here are understanding the scalability, latency and security problems of existing blockchain and distributed ledger technologies; their risks in terms of abuse of power and violation of privacy; and their evolving governance, which seems to move towards permissioned ledgers, rather than purely ‘trustless’, ‘permissionless’ architectures.
- For what concerns the *content layer*, key initiatives have been launched on copyright reform and the information society directive, the audiovisual media services directive, and the future of culture and media policies. The battle over copyright cannot be considered as settled, and the need for more consistency in fields such as user-generated content and text and data mining appear to be urgent, if Europe is to reap the benefits of the data-driven economy. More generally, in many sectors that are being permeated

³⁹ COM(2018) 236 final.

⁴⁰ European Parliament, Report with recommendations to the Commission on Civil Law Rules on Robotics.

(2015/2103(INL)), 278 January 2017.

⁴¹ COM(2018) 237 final, 25 April 2018.

by the digital economy there will be a need to carefully discuss data policy, in particular when incumbent players (e.g. energy companies, or banks) are asked to share their data portfolios with new entrants, which may end up being large tech platforms.

- On top of these layers, a number of ‘horizontal’, cross-cutting policies were launched by the Commission, but many of them have remained pending. These include:
 - The *General Data Protection Regulation*, which entered into force in May 2018, promises to revolutionise the internet environment by imposing new obligations for the processing and treatment of personally identifiable information. The GDPR, aims to protect EU citizens from privacy and data breaches through an increased Territorial Scope (extraterritorial applicability), rather harsh penalties (up to 4% of annual global turnover or €20 million); requirements for explicit consent by data subjects to the treatment of personally identifiable information; breach notification obligations; a right to access and port one’s own data; the right to be forgotten; ‘privacy by design’ provisions; and the obligation for a subset of data controllers and processors to appoint a Data Protection Officer.
 - The Commission has been active also in proposing a revision of the *ePrivacy Directive* (often referred to as the ‘cookie law’), which would turn it into a regulation. The proposal, presented in January 2017, aimed to align the text with the scope of the GDPR, and improve it in light of technological developments (i.e. the advent of the Internet of Things). But the proposal proved to be extremely controversial, and was significantly delayed in the political debate, to the extent that it may be left to the next European Parliament.
 - An emerging policy on the *free flow of data*, on which the Juncker Commission first published a communication on “Building a European Data Economy” in January 2017, later followed by a proposed Regulation on the free flow of non-personal data. The latter aims at removing obstacles to the free movement of non-personal data. Together with the GDPR, this Regulation is expected to ensure a comprehensive and coherent approach to the free movement of all data in the EU: however, the boundaries between the two are blurred, and implementation will probably come with the need for clarification. Also, the ‘free flow’ regulation, on which political agreement was

The General Data Protection Regulation, which entered into force in May 2018, promises to revolutionise the internet environment.

reached in June 2018, features a difficult reconciliation with the Cybersecurity package, and maintains that national security will remain a basis for exemption from the free flow.

- Provisions on *network and information security and resilience*, which include the Cybersecurity Act and the Network and Information Security Directive. Both provisions are important, but most likely insufficient steps forward in the creation of a more secure cyberspace in Europe. The NIS Directive contains legal measures to boost the overall level of cybersecurity in the EU by ensuring the presence of a Computer Security Incident Response Team (CSIRT) and a competent national NIS authority in each member state, and a framework to support and facilitate strategic cooperation and the exchange of information among member states, which includes a new CSIRT network. The Cybersecurity Act, on which political agreement was reached on December 11, 2018 reinforces the mandate of the EU Agency for Cybersecurity (ENISA) and establishes an EU framework for voluntary cybersecurity certification.
- *Provisions on Digital Taxation*, which include VAT for e-commerce and the new proposed 3% digital tax on the global turnover of specific large tech platforms adopting advertising-based online business models or online marketplace models.
- *Other horizontal provisions* (e.g. state aids for broadband, competition policy provisions). In particular, the application of competition policy to online markets remains very sensitive in the academic literature and in the daily practice of competition enforcers. Issues such as market definition, the interpretation of the notion of dominance and the related abuse, and even more importantly the selection of appropriate remedies appear to be in need to a redefinition, if EU institutions wish to preserve the effectiveness of antitrust laws.

Moreover, the Commission has been active in shaping new policy for the EU *digital transformation*. New initiatives are being launched on 'Industry 4.0', or

The Commission has been active in shaping new policy for the EU digital transformation, or the fourth industrial revolution.

the fourth industrial revolution that is being triggered by the development of the Internet of Things and by advanced connectivity powered by sensors, nanotechnologies and mobile broadband (4G, and in the future 5G). The underlying idea is that if Europe is able to strengthen its leadership in key sectors of the

industrial economy such as embedded systems, mobile communications and others, it will be able to play a key role in the future of advanced manufacturing. And it will generate important savings and efficiencies by creating new, more

flexible supply chains based on smart equipment, smart and responsive objects, and highly reconfigurable product lines. The energy savings, productivity increases and profit opportunities of a transition towards Industry 4.0 are very significant, or at least are presented as remarkable by the German government, which launched an *Industrie 4.0* initiative back in 2011 and is currently implementing it actively. At the same time, the transition to Industry 4.0 is presented as likely to create new jobs: not only is the internet, often described as creating 2.6 jobs for every job it destroys; but in the case of Industry 4.0, the prospects for ‘mass customisation’ should in principle lead to a proliferation of new jobs in the value-added services sector, rather than in manufacturing.

Finally, major steps were taken during the Estonian presidency on the digitalisation and interoperability of public administrations in Europe (Tallinn Declaration, 2017). This, coupled with the Commission’s initiatives on eID and interoperability (ISA2), is one of the most promising avenues for strengthening multi-level governance and increasing the cost-effectiveness of administrations at all levels of government in Europe.

Progress achieved, and ways forward

The Juncker Commission has been very active in industrial policy, innovation policy and digital policy. However, progress towards the achievement of the DSM has been patchy, and many proposals are still pending, and likely to end up in trilogue settlements. The same applies to industrial policy and research and innovation policy initiatives, which await the opinion of the Parliament and the Council. While the change of guard between Commissioner Oettinger and Gabriel during the mandate may have affected the timeline of the Commission’s work, there are probably other reasons for the partial failure of the DSM project. To be sure, the Juncker Commission has shown a determined turn towards more aggressive internet policy, which led to growing tensions with US tech giants and a not-so-hidden desire to make space for European champions in the near future (e.g. the platform-to-business proposed regulation; the antitrust investigations on Google and Amazon; the ePrivacy proposed regulation). In this complex landscape, the GDPR appears as the poster child of this generation of EU policy: strict, rather burdensome, extraterritorial and bold. Whether the GDPR will represent a landmark example for future EU regulation, remains to be seen. The GDPR entered into force only recently, on 25 May 2018, and accordingly it is still very difficult to judge whether its relatively strict

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provisions will become a global standard, or even whether they will be fully and homogeneously complied with at the EU level.

The next Commission: a wish list for more agile, integrated, and sustainable digital industrial policy

The next five years will see the emergence of a new technology stack, composed of enhanced connectivity (including 5G wireless connectivity), high-performance computing (including edge, fog, quantum computing), pervasive artificial intelligence, blockchain technologies and the Internet of Things. Governing this transition is essential for research, innovation, education, and industrial policy. Most likely, Europe will not get a chance to compete with other

Europe could position itself as a leader in Responsible AI, as well as in specific industrial settings, such as B2B industry platforms, and new spaces in automotive.

giants such as the US and China on all aspects of the new digital economy; however, Europe could position itself as a leader in Responsible AI, as well as in specific industrial settings, such as B2B industry platforms, and new spaces in automotive (e.g. automated vehicles), as well as in healthcare, energy, and public services sectors. Governing the transition is also essential for sustainable development, if all these emerging

trends are approached with a view to enabling a more sustainable European society by 2030.

The complexity of the challenge calls for a bold reform in the way the EU institutions approach this policy. Key initiatives that should be considered by the next Commission include the following:

- At the infrastructure layer, the EU should focus mostly on setting updated targets for member states, and centralising spectrum policy in view of a swift adoption of 5G wireless broadband. So far, the e-communications code seems to have provided old answers to old questions: without a more coordinated policy for mobile ecosystems in various industry sectors, the enormous power of the IoT-enabled economy will vanish, leaving Europe as a laggard in what used to be one of its leading industries.
- A homogeneous, consistent, efficient policy for data-driven innovation in Europe requires several clarifications and interpretations at the crossroads between GDPR, free flow of data, copyright/TDM, ePrivacy and cybersecurity. The lack of data has emerged as a key issue for many entrepreneurs, large and small companies, willing to use innovative techniques such as machine learning. To be sure, data is more accessible today than it was in the past, but not all players in the market can have access to the same amount of data, and this may stifle the competitive dynamics in

specific markets, or create collective action problems in others. It is of utmost importance that governments adopt open data policies, by making large datasets available to the public, possibly in formats that are interoperable with existing machine learning software. So far, data held by government and data from publicly-funded research are still largely unavailable for researchers, entrepreneurs and companies willing to engage in data-driven innovation. The free flow of data in the single market should be promoted, in line with the European Commission's recent communication on the matter. At the same time, possible exceptions to the free flow, for example based on national security stances, should be interpreted narrowly to avoid disproportionate disruptions of data flows.

- Almost inevitably, there is a need for skills and competences in data science and IT, areas in which Europe seems to be unable to produce the needed talent, as well as unwilling to attract it from non-EU countries (see the chapter "Labour Market and Social Policy").
- The next Commission should work on the launch of an ambitious 'AI for good' strategy linked to SDGs and coupled with strong, innovation-friendly ethical guidelines. The AI strategy could include the investment in the creation of a 'CERN for AI', or a similar distributed excellence centre for research, education and technology transfer in a field that is increasingly strategic for Europe.
- Horizon Europe, to be launched in 2021, should see the launch of new Missions, one of which should ideally be a 'Mission on digital transformation'. This will be a unique chance for the EU to merge education, research, innovation and industrial policy into a consistent, multi-level endeavour towards governing the digital transition. Milestones could take a very concrete form (e.g. "reskilling 50% of the EU workforce by 2024"), thus creating an immediate impact on European citizens in terms of visibility of the EU and its relevance, and added value. Mission IT could incorporate existing initiatives such as CLAIRE, ELLIS, HumanE AI Flagship, and AI4EU.
- Future policies for the digitised industry should include a remarkable emphasis on experimentation. This may follow two tracks:
 - *Experimenting with new technologies/business models/delivery modes*, and blending funding instruments and schemes to run experiments. A notable example in this respect would be the upcoming pan-European blockchain platform;
 - *Experimenting with policy solutions*, by engaging in techniques such as randomised controlled trials, rapid prototyping, scenario testing,

and virtual and actual sandboxes, which are creating a new role for policymakers in the digital era.

- Europe should launch a major initiative to transform public administrations by fully implementing the 2017 Tallinn Declaration on e-Government, stepping up ISA2 by making interoperability mandatory for all administrations, and creating a public blockchain governed by public administrations at all levels of government in the EU (Bouyon, Nucciarelli and Renda, 2019).
- Finally, and most importantly, the EU should strive to strengthen its cyber defence capabilities if it wants to have a chance to compete at the global level,

Europe should launch a major initiative to transform public administrations and most importantly, the EU should strive to strengthen its cyber defence capabilities.

and improve the life of its citizens by harnessing the potential of the digital transformation. This will most likely require the creation of a European Cyber Defence Agency with executive responsibility, built around 'core activities' that could be carried out with greater efficacy and/or efficiency through centralisation (Griffith et al., 2018). The new Agency would need to develop the core operational capabilities needed for

preventing or withstanding a cyber incident occurring within the EU, including detection, technical attribution, and crisis response capabilities. This is absolutely necessary since, in the long term, stronger EU defence capabilities cannot be achieved through a largely segmented, multi-level governance model (the 2017 Cyber Security Package) or merely through the creation of a coordination mechanism (a cyber defence coordinator akin to the EU Counter-Terrorism Coordinator). The creation of an EU Cyber Defence Agency effectively addresses both the limitations of the current EU approach and ecosystem (fragmentation, a solely advisory role, and limited resources) as well strategic and operational considerations for developing a cyber defence posture more broadly.

Key priorities for the next Commission

- Create a Digital Single Market and position the EU as a leader in responsible AI and specific industrial settings (e.g. B2B platforms, automated vehicles, healthcare, energy, public services sectors)
- Develop a consistent, efficient policy for data-driven innovation in Europe (GDPR, free flow of data, copyright/TDM, ePrivacy and cybersecurity)
- Launch a major initiative to transform public administrations into e-governments and strengthen EU cyber defence capabilities by upgrading ENISA to an operational cyber defence agency

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LABOUR MARKET AND SOCIAL POLICY

The mega-trends of digitalisation and automation have already changed the landscape of labour markets and value chains around the world, with their inevitable economic and social consequences. And the pace of change is accelerating; job markets and skills requirements are evolving faster than traditional labour market practices and institutions. But what exactly are these changes, and how will governments, industry leaders, social partners and workers react to them?

The current Commission has initiated substantial research and analysis into the topic, and the next incumbents should decide how to take this research forward. In order to make informed decisions, policymakers should bear in mind a number of issues.

To begin, the jobs of today require constant ‘up-skilling’ to stay abreast of new technologies and business strategies. No longer can one leave education and perform the same job for ever. Employers, social partners and governments are engaged in dialogue to find suitable policies to ensure workers retain an up-to-date skillset. A key question remains: who is responsible for funding such initiatives – employers, governments, social partners, or some combination of actors?

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Moreover, the types of jobs now in demand require new skillsets. This is forcing educators to re-evaluate mandatory courses, with an emphasis on developing digital proficiencies at an early age. In fact, CEPS research has found that job ads, even for traditional, lower-skilled professions demand at least basic digital skills (Beblavý et al., 2016).⁴² Mastering such skills is thus important regardless of industry, experience or age.

Despite efforts to improve education and training, many tech firms in Europe still face significant challenges to find enough qualified workers. Filling the demand for skilled labour is likely to remain a key policy challenge for the

⁴² See Demand for Digital Skills in the US Labour Market: The IT Skills Pyramid, <https://www.ceps.eu/node/12055>.

foreseeable future. Yet failing to do so would mean that Europe will miss out on an excellent opportunity for economic growth and technological innovation.

Furthermore, digitalisation and automation mean that mainstays of the job market are less secure than before. While there is little consensus on the magnitude of these effects, it is clear that labour markets are adjusting and old jobs are disappearing, as new types of jobs emerge. More sophisticated IT systems are allowing more complex processes to be automated. Outsourcing is easier than it has ever been, and is even possible for individuals at a micro level. For processes that cannot be automated or outsourced, many firms favour contracting work out rather than hiring new employees. This has resulted in a significant increase in self-employment in many of Europe's largest labour markets, notably Germany.

The European Pillar of Social Rights (EPSR) was a flagship initiative of the Juncker Commission to give the EU a stronger social face, intended to balance the Economic and Monetary Union with a social dimension, promoting inclusion and fairness along with economic growth.

While these transformations affect the European labour market, the EU faces a profound crisis on several fronts, which has eventually led it to reconsider its role in promoting EU citizens' social rights and living standards. In this regard, the European Pillar of Social Rights (EPSR) was a flagship initiative of the Juncker Commission to give the EU a stronger social face, intended to balance the Economic and Monetary Union with a social dimension, promoting inclusion and fairness along with economic growth (Lorcher and Schömann, 2016; Muñoz, 2019).

Adopted in November 2017, the EPSR is rather weak in terms of the outcomes generated. The time left until the end of the Juncker Commission mandate was indeed too short to deliver concrete actions in a field where the EU is progressively but still timidly assuming a role that goes beyond its traditional proclamations and values. The Social Fairness Package of March 2018, including a proposal for a European Labour Authority, a Council recommendation on access to social protection for all workers and the self-employed, and a communication on monitoring the implementation of the EPSR, was the first step towards concrete legislative and coordination action after the EPSR proclamation. These proposals are currently under discussion, together with the possibility to establish a European Social Security Number, as was announced as a follow up to the implementation of the EPSR.

The Social Fairness Package of March 2018 was the first step towards concrete legislative and coordination action.

To keep the aims of a ‘social Europe’ on track, the key challenge for the next Commission and Parliament will be to transform the 20 principles of the EPSR into implementable actions. If it fails to do so, this important document will gather dust and not impact EU citizens’ lives.

The first step would be to come up with the solid justification, supported by the empirical evidence wherever possible, of the necessity and opportunity of the EU social dimension, because this is still controversial. Member states are still reluctant to allow the Union to encroach upon this traditionally national competence.

In addition, to move from declaration to delivery, it is necessary to undertake a careful assessment of the instruments that the EU could put in place to pursue the EPSR principles. While EU legislation⁴³ already promotes some of these, further EU funds and budget allocation could be the key to creating the conditions for these principles to translate into practice. For principles that are already assigned EU co-funding in order to complement member state policy, however, further EU coordination by means of hard and soft EU law could serve to strengthen and harmonise the implementation of such principles at national level. Fine-tuning the EU instruments to implement the EPSR, and their optimal combinations, is an important challenge, which requires significant ad hoc research, continuous feedback mechanisms from civil society and social partners, and a constructive political debate. Yet, it remains the key to successful implementation, avoiding disappointment and a waste of resources.

However, part of the challenge of implementing the EPSR and building common EU ground for social policy relies on overcoming heterogeneity between the member states in this field. A key strategic decision could be to determine whether the way forward is to aim for harmonisation (or at least continuous upward convergence) or rather to acknowledge and preserve this heterogeneity and put in place concrete actions to limit negative phenomena such as social dumping and so-called benefit tourism that discredit the Social Europe project.

Finally, the challenge is about taking into consideration the ongoing changes in the labour market while putting in place implementation measures, to ensure that these measures are well designed for any eventuality. Promoting a horizontal approach to social protection and addressing people’s social rights before, during and after working life, the EPSR seems consistent with the changing nature of work and, specifically, with the need to ensure social protection in self-employment and non-standard forms of employment, which

⁴³ An overall picture of the EU legislation to promote social rights is reported in the EC Staff Working Document on The EU social acquis, <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52016SC0050&from=EN>.

are growing apace in the European labour force. Yet this makes its implementation even more ambitious and would require a profound change in national social protection systems that may encounter additional obstacles.

In pursuing empowerment, fairness and social inclusion, the EPSR pays specific attention to gender equality and equal opportunities, which, in spite of considerable action undertaken at EU level, still seem to require extra efforts to achieve an equal European society for men and women.

Indeed, in recent decades, the EU has already put in place several instruments to promote gender equality⁴⁴ and has constantly monitored the gender issue in the labour market (European Union, 2015). However, considering the still-high gender pay and employment gaps in all EU member states (European Union, 2018), it is clear that such efforts have not delivered satisfactory results.

To trigger deeper change in the labour market and in society at large, growing attention has been paid to moving beyond equal treatment and non-discrimination and towards promoting inclusion and diversity. This requires understanding and accepting differences, as well as adjusting to different needs and attitudes at work, to support and facilitate women's employment.

The next EC and EP will need to incorporate this new concept in their labour and gender policies, to strengthen and boost its actions in this field. This will require transversal and coordinated efforts that go beyond purely labour market interventions and will involve every aspect of society if they are to address embedded social norms and rules. Policies in this direction require a long timeframe to assess impacts, which make them hard to plan carefully, evaluate and thus defend. Yet such actions are needed to eradicate the roots of gender inequality that are ultimately behind sexual harassment and violence in European society.

European Unemployment Insurance

While Europe is slowly recovering from one of its most severe crises, there have been widespread calls for reform. These calls have focused on the Economic and Monetary Union (EMU), whose fundamental weaknesses were exposed in the global financial crisis of 2008 and subsequent eurozone crisis. With the inception of the EMU, countries lost control over their monetary policy, which is now managed centrally. National fiscal policy has remained in place and has widely

⁴⁴See for example the Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32006L0054&from=EN>.

been believed to gain in importance as a mechanism to prevent economic shocks and mitigate their impact on employment and incomes. Yet during the crisis, this combination of monetary and fiscal policy fell short. Other instruments, including labour mobility or wage flexibility, were not so powerful either. Market failures, current account imbalances and spillover effects raise additional concerns.

While there is a broad expert agreement that the EU (or at least the eurozone) would benefit from a macroeconomic stabilisation function and the Five Presidents' Report gave this argument political support, there has been no decisive action by the Juncker Commission on either the European Unemployment Benefit System (EUBS) or any other form of stabilisation instrument. The new Commission should move this issue forward and either take action or put it to rest.

In the report by Beblavý and Lenaerts (2017), the authors concluded that a EUBS would complement rather than substitute the other instruments and market mechanisms. A EUBS could be designed in many ways to achieve specific policy objectives. A fundamental distinction is that between the equivalent and genuine EUBS variants. Both the genuine and equivalent EUBS variants have their merits, and the choice of one of them would be based on political grounds.

A genuine EUBS pays out benefits directly to any eligible unemployed individual, collects contributions from employers and employees (who contribute an equal share) and functions continuously. These variants would Europeanise the existing national schemes and thus require considerable harmonisation among them. Harmonisation and minimum standards would be essential for the stabilisation capacity of the EUBS and would help to mitigate moral hazard.

A EUBS could contribute to macroeconomic stabilisation and efforts to address unemployment, encourage labour mobility, stimulate upward convergence and support the further development of a 'Social Europe'.

Equivalent EUBS variants function very differently: all financial transfers would occur between the supranational fund and the member states (which would only receive a pay-out when the EUBS is triggered). The equivalent EUBS would thus 'reinsure' the existing national unemployment benefit schemes (NUBS). Equivalent EUBS could leave a lot of flexibility to member states, but crucially this would depend on the extent to which conditions are imposed on

governments' scope to spend the funds received from the supranational fund and whether there are minimum standards for the NUBS.

A EUBS could contribute to macroeconomic stabilisation and efforts to address unemployment, encourage labour mobility, stimulate upward convergence and support the further development of a ‘Social Europe’ along several dimensions. In general, the stabilisation impact of EUBS is found to be fairly limited due to the small scale of the scheme (which would typically be less than 1% of EU GDP) (Beblavý and Lenaerts, 2017). Equivalent EUBS variants generally perform better in stabilisation terms than genuine EUBS variants. This finding can be explained by the focus of the equivalent EUBS on the crisis years, while genuine EUBS would operate continuously.

Other findings that result from the simulations are that experience rating and clawback are effective mechanisms to prevent permanent transfers.

Labour mobility and migration

The last decade saw a doubling of intra-EU labour mobility. The free movement of persons is one of the key pillars of the Union, but growing mobility also brings challenges – e.g. attempts by some member states to limit social benefits to foreign workers – and also potential solutions – namely a proposal by the Commission to establish European Labour Authority.

The European Labour Authority is an ambitious idea with fundamental objectives such as the facilitation of information access for individuals and employers, supporting cooperation between member states in the enforcement of cross-border Union law, and mediating solutions in cases of cross-border disputes. As the European Labour Authority is not yet fully operational, it will be during the mandate of the next Commission that the organisation takes full shape. It is thus important to maintain momentum if the new organisation is to meet its expectations in the coming years.

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As regards the migration of third country nationals, most of the debate in Europe revolves around refugees and the disagreements about burden-sharing across member states. The recent experience of a rescue boat (Aquarius) carrying more than 600 refugees denied entry by Italy and Malta again showed the diverse attitudes of current governments towards third country nationals, even when they migrate for humanitarian reasons. Therefore, it is very important that migration and asylum policies are agreed at the European level, where each member state takes its fair share of the burden (see the chapter “A New Start for EU JHA Policies?”).

While the number of arrivals of asylum-seekers has decreased over the last year compared to the peak of 2015, the challenges of successful integration

of refugees into the labour markets and social life of host countries are ever present. Migrant women especially lag behind in participating in the labour market and social life in general. Language barriers persist despite efforts to counter them. To this end, targeting integration at the local level (e.g. at the city or municipality) could be a way forward. Moreover, despite the varying reasons for migration (family, economic or study), the foreign-born populations in Europe also face integration challenges as differing experiences of employment (e.g. in terms of wages and employment rates) compared to native-born workers persist, albeit to differing degrees across member states. Overall, failing integration risks putting pressure on member states and drives extreme political discourse.

Whatever the outcome of Brexit, the status of EU citizens working in the UK and of UK citizens working in the European Union will be an economically important and politically sensitive issue for years to come. A number of EU governments have unilaterally declared that UK citizens currently residing in their countries have nothing to fear, but how future migration flows between the UK and the European Union countries will be organised remains an open question. In principle, this is not an issue for the Union, but rather for national governments. However, the future Commission should at least consider coordinating an exchange of information and the policy response of national governments.

Key priorities for the next Commission

- Agree on the need, instruments and method to implement a European Pillar of Social Rights and a Social Fairness Package
- Advance the debate on European Unemployment Benefit System (or any other form of stabilisation instrument) and take action
- Support the establishment and operation of a fully fledged European Labour Authority

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REDEFINING THE ENERGY UNION

Originally proposed by then Polish Prime Minister Donald Tusk in 2014 as a call for Europe to unite to “end Russia’s energy stranglehold”,⁴⁵ ‘Energy Union and climate – making energy more secure, affordable and sustainable’ – has been identified as one of the Juncker Commission’s ten political priorities. The European Commission has acknowledged that energy matters for many areas such as the economy, security, the environment, social cohesion, local development and is therefore also an area for European solidarity.

While the original Tusk proposal has been framed in the context of external security, the Juncker Commission elevated Energy Union alongside other ‘unions’ to become a mission statement. With strong support from the European Parliament and (mainly but not only) Central and Eastern European

The Juncker Commission adopted a political and strategic perspective on energy for the first time.

member states, the Commission adopted a political and strategic perspective on energy for the first time. This was in contrast to the previously largely market-led policies. By this change in approach, the Juncker Commission has managed to forge a new consensus on climate

change after the previous compromise had broken down following the failure to reach a global climate change agreement in 2009 in Copenhagen. This new consensus was achieved by linking the agendas of the internal energy market and climate change to security of supply, solidarity, infrastructure and innovation. The choice of issues is partly a reflection of competences under Article 194(2) TFEU on energy, but also attempts to mirror member state political priorities. Energy security is, for example, high on the agenda of Central and Eastern European as well as to a somewhat lesser degree, peripheral member states. The construction of interconnectors and gas and electricity, which

⁴⁵ Donald Tusk, “A united Europe can end Russia’s energy stranglehold”, FT 21.04.2014. Although Donald Tusk referred mainly to natural gas, many Central and Eastern European countries also depend on Russian oil and therefore are vulnerable to pipeline conflicts such as between Russia and Belarus. In addition, the three Baltic republics’ electricity grids continue to be fully integrated into (‘synchronised’ with) the Russian power grid.

increases energy security yet also fosters market integration, had also long been demanded by many peripheral member states.

To address inevitable trade-offs, the Juncker Commission has pursued a number of strategic political actions, often to directly accommodate member state interests. Worth mentioning in this context are the Baltic synchronisation of the electricity system of the EU, the France-Spain electricity interconnector, the proposal to harmonise EU rules on gas import pipelines in the context of Nord Stream 2, the screening of foreign investment, the European Battery Alliance or the Central and South East European Connectivity Initiative (CESEC).

Initially in the Political Guidelines, the aim of ‘Energy Union’ remained vague and appeared as a left-over handed down by Tusk. The perhaps unexpected acceleration of the Energy Union strategy can also be interpreted as a means to regain the initiative following the October 2014 European Council. The conclusions were unprecedentedly prescriptive and detailed so that, originally, it left very limited room for manoeuvre for the Commission. By enlarging the scope of energy and climate to ‘Energy Union’, the Juncker Commission took back some room for manoeuvre.

Finally, the Juncker Commission had to contend with the constitutional limitation of the EU’s energy competences under Article 194(2) TFEU: that important energy policy decisions need to be taken by unanimity in the Council. An example of the Commission’s prudent approach has been to not pursue the idea of joint gas purchasing, which, though part of the original Tusk proposal, would have been very divisive and possibly impossible to reach agreement on.

An example of the Commission’s prudent approach has been to not pursue the idea of joint gas purchasing.

Attempts to reduce barriers in the EU’s electricity market further with the “Clean Energy for All” package had some success, but fell short of constituting a breakthrough. The new Commission may well have to tackle this again.

Working methods

Energy Union does not only mean catering to different member state priorities. It also means effective integration of the various policy strands, e.g. energy security, decarbonisation, market integration, innovation etc., or, as it was put at the time, “breaking down the silos”. There have been some successes.

A first pointer can be found in the Energy Union strategy communication of February 2015 where the five priority areas⁴⁶ were labelled as ‘dimensions’ instead of ‘pillars’, the previous terminology used. Language however matters only if followed up by action. There has been a strong coordinating role of the Vice-President for Energy Union and the creation of teams among cabinet members. Nevertheless, it took the strengthened role of the Secretariat General in cooperation with the President’s cabinet and the European Political Strategy Centre (EPSC) – at the expense of the Commission’s services – to ensure the high-level orientation of the 2015 strategy on Energy Union. In general, it can be said that the EPSC has played a major role in identifying and communicating the high-level priorities of the Juncker Commission in the field of energy and climate change.

A second indicator for a more strategic approach than in the past has been the process of writing the 2015 Energy Union strategy communication. Early drafts were still in the mould of the traditional approach, whereby each unit of the various DGs is allowed to put their priorities in the final documents, often supported by interest groups and the European Parliament. For example, a version from January had more than 40 ‘Actions’, many remarkably detailed and often of a technical nature. The final document consolidated the numerous actions into 15 high-level action points. The more detailed initiatives were later published as Annexes in the State of the Energy Union communications.

An interesting innovation was the Vice-President’s Energy Union Tour where he visited all member states twice to discuss national stakeholders’ energy policy priorities, cross-border questions and to increase, in the Commission’s own words, “ownership by all parts of society”. While the political impact of the Energy Union Tours is difficult to judge, it has contributed to raising the profile of energy and climate issues such as integration of renewables, interconnectors, security of supply or long-term implications of the transition to the low-carbon economy.

A successful EU ETS reform?

While the October 2014 European Council adopted the climate and energy framework for the period until 2030, i.e. when the current 2020 package expires, the groundwork had already been laid by the Barroso Commission in a green paper from March 2013.⁴⁷ A major element of the 2030 framework would be the

⁴⁶ Energy security, solidarity and trust; a fully integrated European energy market; energy efficiency contributing to moderation of demand; decarbonising the economy; and research, innovation and competitiveness.

⁴⁷ COM/2013/0169 final.

future of the EU's carbon market, i.e. the EU Emissions Trading System (ETS). The EU carbon market is the biggest such market in the world and it has repeatedly been dubbed the EU's flagship policy. At the same time, impact was limited given the very low prices, stemming from the structural oversupply legacy of the economic crisis. Still, at the same time, Europe's energy-intensive industry was complaining of costs undermining its competitiveness, for example vis-à-vis non-EU competitors.

The revision process of the EU ETS was launched with the July 2015 Commission proposal. Initially, it was intended to focus on the competitiveness of industry, in particular by revising the carbon leakage risk mitigation measures; i.e. who obtains the limited number of free allowances. This fitted with the Juncker Commission's approach of emphasising the industrial policy dimension of climate policies. While the Commission's idea was to treat price and oversupply issues separately from cost and competitiveness issues, this artificial split did not work. When final agreement between the Council and EP was reached in November 2017, it was the additional reform of a supply mechanism, the so-called Market Stability Reserve⁴⁸ that attracted most attention. The issues of supply and competitiveness were thus tackled jointly, deviating from the original Juncker idea (Elkerbout, 2017).

It was notably pressure from a number of member states (mostly in north-west Europe, including France and the UK) that led to a stronger Council position and the idea of strengthening the supply mechanism in the ETS revision. The Commission and Parliament followed the member states' lead, not the other way around – a somewhat uncommon feature. A more strategic approach by the Commission might have seen the necessity of a simultaneous treatment of the supply mechanism and competitiveness issues at an earlier stage. It could also be that the Juncker Commission underestimated the interest of European finance ministers in higher ETS prices, as revenues largely accrue to their budgets.⁴⁹

What the EU ETS revision did not address in a structural manner is how to safeguard the competitiveness of industry in the long run, with a perspective beyond 2030. With fewer allowances available as time goes on, free allocation –

⁴⁸ A central element of reform has become to bring 'demand' into balance with 'supply', via a supply mechanism. The reasoning is that demand is flexible, for example depending on economic activity, weather, technology costs but also policy, while supply is largely inflexible. For many years, the Commission has been opposed to supply mechanisms for fear of a politicisation of the carbon market.

⁴⁹ Following the reform, allowance (EUA) prices have quintupled compared to the lows of 2017 and have since stabilised around €20/tonne, up from €4-5. At current prices and with an annual auction volume of around 800 million, this results in about €16 billion in revenues for the 28 member states.

of allowances as a compensation for additional costs – is not a sustainable long-term solution. Free allocation, moreover, also reduces incentives to reduce emissions. With the deep emission cuts required, large-scale investments in low-carbon technology are required in industries that face strong international competition. If European companies are to make transformative low-carbon investments, the question is who will buy their products if the option remains to import functionally equivalent, but more carbon-intensive alternatives from outside the EU. Halfway through the ETS revision process, there was some tentative movement towards addressing this issue with the proposal to include cement imports into the EU ETS. While the environment committee of the European Parliament was supportive of the idea, it was later dropped. Likewise, the idea of border taxes based on carbon contents occasionally resurfaced without really making it onto the political agenda.

Back into the trenches?

In order to deliver on its political priorities, the Commission resumed its ‘daily routine’ in the form of the legislative process. The proposal on the ETS revision was followed by the so-called ‘Winter Package’, later renamed as the ‘Clean Energy For All Europeans’ package establishing the climate and energy framework for the period until 2030 and, to round it up, the Clean Mobility Package in several steps.⁵⁰ All these packages in themselves consisted of several legislative proposals. The ‘Clean Energy Package’ alone was in excess of 4,000 pages of documentation. It included 8 legislative proposals on areas as diverse as market design, renewable energy, energy efficiency, a specific governance structure, the reorganisation of the European energy regulator, ACER or the security of the electricity grid. Naturally, this necessitated a return to the silos, given the endless complexity of the proposed legislation.

Communication and spin

As under the previous Barroso Commission, communication occupied centre stage, with the concomitant risk of excessive hype. For example, the ‘Clean Energy Package for All Europeans’ package – this name was adopted relatively late in the process – was presented by the Commission as a sign of European global leadership. In reality, the Clean Energy Package was intended to make the European electricity market fit for the ever increasing uptake of renewables in the period up to 2030. While this is an important and worthy task, it still falls short of the self-declared objective of “creating the conditions for sustainable jobs, growth and investment”. There are questions on whether the Package will

⁵⁰ COM(2017) 675 Final – Delivering on low emission mobility.

indeed unlock investment. That the measures from the Clean Energy Package would “equip all European citizens and businesses with the means to make the most of the clean energy transition”⁵¹ seemed optimistic in the first place, even if it had been adopted as the Commission had proposed. The communication offensive on the Clean Energy Package also seems responsible for making the proposal record-breaking in terms of size; this may have overwhelmed Europe’s legislators.

Brexit

The Juncker Commission responded quickly to the challenges created by Brexit in a two-fold manner. On the island of Ireland, Brexit poses risks for the operation of the integrated all-Ireland electricity market, which has been fully operational since the autumn of 2018. This was recognised by both parties as requiring cooperation to ensure its continued operation irrespective of the outcome of the Brexit talks.

On the EU ETS, the Commission undertook steps to mark UK-issued allowances and shift the compliance dates for 2019 to avoid a situation where UK operators would no longer have a compliance obligation to surrender allowances, but still be in the possession of allowances which, if sold simultaneously, could disrupt the functioning of the ETS market. Climate and energy issues were also included in the Withdrawal Agreement, with the end of the transition phase (at the end of 2020) coinciding with the end of the ETS 3rd trading phase as well as the 2020 target horizons, thereby limiting disruption (Elkerbout, 2016).

The Commission managed to obtain a mandate from the European Council to propose a “strategic long-term vision” for a climate-neutral economy, with a view to 2050. This can be seen as a Juncker Commission ‘legacy paper’.

Looking ahead

In the beginning of 2018, after much hesitation by member states, the Commission managed to obtain a mandate from the European Council to propose a “strategic long-term vision”⁵² for a climate-neutral economy, with a view to 2050. This can be seen as a Juncker Commission ‘legacy paper’ towards the end of its term and which the incoming Commission will inherit. The long-term greenhouse gas emission strategy is partly an update of the original 2011

⁵¹ European Commission Press Release IP/16/4009 of 30 November 2016.

⁵² COM(2018) 773 final, “A Clean Planet For All”.

‘roadmap’ towards a low-carbon economy. At the same time, it is meant to kick-off an EU discussion on possible pathways to reach the EU’s mid-century climate objectives. In 2011, the aim was to reduce greenhouse gas emissions by 80-95% by 2050. In the updated strategy, some scenarios aim to achieve net-zero emissions by 2050 (Elkerbout and Bryhn, 2019).⁵³ Such an update has become necessary in light of the 2015 Paris Agreement but also because of dramatically falling technology costs for, e.g., renewables and batteries.

The current EU legislation – for 2020 and 2030 – conforms to a pathway leading to 80% emissions reductions by 2050, was established well before the adoption of the Paris Agreement, which is generally considered ambitious due to its aspirational 1.5°C and “well below 2°C” temperature targets. The Special Report on the 1.5°C temperature target of the Intergovernmental Panel on Climate Change (IPCC) provides further impetus to account for the latest climate science in the EU’s climate strategy.

The first objective for the next generation of EU incumbents is to provide direction to future secondary climate and energy legislation, taking into account the changes in technology and the international climate policy landscape.

Against this background, the first objective for the next generation of EU incumbents is to provide direction to future secondary climate and energy legislation, taking into account the changes in technology and the international climate policy landscape. On the technology side, the new long-term strategy will provide insights into the different technology clusters and associated infrastructure that the Commission

sees as necessary (and viable) for reaching long-term climate objectives. It is hoped that with a clear and credible mid-century strategy, public and private investment in the low-carbon transition should both be more attractive.

A second priority should be on low-carbon technologies in the EU, i.e. a discussion on the strategic perspective initiated by the Juncker Commission of approaching climate, energy, and industrial policy in an integrated manner. The energy transition, driven by carbon constraints, would then become the vehicle to modernise the European industrial economy, with the competitiveness of industry underpinned by low-carbon energy and technology. This integrated approach, with a clear industrial dimension, also naturally fits with the more strategic political approach taken with the Energy Union.

Thirdly, the updated strategy deals with the EU’s long-term target by updating the options for the 2050 climate objective. The European Council will

⁵³ With a net-zero greenhouse gas emissions target, any remaining emissions should be balanced by ‘carbon removal’, e.g. carbon sinks such as forests which absorb carbon dioxide from the atmosphere.

need to choose a pathway that is either still somewhere between 80-95% emission reductions, or the more ambitious net-zero target. The Commission highlighted the importance of the net-zero goal, by linking it to the Paris Agreement's 1.5°C temperature target. The EP already endorsed the net-zero goal earlier in the year. With a net-zero objective, any emissions that are left by 2050 would need to be compensated by negative emissions, i.e. the sequestering of CO₂ in the atmosphere, or offset by reductions outside the EU.

Finally, this also reopens the question of what proportion of the emissions reductions should be undertaken domestically. In the European Council conclusions of October 2014, the heads of government agreed that the EU's target of "at least 40%" reductions by 2030 was to be achieved strictly within the EU. Unlike in previous years, when the Kyoto Protocol was still the leading international framework, no international credits (or offsets) would be allowed. But in the future the use of offsets may be seen as more attractive, when stringent targets of beyond 80% might need to be achieved.

The choice of whether to fulfil climate targets domestically or not is a strategic choice that can only reasonably be made at the highest political level. What is notable, however, is that the European Council

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agreed on a number of far more detailed provisions on how climate and energy policies should be shaped. This includes statements on the annual reduction in the cap of the ETS, the design of free allocation provisions, and the exact limits of flexibility mechanisms available to member states to reach emissions goals under the effort sharing framework.

In its legislative proposals, the Commission closely followed these European Council conclusions. But whereas the consensus decision making of the European Council shows strong political backing for a course of action, the high degree of detail also blurs the line between 'political guidance' and the role of the co-legislators. Even if in some cases the Council and Parliament ultimately moved away from some of the specifics of the October 2014 conclusions, they nevertheless held a strong gravitational pull during the legislative process.

Addressing this trade-climate nexus remains a crucial challenge for the future. Without the reasonable prospect of a profitable market, large-scale private investments in low-carbon technology will remain elusive. The Commission did address industrial investment on the side of project funding by proposing a larger Innovation Fund. Nevertheless, the more structural barrier to investment is not so much the availability of funding as it is the necessity for clear business cases to justify these large low-carbon investments, knowing that

non-EU competitors may not face equally stringent climate policy signals for some time to come.

“This time is different”?

The Juncker Commission started with the slogan “this time is different”. There was a difference in that political priorities were followed up by concrete and focused initiatives. Not all were successful. But this gave the impression that the Juncker Commission did not shy away from opposing any member state if required. Nord Stream 2 is a case in point. Although the German and Austrian governments insisted that Nord Stream 2 is a purely commercial project, the Commission kept highlighting the political nature of the project. In the end, the German government started to acknowledge the political implications and engaged in a high-level political process, initiated and chaired by the European Commission.

By focusing on strategic issues, the Juncker Commission has managed – over time – to integrate energy, climate, economic and industry policy, although with some hiccups such as in the EU ETS. Cooperation between the various Directorates-General has improved with the effect of better integration. While for many years, climate policy in the EU was driven by the international climate change negotiations, the predominant focus of energy policy has been the completion of the internal market for electricity and gas, including infrastructure and the security of the electricity and gas systems. Industrial policy, on the other hand, was concerned with the competitiveness of various sectors and their growth and jobs. One of the successes of the Juncker Commission has been to link the three policy areas together. At the same time, it is fair to say that some seeds for better integration had been sown by the Barroso Commission, for example through the May 2014 European Energy Security Strategy, the Green Paper on the 2030 climate and energy framework, or several energy prices and costs studies to improve evidence for the energy sector. This should, however, not be to decry the improvements that the Juncker Commission has achieved by focusing on strategic issues. On the climate side, however, the conservative approach of the Commission’s proposals and its sequencing had a more short-term horizon.

The publication of the EU long-term strategy for climate and energy at the end of November 2018 should turn attention back to longer-term strategic issues. The main objective of the strategy is to give concrete meaning and identify practical steps in moving towards a modern, competitive and clean – meaning both low-carbon and low-emission – economy embedded in a European industrial strategy. By initiating and leading the long-term strategy, the Commission will also avoid the October 2014 situation, where the European

Council tried to put the Commission in a straitjacket with unprecedentedly prescriptive and detailed conclusions.

Key priorities for the next Commission

- Approach climate, energy and industrial policy on low-carbon technologies in an integrated manner
- Implement the 2018 strategy for a climate-neutral economy (2050)
- Support the European Council in choosing a pathway that is either between 80-95% emission reductions or the more ambitious net-zero target

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2030 AGENDA: TIME TO WALK THE TALK

Looking at current trends such as the resurgence of nationalism in politics, deteriorating rule of law in some European countries, new protectionist stances and tariff wars in trade, short-termism in social policy and reiterated denial on climate change, the agreement reached in September 2015 by 193 countries on the Sustainable Development Goals (SDGs) seems to belong to a very distant era in human history. Indeed, much has changed since then, with the United States reaching a record low in its commitment to SDGs, Brazil entering a new era of

The pursuit of the SDG agenda, orphan of any strong political will, now looks more to technological breakthroughs and global private initiatives than to the alignment of political agendas in leading blocs. The next Commission will have to shift gear to achieve the intended progress.

populism and China struggling to show leadership on environmental, and, even more, social, achievements. Moreover, additional risks have emerged: compared to 2015, digital technologies and platforms, such as increasingly pervasive artificial intelligence and powerful social media and collaborative platforms threaten the achievement of social goals such as decent, let alone full, employment; as well as the proper evolution of the democratic process. The pursuit of the SDG agenda, orphan of any strong political will, now looks more to technological

breakthroughs and global private initiatives than to the alignment of political agendas in leading blocs.

Recent reports have confirmed that, with the exception of Scandinavian countries, all high-income countries are far from a trajectory that would lead them to achieve the 17 SDGs, and struggle in particular with four objectives related to sustainable consumption and production patterns, climate action, aquatic life and life on land. On the environmental side, almost 200 nations at the 24th Conference of the Parties in Katowice avoided a 'no deal scenario' and finalised rules for tracking efforts to meet emission reduction targets. However, only one tenth of these nations seems to be seriously oriented towards stepping up investment in clean-energy research and development by 2021; and both the IPCC and the International Energy Agency have recently announced that data for the first nine months of 2018 point to a record increase in carbon emissions.

The EU, as a bloc, has not been sufficiently able to step up its efforts to date: the next Commission will have to shift gear to achieve the intended progress.

The Juncker Commission and the SDGs: five years of roller-coaster politics

Although sustainable development is considered a fundamental and overarching objective of the EU, enshrined in Article 3 TEU, and despite the existence of an EU strategy since 2001 and a set of Sustainable Development Indicators since 2005, the salience of this strategy at the highest political level had never been particularly strong before the launch of the 2030 Agenda: indeed, the EU was heavily criticised for lacking ownership and governance (Gregersen et al., 2016). The self-evident pragmatism shown by the President in *de facto* replacing the Europe 2020 agenda with the “ten priorities” (Renda, 2015) appeared antithetical to the adoption of a more ambitious, far-reaching sustainability agenda. New legislation had to fall in one of the ten baskets, with no exceptions, and the relatively poor state of the economy in the first years of Juncker’s mandate jeopardised the adoption of courageous plans for the initially invoked “Triple A” in social policy. Internally, the Commission appeared divided in its Vice-Presidential structure, with the First Vice-President showing determination to pursue a sustainable development agenda, and others more oriented towards growth, or resilience. Similarly, emphasis on social and environmental goals has been weak in the semester, as well as in important policy dossiers. Such internal division was nurtured by the publication of the White Paper on the Future of Europe, which outlined both a Scenario 4 (“doing less, more efficiently”); and a scenario 5 (“doing much more together”), which in and of itself looked more consistent with the adoption of a sustainable development agenda. Paradoxically, the more prominent advocate of a deepened European Union, First Vice-President Timmermans, was asked to chair a Task Force on Scenario 4, which ended with a partial boycott (by the EP) and a very inconclusive report silently published in mid-2018. The existing misalignment between EU and national policies on matters related to SDGs has continued, and became even wider in some cases (Ashford and Renda, 2017).

In this overall context, the European Commission has shown, at least in theory, strong commitment towards the SDGs.⁵⁴ In November 2016, a series of communications outlined the future agenda for 2030, centred on SDGs. The Commission presented the new agenda as a joint initiative with member states

⁵⁴ But EEB: “Three years after the international community agreed on the 2030 Agenda and the SDGs, President Juncker still refuses to bring himself to even mention sustainability or the Global Goals”. At <https://eeb.org/launch-of-the-manifesto-for-a-sustainable-europe-for-its-citizens/>.

and many different actors, aimed at fostering a stronger, more sustainable, inclusive and prosperous Europe. Most importantly, in the Communication “Next steps for a sustainable European future”, the Commission made clear its intention to mainstream sustainable development in European policies: this includes, most notably, the European Semester, the EU Budget, and the better regulation agenda. Such mainstreaming, however, has remained on paper: the 2030 Agenda plateaued and gradually disappeared from the radar during the following two years. This does not mean that the EU has remained inactive in pursuing sustainable development in Europe: only, the way in which progress has been pursued remained patchy and lacking an overall, consistent, coordinated, multi-level strategy as the ‘mainstreaming’ idea would have implied.

Examples of demonstrable commitment towards the SDGs are numerous, and include the creation of a multi-stakeholder platform on SDGs, which finalised its contribution to an upcoming Commission reflection paper in September 2018, highlighting the need for a more

In November 2016 the Commission proposed a new Consensus on Development, aimed at updating the aid response to current global challenges and promoting the implementation of the 2030 Agenda in partnership with developing countries.

comprehensive and coordinated EU strategy. In specific policy domains, achievements have been notable. For example, the Commission pursued sustainable development in recent trade agreements such as those with Canada, the Andean Community and Central America, in which *ad hoc* advisory groups were set up to monitor the implementation of sustainable development provisions.⁵⁵ Also, in November 2016 the Commission proposed a new Consensus on Development, aimed at updating the aid response to current global challenges and

promoting the implementation of the 2030 Agenda in partnership with developing countries; in addition, among other initiatives, the Commission strengthened its “Everything but Arms” arrangement in 2014 and endorsed the Arms Trade Treaty, which is believed to have the potential to contribute to SDG 16 (peace, justice and strong institutions). Importantly, on the ‘home front’ the Commission presented the new Pillar of Social Rights in November 2017, a broad framework articulated around 20 principles and rights essential for fair and well-functioning labour markets and welfare systems in 21st century Europe, and contemplating far-reaching initiatives such as the establishment of a European Labour Authority, actions on work-life balance for parents and carers, a Directive on transparent and predictable working conditions, and a reform of the rules on social security coordination. On the environmental side,

⁵⁵ <http://ec.europa.eu/trade/policy/policy-making/sustainable-development/>.

the Commission adopted an ambitious “Plastics Strategy”, and subsequently tabled a proposal for a new Directive banning a range of single-use plastics and to ensure that producers will pay the clean-up costs, which was almost unanimously backed by the European Parliament (91.5% of the votes), but is proving way more controversial in Council and, consequently, in the trilogue.⁵⁶ Perhaps most importantly, the Commission also relaunched its ambitions in emissions reduction by proposing a net-zero emissions 2050 strategy at the end of November 2018, thus becoming the first major player to respond to the worrying findings of the most recent IPCC report, and outlining eight different scenarios to achieve the stated goal by 2050.⁵⁷ The Commission will now have to consult with member states before delivering the final EU strategy to the UNFCCC. And, while several member states already committed to net zero emissions in 2050, and a few of them (Germany, France, the Netherlands, Sweden, Finland, Portugal and Luxembourg) call for a faster transition to a clean economy, countries like Poland are still reportedly planning the construction of new coal-fired power plants; and also Slovenia, the Czech Republic, Estonia and Ireland appear to lag behind in terms of overall progress and commitment towards a cleaner economy.

All in all, there has been no shortage of initiatives that, either explicitly or implicitly, could be subsumed under the umbrella of the SDGs. However, the ‘mainstreaming effect’ has not been visible in all policy areas. For example in the area of investment policy, the first Juncker plan (EFSI) has been heavily criticised for devoting almost 30% of its energy loans (€1.85 billion) to fossil energy, and for massively funding carbon-intensive transport like motorways and airports. And the reform of the Common Agricultural Policy, presented by the European Commission in November 2017, is considered to be insufficient to achieve the full potential of agriculture to contribute to the SDGs, which ended up being little more than a must-have preamble in an otherwise excessively timid reform. Lack of alignment and coherence is also visible in apparently distant policy areas: for example, the Commission seems likely to miss the opportunity to promote the development of artificial intelligence in relation to SDGs: the current agenda and coordinated plan on AI adopted in December 2018 are focused on EU “competitiveness”. Not surprisingly, this can have important

⁵⁶ If the Directive will be significantly watered down, the EU will be unlikely to contribute to several SDGs and reach some of its most resounding environmental commitments such as reducing most common types of marine litter by 30% by 2020; and ensure the recyclability of all plastic packaging by 2030. Council amendments regarding Extended Producer Responsibility (EPR, Article 8) and the separate collection target for plastic bottles (Article 9) would be adopted.

⁵⁷ https://ec.europa.eu/clima/sites/clima/files/docs/pages/com_2018_733_analysis_in_support_en_0.pdf.

effects on the ability of the EU to achieve the SDGs: looking at the development of AI and robotics from a growth or GDP perspective is very different than approaching them through the lens of the SDGs. The latter approach would reveal substantial impact on the environment (SDGs 7 and 13); inclusive growth, full and productive employment, and decent work for all (SDG 8); quality education (SDG 4), women’s empowerment (SDG 5), poverty (SDG 1) inequality (SDG 10) and goals on industry, innovation and infrastructure (SDG 9).

The most important testbed for the EU’s commitments is certainly the negotiation on the next multiannual financial framework (MFF), which came with ambitious plans for climate mainstreaming across all programmes. The

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underlying idea is that new institutions such as the Urban Investment Support service (URBIS) and regional investment advisory hubs will help in steering the use of funds towards the clean energy transition. So far, the European Parliament has shown it fully backs the proposed mainstreaming of the SDGs in the new EU budget, and advocated that “the proclamation of

the European Pillar of Social Rights and the commitment from the EU and member states to ensure a more social Europe should be supported by adequate financial resources”; and “that, following the Paris Agreement, climate-related spending should be significantly increased compared to the current MFF and reach 30% as soon as possible and at the latest by 2027”.⁵⁸

This patchwork of initiatives, still lacking full coordination, is reflected in the state of advancement of the EU towards the SDGs. Recently, in a stocktaking exercise of progress achieved over the past five years, Eurostat found that progress was strongest for SDG 3 (‘Good health and well-being’), SDG 4 (‘Quality education’) and SDG 7 (‘Affordable and clean energy’); slow or inexistent on other SDGs, and even negative on SDG 10 (‘Reduced inequalities’), due to the continued rise of income inequalities within member states.

The next Commission: shifting gear to shape a fully fledged EU 2030 agenda

The European Commission has promised to publish a reflection paper on SDGs by the beginning of 2019. It is clear that a stocktaking of EU positioning towards the 2030 Agenda leads to the need for a considerably more comprehensive and coordinated, multi-level policy towards the 17 goals. Inevitably, the salience of

⁵⁸ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2018-0075+0+DOC+XML+V0//EN>.

the SDG agenda in the next legislature will partly depend on the political coalition that prevails in the elections: depending on the outcome, the next Commission may enter a period of denial, or one of renewed commitment. Below, we assume that the SDG agenda will remain relevant and prominent in the EU following the elections.

First, the EU will have to construct the overall foundations for a comprehensive EU 2030 agenda based on sustainable development. This implies:

- Stepping up the prominence of the SDG agenda in the Commission: in particular, the President should be in charge of advancing the agenda, and report on its progress in the SOTEU speech.
- The finalisation of the work ongoing in Eurostat and the JRC to convert the SDGs into EU, national and regional SDGs, to be adopted as benchmarks for cohesion policy, the European semester, and better regulation methodology.
- The adoption of a comprehensive EU 2030 agenda based on sustainable development, which attributes clear commitments to the EU, national and regional levels, in an attempt to 'localise SDGs';
- The introduction of clear SDG-related conditionality in the allocation of cohesion funds, as well as i.a. in the approval of InvestEU projects;
- The full re-orientation of the better regulation agenda towards the 2030 Agenda: this implies different mechanisms compared to the current reliance on cost-benefit analysis. In particular, the impact of new legislation on all SDGs should be provided, along with rules to solve trade-offs between SDGs in case such trade-offs emerge (e.g. employment v. environment); and guidance on which SDGs are non-negotiable in case of trade-offs (e.g. gender; equality; rule of law).
- A reform of the European Semester to ground it in SDGs, introducing conditionality to this end: national reforms that worsen the conditions of workers (see, e.g. Hungary's recent reform of its labour code), significantly deviate from emissions reductions plans, or deviate from the rule of law, etc., should trigger negative recommendations and eventually sanctions and infringement procedures at the EU level. To this end, the new productivity boards that member states were asked to appoint by May 2018 (currently still pending in many member states) should not work only in the direction of productivity-oriented reforms, but rather SDG-oriented ones.

First, the EU will have to construct the overall foundations for a comprehensive EU 2030 agenda based on sustainable development.

- Make the 2030 Agenda the basis for a new EU narrative, in which the EU “leaves no one behind” and promotes the SDGs with concrete impacts for society. This requires strengthening communication on progress and failures on the way to a more economically, socially and environmentally sustainable society by 2030; and co-creating SDG-related strategies at the local, national and EU level with citizens and civil society.

Second, efforts should be made to align sectoral EU legislation towards the SDGs. This is also essential because the next five years are likely to see a transformation of many industry sectors and markets due to the spread of a new ‘technology stack’ composed of high-performance computing, artificial intelligence, the Internet of Things, 5G communications, and partly distributed ledger technologies. This new wave of innovation will not, *per se*, bring good news for the SDGs. As a matter of fact, enabling technologies must be carefully steered by governments in order to ensure alignment with sustainability goals (Renda, 2019, AI Task Force report). The following initiatives would be essential:

Second, efforts should be made to align sectoral EU legislation towards the SDGs.

- At sectoral level, it would be important to perform an analysis of the potential for various policy areas to contribute to SDGs, and then launch consistent REFIT initiatives based on a new SDG-compatible methodology, which would entail the evaluation of the alignment of entire policy areas towards 2030 goals. In this respect, food policy, energy policy, transportation policy and manufacturing policy appear to be the most likely to affect the viability of the EU 2030 agenda in the years to come, together with more horizontal areas such as sustainable finance.
- Launch an initiative to explore ways in which digital technologies can help Europe achieve its 2030 goals: the potential is enormous, from agriculture to transport, healthcare and climate: a coordinated plan would be needed to identify most relevant ways to achieve synergies between policies, and to maximise the co-benefits of possible policy actions.
- Step up ambition in reforming the CAP, by addressing issues like precision agriculture, data-driven agriculture, but also existing gaps in the proposed reform such as combatting obesity and type-2 diabetes through regulatory measures and behavioural insights; and addressing inequality (read: unfair and uneven farm payments) and climate change in a more convincing way.

- Adopt sectoral plans in sectors like manufacturing, transportation, energy to establish data-sharing and joint commitment rules, including clearer competition policy and intellectual property rules for cases of SDG-oriented collaboration between competitors.
- Launch concrete “Missions” in Horizon Europe, oriented towards significantly advancing on a number of SDGs. Horizon Europe, still under consideration in the European Parliament and the Council, is explicitly rooted in the SDGs and foresees the launch of a limited number of “moonshots”, i.e. ambitious, exploratory and ground-breaking projects such as achieving plastic-free oceans; reducing the burden of dementia; and tacking CO₂ emissions in the largest cities. In this respect, as observed by the ESIR advisory group in its latest memorandum, it would be essential to adopt missions that advance on as many SDGs as possible, and incorporate education, research, innovation and industrial policy components.⁵⁹ One good example would be an ambitious mission on the digital transformation of industry, accompanied by key targets for the re- and up-skilling of the workforce in Europe, and an experimental space for welfare policies aimed at mitigating the impact of job automation (e.g. robo-taxes, Universal Basic Income, etc.).

Key priorities for the next Commission

- Assume responsibility at the level of Commission President to advance a comprehensive EU 2030 agenda based on sustainable development
- Adopt benchmarks for cohesion policy, European semester and better regulation methodology and introduce clear SDG-related conditionality in allocation of cohesion funds, as well as in the approval of InvestEU projects
- Align sectoral EU legislation towards the SDGs

⁵⁹ <https://publications.europa.eu/en/publication-detail/-/publication/8ffe2509-fc2f-11e8-a96d-01aa75ed71a1/language-en>.

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KEY POLICY PRIORITIES 2019-2024

When the Juncker Commission took over in 2014, it appeared that fault lines in the construction of the Economic and Monetary Union were responsible for the main problem of the day: the euro crisis. This tendency to see internal reform as a key was reinforced by the so-called ‘refugee’ crisis (cf. the Dublin system). Today, both these crises seem ‘dormant’ and external challenges have shown the value of the Union in an uncertain world. The internal convulsions in the UK political system have also transformed Brexit from a potentially lethal sign of dissatisfaction with the EU into an illustration of its importance.

In many respects, the Juncker Commission has been perceived as being more ambitious than the Barroso Commission, as shown, for instance, in the case of the proposed quotas on migrant relocation, the idea of the need to create a common ‘European Minister for Economy and Finance’ and an ‘EU army’, or the proposal to introduce QMV in the area of taxation.

President Juncker sought to distance himself from his immediate predecessor, who was generally perceived as a technocrat deferential to national leaders. Juncker’s proposition that his Commission was “highly political” can be seen as an attempt to counter widespread negative perceptions of a distant and unaccountable institution and give the Commission more democratic legitimacy. At the same time, Juncker used the notion of the ‘political’ Commission to be bolder in its agenda-setting function vis-à-vis the European Council.

Critics have levelled the accusation that being ‘political’ leads to a less rigorous application of the rules. Also, there are claims that the Commission moved too close to party politics. Indeed, strong institutional bonds between the European Parliament and the European Commission entail a certain ‘politicisation’ of the process, which means that the appointment of the Commission President becomes a partisan matter. Making this position an instrument of party politics might be dangerous, as it could erode the Commission’s role as a guardian of the treaties in which it is supposed to serve the general interest independently. Favourable treatment of individual member states has fuelled this argument, for instance regarding the assessment of national budgets under the Stability and Growth Pact, which was treated more ‘flexibly’ by the current Commission.

The best way to assess the Commission's track record might be to gauge how successful the institution was in guiding proposals through the entire decision-making machinery of the EU. All of the bold proposals mentioned above were met with hostility from part of the European Parliament and the member states. By the end of 2018 the Commission had submitted almost all of its announced proposals (94%, i.e. 519 of 551 proposals), but in fact only about 50% of those had been adopted.⁶⁰ The other half is either 'proceeding normally' (36%), 'close to adoption' (5%); or 'proceeding slowly or blocked' (9%). Even if most of those yet to be adopted files are categorised as 'proceeding normally', it seems unlikely that a majority of those 200 proposals can be adopted by April 2019, when the European Parliament meets for the last time in its current composition.

Unfortunately, there is no means of direct comparison of these figures to the scores of previous Commissions, as this is the first time that the EP has run such a systematic screening of the Commission's activity. Nevertheless, when comparing 2014 ambitions with results and realities in 2019, one could say that outputs were more in line with the Commission's relatively unambitious scenario No. 4 ("doing less more efficiently"), as mentioned in the 2017 White Paper on the Future of Europe and developed by First Vice-President Frans Timmermans under the so-called 'Better Regulation' agenda.⁶¹ It goes to show that, as the sole holder of the right of initiative, a 'political' Commission cannot be too bold in its proposals; it must anticipate what will fly with the other institutions and be able to organise majorities.

During Juncker's tenure, the role of the European Commission in many a crisis-affected area has been overshadowed by political initiatives coming mostly from the member states and the European Council. In key areas such as economic governance, migration and rule of law, for instance, the Commission's dual role as initiator of legislative proposals and guardian of the treaties has been diminished, either by choice, or by a de facto more pro-active Council, voicing stronger national views. It is difficult to imagine how the future could be different from the recent past.

Whether one wishes the next Commission to continue to go down the path of being 'political' depends on one's understanding of the concept of European

⁶⁰ <http://www.europarl.europa.eu/legislative-train>.

⁶¹ The attempt by the European Commission to strengthen evidence-based policymaking throughout the ordinary legislative procedure, outlined in the proposed Inter-Institutional Agreement on Better Law-making presented in May 2015, was coldly received by the other EU institutions, and the final version of the Agreement (dated May 2016) did not lead to major innovations in the coordination of policymaking among the three major institutions. See Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making, OJ L 123, 12.5.2016, p. 1-14.

democracy. Yet these are times of increasing nationalism, informalisation and exceptionalism, leading to a growing importance of intergovernmental decision-making and the (European) Council as a central decision-maker. Arguably, this is not fertile ground for the concept of a political Commission and the federal vision of EU democracy that it carries.

Regardless of the political coalition that will prevail after the European elections, further progress in many EU policy fields is likely to be limited. Divisions within the European Parliament and between the member states are likely to be wider and deeper, thus limiting political capital for controversial proposals. This should not discourage the next incumbents at EU level from being ambitious. Yet they should be more realistic in setting the agenda for the future of Europe.

It would help if the next European Commission were to distinguish policy priorities for the period 2019-2024 between those of a 'housekeeping' nature to keep the Union on the course of steady progress, and those geared to more 'fundamental' areas, where there is a need to bolster the basic principles on which the Union's community of law is built or full cooperation with the Council is required to change the speed and/or direction of the integration process to strengthen the EU's strategic autonomy. At the same time, the next Commission should take greater care in forging a coherent policy agenda. This applies as much to the social dimension of EMU and the (digital) single market as it does to the nexus between climate, energy and industrial policy (as exemplified by the need for a true Capital Markets Union). Finally, Juncker's successor would do well to maintain the current Commission's more hierarchical and clustered structure as it stimulates coordination between DGs and consistency in implementing a multi-level strategy for the next legislature.

Fundamentals First

- Set up a new EU Periodic Review on Democracy, Rule of Law, Fundamental Rights covering all member states, complemented by a new 'EU Rule of Law Commission'
- Adopt and implement a 'Migration Union' based on more intra-EU solidarity and supervision, including a fully fledged operational EU Asylum Agency, European Border and Coast Guard
- Reform the services market, create a digital single market and position the EU as a leader in responsible AI and specific industrial settings
- Strengthen EU cyber defence capabilities by upgrading ENISA to an operational cyber defence agency
- Develop a new concept which gives more strategic content and profile to neighbourhood relations
- Normalise the triangular trade relationship with the US and China by, inter alia, concluding envisaged bilateral agreements
- Support the European Council in choosing a pathway that is either between 80-95% emission reductions or the more ambitious net-zero target

Housekeeping

Justice, Rights and Security

- Move from 'crisis mode' to 'normal' course of action in line with mandate in the Treaties
- Work towards the establishment of a new European Border and Asylum Service
- Ensure that EPPO moves from 'enhanced cooperation' to a fully fledged EU body with all relevant EU member states participating in its mandate and activities
- Construct and develop a principled and trust-based policy approach to counter terrorism

Europe in the world

- Prioritise pre-accession preparation of the Western Balkan countries and reset relations with Turkey on a strategic footing
- Implement functional collaborative steps towards a 'European Defence Union'
- Work for the preservation and modernisation of the global trading system (incl. the WTO and the creation of a Multilateral Investment Court under UNCITRAL)
- Continue to 'split' exclusive (EU-only) FTAs from 'mixed' Investment Protection Agreements

Economy and finance

- Return to the 'non-political' Commission in the area of economic policy: the exercise of discretion in the application of the Treaty on fiscal rules has been detrimental to the credibility of the Commission and weakened its position vis-à-vis the Council
- Refocus effort: not enough attention is being devoted to identifying the roots of emerging divides between member states
- Deliver the missing elements of economic governance reform: completion of the banking union, creation of a euro area budget and a true Capital Markets Union, empowering European supervisory authorities

Single market

- Develop a deeper and 'fair' single market in an even-handed and comprehensive manner
- Support member states in improving domestic governance, promotion and enforcement of the single market
- Develop a consistent, efficient policy for data-driven innovation in Europe (GDPR, free flow of data, copyright/TDM, ePrivacy and cybersecurity)
- Launch a major initiative to transform public administrations into e-governments by implementing the 2017 Tallinn Declaration
- Agree on the need, instruments and method to implement a European Pillar of Social Rights and a Social Fairness Package
- Advance the debate on the European Unemployment Benefit System (or any other form of stabilisation instrument) and take action
- Support the establishment and operation of a fully fledged European Labour Authority

Energy, climate and sustainable development

- Approach climate, energy and industrial policy on low-carbon technologies in an integrated manner
- Implement the 2018 strategy for a climate-neutral economy (2050)
- Assume responsibility at the level of Commission President to advance a comprehensive EU 2030 agenda based on sustainable development
- Adopt benchmarks for cohesion policy, European semester and better regulation methodology and introduce clear SDG-related conditionality in the allocation of cohesion funds, as well as in the approval of InvestEU projects
- Align sectoral EU legislation towards the SDGs

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INSTITUTIONAL REBALANCING: THE 'POLITICAL' COMMISSION

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A NEW START FOR EU JHA POLICIES?

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NEIGHBOURHOOD, SECURITY AND DEFENCE POLICIES

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THE EU'S TRADE AND INVESTMENT POLICY

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ECONOMIC GOVERNANCE AND ECONOMIC POLICY

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FINANCE FOR SUSTAINABLE GROWTH

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THE SINGLE MARKET: WORKHORSE FOR EU PROSPERITY

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DIGITAL ECONOMY, INDUSTRY AND INNOVATION

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REDEFINING THE ENERGY UNION

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2030 AGENDA: TIME TO WALK THE TALK

Andrea Renda

Ahead of the 2019 institutional reconfiguration of the EU is a fitting moment to take stock of the European integration process and decide which priorities should define the strategic agenda of the next generation of incumbents.

While acknowledging that the entire EU collective is concerned – member states and institutions alike – this report is addressed to the one actor that has a more direct role in fleshing out the policy agenda for Europe: the European Commission.

This report assesses how the ‘last chance Commission’ of President Juncker has fared; whether it has followed the ten guidelines it set out at the beginning of its mandate; how far it was blown off course by critical events; and whether we might see the return of a ‘political’ Commission in the second half of this year.

Against the backdrop of global trends and deepening divisions between member states and within the European Parliament, the contributors to this report distil key policy priorities in areas that will determine the future European Union, from the single market and the rule of law to migration, external security and climate change.

Thanks to its wide research coverage of EU policy and strong in-house expertise, CEPS is uniquely placed to comment on these issues and recommend action.



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