



## Edition n° I



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## **A Note from the Editor in Chief**

European Studies Review was founded with the aim of providing a forum for students and recent graduates with interest in European Studies to express their opinion and publish pieces of original research. Indeed, in the current political climate, the voices of young people have been pivotal in effecting change around the world; Europe is no different. Around Europe, there are students with visions of the Europe they believe in and are actively working to pursue that ideal. This journal aims to be a small contribution to helping young people achieve their potential.

Since the creation of the journal in October 2020, the European Studies Review team have been overwhelmed with the interest and support in our project. The journal would not have been possible without it. Similarly, the work of the entire European Studies Review team has helped in the realisation of this first edition of this new and exciting journal.

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We are currently accepting articles for our January edition. The deadline to be included is 30 December. We are also accepting articles for our website on an ongoing basis. Articles can be sent to [europeanstudiesreview@gmail.com](mailto:europeanstudiesreview@gmail.com).

Thank you to everyone who has supported us thus far, and we hope you enjoy our first edition.

Aoife Griffin

Founder & Editor in Chief



# The Influence of Mahatma Gandhi on Romain Rolland's Vision of a United Europe

Veronica Burgstaller

In this first issue of *European Studies Review*, I would like to seize the occasion to go back somewhat into history to the First World War and interwar period and look at the role of intellectual thought in envisioning a united Europe. This short exposition will introduce the thinker, intellect<sup>1</sup>, activist, writer and music lover - Romain Rolland (1866-1944) and his efforts to transcend the nationalist thinking that has pervaded Europe during a period of rupture and unrest. At the beginning of the 20th century Europe was confronted with internal turmoil, but also with challenges to its supremacy from the outside.<sup>2</sup> It had to, even if reluctantly, engage itself with the alternative visions and aspirations of the 'South' or 'East'. However, the kind of Saidist Orientalism whereby the 'East' and the 'West' were put into comparative frameworks and the context of the 'East' was unique and not applicable in the European context pervaded much of the thinking in Europe. It was Romain Rolland who set out to popularize the leader of the non-violence independence movement in India with his biography *Mahatma Gandhi*<sup>3</sup> in 1924. His biography of Gandhi, however, is not merely an introduction to the life and philosophy of Gandhi but should be seen as a criticism of the narrow thinking and division present in Europe. Through a reading of *Mahatma Gandhi* and the correspondence<sup>4</sup> of Rolland between Gandhi as well as on Gandhi, it will be argued that Rolland took Gandhi as an example of how a non-violent revolution and harmonization of differences could take place in Europe, and the Indian experience allowed him to articulate and give form to what he saw was lacking in Europe.

If what is lamentable in the academic field of (European) history then it is the tendency to focus too much on what Jeronimo and Monteiro call the trinity of *great* events, *great* powers and *great* characters<sup>5</sup>. This does not deny a positive trend towards a greater acknowledgement

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<sup>1</sup> In this essay, the intellectual will not be defined, since it does not deal as much with the role of intellectuals in society, but rather with how cultural exchanges influences the formation of an individual's philosophy and thinking

<sup>2</sup> The Russian defeat in the Russo-Japanese war of 1904-05, a wave of independence movements in Africa and India

<sup>3</sup> Romain Rolland, *Mahatma Gandhi*, Paris: Librairie Stock Delamain et Boutelleau, 1929.

<sup>4</sup> Romain Rolland, *Gandhi et Romain Rolland: Correspondance, Extraits du Journal et Textes Divers, Cahier 19*, Paris: Editions Albin Michel, 1969 (hereafter cited as *Correspondance*)

<sup>5</sup> Miguel Bandeira Jerónimo and José P. Monteiro, "Parts to be Unveiled: The Interconnections Between the International and the Imperial" in *Internationalism, Imperialism and the Formation of the Contemporary World*:



of the Spatio-temporal particularity of experiences by nations and states. Nevertheless, there is still a lack of studies on the role of individuals who do not necessarily take on political leadership positions. Thus Akira Iriye calls upon an alternative concept to the power-focused and nation-centric framework of international relations, by proposing the term cultural internationalism and looking at the endeavor of individuals to envisage alternative communities of nations through cultural exchanges.<sup>6</sup> Internationalism here can be “an idea, a movement or an institution”<sup>7</sup>. Rolland’s engagement with Gandhi’s activism and doctrines is an example of how intellectual exchange cross borders, influence an idea that was thought to be only solvable by Europeans (by an understanding of European philosophy and history), and help introduce and popularize a non-European thinker.

Born 29 January 1866 in Clamecy, France, Romain Rolland moved to neutral Switzerland at the outbreak of the First World War in 1914 where he spent many years observing the war and writing and developing his pacifist thoughts. During his life, he became an author of numerous essays, theater plays, biographies, kept a detailed diary and corresponded regularly with other intellectuals. His efforts for conciliation amongst Europeans, pacifism and idealism in his works was awarded the Nobel Prize of Literature in 1915<sup>8</sup>. That his name may be unknown to many of our readers, may be due to the fact that he is nowhere celebrated as a national idol, during his lifetime he has insisted on not taking national stances<sup>9</sup>, and there might still be a lingering resentment by the French going back to his apolitical position in the Dreyfus affair, his move to Switzerland when the war started, and his choice of a German for the main character in his book *Jean-Christophe*. Rolland, who was extremely critical of those pacifists who refuse to get actively involved, his idealism was always grounded in a certain pragmatism<sup>10</sup>, engaged himself also in numerous projects. While in France he advocated the *Théâtre Du Peuple* (The People’s Theater) which encouraged the participation of the working-classes in the belief that art could be a basis to create a shared consciousness and unity<sup>11</sup>. His famous *La Déclaration de L'indépendance de L'esprit* (Declaration of the Independence of the Mind) gathered more than hundred signatures of famous intellectuals, scientists and artists such as Henri Barbusse, Albert Einstein, Hermann Hesse, Bertrand Russel

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*The Pasts of the Present*, eds. Miguel Bandeira Jerónimo and José Pedro Monteiro, Cambridge: Palgrave MacMillan, 2018, 8.

<sup>6</sup> Iriye Akira, *Cultural Internationalism and World Order*, London: John Hopkins University Press, 1997, 2.

<sup>7</sup> Ibid, 3.

<sup>8</sup> His award has drawn criticism from the French side when it was announced, for more information of Romain Rolland and the Nobel Peace Prize see, René Cheval, “Le Prix Nobel de Romain Rolland,” *Revue d'Histoire Littéraire de la France* 6 (1976): 912-921.

<sup>9</sup> “*Qui me connaît sait que je ne suis d'aucun groupe, d'aucun parti littéraire ou politique. Ma raison de vivre est d'être en dehors de tous les cadres. ... Si, d'ailleurs, j'inclinai d'un côté politique, ce serait de celui de Mahatma Gandhi*” - Romain Rolland, “Letter to Louise Levi, Villeneuve, 10 January 1924,” in *Correspondance*, Paris: Éditions Albin Michel, 1969.

<sup>10</sup> “*Quel non-sens d'avoir jamais pu confondre ce paroxysme de l'action avec la face ovine des pacifistes passifs !*” - Romain Rolland, “Letter to Georg Lenard, 8 March 1928,” in *Correspondance*, Paris: Éditions Albin Michel, 1969. For an interesting read on Rolland’s pacifism see, Richard A. Francis. “Romain Rolland and the Rejection of Pacifism” *Journal of War & Culture Studies* 2, no.1 (2009): 23-35.

<sup>11</sup> David James Fisher, “Romain Rolland and the Politics of Intellectual Engagement” Berkeley: University of California Press, 1988, 25.

amongst others<sup>12</sup> calling for the independence of the sciences, arts and intellectual thought from government and nationalist sentiments. He contributed to the Red Cross in Switzerland<sup>13</sup>, joined the *Commission Internationale de la Coopération Intellectuelle* (International Committee on Intellectual Cooperation) of 1922 under the aegis of the League of Nations, and founded the literary journal *Europe* in 1923 to celebrate and encourage the humanist spirit in Europe<sup>14</sup>. What is important to note is his belief recurrently found in his missions and essays for the ability of art and music to transcend national boundaries and touch upon all human souls, filling the spiritual void present in Europe. Although not a Christian, he had a Christian upbringing during childhood and thought that the fundamental problem in Europe was the lack of religiosity. This thought was affirmed and further developed when he encountered Mahatma Gandhi in the 1920s.

Studying Gandhi and the events taking place in India, Rolland became acutely aware of the ignorance in Europe vis-à-vis developments in other parts of the world. In a letter to J. Taupin, he notes that not only did one hardly knew the Gandhian movement in India, but one has not even heard that Gandhi successfully led a similar movement against the discrimination of the Indian community in South Africa from 1895 to 1913<sup>15</sup>. For him “*La vieille Europe est atteinte de surdit  .*” How can such a Europe blind by its superiority accept its limits and faults and advance democratically and intellectually? - “[C]ar Dieu sait ce que nous r  serve l’avenir d’une   volution qui n’est plus d  mocratique que de nom!.”<sup>16</sup> For Rolland, Gandhi provided a living example of how one could reconcile practice with theory and how Europe could learn from him. Gandhi, who was in Rolland’s words religious by nature, but a politician by necessity - “*Il est religieux par nature, politicien par n  cessit  ,*”<sup>17</sup> - tried to apply his theoretical ideals of non-violence in praxis with Hinduism as the basis whereby India formed a national consciousness and united its citizens. He explains that there are two stages in Gandhi’s thought: “*des substructions religieuses qui sont consid  rables, et l’action sociale qu’il construit sur ces bases invisibles, en l’adaptant aux possibilit  s actuelles et aux v  ux du pays*”<sup>18</sup>. Important here is that Gandhi’s Hinduism is not a dogmatic reading of the sacred texts, but religious interpretation should take into account the current reality:

<sup>12</sup> Romain Rolland, “La D  claration de L’Ind  pendance de l’Esprit”, 26 June 1919, *Panarchy*, accessed November 19, 2020, <https://www.panarchy.org/rolland/esprit.html>.

<sup>13</sup> Of the price money he received from the Nobel prize he donated 50 000 francs to the Red Cross in Geneva and the rest to French charities, see Rene Cheval “Le prix Nobel de Romain Rolland”, *Revue d’Histoire Litt  raire de la France* 6 (1976), 914.

<sup>14</sup> “*Il est urgent que nous apprenions    regarder plus haut que tous les int  r  ts, les passions, les   go  smes des individus et des groupements ethniques. Il ne peut pas y avoir de victoire remport  e par l’homme contre l’homme. Et les seules conqu  tes durables sont celles qui int  ressent l’universalit   des   tres... L’Europe n’est pour nous qu’une   tape, notre but c’est l’humanit  .*” Ren   Arcos cited in *Europe*, accessed November 19, 2020, <https://www.europe-revue.net/a-propos/>.

<sup>15</sup> “*Le plus inou   n’est pas qu’on connait    peine le mouvement Gandhiste en Inde, mais qu’on ignore que Gandhi a men   h  roiquement le m  me mouvement en S. Afrique de 1895    1913, et qu’il a triomph  .*” - Romain Rolland, “Letter to J. Taupin, 27 January 1922” in *Correspondance*, Paris:   ditions Albin Michel, 1969.

<sup>16</sup> “*... que l’histoire de la civilisation humaine est, plus exactement, l’histoire de civilisations, et que si, dans chaque civilisation on constate un progr  s (variable, chaotique, bris  , parfois arr  t  ), on ne saurait du tout assurer qu’il y ait eu progr  s d’une des grandes civilisations    une autre*” - Romain Rolland, *Mahatma Gandhi*, Librairie Stock Delamain et Boutelleau, Paris 1929, 50.

<sup>17</sup> Romain Rolland, *Mahatma Gandhi*, Librairie Stock Delamain et Boutelleau, Paris 1929, 32.

<sup>18</sup> *Ibid.*, 32.

*“Gandhi croit avec ferveur en la religion de son peuple. l’Hindouisme ; mais non pas en savant, attaché aux textes ; et pas davantage en dévot sans critique, qui accepte aveuglément toute tradition. Sa religion a pour double contrôle sa conscience et sa raison.”*<sup>19</sup>

In this way, he was able to mobilize a whole India and create a society in which different castes and groups co-existed harmonically. Rolland sees in the independence movement under Gandhi, an example that could be applied to Europe<sup>20</sup>. The question for Rolland was then that if Christianity was the religion of the Europeans, how could it be re-interpreted sensitive to the diversity across the European nations and how can faith be restored to the people? He was particularly inspired by a speech Gandhi held in a public session in Lausanne, 8 December 1931, where he expounded on his tenet that God is Truth - *“Dieu est la Vérité”*. He has come to a new conclusion, that Truth is God - *“La Vérité est Dieu”*<sup>21</sup>. This philosophy would encompass even those who call themselves atheists or scientists because they cannot deny their endeavour in the search for the truth. What influenced Rolland most was that for Gandhi, only love could come closest to the truth. Gandhi is aware that love can have several meanings in European thought, certain which are negative, standing in a dichotomous relation to reason. However, the love that Gandhi spoke of is. Rolland rephrases Gandhi in a later correspondence, - *“Amour Caritas - non pas abstrait ou sentimental, mais actif - L’Amour pour le bien des autres êtres, et l’apport de son être propre au service de la communauté.”*<sup>22</sup> Rolland has been preoccupied since the first signs of a war of the lack of faith by Christians in Europe. In fact, it is not that religious sentiments are missing, but that for him the Church has become militant<sup>23</sup>. In his infamous manifesto *“Au-dessus de la Mêlée”* brought forth in 15 September 1915, in which he condemns both sides France and Germany as equally responsible for the war, he also notes that the war is fuelled by the two forces of religion and socialism who have become the most fervent of nationalists<sup>24</sup>. Here, of course, we can note where he departs from Gandhi. Even if he sees that the non-violent movement in India based on a common faith in the love

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<sup>19</sup> Ibid., 33.

<sup>20</sup> *“Et l’Inde non plus n’est pas un “Absolu”. - La grande question aujourd’hui, pour nous tous, chercheurs sincères et désintéressés de la vérité, est de déterminer la mise au point européenne (et mondiale) de l’expérimentation indienne.”* - Romain Rolland, “Letter to Edmond Privat, Switzerland, 5 May 1931”, in *Correspondance*, Paris: Éditions Albin Michel, 1969.

<sup>21</sup> In order to understand how Gandhi developed his understanding of God, I include here a longer excerpt of his speech at the public event as noted down by Rolland: *“Dans ma prime jeunesse, on m’enseignait que les Ecritures hindoues connaissent près d’un millier de noms de Dieu. Mais ce millier de noms ne suffit nullement. Je crois que Dieu a autant de noms qu’il existe de Dieu est sans nom. Et puisque Dieu a beaucoup de formes, nous le considérons aussi comme sans forme. Et puisqu’il nous parle avec beaucoup de langues, nous le considérons comme étant sans parole. ... Avec ceux qui disent que Dieu est l’Amour, je dirai : Dieu est l’Amour. Mais tout au fond de moi, je pensais que quoique Dieu puisse être Amour, Dieu est, par-dessus tout, la Vérité. .... Alors, je trouvais que la plus proche approche de la Vérité se fait par l’Amour. Et quand vous désirez trouver la Vérité en tant que Dieu, le seul moyen infaillible est l’Amour, c’est-à-dire la Non-Violence.”*

<sup>22</sup> Romain Rolland, “Letter to Edmond Privat, Switzerland, 5 May 1931,” in *Correspondance*, Paris: Éditions Albin Michel, 1969.

<sup>23</sup> *“Le sentiment religieux n’est pas en cause. Il y en a beaucoup en Occident : mais il a presque partout le caractère de combat - “eglise militante” ; les livres saints sont déformés par les Etats ecclésiastiques”* Romain Rolland, “Journal de Romain Rolland, Décembre 1931,” in *Correspondance*, Paris: Éditions Albin Michel, 1969.

<sup>24</sup> *“Mais les deux puissances morales, dont cette guerre contagieuse a le plus révélé la faiblesse, c’est le of Rolland’ christianisme, et c’est le socialisme. Ces apôtres rivaux de l’internationalisme religieux ou laïque se sont montrés soudain les plus ardents nationalistes.”* - Romain Rolland, *Au-Dessus de la mêlée*, Paris: Librairie Paul Ollendorff, 1915, 21-38.

for other humans can have revolutionary power, this he ultimately admits is not possible in Europe. Nationalism can free India and restore its voice, but according to Rolland, this is possible within the context of India as one of colonised and colonizer. These doubts begin to foster in the conversations he had with Gandhi in 1931. For Rolland, the enemy in Europe is multifaceted; here nations are not treated equally, small nations suffer under the will of the great nations, Europe faces both a socialist problem and a nationalist problem, in addition to the emergence of a middle class that feeds on the proletariat<sup>25</sup>. Thus later he joins socialism and the anti-fascist movement, becoming disillusioned that non-violence can ever be a fruitful reality, shifting toward a belief that a mass-mobilization of the proletariat is necessary to change the consciousness of the elites. Nevertheless, we should not forget that his love for human never wavered, he did believe at one point that - *“la personne, l'action, la vie et la foi de Gandhi ont été le plus fort stimulant pour le christianisme ... [c'est un] fait, plus inattendu, mais indiscutable”*.<sup>26</sup>

Rolland died before he saw the second war come to an end, the forces of history ultimately meant that his pan-nationalist desires failed to become a reality and so his name has been nearly forgotten in contemporary Europe. Despite a time of tension, uncertainty and war, his spirit and intellectual activism never ceased. In his trial to understand how Europe could overcome its nationalist fervour, he also looked beyond Europe to develop his ideas and through the dialogues with Gandhi, he was able to explore the limits of the situation of his continent. In this essay, I have touched only upon a particular aspect upon Gandhi's doctrine that is the role of religiosity in his non-violent movement and Rolland's engagement with how it could be applied in the European context. As a concluding remark, this essay is to remind us that we should not succumb to the rising nationalist sentiments of our current times, nor let the crisis be a pretext to re-erect those borders that have been torn down by the efforts of our previous generations. There are people before who have fought physically and mentally and exhausted their energy for a more open, freer and united world. As scholars, we should incorporate the views of other individuals from diverse backgrounds, of those with nations and those without, to become aware of the epistemological biases in our analysis of the world, and as humans to widen our vision and understanding, to find ultimately not only the differences but also the things common in humanity.

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<sup>25</sup> “*Mais nos difficultés européennes sont doubles ou triples ; questions nationales, questions sociales ... Vous, Indiens, avez été et êtes maltraités ; mais je doute qu'on ait agi envers vous avec l'ignominie dont on a usé dans les Balkans et en Pologne*” ... *qu'il faudrait organiser la non-acceptation du prolétariat européen, pour défendre la Russie. La question sociale a pris le pas en Europe sur la question nationale ... Mais il ya encore un autre dangers, dans l'Europe et dans l'Amérique, c'est l'existence d'une middle class, qui vit aux dépens d'autres peuples opprimés*” - Romain Rolland, Romain Rolland, “Journal de Romain Rolland, Décembre 1931,” in *Correspondance*, Paris: Éditions Albin Michel, 1969.

<sup>26</sup> Romain Rolland, “Letter to Miss Clade, Villeneuve, 26 September 1926”, in *Correspondance*, Paris: Éditions Albin Michel, 1969.



# Why the EU wants to revitalise the JCPOA

Francesco Pezzarossi  
& Maxim Schoofs



The worsening US-Iran relationship has once again caught everyone's attention. On the 16th of November 2020, the New York Times reported that the Trump administration had considered a military strike against Iran. This unsettling news shows the latest attempt by the US to get a grip on the problem of the Iranian nuclear enrichment program. With the US amidst a transition of power, mixed signals have been sent regarding the future of the US-Iran relationship. On one hand, we have the Trump administration who has so far been focused on increasing economic sanctions to force Iran into submission. On the other hand, we have the newly elected president Joe Biden who has already expressed his willingness to restore the formerly agreed upon Joint Comprehensive Plan of Action (JCPOA).<sup>1</sup> A bold move considering it directly opposes the US's strategy since their withdrawal from the JCPOA in 2018. Government officials from Iran expressed their desire to go back to the JCPOA as well. The Iranians aren't the only ones who are hoping to keep the JCPOA alive. The unilaterally imposed sanctions by the US were targeted at Iran but the EU took a hit as well. A return to the JCPOA would not only mean a significant contribution to international security. It also revitalizes the economic relationship with Iran. So, with the 2015 JCPOA seemingly being back on the table, a brief recap seems appropriate. Before one can understand if a return to the JCPOA is feasible, one should know why the US left the treaty in the first place.

## What was achieved with the JCPOA?

The JCPOA was first negotiated by the EU 3+3 (France, the United Kingdom, Germany + US, China, Russia, also known as the P5+1). This agreement with Iran was supposed to ensure Iran would keep its nuclear development for civilian purposes. In doing so it would relieve tensions in the middle east and prevent further nuclear proliferation. To understand why the US withdrew from the treaty one should first have a look at the specifics of the UN Security Council resolution 2231, in which the terms of the JCPOA have been enunciated. Listing and dissecting all the technical implications set forward by the treaty is out of the scope of the article. However, below is an explanation of the most important objectives of the JCPOA.

A straightforward way in making sure a state does not develop nuclear weapons is controlling

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<sup>1</sup> Steven Erlanger, "Biden Wants to Rejoin Iran Nuclear Deal, but It Won't Be Easy," *The New York Times*, November 17, 2020, sec. World, <https://www.nytimes.com/2020/11/17/world/middleeast/iran-biden-trump-nuclear-sanctions.html>.

the process of enrichment of uranium. The uranium needed for nuclear weapons needs to be enriched up to 90%. For civilian use of uranium, most nuclear reactors operate with uranium enriched between 0.7% -3,5% and there is no reason to enrich above 20%.<sup>2</sup> The problem is that for both processes the same kind of centrifuges can be used. By now, it should become clear that one of the biggest issues that come with the development of nuclear technology is transparency. This is why an international standard set forward by an agency like the International Atomic Energy Agency (IAEA) can work as a confidence-building measure. To ensure Iran's enrichment of uranium stays in check, continuous monitoring by the IAEA was put in effect. The agency is mandated to report directly to the UN Security Council on whether Iran is enriching its uranium above the agreed-upon limit of 3,67%. Under the JCPOA Iran would work towards meeting the international standards for nuclear fuel production for the next 15 years. During this time, Iran would also have to rework its heavy water research, based in Arak. In this process, the EU3+3 would also be actively involved. Besides designing a rework for the heavy water reactor, the EU3+3 would also be active in the removal of spent fuel out of Iran.<sup>3</sup> These are arguably the major terms of the JCPOA. In return for abiding by these terms, Iran would enjoy relief on a variety of economic sanctions set forward mainly by the EU and US. One might assume that Iran did not adhere to some of the terms in this agreement and that is why the US withdrew, however, this is not the case.

### **Why the US withdrew from the JCPOA**

Standard practice for any UN resolution is to not only describe what will be enforced but also what is desirable. It is arguably in these parts of the text that the nature (or spirit) of the resolution becomes clear. Knowing the nature of the JCPOA is necessary for understanding why the US withdrew from it. It is important to note that Iran always adhered to the terms of the agreement, as was reported by the IAEA. Yet the US stated that Iran was in clear violation of the treaty because of their ballistic missile program. In resolution 2231, Iran's ballistic missiles were mentioned in a subparagraph of a statement in Annex B:

*"Iran is called upon not to undertake any activity related to ballistic missiles designed to be capable of delivering nuclear weapons, including launches using such ballistic missile technology[.]"*<sup>4</sup>

Resolution 2231 is a 105-page document, the fact that Iran's ballistic missile program was only mentioned once might imply that restricting the production of Iranian ballistic missiles was not the main concern of this resolution. However, even though ballistic missiles are not a significant part of the resolution, it is clear that the spirit of the treaty points towards the need for non-proliferation. For the US it was unacceptable that Iran kept developing ballistic missiles as these are still the primary delivery system for nuclear weapons. The continuous development of ballistic missiles was therefore regarded by the US as a violation of the spirit of the JCPOA. This violation was the main part of the argument for the US to withdraw from the treaty, as

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<sup>2</sup> "Uranium Enrichment," *Nuclear Threat Initiative* (blog), accessed November 22, 2020, /nuclear-101/uranium-enrichment/.

<sup>3</sup> United Nations, "Iran and E3/EU+3 Will Take the Following Voluntary Measures within the Timeframe as Detailed in This JCPOA and Its Annexes," in *Resolution 2231* (New York City, 2015), 11–13.

<sup>4</sup> United Nations, "Annex B: Statement," in *Resolution 2231*, 2015, 99.

they felt that the JCPOA had failed in addressing the growing Iranian threat in the Middle East. Shortly after the treaty withdrawal, the US imposed a variety of economic sanctions on Iran.

### **EU's powerlessness against the extraterritorial reach of US sanctions**

For the sake of clarity, it must be recalled that the sanctions imposed by the US on Iran do have an impact on non-US citizens and companies as well. It is true that, from a legal standpoint, this should not be the case, as the principle *par in parem non habet jurisdictionem* (i.e. equals have no sovereign rights over each other) prescribes that foreign jurisdiction does not apply to a country's citizens or national companies). However, it is undeniable that US sanctions have *de facto* extraterritorial reach.<sup>5</sup> This is primarily due to the centrality of the US and its currency in the global economy, meaning if one is not compliant with American sanctions one is likely to face major issues when undertaking a transaction in US dollars or when doing business with American enterprises. From this perspective, the fact that the US dollar is the world's preeminent reserve currency supports the extraterritorial enforceability of US sanctions. A vivid example of how impactful this might be is the case of Italy's second-largest bank by assets, Unicredit Spa, which agreed to pay \$1.3 billion to U.S. authorities to settle probes of violations of U.S. sanctions on Iran.<sup>6</sup> From its side, the EU has put in place its sanctions and does not want its companies and citizens to be subject to US jurisdiction. In this regard, the EU High Representative for Foreign Affairs and Security Policy Josep Borrell expressed his "deep concern" and stated that "As a matter of principle the European Union opposes the use of sanctions by third countries on European companies carrying out legitimate business". He further added that the EU "considers the extraterritorial application of sanctions to be contrary to international law".<sup>7</sup>

### **Economic impact on the EU and its member states**

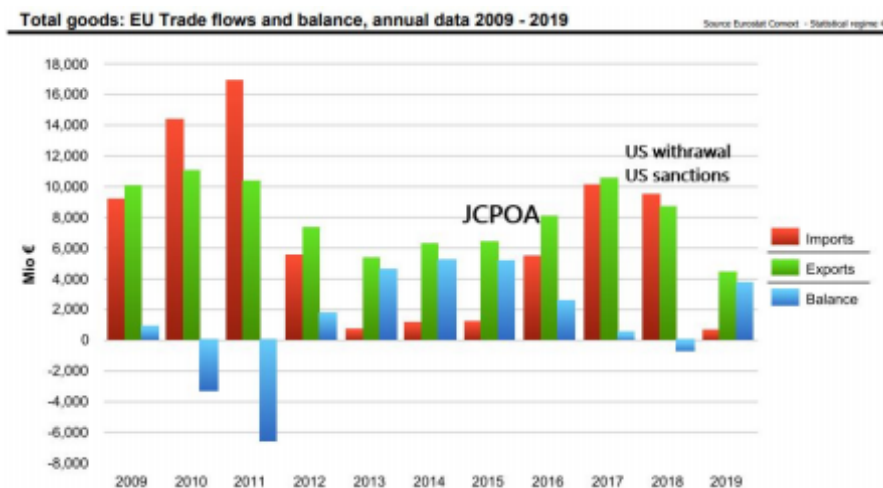
Evidence suggests that the economic impact of US sanctions on EU-Iran bilateral trade relations has been significant. In the graph below, it is possible to observe a sharp reduction of EU exports during the period 2017-2019, when the new sanctions entered into force. Indeed, the value of European firms' exports to the Islamic Republic has decreased from 10,6 billion euro in 2017 to 4,4 in 2019. Furthermore, by analyzing the fluctuation of EU imports from Iran, we can observe that the reduction has been even more drastic. Imports from Iran have shrunk from 10 billion euros in 2017 to 680 million euro in 2019.

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<sup>5</sup> Lochmann, Sascha, "Extraterritorial U.S. Sanctions", SWP Comment 2019/C 05, February 2019. Nuclear Threat Initiative. "Uranium Enrichment." <https://www.swp-berlin.org/10.18449/2019C05/>

<sup>6</sup> Freifeld, Karen "Italy's UniCredit to pay \$1.3 billion to settle U.S. sanctions probe". <https://www.reuters.com/article/us-unicredit-sanctions-settlement-exclus-idUSKCN1RR1TK>

<sup>7</sup> European External Action Service, Statement by the High Representative/Vice-President Josep Borrell on US sanctions, July 17, 2020.



Source: European Commission, DG Trade, "Trade in goods with Iran", 05/08/2020

As shown in the table below, the top EU importers of goods from Iran in 2017 were Italy, France, and Spain. The three of them saw a biennial reduction of their imports from Iran by more than 90%. In the same period time, the level of EU exports to the Islamic Republic has shrunk by more than half compared to 2017.

	EU IMPORT FROM IRAN (billion €)			EU EXPORT TO IRAN (billion€)		
	2017	2019	Variation	2017	2019	Variation
<b>EU27</b>	1,10	0,68	- 38,18%	10,57	4,40	- 58,37%
<b>France</b>	2,28	0,02	- 99,12%	1,50	0,38	- 74,67%
<b>Germany</b>	0,38	0,19	- 50%	2,96	1,51	- 48,99%
<b>Italy</b>	3,38	0,15	- 95,56%	1,74	0,82	- 52,87%
<b>Spain</b>	1,53	0,08	- 94,77%	0,44	0,23	- 47,73%

Table compiled by authors based on EuroStat data, extracted on 24/11/2020.

To be able to circumvent American sanctions, Germany, France, and the UK created a barter system, the 'Instrument in Support of Trade Exchanges' (INSTEX). In March, the mechanism completed its first transaction to facilitate the export of medical goods from Europe to the



pandemic-hit country. However, the mechanism has been used only to trade food and medicine, which aren't even threatened by US penalties. So far, INSTEX seems not to be the most adequate solution to revitalize EU-Iran bilateral trade relations.<sup>8</sup>

In this context, it will be crucial to understand what will be the policy of the Biden administration for Iran. As the above-reported data shows, what the White House decides does have a major impact on EU exporters. For this reason, we, as Europeans, should care about it.

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<sup>8</sup> Brzozowski, Alexandra, "EU's Instex mechanism facilitates the first transaction with pandemic-hit Iran", April 1, 2020.

<https://www.euractiv.com/section/global-europe/news/eus-instex-mechanism-facilitates-first-transaction-with-pandemic-hit-iran/>.

# The right to privacy: The European legislations and their implementation in Member States

Cristina Bottoni



Today we live in the era of complexity. The velocity in which the technological progress is spreading all over the world has radically changed our lives. It has also contributed at influencing dramatically the world equilibrium: in fact, not every nation in the world has welcomed this process in the same way. If we think that China releases roughly 3 million new graduates in engineering and natural sciences every year, we can easily predict who will push the wave of technological advancement in the next decades. Cooperation on a global level is possible only with a background of shared values and agreed principles: the technological boom has highlighted the first differences among countries and has fed the spread of both old and new tensions, both on an ethnic and religious point of view. In the last decades, the full and good control of the new technologies has divided the world in two groups: the rich, advanced and industrialized countries on one side, and the poor countries with a low mastery of technology on the other. Recently, technological progress has reached almost every part of the globe has paved the way for the introduction of new actors (such as the “Asian Tigers”) in the global community. Ten years ago, more than half of the world’s economic power was held by the so-called G8 (United States, Japan, Germany, France, United Kingdom, Italy, Canada and Russia), while nowadays roughly 60% of the world GDP is produced by emerging countries. This means that we live in a world that will see interconnected and multiple actors solving cross-sector problems: a complex world.

The advent of technology has brought not only to an interconnected and an efficient world, where the international community has become more a *global network*, but also to the creation of a giant and open-source data bank when all data is shared and stored. On one side, technology has eased the access to data, while on the other, it has worsened people’s privacy conditions, since everything we do online is recorded and stored in order to be used. The question is: what is the point of storing tons and tons of data that is apparently useless and not relevant from an international point of view? The answer is one simple word: customizing. In fact, every search we do on platforms such as Google, Amazon, Ebay, Youtube, Facebook, leads to an improvement and to a personalization of the services we are asking for. In fact, research has shown two different people searching for something on Amazon will get completely different versions of the website they are surfing. Why? Because Amazon itself stores all our research, all our orders, all our preferences and customizes the website shaping it according to what is more similar to each person’s taste and needs. In other words, it shows us

what we want to see, what we need to see.<sup>1</sup> This happens also with our Facebook homepage: every user has hundreds or even thousands of friends who continuously share dozens of posts and it is impossible, of course, for us to see all of them. For this reason, Facebook customizes itself progressively: every time we like some post, the social network automatically “decides” that some person or page is more interesting to us than someone else and consequently is willing to share more posts of one person instead of another. This is why, in the last few years, every time we open a website we see a little window popping up from the bottom part of the page explaining that the website uses cookies: small text files stored by your browser with information about your activity on the site.<sup>2</sup> The cookies are, in practice, small contracts. If the user agrees, the website can store data and information. If the user does not agree but simply leaves the window open, the contract applies anyway and access is allowed. The main problem is that without agreeing with the contract, you cannot get the full website and the services that the website is offering.

In fact, thanks to (or because of?) technology, the border between private and public space has increasingly blurred in recent years and will continue this trend in the coming years. Nowadays our phones and laptops know much about us: our recent calls, our favourite contacts, the messages we send, our current location, our email conversations, even our age and preferences. The real problem is that, given the state of things, it is not possible to live without constant access to technology. In fact, the only way we have to limit the access from external actors in our daily life and personal information is to limit or even renounce the use of technology, which would require isolation from the rest of the world. In the past 25 years, the European Union has been stressing the importance of the protection of the privacy of its citizens and its companies. So even though from a legislative point of view the right to privacy seems to be fully respected and covered by the law, *de facto* it is not respected. In fact, we live in a society which has been increasingly dependent on the use of technology. With the passing of time, more sectors have been experiencing a digitalization process: from the digital identity to the advent of social networks, from the sharing of online documents to the digital signatures and even to digital currencies (e.g. bitcoin and blockchain). From 1995, the European Union has been issuing different legislations aiming at protecting the right to privacy and over the years, due to the changing society and situations, they have been updated and perfectionated according to the needs of the Member States. In 2016, the EU introduced the European Union General Data Protection Regulation, or GDPR 2016/679. The Regulation sets some standards for the data protection regulations all around the European Union claiming for a process of harmonization of the standards. Of course, this process of harmonization and standardization is helpful for non-European companies and agencies which need to only adapt to a single method of data storage and retention rather than multiple ones. The Regulation applies to subjects, companies or organizations which are based in the European Union, as well as those who are not based in Europe but operate and collect data in the Union. The Regulation is not meant to apply for national security issues linked to espionage. All data must be processed

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<sup>1</sup> “Customized Or Creepy? Websites And Your Data, A Guide” (Steven Melendez, 2016)

<sup>2</sup> Customized Or Creepy? Websites And Your Data, A Guide” (Steven Melendez, 2016)

*“lawfully, fairly and in a transparent manner”*<sup>3</sup> according to the principles of legality, fairness and transparency: in fact, the main aim of the GDPR is to put people in control of their personal data. To achieve such, the first step is to make people aware of the path that their data are going to undertake once released.

The last action of the European Union has been the Network and Information Security (NIS) Directive of July 6th, 2016. Since this is a Directive, it does not have any direct effect, but has to be implemented in Member States’ national legislation. There is also a substantial difference between the GDPR and the NIS Directive in terms of actors and scope. In fact, while the GDPR establishes that there must be a notification when there is a risk of violation of personal data and privacy, according to the NIS Directive, whenever a service operator receives threats regarding the normal provision of its services, it must notify the competent national authority in order to create a shared awareness of the risk on an European level.<sup>4</sup> The Directive is meant to increase the level of cybersecurity and data protection, beyond the fact of sharing information between Member States which leads to joint action and possible intervention. The NIS Directive applies to the providers of online services as well as essential services, the providers of critical sectors like energy, transport or banking, infrastructure or health sector. In this high-speed, overheated society, progress is a continuous process with an increasing rate of change. The societies are changing, the behaviours are changing, the outcomes are changing, but the consequences and the stakes remain the same. With technological progress, many data protection techniques have been experimented and implemented, but simultaneously more hacking software and cyber threats are developing. Living in an environment in which Data protection regulations are enacted continuously, therefore does not mean that we are safe and the right to privacy is protected.

The beginning of the new millennium has seen the advent and the spread of technology, and with it new types of regulations have been adopted. The technologization of society has radically changed the way we look at and manage data: the amount of data collected and analysed everyday has substantially increased. More and more efficient software has been developed and new hacking techniques are continuously implemented in order to increase the efficiency of processing and analysing data. The speed in which the data are read and computed is progressively increasing which means that more storing capacity of the computers and more refined hacking techniques.

Security and privacy are part of an old dichotomy according to which they cannot coexist to the same degree, in order to live in a balanced society. But in a new and rethought contest a new beginning is possible, especially in a society in which both the new techniques on digital information and the broad, daily and generalized use of the internet are taking more and more

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<sup>3</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0679&from=EN> REGULATION (EU) 2016/679 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, Chapter II “Principles”, Article 5 “Principles relating to processing of personal data”. Paragraph 1

<sup>4</sup> <https://iapp.org/news/a/nis-gdpr-a-new-breach-regime-in-the-eu/> “NIS+GDPR: A New Breach Regime in the EU” (Gabe Maldoff, Dec 22, 2016)



space in citizens' life (not only in Europe but also in the rest of the world). These are exactly the tools that the international terrorism is using to cancel the borders between states and overcome the traditional protection strategies used by the police: for this reason, it became fundamental for the public authorities to implement the ways and tools of prevention and control in order to guarantee the safety of European citizens. At the same moment, though, the aforementioned authorities need and must respect the individual rights and liberties of their citizens. A compromise could be the introduction of new and rethought limits of the right to privacy, in order to assure both the traditional and claimed private sphere in people's life and both a controlled treatment of their personal data and their diffusion, at national and international level. We are not living in a peaceful era, in which the protection of fundamental rights and the wellbeing of the citizens was on the first line but in a world that is governed by feelings of war, in which the quest for security and prevention policies is going upper and upper. Obviously, the threat of terrorist attacks does not necessarily mean bypassing individual rights. Rather it should lead to a situation in which international security can be conceived as a pendulum: oscillating from the citizen side to the international level, the former never excluding the latter, and vice versa.

***The question is not: "What do we want to know about people". The real question is: "What do people want to tell us about themselves".***

# Trump's America isn't going away

Tomas Farinha Carney



*Though Trump has lost the election, Trump's influence and his GOP supporters aren't going away*

As of writing this, Joe Biden has been declared the winner of the 2020 American elections, and with this announcement, a sense of relief has come to Europe. Not only does his election signal an end to Trump's mercurial and isolationist 'America First' foreign policy, but it is also viewed as a return of form for the United States. However, this feeling of a return to a pre-2016 United States is misplaced and short-sighted, as the country has been fundamentally changed by the Trump administration, and Biden may not be the president Europe expects. While Trump and his cabinet may be gone, the Republican Party of Donald Trump is not.

The four years of Trump's presidency have been characterized as chaotic and crisis-filled. Yet, the constant and unending cycles of news updates has, to a certain extent, hidden serious consequential changes that have occurred within the US. Though controversy-filled, Trump has consistently been supported by 38% of the US public with, according to Pew Research, an average approval of 87% among Republicans and only a 6% approval from Democrats.<sup>1</sup> This support has been nearly unbreakable, enabling Trump to weaponize his approval amongst the Republican base. As a consequence, he ensured to receive continuous support from his party's congressional members, even when they wished to distance themselves from him. This stranglehold over the Republican party has allowed Trump to circumvent laws, bulldoze through constitutional norms, and at times flagrantly break the law without consequence or loss of support from his backers. This stranglehold over the Republican party has allowed Trump to circumvent laws, bulldoze through constitutional norms, and at times flagrantly break the law without consequence or loss of support from his backers. This can be seen throughout Trump's presidency, whether it be Trump's refusal to divest from his businesses or releasing his tax returns<sup>2</sup>, or the Trump-Ukraine scandal which led to Trump's

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<sup>1</sup> Amina Dunn, "Trump's Approval Ratings so Far Are Unusually Stable – and Deeply Partisan," Pew Research Center (Pew Research Center, August 28, 2020), <https://www.pewresearch.org/fact-tank/2020/08/24/trumps-approval-ratings-so-far-are-unusually-stable-and-deeply-partisan/>.

<sup>2</sup> Montgomery, David. "Trump Presidential Norm Breaking List". *The Washington Post*, 2020, <https://www.washingtonpost.com/graphics/2020/lifestyle/magazine/trump-presidential-norm-breaking-list/>. Accessed 15 Dec 2020.

impeachment trial<sup>3</sup>, or even the recent refusal to give a concession speech after his electoral loss<sup>4</sup>. All of these actions and more have occurred without much opposition or even been defended by Republican officials. Furthermore, through his rhetoric and administration policies, Trump has emboldened white supremacy within the United States, with hate crimes rising throughout the country, especially in counties in which Trump won by large margins<sup>5</sup>. Even with Trump losing the electoral college and popular vote, Trump has, at the time of writing, refused to accept the results of the 2020 election, and continues to claim voter fraud is the cause of his loss, ultimately delegitimizing the election, and the peaceful transfer of power<sup>6</sup>. These trends should be alarming and worrying, as they will continue to hang over the politics of the United States for decades to come, even with Donald Trump out of office. While European leaders should be relieved of the change in presidency, it would be pertinent to claim that they should be wary of the possibility that a future US President will be able to foster all these undemocratic elements in a more effective and dangerous manner.

European leaders should be thus especially concerned about these trends and the possibility of a future authoritarian American President. The Republican party has radically changed since 2012 in an increasingly illiberal manner, with the V-Dem Institute at the University of Gothenburg finding that the Republican Party has more in common with authoritarian parties such as Orban's Fidesz and Modi's BJP.<sup>7</sup> Furthermore, Politico has found that 40 percent of Americans tend to favor authority, obedience and uniformity over freedom, independence and diversity.<sup>8</sup> It is unlikely that President-elect Biden will be able to reverse any of these trends. The unfortunate political reality is that if Republicans maintain control of the Senate, it is doubtful that they will agree to reforms that do not maintain their power and vision of America. Republican Senators increasingly represent a minority of the American population, yet hold more power, with the last class of 53 Republican Senators representing 153 million Americans, while the 47 Democratic Senators (counting independents who caucus with them) represent 168 million Americans or 15 million fewer Americans.<sup>9</sup> This trend can be seen on the Federal level and the state level with several examples, including Wisconsin, where gerrymandered maps caused Republicans to win 60 of the 99 seats on the Assembly in 2012, even though they had only won 47% of the state vote.<sup>10</sup> Conventional political thought has it that Republicans have also increasingly come to employ voter disenfranchisement to win

<sup>3</sup> LaFraniere, Sharon et al. "Trump, Ukraine And Impeachment: The Inside Story Of How We Got Here". *Nytimes.Com*, 2020, <https://www.nytimes.com/2019/11/11/us/ukraine-trump.html>.

<sup>4</sup> Fandos, Nicholas, and Emily Cochrane. "Republicans Back Trump's Refusal To Concede, Declining To Recognize Biden". *Nytimes.Com*, 2020, <https://www.nytimes.com/2020/11/09/us/politics/republicans-trump-concede-2020-election.html>.

<sup>5</sup> Vanessa Williamson and Isabella Gelfand, "Trump and Racism: What Do the Data Say?," Brookings (Brookings, October 5, 2020), <https://www.brookings.edu/blog/fixgov/2019/08/14/trump-and-racism-what-do-the-data-say/>.

<sup>6</sup> Peter Baker and Lara Jakes, "Fighting Election Results, Trump Employs a New Weapon: The Government," *The New York Times* (The New York Times, November 11, 2020), <https://www.nytimes.com/2020/11/10/us/politics/trump-election-results.html>.

<sup>7</sup> V-Dem Institute. *New Global Data On Political Parties: V-Party*. University Of Gothenburg, Gothenburg, 2020, pp. 1-4, [https://www.v-dem.net/media/filer\\_public/b6/55/b6553f85-5c5d-45ec-be63-a48a2abe3f62/briefing\\_paper\\_9.pdf](https://www.v-dem.net/media/filer_public/b6/55/b6553f85-5c5d-45ec-be63-a48a2abe3f62/briefing_paper_9.pdf). Accessed 15 Dec 2020.

<sup>8</sup> MacWilliams, Matthew C. "Trump Is An Authoritarian. So Are Millions Of Americans". *POLITICO*, 2020, <https://www.politico.com/news/magazine/2020/09/23/trump-america-authoritarianism-420681>.

<sup>9</sup> Ari Berman, "GOP Senators Representing a Minority of Americans Are Preventing a Fair Impeachment Trial," *Mother Jones*, January 22, 2020, <https://www.motherjones.com/politics/2020/01/gop-senators-representing-a-minority-of-americans-are-preventing-a-fair-impeachment-trial/>.

<sup>10</sup> Emily Bazelon, "The New Front in the Gerrymandering Wars: Democracy vs. Math," *The New York Times* (The New York Times, August 29, 2017), <https://www.nytimes.com/2017/08/29/magazine/the-new-front-in-the-gerrymandering-wars-democracy-vs-math.html>.

elections, with strong voter turnout being correlated with Democratic victories.<sup>11</sup> Furthermore, the design of the electoral college allows for the election of a president without winning the popular vote, and gives Republicans a slight bias against Democrats where the election is within a few points, even if Democrats win the popular vote.<sup>12</sup> The Republican party is therefore both disincentivized from reforming the system of governance, which has given them power, and also increasingly reliant and reflective of the whims of a powerful minority which feels that its culture and beliefs are under attack, as the majority of the party's members are ethnically white.

To reverse these alarming trends of democratic backsliding within the U.S. political system will require reform, which the Democratic Party has claimed it wants to tackle. However, whether Democrats are able or willing to do the necessary reforms depends on the Georgia runoffs for two Senate seats, which would give the winner effective control of the Senate. Without the Senate, there is no possibility to pass legislation that restores the Voting Rights Act that was struck down by the Supreme Court, and that has led to rampant voter suppression. If there is no legislation to address gerrymandering, then politicians will continue to select their voters in safe seats while pushing elected officials towards their respective extremes. While both Democrats and Republicans benefit from gerrymandering, it is Republicans who employ the most egregious examples of gerrymandering which have been described in court as being designed with "surgical precision"<sup>13</sup> to give a partisan advantage to Republicans and allow representatives to select their voters. Thus, if power is to be returned to the people, electoral maps must be created by non-partisan committees, a motion which has been increasingly championed by ballot initiatives throughout the US<sup>14</sup>. However, these are not the most controversial reforms that are necessary to stop the democratic backsliding that is occurring within the U.S. The electoral college should be abolished, or the National Popular Vote Interstate Compact<sup>15</sup> (where states agree to transfer their electoral votes to the winner of the popular vote) agreed upon by states, to ensure that the current system that incentivizes candidates to focus on battleground states and ignore the rest of the country no longer occurs. Finally, reform must be done to depoliticize and legitimize the conservative activist Supreme Court. Whether this is through requirements to force retirement after a certain amount of years, court-

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<sup>11</sup> Robertson, Lori. "Sanders' Shaky Turnout Claim - Factcheck.Org". *Factcheck.Org*, 2020, <https://www.factcheck.org/2016/06/sanders-shaky-turnout-claim/>.

<sup>12</sup> Ian Millhiser, "The Astounding Advantage the Electoral College Gives to Republicans, in One Chart," *Vox* (Vox, September 17, 2019), <https://www.vox.com/policy-and-politics/2019/9/17/20868790/republicans-lose-popular-vote-win-electoral-college>.

<sup>13</sup> Jane C. Timm, "North Carolina Judges Slam GOP Gerrymandering in Stinging Ruling, Reject District Maps," *NBCNews.com* (NBCUniversal News Group, September 4, 2019), <https://www.nbcnews.com/politics/politics-news/north-carolina-judges-toss-maps-slam-gerrymandering-stinging-ruling-n1049411>.

<sup>14</sup> "More States to Use Redistricting Reforms after 2020 Census," *AP NEWS* (Associated Press, March 5, 2020), <https://apnews.com/article/15945f8bd618d3c749e7c56d3a572d71>.

<sup>15</sup> Elliott Ramos, "There's a Plan Afoot to Replace the Electoral College, and Your State May Already Be Part of It," *NBCNews.com* (NBCUniversal News Group, November 10, 2020), <https://www.nbcnews.com/politics/2020-election/map-national-popular-vote-plan-replace-electoral-college-n1247159>.

packing, or having judges serve in rotating shifts, Supreme Court Reform should happen to avoid further delegitimization of the court.<sup>16</sup>

All of these necessary reforms are unlikely to happen if Republicans control the Senate as there is no incentive for them to pursue reforms that take away their partisan advantages and political achievements. Thus, if Democrats cannot gain the Senate or are unwilling to make the necessary reforms, even if they have a narrow hold of the Senate they will essentially leave the door open for Republicans to be an increasingly anti-democratic and pro-minority rule. This is not hyperbole, just recently on November 18, a Reuters-Ipsos opinion poll found that almost 50% of Republican believe they have “rightfully won” the election, with 68% saying they had concerns about a “rigged” vote.<sup>17</sup> The majority of Republicans have refused to publicly call for Trump to step aside and allow the Biden transition to begin<sup>18</sup>. Yet, while the majority of elected Republican officials have refused to congratulate Biden’s win publicly, Republican Senators have already started to openly indicate that they will not vote for any of Joe Biden’s cabinet who are radical progressives.<sup>19</sup> These actions by Republicans have a negative effect on democratic legitimacy. Increasingly, Democrats are starting to believe that the system is being rigged against them and it is causing a sentiment that if the Republicans are cheating or playing dirty, that Democrats should do likewise. While I do not know how to address the problem, this growing sentiment of distrust of the other side and partisan divide is not healthy for U.S. democracy and politics, and it paves the way for more extremism.

Thus, EU politicians and institutions should be careful in their celebrations of a Biden presidency. The political system that has allowed Trump to exist, come to power, and hold power hasn't gone away, and the cracks within the democratic political system are beginning to show. The European Union should be careful in its approach to the United States, as the democratic foundations that uphold the United States are increasingly failing. Democracy in the United States should not be taken as a given; if necessary reforms are not enacted, then perhaps Trump's legacy will be his laying out the playbook for a future American autocracy.

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<sup>16</sup> The New York Times Opinion, “How to Fix the Supreme Court,” The New York Times (The New York Times, October 27, 2020), <https://www.nytimes.com/interactive/2020/10/27/opinion/supreme-court-reform.html>.

<sup>17</sup> Celine Castronuovo, “Half of Republicans in New Poll Say Election Was 'Rigged,' Stolen from Trump,” TheHill (The Hill, November 18, 2020), <https://thehill.com/homenews/campaign/526464-half-of-republicans-in-new-poll-say-rigged-election-was-stolen-from-trump>.

<sup>18</sup> Harriet Alexander, “Republicans Are Congratulating Biden in Secret to Avoid Angering Trump,” The Independent (Independent Digital News and Media, November 10, 2020), <https://www.independent.co.uk/news/world/americas/us-election-2020/republicans-biden-trump-concede-b1720485.html>.

<sup>19</sup> Roger Sollenberger, “Mitch McConnell Is Already Preparing to Torpedo Joe Biden's Cabinet Picks,” Salon (Salon.com, November 5, 2020), <https://www.salon.com/2020/11/05/mitch-mcconnell-is-already-preparing-to-torpedo-joe-bidens-cabinet-picks/>.



# The Corona-crisis: a blessing in disguise for European integration?

Maria Callewier



Crises have always been a challenge for the European project and the COVID-crisis is no different. Just as economic and migration crises, the pandemic draws attention to both the potential and shortcomings of the Union. A wave of criticism crashed into the EU as they failed to provide a fast and unified response to the pandemic. Debates over the future of the partnership emerged as one country after another went into total lockdown.

In previous crises, there was a sense of discontent with the European integration project. Voices of nationalism soared as nations opted for more inward-looking policies. The main concern was their national interest, which often led to competing solutions. A prime example<sup>1</sup> of such a divide occurred during the euro-crisis of 2010. The states were playing a blame game in an attempt to save their own skin. As a result, the Southern European countries were held accountable for the instability in the Eurozone, which led to them being forced to undertake harsh austerity measures.

As we are once more faced with a bitter division between states, one dares to question if this crisis could be the ‘final straw’ for the EU.

## **COVID-19 is different**

The fundamental difference between financial crises and the COVID-19 crisis, is that no one can be blamed. At least not within the Union. Not a single person was exempt from the changes and grievances caused by the virus. This shared experience sparked a feeling of connectedness between the European citizens. We see that feeling heavily reflected in polls of the German public opinion<sup>2</sup>, which shifted towards favoring more European solidarity.

The range of collective challenges we are faced with, demands a more complex multilateral answer. As it is much more than a public health crisis, problems of freedom of movement and vaccine development made a cooperative European response more pressing. As Merkel pointed

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<sup>1</sup> Matthijs, M., & McNamara, K. (2015). The Euro Crisis’ Theory Effect: Northern Saints, Southern Sinners, and the Demise of the Eurobond. *Journal of European Integration*, 37(2), 229–245. <https://doi.org/10.1080/07036337.2014.990137>

<sup>2</sup> Busse, C., Franke, U. E., Loss, R., Pugliern, J., Riedel, M., & Zerka, P. (2020, June 11). European Solidarity Tracker. ECFR. <https://ecfr.eu/special/solidaritytracker/>

out: “Europe must act together. The nation-state alone has no future”<sup>3</sup>. It might be cliché, but the virus does not respect any borders, neither should the response to combat it.

### **Get the ball rolling**

This isn’t a case of big speeches filled with empty promises. Most of the member-states have shown willingness to push the integration further, as to improve on the Union’s crisis management capabilities. During the time that the crisis deepened and the economic slump became evident, the French government decided to approach the German Social Democrats in an effort to find common ground. Previous attempts to push ideas, such as the Eurobonds, have been met with a stark “no” from the chancellor<sup>4</sup>.

Nevertheless, the threat of recession opened the door for dialogue about the necessary funds for recovery. After days of laborious discussions a 750 billion euro recovery fund initiative was set up. This fund has the benefit of allowing the European Commission to issue its own debt, as well as providing the weaker states with more funding without increasing their debt. The significance of the agreement is found not in the providing of capital, but in the way they will repay it<sup>5</sup>. Although nothing has been agreed yet, there have been several mentions of setting up a EU-level taxation to pay back the debt. Possible options consist of a carbon tax or a financial transaction tax. In this regard, the fund is a landmark compromise and might be a much needed step towards fiscal integration.

Furthermore, the pandemic has made it painfully obvious how dependent Europe is on the rest of the world for medical-gear and other products. This led to the EU-members discussing the need for ‘health sovereignty’ to jointly purchase medical equipment and vaccines. In November, the European Commission put forward the proposal for a Health Union<sup>6</sup>. The framework will strengthen the EU’s preparedness for future health crises, whilst reinforcing the mandate of existing EU agencies. Such initiatives are yet again an indicator that the EU is moving towards further integration as an answer to shared problems.

### **Still a long way to go**

Even though steps are being taken in the right direction, we are still far from full integration. Despite witnessing a cooperative stance from a multitude of actors, disagreements are just as common. The aforementioned is evident from Hungary and Poland blocking the 1.82 trillion euro budget-and-recovery package. This deadlock is most likely a result of the adverse stance towards the coupling of the budget to a rule-of-law standard, albeit one that is open to interpretation. In recent years, complaints have emerged about Warsaw and Budapest not

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<sup>3</sup> Pancevski, B., & Norman, L. (2020, July 21). How Angela Merkel’s Change of Heart Drove Historic EU Rescue Plan. The Wall Street Journal. <https://www.wsj.com/articles/angela-merkel-macron-covid-coronavirus-eu-rescue-11595364124?st=ueypby4g8oa62ku>

<sup>4</sup> Tooze, A. (2020, August 31). It’s a New and Improved European Union—but Only if Germany and the ECB Commit to Keeping It. Foreign Policy. <https://foreignpolicy.com/2020/08/07/merkel-macron-eu-its-a-new-europe-if-you-can-keep-it/>

<sup>5</sup> European Commission. (2020, November 11). Recovery plan for Europe. [https://ec.europa.eu/info/strategy/recovery-plan-europe\\_en](https://ec.europa.eu/info/strategy/recovery-plan-europe_en)

<sup>6</sup> European Commission. (2020a, November 11). Building a European Health Union: Stronger crisis preparedness and response for Europe [Press release]. [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_20\\_2041](https://ec.europa.eu/commission/presscorner/detail/en/ip_20_2041)

adhering to the fundamental principles of democracy. Meanwhile the countries claim to be blackmailed by the European Parliament. The Polish justice minister, Zbigniew Ziobro, even went as far as telling reporters that “It’s not about a rule of law, but about political and institutional slavery”<sup>7</sup>.

In times of a second wave of the coronavirus, blocking the budget is only hurting their own citizens. Many commentators are of the opinion that it is a cost they cannot afford. Although some push-back is to be expected, as long as we are still in times of crisis most states have shown readiness to work together on coordinating policy. In the following years Europe will be challenged by a balancing act. The balance between the need to provide services to the European people, while still preserving the values we have come to appreciate over the years. The question remains what will happen once the dust settles.

### **Cease the moment**

As we are not out of the woods yet concerning the corona-virus, member states must cooperate and enter into further dialogue with each other. Despite disagreement, it is likely that the states will reach the conclusion that some things can not be done solo. The job cannot be left half-done, as a more integrated Europe is needed to weather and prevent further crises. The seeds for a fiscal and health union have been planted, it is up to them to make sure it sprouts into the integration project it was always meant to be.

Contrary to popular belief, crises are not a ‘failure’ of the European Union. As we have seen many times in the past, the EU copes with these crises through adaptation, reform and further integration. While member-states might act unilaterally in the beginning of a crisis, they soon start looking towards Europe for help and closer cooperation. All the examples above illustrate a European Union, not on the brink of collapse, but stronger than ever seen before.

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<sup>7</sup> Herszenhorn, D. M., & Bayer, L. (2020, November 16). EU in crisis over Hungary and Poland’s €1.8T hold-up. POLITICO. <https://www.politico.eu/article/eu-in-crisis-over-hungary-poland-budget-hold-up/>



# The European Common Foreign Security Policy: Why does the EU need allies for the defence of the global order?

Matteo Brizzi

The institutional context in and through which the European Union implements its external action, the Common Foreign and Security Policy (CFSP) and the Common Security and Defence Policy (CSDP), is complex, barely conceptualized and highly fragmented. These difficulties are due to the way in which the system and all the related common policies developed over time: incrementally and by the accumulation and juxtaposition of ad hoc norms and bodies rather than through a previously agreed overall design. It is necessary to remember that there are no conceptual difficulties to the idea of the European Union possessing a foreign policy, much the same as that of the nation-state. If by foreign policy we mean the ‘capacity to make and implement policies abroad which promote the domestic values, interests and policies of the actor in question’, thus supposing an entity with a more or less coherent set of domestic values, interests and policies, this is certainly true also for the European Union<sup>1</sup>. Indeed, its developed philosophy based on liberal capitalist democracy and its full array of domestic competencies and policies on issues ranging from the common market to cooperation in policing and judicial matters speak clearly: the European Union is a global complex but relatively cohesive actor active in foreign policy, able to make and implement policies abroad that promote the domestic values, interests and policies of the European Union<sup>2</sup>.

The European Union engages in policy internationally, although not in every area of the globe to the same extent. Like most nation states, it has geographically different and distinct interests as well as it is also involved in different issue-areas to a greater or lesser extent. Although a common foreign security policy for all or part of Europe may have seemed an impossible dream way back in 1945, nowadays EU external action, which aims and often succeeds in the

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<sup>1</sup> Missiroli A. (2016). *The EU and the world: players and policies post-Lisbon*, EU Institute for Security Studies.

<sup>2</sup> Smith H. (2002). *European Union Foreign Policy: What It is and What It Does*, Pluto Press.

organisation of a common - though not yet comprehensive - foreign policy for 27 European states has emerged. The latest significant development for the European CFSP consists in the European Global Strategy<sup>3</sup>, elaborated by the former High Representative Mogherini with the support of the European External Action Service in 2016. This strategic paper, heir of the 2003 Security Strategy<sup>4</sup>, energized the European community in a critical period, since in those years it was severally hit by multiple domestic and external crisis, such as Brexit, the nationalist wave, the immigration issue and Islamic terrorism.

“Today the world is in no better shape than it was three years ago. But Europe is increasingly perceived as a global point of reference”. This is the starting citation of the foreword made by HR/VP Mogherini to the latest implementation report of the EU Global Strategy<sup>5</sup>. The progressive shift from a unipolar liberal world dominated by the US towards a fragmented multipolar distribution of power mainly characterises nowadays international complexity<sup>6</sup>. Unfortunately, this change is not clearly contributing to further cooperation among nations and peoples, rather it is provoking uncertainty and rivalry. At the same time, the growing connectivity of the 3<sup>rd</sup> millennium is not only bringing great opportunities for communication and exchanges, but it is being used also to exploit vulnerabilities and undermine our democratic systems with a growing use of cyberattacks and disinformation campaigns.

So, we now live in an even more contested world than we did only a few years ago; a contestation in the strategic, economic and political sphere to which the EU itself has not been immune: the resilience and security of the Union are at stake as well as the multilateral peaceful nature of the global order. In light of these rapid global changes, the 2016 EU Global Strategy (EUGS) has demonstrated its value in providing a strategic vision and a shared agenda for Member States, but also made it clear that the European Union cannot do everything alone. Transnational challenges, notably in the areas of climate change, demographic overload and hi-tech digitalization, can only be addressed effectively through multilateral action supporting cooperative regional orders and strengthening multilateral ties with international institutions

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<sup>3</sup> European External Action Service (2016). *Shared Vision, Common Action: A Stronger Europe*, European Union Global Strategy.

<sup>4</sup> De Vasconcelos A. (2009). *The European Security Strategy 2003-2008: building on common interests*, EU Institute for Security Studies (EISS).

<sup>5</sup> European External Action Service (2019). *The European Union's Global Strategy three years on, looking forward*, European Union Global Strategy.

<sup>6</sup> Ikenberry G. J. (2018). *Is the end of the liberal international order?* International Affairs 94:1, International Institute for Strategic Studies (2018) 'Prospective', Strategic Survey, 118 (1). pp. 7–23



and national partners. The increasing connectivity, complexity and, above all, contestation of the global environment have key implications for the way ahead in the EU's global role: the European Union needs valuable allies in the promotion of a multilateral and liberal international community. For this reason, the EU has to invest powerfully in its collective capacity to act autonomously and above all in cooperation with traditional and new partners. From the elaboration of the EUGS, the Union has continued to act as a global security provider through its sixteen civilian and military missions and with more than 4,000 EU personnel deployed all around the world. The EU has reached significative developments in the field of security and defence, implementing several proposals advanced by the Global Strategy such as the Military Planning and Conduct Capability (MPCC) or particularly the Permanent Structured Cooperation (PESCO), which provides a binding framework to enhance joint defence investment, cooperation and operational readiness among the 25 participating Member States.

Furthermore, the European Defence Fund (EDF) will incentivise systematic defence industrial cooperation in research and capability development, thus strengthening the PESCO framework. A Civilian Compact has boosted the civilian dimension of the Common Security and Defence Policy (CSDP), highlighting how the EU's joined-up integrated approach to human security continues to see civilian and military components developing at the same time<sup>7</sup>. In other words, Europeans are aware that security, including defence, is an integral part of the European project; according to this conviction, the EUGS does proposes the use of an array of civilian and military tools, applied separately or in tandem to confront international crises, an integrated approach of which "principled pragmatism" is the ideological base.

Nevertheless, and that is the second reason why the European Union needs allies and must never lose its focus on multilateral cooperation, there are no short-medium term prospects that the EU could emerge as a global military power like the USA, Russia or China<sup>8</sup>. First of all, we must remember that the treaties do not permit it to acquire nuclear weapons nor to develop autonomously from NATO. The Treaty on European Union (TEU) specifies that the CSDP "shall not prejudice the specific character of the security and defence policy of certain Member

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<sup>7</sup> European External Action Service (2019). *The European Union's Global Strategy three years on, looking forward*.

<sup>8</sup> Harwood M., Moncada S., Pace R., (2020). *The future of the European Union: demisting the debate*, the Institute for European Studies, University of Malta.

States and shall respect the obligations of certain Member States, which see their common defence realised in the North Atlantic Treaty Organisation (NATO)’’<sup>9</sup>. The same treaty article, most importantly, says that a common defence policy will be adopted when the European Council, acting unanimously, so decides. Although the Lisbon Treaty abolished the rigid three-pillar structure of the European Community, the European integration will ever remain an hybrid process, a composite structure characterised by the stratification of complementary components: trade and economy under a ‘community regime’, ‘common’ foreign security policies and finally domestic-justice affairs (migration policies, anti-terrorism, crime fighting) that are progressively ‘harmonised’. Foreign and security policies will still be (at least in the medium period) the prerogative of individual States and actually there is nothing wrong with that: since international equations are more than ever in perpetual flux, foreign policy does not lend itself to pre-established contingency planning, and will therefore remain inherently intergovernmental, subject to ad hoc coalitions<sup>10</sup>.

In view of the above, the EU’s shortcomings as an effective foreign policy actor are no more coinciding, thanks to the EU Global Strategy, with the so-called ‘capability-expectations gap’<sup>11</sup>. Anyway, the EU must pay attention to not degenerating intergovernmentalism into passivism, strategic autonomy into selfish isolationism and a strong soft power into an excuse for an under-developed hard power. The European Union must find a proper balance about all these aspects, thus becoming what Nye calls a ‘smart power’<sup>12</sup> capable to take the lead in the international community. This is what European citizens want, as attested by opinion polls, and this is what our partners, near and far, expect. So, for the EU the stakes are sky high: being itself the most advanced multilateral project in history, and as a group of small-medium-sized states in the world, our Union has a vital interest in being the centre of gravity of a multilateral alliance to actively defend the liberal global order<sup>13</sup>.

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<sup>9</sup> Art. 42, *Treaty on the European Union* (2009), Official Journey of the European Union.

<sup>10</sup> Lenzi G. (2010). *Trans-Atlantic relations and world governance*, Rivista di Studi Politici Internazionali, Nuova Serie, Vol. 77, No. 1 (305).

<sup>11</sup> Nielsen K. L. (2013). *UE soft power and the capability expectations gap*, Journal of Contemporary European Research, 9 (5), pp. 723-739.

<sup>12</sup> Nye J. S. (1990). *Soft power*, in Foreign Policy, No. 80, Twentieth Anniversary, pp. 153-171.

<sup>13</sup> Harwood M., Moncada S., Pace R., (2020). *The future of the European Union: demisting the debate*.

# The virus of democracy against the Coronavirus

Mirko Crulli



## Introduction

Since its rise at the end of the last century, radical-right populism in Europe has been labeled and interpreted as a “virus” of European liberal democracy, or as a “normal pathology”<sup>1</sup> which afflicts European societies in circumstances of crisis or rapid change, only to be reabsorbed in normal times. Consequently, in recent years both the academic and the journalistic world have abused medical terms to examine and report, with almost always alarmist tones, the “populist contagion”. But what is the state of health of the radical-right populist forces now that European democracies are hit hard by another, true and far more impactful, virus? Did the coronavirus health crisis, and the socio-economic crisis that ensued, help to magnify or dampen the populist wave? In short, *is the Coronavirus an enemy or an ally of the virus of democracy?*

In this article, I argue first that, a priori, based on the copious literature of political sociology and political science on populism, there are at least four interrelated good reasons to predict that radical-right populist parties can benefit from the outbreak of the pandemic. Later, I will show how the polls, to date, show the opposite, namely that the populist forces are finding in the Coronavirus more an enemy than an ally. Finally, I will try to suggest some reasons why we are facing this unexpected outcome.

## Why the populist Right should strengthen with the Coronavirus crisis: four reasons

The first theoretical reason why the populist right should take immediate advantage of the Coronavirus outbreak comes from one of the best known and most shared definitions of “populism”, the one provided by Cas Mudde in the 2004 article entitled “The Populist Zeitgeist”, according to which populism is «an ideology that considers society to be ultimately separated into two homogeneous and antagonistic groups, ‘the pure people’ versus ‘the corrupt elite’, and which argues that politics should be an expression of the general will of the people»<sup>2</sup>. As can be seen from this definition, the two concepts on which populism is based are those of “people”, virtuous and holders of the truth, and, consequently, of “elite”, corrupt and bearer of lies and false interests. Now, since the outbreak of the pandemic, *the concept of “elite” has expanded* considerably: given the new centrality of science in the public arena and given the enormous prominence and visibility of scientists in the media, also virologists, epidemiologists

<sup>1</sup> Mudde, C. (2010). The populist radical right: A pathological normalcy. *West European Politics*, 33(6), 1167-1186.

<sup>2</sup> Mudde, C. (2004). The populist zeitgeist. *Government and opposition*, 39(4), 541-563, p. 543.

and doctors enter the élite. Therefore, in the Manichean vision of populism, enemies of the people are no longer only mainstream parties, organs of the European Union, non-majoritarian institutions, but also the “men of science”, to whom European governments are inevitably turning to outline their policy strategies. This expansion of the elite is likely to provide new fuel to the populist rhetoric, so much so that some authors have begun to speak of “science related populism”<sup>3</sup>.

The second reason is that historically *there is a strong correlation between socio-economic crises and populism*. Furthermore, populism has often been interpreted as a product, a derivative, of crises. Indeed, the most authoritative studies of comparative politics on the transformations of political conflict and of European political systems, drawing on the cleavage theory, trace the roots of neo-populism, and its strengthening, to “critical junctures” that often coincide with crises, such as the transition from materialistic and industrial societies to post materialistic and post-industrial societies, globalization, and the Great Recession of 2008<sup>4</sup>. Now, it is clear that what we are facing is not only an unprecedented health crisis, but also a devastating socio-economic crisis which, moreover, is grafted onto the long trail of the Great Recession effects, which have not yet been exhausted. Aware of this, many populist actors have adopted a strategy that is only apparently paradoxical: they underestimated the health crisis, and often accused mainstream parties and scientists of having “built” the emergency - and this should appear paradoxical at first sight because, as mentioned, it is the populists themselves who benefit from the crises - but at the same time they have tried to capitalize on the type of crisis they are most accustomed to, the socio-economic one<sup>5</sup>. Also, for this reason, we should expect a new surge of consensus for populisms.

The third reason concerns the *triangular link between crisis, conspiracy and populism*.<sup>6</sup> Historically, moments of great crisis – especially, but not only, socioeconomic crisis - have seen the flourishing of conspiracy theories<sup>7</sup>. And the present Coronavirus crisis is no exception; just think of the widespread theories according to which the virus is a Chinese or US military experiment, or a product of 5G signals or an intrigue born of Microsoft's founder, Bill Gates. The circulation of fake news since the very beginning of the pandemic has also worried the World Health Organization (WHO), which coined the neologism “infodemic”, to warn that, in addition to the actual disease, it was also necessary to fight the pathology represented by mass misinformation<sup>8</sup>. In this context, the bidirectional relationship between radical-right populism

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<sup>3</sup> Mede, N. G., & Schäfer, M. S. (2020). Science-related populism: Conceptualizing populist demands toward science. *Public Understanding of Science*, 29(5), p. 484.

<sup>4</sup> Bornschier, S. (2010). *Cleavage Politics and the Populist Right*, Philadelphia, Temple; Hooghe, L., & Marks, G. (2018). Cleavage theory meets Europe's crises: Lipset, Rokkan, and the transnational cleavage. *Journal of European Public Policy*, 25(1), 109-135; Inglehart, R., & Norris, P. (2016). *Trump, Brexit, and the Rise of Populism: Economic Have-nots and Cultural Backlash*, Harvard Kennedy School (Working Paper Series); De Wilde, P., Koopmans, R., & Merkel, W. (Eds.) (2019). *The struggle over borders: Cosmopolitanism and communitarianism*. Cambridge University Press; Kriesi, H. [et al.] (2006). Globalization and the transformation of the national political space: Six European countries compared. *European Journal of Political Research*, 45(6), 921-956.

<sup>5</sup> Brubaker, R. (2020). Paradoxes of populism during the pandemic. *Thesis Eleven*, 0725513620970804.

<sup>6</sup> Eberl, J. M., Huber, R. A., & Greussing, E. (2020). From Populism to the ‘Plandemic’: Why populists believe in COVID-19 conspiracies.

<sup>7</sup> Van Prooijen, J. W., & Douglas, K. M. (2017). Conspiracy theories as part of history: The role of societal crisis situations. *Memory studies*, 10(3), 323-333.

<sup>8</sup> Zarocostas, J. (2020). How to fight an infodemic. *The Lancet*, 395(10225), 676.

and conspiracy theories is inserted: on the one hand, it is the populist actors themselves who create, or at least spread, conspiracy theories; on the other, the attitude to believe in conspiracy theories is often associated with support for populist parties<sup>9</sup>. Thus, statements from radical-right populists throughout Europe in support of conspiracy theories related to the Coronavirus have multiplied. On the other hand, the flourishing of conspiracy should have given a further boost to the rise of populism. Ultimately, the outbreak of the pandemic has theoretically offered the opportunity for the emergence of an explosive triangular relationship between crisis, conspiracy and populism. A relationship in which each of the three elements of the triangle has the potential to influence and enhance the others.

Finally, we cannot neglect *the role of the media*. The instrumental use of the media, especially social media, by populist forces is undoubtedly one of the most pressing research topics for sociopolitical sciences. The interesting aspect for the purposes of this article is that traditional media, and even more so “alternative news media” and social media,<sup>10</sup> may have played a decisive role in reinforcing all three of the previous theoretical reasons why the populist Right should benefit from the Coronavirus. First of all, the media are the channels through which scientists have over-exposed themselves, often making contradictory statements, thus fueling the risk of being seen by the “populist people” as an additional component of the enemy elite. The media, with an incessant, pounding, and often excessively spectacularized narrative of the crisis, have inevitably contributed to further exaggerating the sense of crisis. Finally, on the one hand populist actors have used their media channels instrumentally to fuel the uncertainties and anger arising from the crisis and to boost conspiracy theories, and on the other (some) media have promoted conspiracy counter-narratives often coinciding with those advocated by populists. As is well known, the populist and conspiracy claims that emerged from the digital world have often resulted in real “anti-hygienic” demonstrations in the streets<sup>11</sup>. So, there are good reasons to assume that the consensus apparently accumulated by populists in the media does not remain confined to the screens.

### **The word to the polls<sup>12</sup>**

Against these theoretical arguments, polls suggest that, in the second half of November 2020, in the midst of the second wave of Coronavirus that has hit Europe, in almost all of the old continent, populist parties are not benefiting from the crisis. Indeed, although it is completely premature and out of place to say that “the next victim of the Coronavirus will be populism”,<sup>13</sup> it

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<sup>9</sup> Castanho Silva, B., Vegetti, F., & Littvay, L. (2017). The elite is up to something: Exploring the relation between populism and belief in conspiracy theories. *Swiss Political Science Review*, 23(4), 423-443; Van Prooijen, J. W., Krouwel, A. P., & Pollet, T. V. (2015). Political extremism predicts belief in conspiracy theories. *Social Psychological and Personality Science*, 6(5), 570-578.

<sup>10</sup> Boberg, S., Quandt, T., Schatto-Eckrodt, T., & Frischlich, L. (2020). Pandemic populism: Facebook pages of alternative news media and the corona crisis--A computational content analysis. *arXiv preprint arXiv:2004.02566*.

<sup>11</sup> Vieten, U. M. (2020). The “New Normal” and “Pandemic Populism”: The COVID-19 Crisis and Anti-Hygienic Mobilisation of the Far-Right. *Social Sciences*, 9(9), 165.

<sup>12</sup> The polls mentioned in this paragraph are those of “Politico.eu” (<https://www.politico.eu/europe-poll-of-polls/>). For each European country, I have arbitrarily chosen to make the beginning of the crisis coincide with the day of the first certified Coronavirus death.

<sup>13</sup> English, Otto. (2020). Coronavirus’ Next Victim: Populism. *Politico*, <https://www.politico.eu/article/coronavirus-next-victim-populism-uk-boris-johnson-us-donald-trump/>.



seems that the populist forces are weakening and not strengthening. This applies in principle to both those in the government and those in the opposition.

Starting from what is demographically the largest European country, Germany: at the beginning of the crisis the radical-right populist party, *Alternative Für Deutschland* (AFD), collected 13% of the votes, while today it has dropped to 10%. In contrast, Chancellor Angela Merkel's CDU / CSU saw a surge in support in the first wave of the pandemic, probably benefiting from a "rally round the flag" effect, managing for now to maintain the renewed confidence. In France, the situation has remained unchanged since the beginning of the pandemic: both Macron and Le Pen, leader of the oldest radical-right European populist party, lost two percentage points in the polls, with their gap remaining unchanged. Thus, even in the French national scenario, if we focus only on the *Rassemblement National* (RN), we see a slight weakening rather than a strengthening. The situation is almost unchanged also in Spain, where, after losing important shares of consensus in the first months of the pandemic, the radical-right populist party *Vox* now stands at 17%, just one percentage point more than in the pre-pandemic period. Italy shows a more complex picture. The three parties often referred to as "populists" can be found one in office, the *Movimento Cinque Stelle* (M5S), and two at the opposition, *Fratelli d'Italia* and *La Lega*. The M5S - a populist party which cannot be clearly placed on the left-right continuum - saw its support almost unchanged (from 14 to 15 percent). The two parties of the populist Right, on the other hand, met an opposite fate: Matteo Salvini's *Lega* fell by seven percentage points, from 31 to 24 percent, while Giorgia Meloni's *Fratelli d'Italia* grew considerably, from 12 to 16 percent.

In the UK, there are two Eurosceptic populist parties still primarily focused on the Brexit issue: *UKIP* and the new *Brexit Party* (BP). The former remained anchored at 1 percent (very far from the glories of the past), while the latter has grown from 1 to 3 percent, but still gathers extremely narrow consensus. Above all, support for the ruling party, Boris Johnson's *Conservatives*, has dropped dramatically, from 49 to 40 percent, and now they are caught up in the polls by the Labour party. Defining the Conservative party "populist" is not appropriate, but there is no doubt that, with Johnson, the leadership of the party has taken on much more populist connotations. So, even here, we are facing a sharp decline in populist strength.

The consensus of another "old" European populist party, the Austrian *Freiheitliche Partei Österreichs* (FPÖ), remained unchanged, standing at 12 percent, while an exception is represented by the Dutch *Partij voor de Vrijheid* (PVV) which, in the months of the second Coronavirus wave, grew from 18 to 23 percent. From this quick overview<sup>14</sup>, it is clear that only two parties usually associated with the populist radical-Right seem to have found an ally in the Coronavirus: *Fratelli d'Italia* in Italy and *PVV* in the Netherlands. However, it should be noted that both of these two cases present elements that differentiate them from the rest of the populists mentioned above. As for *Fratelli d'Italia*, the peculiarity lies in the fact that it is a far-Right party which is actually rather traditional, more nationalist than neo-populist, and that

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<sup>14</sup> Other Western European countries that have populist parties within their political system, such as Denmark and Finland, confirm the observed trend. Instead, I chose not to extend the framework to Central-Eastern Europe because this region is characterized by different structures of political conflict [See e.g. Hutter, S., & Kriesi, H. (2019). *European party politics in times of crisis*, Cambridge, Cambridge university press.]

maintains some line of continuity with the Italian fascist experience, being direct descendant of *Alleanza Nazionale*, which in turn was the heir of the *Movimento Sociale Italiano* (MSI), an openly neo-fascist party of the First Italian Republic. So, we could venture that in Italy the Coronavirus is swelling the ranks of Giorgia Meloni's traditional Right and deflating those of Matteo Salvini's less traditional neo-populist Right.

In the Netherlands, the peculiarity of the PVV lies instead in the type of criticism that the party has led to the government's handling of the crisis. In fact, compared to most of the radical right populist forces, who have made unclear proposals or openly criticized governments for being too authoritarian in implementing lockdowns, the PVV has firmly reproached the government for being too “relaxed” and permissive<sup>15</sup>.

### **Why the populist Right is not strengthening with the Coronavirus: preliminary reflections**

In light of what has been written so far, it must be noted that we are facing an unexpected outcome: the “virus” of democracy has for now been weakened by the overlap of the Coronavirus. It would be highly pretentious for anyone to think they know why this is happening. I will therefore limit myself here to providing some preliminary remarks.

First of all, we must look not only at voters' demand for populist politics, but also at populist *parties' supply*. This supply is usually based on issues such as protection of national borders, aversion to immigration, opposition to the European Union proposals, opposition to the extension of rights to minorities. Now, in times of Coronavirus, the health emergency has become almost the only salient issue for public debate. Faced with this sudden distortion of priorities, all parties have had to readjust. Many of the European radical-Right populist parties have tackled the new central issue of the pandemic emergency without abandoning their strongpoints, that is creating a link between the Coronavirus and the issues they usually politicize. For example, the strategy of political leaders such as Le Pen and Salvini has been to link immigration and the health crisis, presenting irregular immigrants as “plague spreaders”<sup>16</sup>. It is possible that this strategy did not work, that the association seemed forced to voters, and that ultimately the inability to reshape their political offer based on the health emergency and leaving out the old issues cost dearly.

Secondly, «populists (claim to) speak in the name of the ‘oppressed people’, and they want to emancipate them by making them aware of their oppression»<sup>17</sup>. In this phase, many populist actors have tried to convey the message that the cause of this oppression were the decisions taken by governments in office and supported by those scientific elites mentioned above, and that therefore, once emancipated from the ruling parties and from science, “the people” would have also got rid of the health and socioeconomic crisis. Again, it is possible that this rhetoric did not work, and that a large part of the multifaceted, multiform, plural and true people, not the falsely “homogeneous” people imagined and created by the populists, realized that *the*

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<sup>15</sup> Stavrakakis, Y., & Katsampekis, G. (2020). Populism and the pandemic: A collaborative report.

<sup>16</sup> Tondo, Lorenzo. Salvini attacks Italy PM over coronavirus and links to rescueship. (2020). *The Guardian*, <https://www.theguardian.com/world/2020/feb/24/salvini-attacks-italy-pm-over-coronavirus-and-links-to-rescueship>

<sup>17</sup> Mudde, C. (2004). The populist zeitgeist. *Government and opposition*, 39(4), 541-563, p. 546.

*cause of oppression is the Coronavirus itself.*

Finally, due to the enormous complexity of this virus and all that derives from it, it is likely that even the “simplification process” operated by populism when it divides society into only two blocks – the élite and the people, evil and good – did not manage to reassure citizens and to make events more intelligible to them. So, it is plausible that many European citizens, in order to understand something more about this paradoxical moment, have actually turned to what is often pointed out as the opposite of populism: *competence*. It may be that the competence of the experts has been able to reassure or at least cheer up and help citizens more than populist rhetoric aimed at “simplifying the world”. And yet, from this hypothesis derives another threat, not negligible, to European party-representative democracy: the temptation to leave the keys of power to experts, to technocracy, with the risk that in the decisions taken there is less and less political accountability<sup>18</sup>.

## **Conclusion**

I am aware that in this article I ran the risk of chasing events, of being guided by «the dictatorship of the present in which opinion pretends to be scientific analysis»<sup>19</sup>. Just as I am aware that a reflection with a true heuristic value on the relationship between populism and the Coronavirus crisis must be postponed (at least) to the actual conclusion of this crisis. In this sense, the words of Cas Mudde himself must sound like a warning, since the author considers unreliable any predictions on how the Coronavirus will change the weight of populisms.<sup>20</sup> Nevertheless, I think it is interesting to note that, for now, we are facing an unexpected outcome, or at least a result not suggested by the literature on populism. Therefore, while waiting for time to run its course, I believe it is important for the public debate - not just for the academic one - to question the socio-political scenario that will come once the crisis is over. Beyond the labels, populism is certainly not a temporary “virus” of European liberal democracy, so it certainly will not disappear with the disappearance of the real virus. But are we so sure that his health will remain unchanged?

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<sup>18</sup> Caramani, D. (2017). Will vs. reason: The populist and technocratic forms of political representation and their critique to party government. *The American Political Science Review*, 111(1), 54; Segatori, R. (2020). La democrazia tra Scilla e Cariddi. *SocietàMutamentoPolitica*, 245-249.

<sup>19</sup> Viviani, L. (2020). Oltre la pandemia: l’immaginazione sociologica alla prova del nostro tempo. *SocietàMutamentoPolitica*, 281-295.

<sup>20</sup> Muddle, Cas. (2020) Will the Coronavirus ‘kill populism’? Don’t count on it. *The Guardian*, <https://www.theguardian.com/commentisfree/2020/mar/27/coronavirus-populism-trump-politics-response>

# The European Union's role in Tobacco control

Emil Melchior Enggaard



## Introduction

This article will explore the European Union's (EU) effort towards the control of tobacco within its member states. Moreover, an investigation will be conducted, based on three parts of the EU's control of tobacco. The first one being the control and taxation by member states on cigarettes, in which the diversity of national states taxation on tobacco will be used as one example of the issue of illicit cigarette trade. Additionally, the ban on menthol cigarettes within the EU member states will be analysed. The requirements regarding the EU Commissions control of tobacco regarding the ban on flavoured cigarettes and tobacco will also be analysed. Lastly, research will be undertaken on Smokeless Tobacco Products (STP). The focus will be viewed on chewing tobacco such as Swedish Snus which is illegal to manufacture and sell outside of the Swedish member state.

## Illicit Tobacco and Border Cross Shopping

The European Union's (EU) agreement for a tighter grip on tobacco control and consumption has shown a more significant step towards stricter tobacco control and regulations. The European Commission, Council and Parliament proposed the agreement by setting up label warnings on both sides of the cigarette packet. Additionally, the process has also secured the EU's steps towards the Tobacco Products Directive (TPD) from 2001. The tax will make it more difficult for children to buy cigarettes, where the ten pack will increase to twenty, and there will be a ban on flavoured additives on tobacco except for menthol for the moment.<sup>1</sup> EU member states such as Ireland have for the past 10 years (2000 to 2010) increased the taxation on tobacco products by doubling the price from 4.77 Euros in 2000 to 8.55 in 2010. What that means is that the average Irish consumer of tobacco spend 3.78 euros more on their tobacco products. However, the issue concerning is that instead of the Irish government having an increased grip on the Irish tobacco trade where it in contrast showed from 2006 to 2009 a substantial increase in cigarette smuggling which by the Irish government was estimated to have risen by 13 percent in 2006 to as much as 20 percent in 2009. This is an additional concern of the Irish government, as non-Irish duty tobacco is consumed in a way to avoid paying the

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<sup>1</sup> McKee, M. (2013), 'European Union's Tobacco Products Directive: Many Questions Remain About the Influence of Industry', *British Medical Journal*, 347(7929), p.9.

increased revenue on Irish cigarettes.<sup>2</sup> Within the EU there is a coalition by the four international tobacco companies along the EU to try and apprehend the illicit cigarette trade. There is, however, the concern that a majority of the illicit cigarettes entering the EU is actually brand name cigarette from the tobacco corporations themselves and not just a counterfeit. For example if we look at the tobacco companies that have placed production factories in Ukraine, there has been a history of overproduction. The overproduced cigarettes then later got smuggled and sold within the EU, which avoided the cigarette taxation. British American Tobacco, Imperial Tobacco Limited are just two examples by some of the companies that have in the past few years been fined by the EU.<sup>3</sup>

By looking at member states such as France, Finland, Germany, and Austria which are states bordering up to other various member states and non-EU with cheaper prices regarded on cigarettes, the average price for a pack of cigarettes which is 20 cigarette per pack is the equivalent of 5 to 6 euros. Whereas member states with cheaper cigarette taxes that could vary from 2-3 euros lower the average price. In that matter, the national cigarette taxation on member states does not show to be effective regarding the issue of an open border and a single market.<sup>4</sup> The tightened regulations on tobacco within the EU has also shown that from the year 2000 by a total of 61.144 employed within the tobacco manufacturing companies, this number dwindled in 2008 to 34.402. Nonetheless, the member states that are dependent on the manufacturing plants are newer member states such as Poland, Romania, and Lithuania. However, that is just three out of a total of 12 manufacturing plants within the EU member states an additional plant outside EU jurisdiction is in Ukraine.<sup>5</sup>

Since 2006, the Polish government has been trying to manoeuvre through the obstacles have been met by the TPD, for example the manufacturing and sale of illicit cigarettes in Poland which is meant for further sale in Europe are originally from further Non-EU states such as Ukraine, Belarus and Russia. However, there is a duplicitous role from the lobbying tobacco companies in Poland, as there previously have been convictions regarding the intention and organising of sale for illicit cigarettes within the EU.<sup>6</sup> The Commission's decision on setting up an expert group on tobacco control within member states, through Directive 2014/40 of the European Commission there will be set up an improved group of experts through tobacco control. Additionally, the group of experts will each be assigned to one member state, and a representative of the member state will be attached as well. Moreover, a Commission member will be set to help the Commission in advice through the field of tobacco control.<sup>7</sup> The adoptive legislatures on Directive 2014/40 show that the prohibition under flavoured type cigarettes

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<sup>2</sup> Howell, F. (2012), 'The Irish Tobacco Industry Position on Prices Increases on Tobacco Products', *Tobacco Control*, 21(5), pp.514-516.

<sup>3</sup> Joosens, L. Et al (2016), 'Assessment of the European Unions Illicit Trade Agreements With the Four Major Transnational Companies', *Tobacco Control*, pp.254-260

<sup>4</sup> Agaku, I.T. Et al (2016), 'Impact of Cigarette Price Differences across the Entire European Union on Cross-Border Purchase of Tobacco Products among Adult cigarette Smokers', *Tobacco Control*, pp.333-340

<sup>5</sup> Executive Agency for Health and Consumers (2013), 'Economic Analysis of the EU Market of tobacco, nicotine and related products', pp.1-154

<sup>6</sup> Balwicki, L. et al (2016), 'Tobacco Industry Interferences with Tobacco control policies in Poland: legal aspects industry practices', *Tobacco Control*, pp.521-526.

<sup>7</sup> European Commission (2014), 'Commission Decision of 4.6.2014, setting up the group of experts on tobacco policy', Brussels 4.6.2014. pp.1-5



under article 7 of which the original tobacco flavour may be hidden by adding additional contributing flavours rather than the original taste and smell.<sup>8</sup> “Characterising flavour means a noticeable smell or taste other than one of tobacco, resulting from an additive or a combination of additives, including but not limited to, fruit, spice, herbs, alcohol, candy, menthol, or vanilla, which is noticeable before or during or the consumption of the tobacco product”.<sup>9</sup>

### **Menthol and Flavoured Tobacco**

Menthol cigarettes and tobacco have shown through research by the Danish Cancer Society that by inhaling the menthol through with the tobacco, the inhalant will have a less harsh taste and flavour from the raw tobacco. This is additionally the same research conducted with other flavoured or sweetened tobacco products to hide the original taste.<sup>10</sup> As described in Directive 2014/40, the prohibition on flavoured tobacco and cigarettes, however, the concern regarding the court case is that the German company Planta Tabak is solely known for the manufacturing of flavoured tobacco and sought to solely find a solution to not be in a clash by the article 7 of Directive 2014/40. Moreover, the Planta Tabak argued that since their sales of flavoured tobacco and cigarettes is under 3 percent of sales within the EU, it should be under the subject of a niche product. This means that they would be classified a smaller enterprise or company in the manufacturing of products that have a lesser income due to the speciality in their approximate outcome of revenue. Although, the sale of menthol flavoured cigarettes and tobacco will be banned by the 20<sup>th</sup> of May 2020 within the EU.<sup>11</sup>

Within the EU, the average price on sales of menthol cigarettes and tobacco is within a range of only 4 per cent of the total sales of tobacco. Secondly, the two largest consumer states of menthol cigarettes in the 2000s are as follows: Finland with a consumer percentage of 20, Poland with a consumer percentage of 10 in contrast to the average EU consumer percentage which is just under 5 per cent. Furthermore, the sale of cigarettes and tobacco, additionally menthol, has fallen over the years along with member states national tax increase and EU tobacco control. However, eight member states have shown an increased sale in menthol tobacco which has risen the sale from 27.2 billion (3.4) to 27.9 billion (4.6) cigarettes thus there is an expected growth within the sale of menthol to increase to 4.8 by 2015.<sup>12</sup>

The TPD prohibition on flavoured tobacco and cigarettes, including the flavour of menthol, for example under the regulation of ingredients by directive of 2014/40 Article 7(12).<sup>13</sup> “Tobacco products other than cigarettes and roll your own tobacco shall be exempted from the prohibitions laid down in paragraphs 1 and 7. The Commission shall adopt delegated acts in

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<sup>8</sup> European Commission (2018), ‘Report from the Commission on the European Parliament and the Council’, Brussels 8.8.2018. pp.1-7.

<sup>9</sup> Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014. P.11

<sup>10</sup> Tiesen, J. et al (2010), ‘Assesing the Impacts of revising the Tobacco Products Directive’, *RAND EUROPE*, p.209.

<sup>11</sup> Case C-220/17, ‘Judgement of the Court: Planta Tabak-Manufaktur, Dr Manfred Obermann GmbH, & Co. Kg. Berlin 2019. Pp.1-17.

<sup>12</sup> Executive Agency for Health and Consumers (2013), ‘Economic Analysis of the EU Market of Tobacco nicotine and related products’, pp.1-34

<sup>13</sup> European Commission (2019), ‘Meeting of the Group of Experts on Tobacco Policy’, pp.1-8.

accordance with Article 27 to withdraw that exemption for a particular product of category, if there is a substantial change of circumstances as established in a commission report.”.<sup>14</sup>

The prohibition of manufacture and sale of flavoured cigarettes and tobacco was taken into action in May 2020. They are advised by each member state to use the TPD along with the Commission receiving counsel from the Independent Advisory Panel (IAP), and the SANTE under the Technical Group (TG) of the Commission to test and investigate if tobacco products within the EU were living up to the criteria regarding intensifying flavours concealing the flavours of the original tobacco.<sup>15</sup>

The Irish Health Service Executive (HSE) is investigating a possible violation of the regulation after the Menthol ban of May 2020 as there is a so-called menthol blend within larger tobacco companies. The claim is that they are following the regulation as according to Silk Cut Japan Tobacco International (JTI), the menthol blend is strictly following the guidelines as the flavour and smell does not get disguised since the amount of menthol in the cigarette is strictly lower than usual.<sup>16</sup>

### **Chewing Tobacco**

Regarding the matter of Smokeless Tobacco Products (STP) such as Chewing Tobacco or Snus in the Nordic countries have shown a substantial rise in use and popularity among young people. This new trend has shown a significant push by tobacco companies in acquiring production and rights to distribute to other member states of the EU.<sup>17</sup> Furthermore, chewing tobacco has increased in the UK, Sweden, and Denmark. By looking at the demand for Swedish Snus even though it is prohibited to buy in other member states of the EU with the exception for Sweden, from a perspective of market consumption, it is predominantly member states such as Denmark and Sweden that has shown a vast rise in the market. Just alone in 2010 for Snus the sale in Sweden increased by 5.7 thousand tonnes, and the neighbouring country of Denmark sold STP that increased by 26.5 tonnes. However, even though chewing tobacco is deemed to be legal within the European Union Swedish Snus is not, it is only legal within the member state of Sweden. When looking at the market share by Swedish snus companies such as Swedish Match AB in 2010, which covered the market by 85 per cent in Sweden as well as Denmark and Germany.<sup>18</sup> Sweden could still manufacture and sell Snus, under Article 151 for oral use but only legal within Sweden.<sup>19</sup> In contrast, Denmark as a member state of the EU was charged by the European Commission for the failure to prohibit the sale of illicit STP, which was Swedish Snus. In the case, it was found proven that Denmark had not followed the guidelines of Directive 2001/37 under Article 2 and 8 in which they still allowed the legal sale

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<sup>14</sup> Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014. P.17

<sup>15</sup> European Commission (2020), ‘Meeting of the Subgroup on Ingredients established by the expert group on tobacco policy’, Brussels.10.02.2020. pp.1-4.

<sup>16</sup> Paul, M. (2020), ‘HSE Investigating some Tobacco Companies over Menthol Blends’, Irish Times, p.1.

<sup>17</sup> Tiesen, J. et al (2010), ‘Assesing the Impacts of revising the Tobacco Products Directive’, *RAND EUROPE*, pp.77-151.

<sup>18</sup> Executive Agency for Health and Consumers (2013), ‘Economic Analysis of the EU Market of Tobacco nicotine and related products’, pp.14-183.

<sup>19</sup> Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014. Pp.4-24

of Snus within Denmark.<sup>20</sup> Swedish Snus company Swedish Match AB brought a request regarding the Directive 2014/40 on the matter of Article 151, Article 1c and 17 as well as Article 2(14) within the UK. Furthermore, Swedish Match AB claimed that the criteria were met by other various tobacco than STP and especially Snus. Additionally, Swedish Match AB weighed on that their former case from 2004, C-210/03 on the previous Directive 2001/37 was yet not fully decided by the Court. The claim by Swedish Match and the support of New Nicotine Alliance (NNA), was that they were met by an unfair treatment by being prohibited to sell snus in the UK. Whereas the argument and conclusion met by the court was that the claims met by Swedish Match AB and NNA was invalid because there was not found any claims or evidence that Directive 2014/40 nor its predecessor Directive 2001/37 showed any signs of unfair treatment towards tobacco trade within the UK.<sup>21</sup>

## **Conclusion**

This article has explored the issue of the EU's control of tobacco. Throughout the article, a prime focus has been on the three subjects regarding tobacco control, namely cigarettes, Menthol and chewing tobacco. On the matter of cigarettes, it was shown that some member states like Ireland which have put in a high tax regarding tobacco control have been met with the issue regarding an increase in illicit tobacco trade leading to the avoidance of the national tax. Furthermore, the issue regarding border trade where the one-member state has a lower tax and price regarding tobacco is also an additional problem regarding illicit tobacco. Equally, on the matter of menthol tobacco, which was banned earlier this year in May, there has been a concern regarding tobacco companies simply lowering the amount of Menthol, so it does not intentionally hide the tobacco flavour and thus sell it on the EU market. Lastly, the matter of STP with varieties such as chewing tobacco and Swedish Snus was examined. Swedish Snus is illegal in all member states except for Sweden who can manufacture and sell only in Sweden under article 151. Essentially there was the issue regarding the neighbouring state of Denmark being charged with allowing the sale of Swedish Snus in 2015 even though it was against the EU's Article 2 and 8 under Directive 2001/37.

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<sup>20</sup> Case C-486/14 Judgement of the Court (Ninth Chamber) of 16 July 2015, European Commission v Kingdom of Denmark. P.1.

<sup>21</sup> Case C-151/17 reference for a preliminary ruling, approximation of laws. Manufacture, presentation, and sale of tobacco products. Directive 2014/40/EU. Article 1c and Article 17. Prohibition on the placing on the market of tobacco products for oral use. Pp.1-14.

# EU budget negotiations: A critical juncture for rule of law in Europe

Shane Goodman



News of Poland and Hungary threatening to veto the European Union's Multiannual Financial Framework earlier this month came as a surprise to few in Brussels, with the two Member States having expressed grave concerns over the proposed rule of law mechanism which is tied to the deal for much of the past month.<sup>1</sup> In this first issue of the *European Studies Review*, I will explore this in greater detail. What is the Multiannual Financial Framework (MFF)? Why are Poland and Hungary supporting each other on this issue? Why are the two Member States considering a use of their veto powers to prevent this plan from being approved? Finally, what can be done to ensure that both the MFF is approved and that democratic values in the European Union are upheld?

The diplomatic status of Poland and Hungary as friends and allies for most of their shared history dates back to the Middle Ages with the 1335 Council of Visegrád often stated as a starting off point for this alliance.<sup>2</sup> This friendship has persisted into the modern day, with the Hungarian Parliament and Polish Senate and Sejm declaring 2016 to be a year of Polish-Hungarian solidarity.<sup>3</sup> Indeed, both countries are integral members of the influential EU voting bloc known as the Visegrád Four (V4) alongside Czechia and Slovakia.<sup>4</sup> This historic friendship has been bolstered by the fact that since 2015, both countries have been led by governments with populist and arguably anti-democratic agendas. In Poland, the Law and Justice (PiS) party came to power in 2015 with Andrzej Duda as President to date and Beata Szydło as Prime Minister until December 2017, when she was replaced by the current head of government Mateusz Morawiecki.<sup>5</sup> Meanwhile

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<sup>1</sup> Martin Banks, "Viktor Orbán Threatens to Veto EU Budget and Coronavirus Recovery Plan," *The Parliament Magazine*, November 9, 2015, <https://www.theparliamentmagazine.eu/news/article/viktor-orbn-threatens-to-veto-eu-budget-and-coronavirus-recovery-plan>.

<sup>2</sup> Association for International Affairs, "About Visegrad Group - V4," <https://www.amo.cz/en/models/model-v4/about-visegrad-group-v4/>.

<sup>3</sup> Daily News, "Hungarian Parliament Adopts Decree on Polish Hungary Solidarity Year," *Daily News Hungary*, February 29, 2016, <https://dailynewshungary.com/hungarian-parliament-adopts-decree-on-polish-hungary-solidarity-year/>.

<sup>4</sup> <http://www.visegradgroup.eu/about>.

<sup>5</sup> Piotr Maciej Kaczynski, "Poland's Government: A House Divided?," *Balkan Insight*, August 17, 2020, <https://balkaninsight.com/2020/08/17/poland-government-pis-house-divided-turbulent-next-three-years/>.



in Hungary, Victor Orbán's populist Fidesz party has been one of the leading forces in Hungarian politics since the late 1990s.<sup>6</sup>

This alliance has largely continued up to the modern day, where its modus operandi can be clearly seen in how the two Member States support one another when questions about the rule of law arise in their countries.

The issues surrounding the rule of law in both Member States since 2015 have been documented extensively. In Poland, one of the most severe criticisms came with the weakening of the Polish Constitutional Court in 2015/16. The Sejm elected five new judges in October 2015, a mere two weeks before PiS would take power.<sup>7</sup> However, President Duda would later refuse to swear these judges in, stating that they had been chosen in contravention of democratic principles.<sup>8</sup> Instead, PiS-approved judges were elected, and more senior members of the Polish Constitutional Court were then forced to retire.<sup>9</sup> In December 2015, then-President of the European Parliament Martin Schulz described the actions of PiS in this regard as the "Putinisation" of European politics.<sup>10</sup> Meanwhile in Hungary, the story is quite similar. Victor Orbán has served as Prime Minister on two occasions: from 1998 – 2002 and from 2010 until the present day. His government has been criticised as being anti-refugee and for rescinding rights given under democracy such as an independent judiciary.<sup>11</sup>

Article 2 of the Treaty on European Union (hereafter TEU, formerly known as the Maastricht Treaty pre-2009) states that "*The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights*", as such, it is clear that the rule of law is an integral foundational principle of the EU.<sup>12</sup> However, both Poland and Hungary claim that there is no exact definition of the rule of law in the Treaties and that this could lead to the Union imposing its political will on Member States.<sup>13</sup>

Article 7 of the TEU is one way of reprimanding Poland or Hungary for their rule of law breaches but it is often regarded as the 'nuclear option' with regards to sanctions the EU can place on its members.<sup>14</sup> Where there is "*the existence of a serious and persistent breach by a Member State of the values referred to in Article 2*", the European Council may suspend the voting rights of a

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<sup>6</sup> Britannica, "Fidesz" <https://www.britannica.com/topic/Fidesz>.

<sup>7</sup> Paolo Gambatesa, "Time of EU-Poland Relations Dealing with the Rule of Law," *Free Group* January 26, 2019, <https://free-group.eu/2019/01/26/%EF%BB%BFtimeline-of-eu-poland-relations-dealing-with-the-rule-of-law/>.

<sup>8</sup> Philipp Koker, "Poland – Judicial independence in Jeopardy? President Duda Refuses Appointment of ten Further Judges," *UCL Blog*, July 25, 2016, <https://blogs.ucl.ac.uk/ssees/2016/07/25/poland-judicial-independence-in-jeopardy-president-duda-refuses-appointment-of-ten-further-judges/>.

<sup>9</sup> Footnote 7, *ibid*

<sup>10</sup> Leo Cendrowicz, "Polish leaders defend reforms as EU warns of 'dangerous Putinisation of European Politics'", *The Independent*, January 17, 2016, <https://www.independent.co.uk/news/world/europe/polish-leaders-defend-reforms-eu-warns-dangerous-putinisation-european-politics-a6818346.html>.

<sup>11</sup> Lili Bayer, "How Orbán broke the EU — and got away with it," *Politico*, September 24, 2020, <https://www.politico.eu/article/how-viktor-orban-broke-the-eu-and-got-away-with-it-hungary-rule-of-law/>.

<sup>12</sup> Eur-Lex, "Document 12012M/TXT", <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012M%2FTXT>.

<sup>13</sup> David M. Herszenhorn and Lili Bayer, "EU in crisis over Hungary and Poland's €1.8T hold-up," November 16, 2020, <https://www.politico.eu/article/eu-in-crisis-over-hungary-poland-budget-hold-up/>.

<sup>14</sup> Politico, "What is Article 7, the EU's 'Nuclear Option'?" *Politico*, September 2, 2018, <https://www.politico.eu/article/graphic-what-is-article-7-the-eus-nuclear-option/>.



Member State.<sup>15</sup> However, this requires unanimous support from all other Member States barring the one in question. This has led to a stalemate where if the EU begins proceedings against Orbán's Hungary, Poland will veto any measures taken. Likewise, it is expected that Hungary will do the same for Poland should the situation be reversed.

In such a case, the Commission has had to strategise and seek a new, innovative solution for how to combat the backtracking on European values in these countries. This led to the proposal to tie EU funds to the Multiannual Financial Framework, more commonly known as the EU Budget. This budget will last from 2021 through until 2027 and funds much of the most crucial work done on a European level. At the negotiations in July, EU leaders approved a borrowing plan of €750 billion with these funds divided into two parts, with €390 billion being dispensed to Member States as non-repayable grants and at the behest of the so-called 'Frugal Four', the remaining €360 billion would be given out as loans to be repaid.<sup>16</sup> <sup>17</sup> The purpose of these funds is primarily to aid the European economy in its recovery from the ongoing pandemic, with much of the funds being sent to heavily service industry-reliant economies such as Spain and Italy.<sup>18</sup> This is in addition to the normal MFF which is approved every seven years and details how €1.8 trillion will be spent in areas as diverse as scientific research and development to the planned expansion of the Erasmus+ Student Mobility programme.<sup>19</sup>

While European leaders may have reached this agreement in July, the proposal still required approval from the European Parliament, which, on 5<sup>th</sup> November, agreed on a mechanism which would tie the dispensation of the aforementioned funds to "respect for EU values" as laid out in Article 2 of the TEU.<sup>20</sup> A leading proponent of the rule of law mechanism, Petri Sarvamaa MEP, noted that the mechanism would not be limited only to financial misuse of the budget funds, but could be utilised for any greater infractions of EU values, stating that "The EU will not only be able to stop EU funding once the rule-of-law principles have already been breached, but also in cases where it is evident that recent governmental decisions represent a future risk for EU finances... For example, when the independence of national courts is undermined, there is a clear risk that judges may take arbitrary decisions or disregard cases of corruption and fraud."<sup>21</sup> Given their past history with rule of law breaches, both Poland and Hungary have been very critical of this mechanism as they have expressed concerns that it is targeted at them specifically.<sup>22</sup> The mechanism would allow the European Commission to have the power to reduce or suspend budget payments to a Member State with the approval of EU Member State governments. Crucially, only

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<sup>15</sup> Footnote 12, *ibid*

<sup>16</sup> The 'Frugal Four' being a term used to describe Austria, the Netherlands, Denmark and Sweden during the budget negotiations.

<sup>17</sup> TLDR News, "The EU's Budget Standoff explained," *Youtube*, November 27, 2020, <https://www.youtube.com/watch?v=oA16GBxfxkw>.

<sup>18</sup> Zsolt Darvas, "Having the cake, but slicing it differently: how is the grand EU recovery fund allocated?", *Bruegel*, July 23, 2020, <https://www.bruegel.org/2020/07/having-the-cake-how-eu-recovery-fund/>.

<sup>19</sup> European Commission, "Multiannual Financial framework," *European Commission*, [https://ec.europa.eu/info/multiannual-financial-framework\\_en](https://ec.europa.eu/info/multiannual-financial-framework_en).

<sup>20</sup> "EU reaches deal to suspend funds to member states that breach rule of law," *The Financial Times*, <https://www.ft.com/content/523adf3c-0c4a-41a7-9527-20b36b039a99>.

<sup>21</sup> Footnote 20, *ibid*

<sup>22</sup> "Hungary and Poland harden stance in EU budget stand-off," *The Financial Times*, <https://www.ft.com/content/b1d3e780-9521-46a4-acc3-6891ce7d97ac>.

a majority of Member States must agree to this, a much lower threshold than the unanimity required under Article 7 TEU.<sup>23</sup>

Clearly, this presents a conundrum for the EU as a whole, as conceding to the Polish and Hungarian governments on this may allow both countries to continue on their current trajectory of distancing themselves from the rule of law, but by continuing to oppose them, crucial funds needed for the recovery of the European economy are held up.

One solution proposed has been for the European Council to give a guarantee that it will not use the rule of law mechanism against Poland or Hungary, and that it will only apply for other Member States. However, it must be stated that this could lead to accusations of preferential treatment and a further decline of European values, particularly in more vulnerable post-communist Member States such as Romania where this trend is beginning to play out once more.<sup>24</sup>

Ultimately, the European Council must decide where it stands on this issue. The more idealistic approach of opposing Poland and Hungary could cause unnecessary further damage to the European economy as a whole but would involve standing up for the values ascertained in Article 2 TEU. The more pragmatic approach of guaranteeing that the Council will not invoke further measures against Poland and Hungary may ensure short-term success but could cause serious drifts in principle between the two Member States and the rest of the European Union. Regardless of what is decided, the summit planned for 10-11 December shall certainly be critical to the future of the European project.

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<sup>23</sup> Footnote 20, *ibid*

<sup>24</sup> Alasdair Sanford, "Romania: Judicial reforms 'contrary to EU law', says European Court legal advice", *Euronews*, September 23, 2020, <https://www.euronews.com/2020/09/23/romania-judicial-reforms-contrary-to-eu-law-says-european-court-legal-advice>.